

PART 2

ARTICLES OF THE

CONSTITUTION

CONTENTS

2.1	Article 1	The Constitution	Page 2
2.2	Article 2	Elected Councillors	Page 4
2.3	Article 3	Citizens and the Council	Page 7
2.4	Article 4	The Full Council	Page 9
2.5	Article 5	The Mayoralty	Page 10
2.6	Article 6	The Leader of the Council	Page 11
2.7	Article 7	The Executive	Page 12
2.8	Article 8	Overview and Scrutiny	Page 14
2.9	Article 9	Councillor Advisory Bodies	Page 15
2.10	Article 10	Committees of the Council	Page 16
2.11	Article 11	Governance Committee	Page 17
2.12	Article 12	Joint Arrangements	Page 18
2.13	Article 13	Officers	Page 20
2.14	Article 14	Decision Making	Page 23
2.15	Article 15	Finance, Contracts and Legal Matters	Page 25
2.16	Article 16	Review, Revision, Suspension Interpretation and Publication of the Constitution	Page 26

2.1 **ARTICLE 1 - THE CONSTITUTION**

Introduction

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

2.1.2 **The Constitution:-**

- a) Describes the structure of the Council;
- b) Sets out the ways in which the Council takes decisions affecting the lives of its citizens;
- c) Describes the Council's commitment to openness, transparency and encouraging community involvement.

Aims

2.1.3 To create a structure that will give councillors an active role in reviewing existing policies and formulating new policy proposals by:

- a) Giving Cabinet members and relevant committees a central role in policy development;
- b) Placing in the hands of the Leader and Cabinet responsibility for implementing policies agreed by the Council; and
- c) Giving the Overview and Scrutiny Committee the role of examining the effectiveness of policies.

2.1.4 To allow flexibility and adaptability in the structure in order to respond to change, both local and national.

2.1.5 To set out how and by which part of the Council those decisions will be made.

2.1.6 To clarify that the Leader and Cabinet are responsible for all decisions, with the exception of the following categories:-

- a) Those which legally must be decided by the Full Council, or an appropriate committee appointed by it.
- b) Those responsibilities delegated to officers.

2.1.7 To give non-Cabinet councillors an active role in influencing decision-making.

2.1.8 To embrace the principle that all councillors act as representatives of the local community.

Principles

2.1.9 The Constitution, in seeking to reinforce local democracy, is founded on the following principles:

- a) The creation of an easily understood system of political management which will provide a clear and accountable leadership balanced with appropriate

mechanisms for challenge.

- b) The establishment of an open and streamlined decision making process within which the views of citizens are given full consideration.
- c) The Council as leader in the local community, working on behalf of the people in the City.

Flexibility and Review

- 2.1.10 This Constitution is intended to be sufficiently flexible to meet changing needs and will be reviewed regularly as set out in Article 16.

Interpretation of Terms

- 2.1.11 This Constitution, and all its appendices, is the Constitution of Chelmsford City Council.
- 2.1.12 Throughout this constitution references have been updated to be gender neutral and include any gender including masculine and feminine. However, any references within the constitution or in any supporting documents that refer to the masculine or feminine gender shall also be taken to mean references to any gender including masculine and feminine. Expressions in the singular shall include, where appropriate, the plural.
- 2.1.13 Specific terms are listed in the Glossary along with a short explanation. The Glossary will be made available by the Monitoring Officer, or can be accessed on the Council's website www.chelmsford.gov.uk
- 2.1.14 More detailed explanations about some processes and procedures have been produced, and the relevant Practice Notes are available on the page of the website on which this Constitution appears. Throughout this Constitution where a Practice Note is available this will be noted by way of a footnote.

2.2 ARTICLE 2 - ELECTED COUNCILLORS

Composition

2.2.1 The City Council is made up of 57 elected councillors. Elections to the Council are held every four years, unless a vacancy occurs, which will then require a by-election to fill it. Each councillor represents a particular area or “ward” of the City, the areas and boundaries of which are drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

Eligibility

2.2.2 To be eligible to stand for election to the Council, a person must be 18 or over and:

- a) Be a registered voter for local elections in the City; or
- b) Occupied as owner or tenant any land or property in the City for the past 12 months or resided in the area for that length of time; or
- c) For the past 12 months their principal place of work has been in the City.

Terms of office

2.2.3 The terms of office of all councillors last for four years (unless they are elected at a by-election) and begin on the fourth day after the election and end on the fourth day after the date of the next regular election.

Roles and functions

2.2.4 As a member of the Council, a councillor represents the interests of the City as a whole and, by serving on one or more of the member bodies within the Council, takes decisions on the policies of and services provided by the Council.

2.2.5 The main representational roles of a councillor are to:

- a) Conscientiously and effectively represent the interests of their ward and of individual constituents;
- b) Deal with constituents’ enquiries and representations, fairly and without prejudice; and
- c) Contribute to the good governance of the City and actively encourage involvement in the Council’s democratic and decision-making processes.

2.2.6 The representational duties and responsibilities of a councillor are to:

- a) Maintain the highest standards of probity in their work in accordance with the Code of Conduct for Councillors set out in Part 5.1 to this Constitution, and other statutory requirements;
- b) Actively participate in their ward and facilitate the involvement of citizens in matters affecting the ward;
- c) Meet regularly with local people, particularly those on whom the Council’s activities have a direct impact;
- d) Assist in the development and review of Council policies, using local knowledge and taking into account the views and needs of local people;

- e) Seek to ensure that local people are informed about matters that concern them including:
 - i. services in their area
 - ii. decisions that affect them
 - iii. the reasons for the Council's decisions
 - iv. the rights of constituents;
- f) Communicate and promote the Council's core values, policies and programmes to improve the quality of life in the City of Chelmsford;
- g) Represent the Council on and participate in the activities of outside bodies to which they are appointed, acting as a communication and representational link between the two and reporting back to the Council on the activities of the body;
- h) Be aware of local and national developments that will affect the roles and duties of elected councillors, the services of the Council and the work of other organisations active in the local community; and
- i) Carry out case work on behalf of constituents and represent their interests to the Council.

Rights and duties

2.2.7 Councillors have such rights of access to such documents, information and buildings of the Council as are necessary to enable them to carry out their functions properly and in accordance with the law.

2.2.8 Councillors will not make information which is confidential or exempt available to the public without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

2.2.9 "Exempt" has the meaning defined in the Access to Information Rules in Part 4.6 of this Constitution. The Monitoring Officer shall determine and advise as to when information is considered to be "Confidential".

Conduct

2.2.10 Councillors will at all times observe the Code of Conduct for Councillors in Part 5.1 of this Constitution and the Protocol on Councillor/Officer Relations in Part 5.4. Other Codes and Protocols contained in Part 5 and relevant to councillors should also be observed.

Allowances

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

The Mayor

2.2.12 The Mayor is the "First Citizen" of the City and a member of the Council. The post should not be confused with that of an elected mayor who, under the organisational arrangements adopted in some councils, is the political leader. The Mayor is the ceremonial head of the Council and is elected by

the other councillors at the Annual Meeting to serve for twelve months. The main roles of the Mayor are to represent the Council and the City at official functions both at home and abroad and to chair meetings of the Full Council, in compliance with the Mayoral Party Rules set out in Part 5.5 of the Constitution and their associated Practice Note.

The Cabinet and discharge of Executive Functions

2.2.13 The Council maintains a list of the powers held by the Leader of the Council and any delegation arrangements made by the Leader to other parts of the Executive. A list of the members of the Cabinet, their portfolios/areas of responsibility, contact details and the wards that they represent is available on the Council's website and on request from the Legal and Democratic Services Manager and may be inspected at the Customer Service Centre, Civic Centre, Duke Street, Chelmsford during normal office hours.

2.2.14 **Register of Members' Interests**

The Monitoring Officer maintains a statutory register under the Localism Act 2011 containing details of the financial and other interests of its councillors and for the Parish tier councillors. The Register is: -

- a) updated whenever changes to a councillor's circumstances occur which affect their entry;
- b) available on line at www.chelmsford.gov.uk/complaints-about-councillors or may be inspected at the Civic Centre, Duke Street, Chelmsford during normal office hours.

2.2.15 Councillors are also required to disclose any interests at other times as explained in the Code of Conduct for Councillors in Part 5.1 of the Constitution.

2.3 **ARTICLE 3 - CITIZENS AND THE COUNCIL**

Citizens' Rights

2.3.1 **Voting and referendums** - Those on the Register of Electors for the area have the right to:

- a) vote in elections and national referendums for which they are eligible;
- b) contact their ward councillor about any matters of concern to them; and
- c) participate in local referendums.

2.3.2 **Information** - Citizens have the right to:

- a) attend all meetings of the Council and its Cabinet and committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- b) examine the list of decisions due to be taken by the Cabinet and to find out from it what key decisions will be taken and when;
- c) obtain a copy of the Constitution on payment of a reasonable fee;
- d) see reports and background papers and any records of decisions made by the Council, the Cabinet and other bodies, except where they contain confidential or exempt information; and
- e) inspect the Council's accounts and make their views known to the external auditor.

Any document referred to above is available on the Council's website, www.chelmsford.gov.uk, and can be downloaded free of charge.

2.3.3 **Participation** - Citizens have the right to participate in the public question time part of meetings of the Full Council, the Cabinet, and Committees, provided this is in accordance with the appropriate rules of procedure in Part 4 of the Constitution.

2.3.4 **Petitions** - Citizens have the right to submit petitions in accordance with the Council's petition scheme set out in Part 4.3 of the Constitution.

2.3.5 **Complaints** - Citizens have the right to complain about the Council's processes and services by:

- a) Using the Council's complaint procedure as outlined at www.chelmsford.gov.uk/complaintsprocedure.
- b) Appealing to the Local Government Ombudsman if they are not satisfied with the outcome from that process.
- c) Using the separate procedure for information requests, by asking for a review as set out at: www.chelmsford.gov.uk/access-information.
- d) Appealing to the Information Commissioner if they are not satisfied with the outcome under c).
- e) Contacting the Monitoring Officer if the complaint is about a breach of the Code of Conduct for Councillors, using the complaint form that can be found at: www.chelmsford.gov.uk/complaints-about-councillors.

Citizens' Responsibilities

2.3.6

Citizens are expected to treat councillors and officers with courtesy and respect. They must not wilfully damage or harm things owned by the Council, councillors or officers and should not say or write anything about individual councillors or officers that is slanderous or libellous, and the Council will take appropriate action to protect their legal rights.

2.4 ARTICLE 4 - THE FULL COUNCIL

Definitions

2.4.1 In this Article, “policy framework” and “budget” have the following meanings:

- a) **Policy framework** - The policy framework means those policies and plans which must be approved or adopted by the Full Council, whether this is set out in legislation or decided by the Council. The current list can be found in the Terms of Reference of the Council in Part 3.

The Chief Executive or Monitoring Officer will advise whether other policies, strategies or plans should be approved or adopted by Full Council.

- b) **Budget** - The budget includes: the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax, decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits, supplementary estimate limits, and approval of other financial documents.

Functions of the Council

2.4.2 Only the Full Council will exercise the following functions:

- a) Adopting and changing the Constitution, other than changes to the Schemes of Delegation that relate to executive functions or those amendments the Legal and Democratic Services Manager is authorised to make under Article 2.16.3;
- b) Approving and adopting the policy framework and budget;
- c) Resolving disputes between the Cabinet and the Overview and Scrutiny Committee on whether a decision accords with a policy or budget agreed by the Full Council;
- d) Appointing and removing the Leader of the Council;
- e) Agreeing and/or amending the terms of reference of councillor bodies, deciding on their composition and making appointments to them;
- f) Appointing representatives to outside bodies (unless the appointment is an executive function or has been delegated to another councillor body);
- g) Adopting a Members’ Allowances Scheme;
- h) Changing the name of the area;
- i) Confirming the appointment of the Head of Paid Service, the S151 Officer and the Monitoring Officer, and confirming the dismissal of the statutory officers;
- j) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills; and
- k) All other matters which by law must be reserved to the Full Council, some of which are detailed in Part 3.

2.4.3

Council Meetings

There are three types of Council meeting: the annual meeting, ordinary

meetings and extraordinary meetings, and they will be conducted in accordance with the Council Procedure Rules in Part 4.1 of the Constitution.

2.5 ARTICLE 5 - THE MAYORALTY

Mayoral duties

2.5.1 The Mayor and Deputy Mayor are elected by the Full Council annually and carry out their duties in accordance with the Mayoral Party Rules and associated Practice Note in Part 5.5 of the Constitution.

Mayoral functions

2.5.2 The Mayor (or in his absence the Deputy Mayor) has the following functions:

- a) To uphold and promote the purpose of the Constitution and to interpret it where necessary;
- b) To preside over and chair meetings of the Full Council and ensure that its business is carried out effectively, having regard to the rights of councillors and the interests of the community;
- c) To ensure that the Full Council meeting acts as a forum for the debate of matters of concern to the local community and where Cabinet Members may be questioned by other councillors;
- d) Promote public involvement in the Council's activities;
- e) Attend civic and ceremonial functions; and
- f) Promote Chelmsford and its people to others and help enhance the image of the City and what it has to offer.

2.6 ARTICLE 6 - THE LEADER OF THE COUNCIL

Appointment

2.6.1 The Leader of the Council will hold office for a four year period starting on the day of their election as Leader at the Annual Council meeting, unless their term of office as a councillor is shorter, in which case their term of office as Leader will be the same as their term of office as a councillor.

2.6.2 The Leader's period of office will cease at an earlier date if:

- a) they resign from the office;
- b) they are disqualified from being a councillor; or
- c) they are removed from office by resolution of the Full Council.

Vacancy

2.6.3 In the event of a vacancy in the position of the Leader, the Deputy Leader shall act in their place until the appointment of a new Leader by the Full Council.

Functions of the Leader

2.6.4 The Leader shall be:

- a) Responsible for all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, unless otherwise delegated by them.
- b) Responsible for setting out who will exercise Executive functions. Executive functions can be exercised by the Leader, the Cabinet, individual Cabinet Members, committees of the Cabinet, joint arrangements or Officers. Any changes to Part 3 of the Constitution in relation to executive functions will be notified to all councillors.
- c) The only councillor that can exercise the following functions:
 - i. appointment of the Deputy Leader;
 - ii. appointment of the Cabinet; and
 - iii. allocation of portfolio responsibilities.
- d) The Chair of meetings of the Cabinet.

Deputy Leader

2.6.5 The Deputy Leader will be a councillor appointed to the position by the Leader. The Deputy Leader will hold office until the end of the term of office of the Leader, or until:

- a) they are removed from office by decision of the Leader; or
- b) they resign from the office; or
- c) they are disqualified from being a councillor.

Functions of the Deputy Leader

2.6.6 The Deputy Leader will:

- a) Chair meetings of the Cabinet in the absence of the Leader.
- b) Exercise all functions reserved to the Leader in their absence or where they are otherwise unable to act.

2.7 ARTICLE 7 - THE EXECUTIVE

Introduction

2.7.1 The Executive is led by the Leader, and includes members of the Cabinet, any Cabinet committees, and any officers and joint arrangements discharging Executive functions.

2.7.2 The Cabinet is appointed by the Leader to carry out all of the Council's functions, other than those which are the specific responsibility of any other part of the Council, whether by law or under this Constitution. Many decisions will therefore be taken by the Cabinet rather than Full Council.

Form and Composition of the Cabinet

2.7.3 The Cabinet will comprise the Leader and at least two, but not more than nine councillors appointed by the Leader as full time Cabinet Members. The Leader may appoint one or more Cabinet Deputies who shall be entitled to attend Cabinet meetings and, with the approval of the Leader, speak at them. They shall not, however, be regarded as members of the Cabinet and will not answer questions on any matter before the Cabinet, move recommendations or motions, or vote at Cabinet meetings. The appointment of Cabinet Members and Cabinet Deputies or any changes to them will be reported to the Annual Meeting of the Council or the next ordinary meeting of the Council.

2.7.4 Duties and Responsibilities of Cabinet Deputies

- (i) To work with the relevant Cabinet Member to oversee a specific area or areas of responsibility within the portfolio as allocated by the Leader of the Council
- (ii) To assist in service development in particular areas of responsibility within the portfolio. This includes detailed investigation and consideration of particular service areas and formulating proposals for formal decision as required by the relevant Cabinet Member.
- (iii) To undertake tasks in relation to the portfolio as allocated by the Cabinet Member, subject to any specific requirements of the Council's constitution (e.g. Cabinet Deputies may not exercise Executive functions).
- (iv) To assist the Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio
- (v) Cabinet Deputies will be invited to attend Cabinet and may, with the consent of the Leader speak. Cabinet Deputies will not, however, be able to vote.

2.7.5 Neither the Mayor nor the Deputy Mayor may be appointed to the Cabinet. No Cabinet Member or Cabinet Deputy may also be a member of the Overview and Scrutiny Committee. There will be no co-option to the Cabinet and substitution arrangements will not apply.

Delegation of Functions

- 2.7.6 The Leader's Scheme of Executive Delegation in Part 3.3.2 describes who and/or which bodies exercise the Executive functions of Chelmsford City Council. All executive decisions must be taken by the Leader of the Council unless they have made arrangements to delegate responsibility for their discharge to any of the following: -
- a) The Cabinet as a whole;
 - b) A committee of the Cabinet (comprising Cabinet Members only);
 - c) An individual Cabinet Member;
 - d) A joint Committee appointed in accordance with the principles in Article 12;
 - e) Another local authority or the Cabinet of another local authority; or
 - f) An officer of the Council.

- 2.7.7 It has been agreed that decisions, other than those specifically delegated to another body or officer, will be taken collectively by the Cabinet.

Terms of Appointment for Cabinet Members and Deputies, other than the Leader and Deputy Leader, which are set out in Article 6

- 2.7.8 Each Cabinet Member and Cabinet Deputy will be appointed by the Leader at the Annual Meeting and will hold office until they: -
- are removed from office by decision of the Leader; or
resign from the office; or
are disqualified from being a councillor.
- 2.7.9
- a) The Leader will allocate responsibility for functions to such Cabinet
 - b) Members as they think appropriate. These arrangements are set out in
 - c) Part 3.3.2.

Proceedings

- 2.7.10 Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules and the Cabinet and Committees Procedure Rules as set out respectively in Parts 4.4 and 4.2 of this Constitution.

Responsibility for Functions

- 2.7.11 In the event of any Executive functions being delegated by the Leader, a list setting out those functions will be maintained by the Monitoring Officer and made available for inspection. Many of these will be delegated as part of the Scheme of Delegations to Officers in Part 3.4 of this Constitution.

Non-Cabinet Councillors

- 2.7.12 Each political group not represented on the Cabinet shall be entitled to nominate persons to speak on specific Cabinet functions at meetings of the Cabinet. Other councillors may also do so in particular circumstances. The arrangements by which non-executive councillors can contribute to Cabinet meetings are set out in Part 4.4.

2.8 ARTICLE 8 - OVERVIEW AND SCRUTINY

Role of the Committee

2.8.1 The Council is legally required to discharge certain overview and scrutiny functions to ensure sound decision-making. In order to achieve this, the Council has appointed an Overview and Scrutiny Committee to fulfil all functions under section 9F of the Local Government Act 2000, as amended by the Localism Act 2011 including to:-

- a) Review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its committees;
- b) Scrutinise the work of other relevant bodies;
- c) Carry out the functions of the Council's designated Crime and Disorder Committee under the Police and Justice Act 2006;
- d) Make reports or recommendations to the Full Council or the Cabinet in connection with the discharge of any functions;
- e) Consider any matter which affects the City or its citizens; and
- f) Exercise the right to call in for reconsideration executive decisions made but not yet implemented by the Cabinet and officers.

Terms of Reference

2.8.2 The membership and specific terms of references for the Committee are set out in Part 3.2.3 (e) "Responsibility for Functions" of the Constitution.

Proceedings

2.8.3 The Committee will conduct its meetings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4.5 of the Constitution.

2.8.4 The Committee may undertake detailed assessment of proposals through the use of advisory panels known as "Task and Finish Groups", the considerations of which will be reported to the Committee for noting or a decision to be taken.

2.9 ARTICLE 9 - COUNCILLOR ADVISORY BODIES

Role

2.9.1 The Full Council and the Cabinet are the two arms of decision-making. The Cabinet can take any decisions that are not functions reserved for the Full Council. The Full Council can take decisions set out in Parts 3.1 and 3.2 of the Constitution, and generally does so through the Council Committees referred to in Part 3.2 of the Constitution or officers authorised to do so under the Scheme of Delegation referred to in Part 3.4 .

Terms of Reference and Composition

2.9.2 The Council, Leader or individual Cabinet Member, Cabinet or a Committee may form advisory panels to assist in formulating new policy or moving forward significant projects. Such Advisory Panels shall:

- a) have the terms of reference as set out in Part 3 of the Constitution; and
- b) not have decision-making powers and any recommendations must be reported to the appropriate councillor body, that is then able to take the decisions required.

2.10 **ARTICLE 10 - COMMITTEES OF THE COUNCIL**

Role

2.10.1 The Council will appoint the committees described in Part 3 of this Constitution to discharge the functions described in that section.

Sub-committees

2.10.2 Those committees may establish sub-committees to carry out such functions for which they are responsible as they think appropriate. Sub-committees will cease to exist:

- a) once the purpose for which it was set up has finished;
- b) if the parent body ceases to exist; or
- c) if the parent body decides to abolish it or change its function.

Membership

2.10.3 All such committees must reflect the political balance of the Council.

2.11 ARTICLE 11 - GOVERNANCE COMMITTEE

Role

2.11.1 The Council will establish a Governance Committee with the following roles and functions:

- a) To maintain the Code of Conduct for Councillors and promote high standards of conduct by the City councillors as well as within Parish Tier Councils.
- b) To deal with the assessment of any complaints regarding breaches of the Council's Code of Conduct, and provide written notice of the findings, for the City Council as well as Parish Tier Councils.
- c) To maintain oversight of the Council's arrangements for dealing with complaints and in particular to consider complaints to the Local Government Ombudsman and receive reports on investigations.
- d) To consider the Annual Whistle-blowing report.
- e) To review annually the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and receive regular updates on the use of these powers.
- f) To grant exemptions from politically restricted posts.
- g) To consider any other reports relating to Council functions where a councillor view or decision is required and which are not already within the terms of reference of other member bodies.
- h) To approve and monitor the Code of Corporate Governance and the Council's Annual Governance Statement with the Audit Committee.

2.11.2 The Committee will report to the Council on any matter on which the Committee is not authorised to take decisions.

Terms of Reference

2.11.3 The membership and specific terms of references for the Committee are set out in Part 3.2.3 (c) "Responsibility for Functions" of the Constitution.

2.12 ARTICLE 12 - JOINT ARRANGEMENTS

Principles for joint arrangements

2.12.1 There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority. The legal rules differ slightly for Executive and Council functions. However in either case a decision to enter into such arrangements and the basis for those arrangements will be taken through the Council's normal decision-making processes.

2.12.2 Such arrangement may involve –

- a) The appointment of a joint committee to which all participating authorities can appoint members. Which councillors are appointed to the Committee will be decided by the Cabinet where the work to be undertaken is an Executive function or by the Full Council from its wider membership if a Full Council function.
 - i. Political balance requirements will not apply to such appointments where an Executive function is to be exercised.
 - ii. The terms of reference for a joint committee or other methods of joint working will be agreed as part of the decision process.
- b) Undertaking work for another authority or asking another authority to undertake work for the Council in the circumstances described in relevant legislation.

2.12.3 The Full Council can delegate Council functions to another local authority or, where those functions are the responsibility of the Cabinet of another local authority, to that Cabinet.

2.12.4 The Cabinet can delegate Executive functions to another local authority or the Cabinet of another local authority in certain circumstances.

2.12.5 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council, or the Cabinet, depending on which body the delegation is to.

Access to Information

2.12.6 The following principles apply:

- a) The Access to Information Procedure Rules apply to the work of a Joint Committee.
- b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Council's Cabinet.
- c) If the Joint Committee contains councillors of an authority that does not operate a cabinet structure, then the Access to Information Rules in part

VA of the Local Government Act 1972 (as amended) will apply.

- d) A decision as to which Council's other Constitutional rules will be used in any joint working arrangements, such as which Committee Procedure Rules will be used, will be decided on a case by case basis as part of the overall decision to enter into such an arrangement.

Contracting Out

2.12.7

The Council (in respect of Council functions) and the Cabinet (in respect of Executive functions) may contract out to another body or organisation functions:-

- a) 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
- b) under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

2.13 ARTICLE 13 – OFFICERS

General

2.13.1 The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

Statutory Officers

2.13.2 The Council will designate the following posts to the post-holders identified:

Post	Designation
Chief Executive	Head of Paid Service under section 4 of the Local Government & Housing Act 1998.
Legal and Democratic Services Manager	Monitoring Officer under section 5 of the above act.
Accountancy Services Manager	Chief Finance Officer under Section 151 of the Local Government Act 1972.

Functions of Head of Paid Service

2.13.3 The following functions are the responsibility of the Head of Paid Service:

- a) Overall corporate management and operational responsibility
- b) Provision of professional advice to all parties in the decision-making process
- c) Representing the Council on partnership and external bodies

Functions of the Monitoring Officer

2.13.4 The following functions are the responsibility of the Monitoring Officer:

- a) Ensuring lawfulness and fairness of decision-making - After consulting the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Cabinet if they feel that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Where such a report is issued, the intended proposal or decision will be stopped pending consideration of the Monitoring Officer's report.
- b) Supporting the Governance Committee - The post-holder will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Committee.
- c) Conducting or arranging for investigations into matters of conduct and reporting on them to the Committee.

- d) Proper Officer for access to information - The post-holder will ensure that Cabinet decisions, together with reasons for those decisions and any options considered when reaching them, and relevant officer reports and background papers are made publicly available as soon as possible.
- e) Advising whether Cabinet decisions are within the budget and policy framework. This will be done in conjunction with the Chief Finance Officer in budgetary matters.
- f) Providing 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 officers, in consultation with the Chief Finance Officer where relevant.
- g) Maintaining the Constitution - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to councillors, staff and the public.

2.13.5 Restriction. The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

Functions of the Chief Finance Officer

2.13.6 The following functions are the responsibility of the Chief Finance Officer:

- a) Ensuring lawfulness and financial prudence of decision-making -
After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council, or to the Cabinet in relation to an Executive function, and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b) Administration of financial affairs -
The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c) Contributing to corporate management –
The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) Providing advice -
The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers on their respective roles.

- e) Give financial information -
The Chief Finance Officer will provide financial information to the media, Citizens and the community.

Duty to provide resources to the Monitoring Officer and the Chief Finance Officer

- 2.13.7 The Council will provide the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow them to perform their duties.

Conduct

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

Employment

- 2.13.9 The recruitment, selection and dismissal of these statutory officers will comply with the Officer Employment Rules set out in Part 4.8 of this Constitution.

2.14 ARTICLE 14 - DECISION MAKING

Responsibility for decision making

- 2.14.1 The Council will issue and keep up to date a record of which part of the Council or which 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 the Constitution.

Principles of decision making

- 2.14.2 In making a decision on any given matter, whether it be by councillors or officers collectively or individually, the following principles will be observed:
- a) any action proposed will be in proportion to the desired outcome;
 - b) there will be appropriate consultation and, where necessary, appropriate professional advice will be considered;
 - c) respect for human rights will be observed;
 - d) there will be a presumption in favour of openness; and
 - e) the intended aims and outcomes of the decision will be clearly established and explained.

Types of decisions

- 2.14.3 Decisions reserved to Full Council: Decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.

- 2.14.4 Key decisions: A key decision is an executive decision (i.e. one taken by the Leader, the Cabinet or delegated by it to a committee of the Cabinet, a Cabinet Member or an officer) which:

- a) Will result in the Council incurring expenditure or making savings (including generating income) which represents the lower of £200,000 or 20% or more of the relevant expenditure or income budget for a particular service; or
- b) Will have a significant effect on two or more wards in the City of Chelmsford.

A decision taker may only make a key decision in accordance with the requirements of the Access to Information Rules set out in Part 4.6 of this Constitution.

2.14.5 Decision making by Full Council

Subject to Article 2.14.9 below the Full Council meeting will follow the Council Rules set out in Part 4.1 of this Constitution.

2.14.6 Decision making by the Cabinet

Subject to Article 2.14.9 below the Cabinet will follow the Executive Procedure Rules set out in Part 4.4 and the Cabinet and Committees Procedure Rules in Part 4.2 of this Constitution.

- 2.14.7 **Decisions by the Overview and Scrutiny Committee**
The Overview and Scrutiny Committee will follow the Overview and Scrutiny Rules set out in Part 4.5 and the Cabinet and Committees Procedure Rules in Part 4.2 of this Constitution.
- 2.14.8 **Decisions by other councillor bodies**
Subject to Article 2.14.9 below all other Council bodies will follow those the Rules set out in Part 4.2 of this Constitution.
- 2.14.9 **Decision making by Council bodies acting as tribunals**
The Council, a councillor or an officer acting in a quasi-judicial manner or determining/considering (other than for the purpose 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.

2.15 ARTICLE 15 - FINANCE, CONTRACTS AND LEGAL MATTERS

Financial Management

- 2.15.1 The management of the Council's financial affairs will be conducted in accordance with the Budget and Policy Framework Procedure Rules set out in Part 4.7 of this Constitution, and the Financial Rules in Part 4.9.

Contracts

- 2.15.2 Every contract made by the Council will comply with the Contracts Rules set out in Part 4.10 of this Constitution.

Legal Proceedings

- 2.15.3 The Legal and Democratic Service Manager is authorised to take all appropriate actions in relation to legal proceedings, prospective proceedings and potential disputes as set out in the Delegations to Officers in Part 3.4 of the Constitution where the Legal and Democratic Services Manager considers that such action is necessary to protect the Council's interests.

2.15.4 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 Legal and Democratic Services Manager or such other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given the required authority to some other person.

- 2.15.5 Generally, all contracts entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed or made under the Common Seal of the Council in accordance with the requirements of the Contract Rules in Part 4.10 of the Constitution and Article 15.6 below.

Common Seal of the Council

- 2.15.6 The Common Seal of the Council shall be kept secure by the Legal and Democratic Services Manager and shall be fixed as necessary to any official document of the Council. The Chief Executive, the Director of Connected Chelmsford and the Legal and Democratic Services Manager, or such other person authorised by the Legal and Democratic Services Manager, shall witness the fixing of the seal to a document. The use of the seal shall be recorded in the Seal Register.

- 2.15.7 A decision of the Council, any part of it or an officer with relevant authority to do so, 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 Legal and Democratic Services Manager, should be sealed.

2.16 ARTICLE 16 - REVIEW, REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

Duty to monitor and review the Constitution

2.16.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect and kept up to date. To this end, the Monitoring Officer will make an annual assessment of the Constitution to identify any weaknesses or improvements in its operation.

2.16.2 Any proposals for changes to the Constitution arising from a review of the Constitution, whether it be initiated by an officer or a resolution by a councillor body, will be reported to the Cabinet, which in turn will make recommendations to the Full Council.

2.16.3 The Legal and Democratic Services Manager shall have authority to make minor changes to the Constitution. Any minor changes will be subject to consultation with the Chair of Governance Committee.

Suspension of the Constitution

2.16.4 The Articles of the Constitution may not be suspended.

2.16.5 The Procedure Rules of the Constitution, insofar as they relate to the Council, the Cabinet, Overview and Scrutiny Committee and other councillor bodies, may be suspended. A motion to do so may only be moved either:

by notice given in accordance with the procedure detailed in Council Rule 4.12.1(p) in Part 4.1 of the Constitution; or

a) if at least half of the whole number of councillors on the body are present.

b) **Interpretation**

2.16.6 The ruling of the Mayor or where The Mayor is not present, the Chair of the meeting, as to the meaning or interpretation of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council, provided such interpretation is consistent with the purposes of the Constitution contained in Article 1.

2.16.7 For the avoidance of doubt, this does not prevent a point of order or interpretation being raised and debated by the councillors present, but ultimately the ruling of the Mayor or other Chair of the meeting will be binding.

Publication

2.16.8 The Monitoring Officer will make the Constitution available to all councillors through the Council's website.

2.16.9 The Council will make appropriate arrangements for relevant parts of the

Constitution to be viewed.