

ARTICLES OF THE CONSTITUTION

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ARTICLE 1 – THE CONSTITUTION

1.1 The Constitution

- (a) The Articles, and all appendices, comprise the Constitution of Worcestershire County Council.
- (b) The Council has adopted executive arrangements as the basis for its Constitution. Following public consultation, it has adopted the 'new style' Leader and Cabinet Executive (England) model with effect from 7 June 2009. The Constitution and particularly the following parts of it set out the executive arrangements:
 - (i) Article 6 (The Leader of the Council and the Cabinet) and Appendix 3 (the Cabinet Procedure Rules).
 - (ii) Article 7 (Decision- Making) and Appendix 5 (Access to Information Procedure Rules).
 - (iii) Article 8 (Overview and Scrutiny Arrangements) and Appendix 4 (Overview and Scrutiny Procedure Rules).
 - (iv) Relevant part of Appendix 1 (Scheme of Assignment of Responsibility for Functions).

1.2 Powers of the County Council

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the County Council (in partnership with citizens, businesses and other organisations as appropriate) to provide broad leadership to and support for the communities of Worcestershire to improve their economic social and environmental well-being;
- (b) support the involvement of citizens in the process of local authority decision-making;
- (c) help councillors represent their constituents more effectively;
- (d) make clear how the Council is to operate, and enable decisions to be taken efficiently and effectively;
- (e) create a rigorous means by which decision-makers can be held to public account;

- (f) ensure that no-one will formally review or scrutinise a decision in which they have been directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community to meet the County Council's vision, as expressed in the policy themes in the Council's Corporate Plan/Sustainable Community Strategy.

1.4 Interpretation and Review of the Constitution

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

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

1.5 Previous Policies/Decisions

Unless negated by a provision of the Constitution, any decision made by or on behalf of the County Council and any plan, budget, policy or strategy approved by or on behalf of the County Council prior to the coming into effect of the Constitution shall have effect and apply as if it had been made in accordance with the requirements of the Constitution and shall remain in force as a decision or plan or budget or policy or strategy under the Constitution unless and until and to the extent that it is amended varied or replaced.

1.6 Interpretation

Throughout this Constitution references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

ARTICLE 2 – MEMBERS OF THE COUNTY COUNCIL

2.1 Composition and eligibility

- (a) **Composition** The Council has 57 members, otherwise called councillors, as may be elected by the voters of each electoral division within the county in accordance with a scheme approved by the Electoral Commission and implemented by statutory order.
- (b) **Eligibility** Legislation governs the eligibility of candidates to be elected but in summary only registered voters of the county area or those living, working or occupying land there will be eligible to be elected to the office of councillor.

2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years from 2009 unless alternative legal provision is made. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. A By-election may be held if a vacancy occurs in a division between each regular election, except if such vacancy occurs within 6 months of the date of the next regular election.

(Note - the next regular election will be held in May 2013).

2.3 Roles and functions of all councillors

(a) Key roles

All councillors will:

- (i) collectively be the ultimate policy-makers as set out in the Constitution and carry out strategic and corporate management functions;
- (ii) contribute to the good governance of the area and encourage community participation and citizen involvement in decision-making;
- (iii) effectively represent the interests of their electoral divisions and of individual constituents and bring their views into the Council's decision-making process;
- (iv) respond to constituents' enquiries and representations fairly and impartially;
- (v) participate in the governance and management of the Council, including scrutiny arrangements as appropriate;
- (vi) be available to represent the Council on other bodies; and

- (vii) maintain the highest standards of conduct and ethics in the conduct of the business of the Council or their office and comply with their Code of Conduct.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents and information as are necessary for the proper discharge of their functions and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it; and
- (iii) for these purposes, “confidential” and “exempt” information are defined in legislation and the Access to Information Rules in Appendix 5 of this Constitution.

(c) Role Descriptions

The County Council has agreed role descriptions for Councillors and the various office holders in the County Council and will keep these under review. These are contained, together with any protocols, in Appendix 12.

2.4 Conduct

Councillors will at all times observe the Members’ Code of Conduct as adopted from time to time and any Protocol on Member/Officer Relations as adopted from time to time (set out in Appendices 10 and 12 of this Constitution) and the conduct provisions of the Procedural Standing Orders (set out in Appendix 2) at meetings to which they apply.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Councillors’ Allowances Scheme set out in Appendix 13 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNTY COUNCIL

3.1 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 Appendix 5 of this Constitution:

(a) Voting and petitions

Citizens on the electoral roll for the County area have the right to vote and to sign a petition to request a referendum for an elected mayor form of Constitution in accordance with legal provisions.

(b) Information

Citizens have the right in accordance with the Access to Information rules and the law to:

- (i) attend meetings of the County Council, the Cabinet and Committees of the Council (as defined in Article 7 and the law) except where confidential or exempt information is likely to be disclosed, and the meeting or agenda item is therefore closed to the press and public;
- (ii) attend meetings of the Cabinet when 'key decisions' are being taken, except where confidential or exempt information is likely to be disclosed, and the meeting or agenda item is therefore closed to the press and public;
- (iii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
- (iv) see reports and background papers, and any records of decisions made by the Council, the Cabinet, and Committees of the Council, which are open to the public; and
- (v) inspect and object to the Council's accounts and make their views known to the external auditor.

(c) Participation

Citizens have the right to participate at meetings of the Council, the Cabinet, and Committees of the Council (unless different arrangements are made in particular cases) by the presentation of a petition, submission of a question or the making of comments in accordance with the procedure set out in the Council's Procedural Standing Orders (Appendix 2). Separate arrangements exist for addressing the Planning and Regulatory Committee in respect of planning applications.

The Council encourages Citizens and any other non-councillors with relevant expertise and knowledge to be involved and participate as part of its overview and scrutiny arrangements.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its Corporate Representations Procedure (Comments, Compliments and Complaints);
- (ii) the Ombudsman after using the Council's Corporate Representations Procedure (Comments, Compliments and Complaints);
- (iii) the Standards and Ethics Committee of the Council about a breach of the Members' Code of Conduct.

3.2 Citizens' responsibilities

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

3.3 Equal Opportunities

The County Council values the rich diversity of Worcestershire's local community and is committed, through effective dialogue with key interest groups, to promoting equal opportunities for all regardless of social, ethnic or economic background and to ensure effective compliance with equal opportunity employment practices within the Council.

ARTICLE 4 – THE FULL COUNCIL

4.1 Functions

- (a) There are certain functions the responsibility for which and/or the exercise of which the Council must, by law, reserve to itself or has chosen to do so. These are contained in Appendix 1 which sets out the assignment of responsibility for the functions not only of the Council itself but also for executive functions, overview and scrutiny functions and other non-executive functions.
- (b) In summary, the main functions which the Council itself carries out are:
- (i) Adopting and changing the Articles of the Constitution or authorising such adoptions and changes
 - (ii) Approving the 'Policy Framework' of the Council (meaning the plans and strategies which are required to be adopted by Council under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended or those which may be and have been so adopted as part of its policy framework from time to time, as set out in Appendix 1), the Budget, and Members' codes of conduct
 - (iii) Appointment of the Chairman, Vice-Chairman, and Leader of the Council
 - (iv) Establishing committees and their terms of reference for functions which are not the responsibility of the executive and appointing Chairmen and Vice-Chairmen of them, and appointing other positions in accordance with the Constitution of the Council
 - (v) Adopting a Councillors' allowances scheme
 - (vi) Making and amending byelaws, promoting or opposing local legislation in Parliament
 - (vii) Considering in certain circumstances overview and scrutiny reports
 - (viii) Any other matter which by law must be reserved to the Council or which maybe and has been so reserved.

NB The functions of full Council are set out in more detail in Appendix 1. As a result of the adoption of executive arrangements under the Local Government Act 2000, full Council or its committees cannot deal with matters which are the responsibility of the Executive (i.e. Leader and Cabinet) referred to as Executive functions. Non-Executive functions are those which by law must not be the responsibility of the Executive. Local Choice functions are those where there is a choice as to whether the Executive or other part of the Council exercise them.

4.2 Council Meetings

There are three types of County Council meeting:

- (a) the annual meeting;

- (b) the ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Procedural Standing Orders in Appendix 2 of this Constitution.

ARTICLE 5 – THE CHAIRMAN OF THE COUNTY COUNCIL

5.1 Role and function of the Chairman

- (a) The Chairman and Vice-Chairman of the County Council will be elected by the Council annually.
- (b) The Chairman of the County Council, and in his/her absence, the Vice-Chairman, will have the following roles and functions:
 - (i) to be the Civic Leader of Worcestershire;
 - (ii) to promote the interests and reputation of the County Council and of Worcestershire as a whole, to act as an ambassador for both, to foster community identity and pride and to promote public involvement in the Council's activities;
 - (iii) to undertake civic community and ceremonial functions;
 - (iv) to uphold and promote the purposes of the Constitution;
 - (v) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of councillors and the interests of the community;
 - (vi) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which members Leader and Cabinet to account;
 - (vii) to determine any matter referred to him/her in relation to matters requiring an urgent decision pursuant to paragraph 17.15 of Appendix 4 (call-in), paragraph 16 of Appendix 5 (urgent key decisions not in Forward Plan) or paragraph 4.2 of Appendix 6 (decisions outside budget and policy framework) of this Constitution;
 - (viii) to serve on any other bodies either within or outside the Council as appropriate or attend related events and conferences.
- (c) Neither the Chairman nor Vice-Chairman of Council may be appointed to the Cabinet.
- (d) Neither the Chairman nor Vice-Chairman of Council may be the Chairman of any Committee of the Council.

ARTICLE 6 – THE LEADER OF THE COUNCIL AND CABINET

6.1 Role

The Council has adopted the Leader and Cabinet Executive (England) governance model for its executive arrangements. The Leader of the Council is responsible for the discharge of such functions as are the responsibility of the Executive of the Council i.e. all functions which by law must be the responsibility of the Executive or which are not the responsibility of any other part of the Council whether by law or under this Constitution ('executive functions'). The Leader may make such arrangements as the Leader thinks fit from time to time for the delegation and discharge of executive functions.

6.2 Form and Composition of Cabinet

- (a) Leader of the Council is responsible for the appointment of the Cabinet which will consist of the Leader and not less than 2 nor more than 9 other councillors, as the Leader shall determine. The Leader will allocate areas of political responsibility to members of the Cabinet as the Leader shall determine from time to time. The Leader may change the size of Cabinet (within the above parameters) and appointments to it at any time. Areas of political responsibility are set out in Appendix 1.
- (b) One of the members of the Cabinet will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.
- (c) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.
- (d) The Cabinet is not a Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.
- (e) The Cabinet collectively, individual members of the Cabinet or officers will be responsible for the discharge of such functions of the executive as are allocated by the Leader of the Council from time to time (set at in Appendix 1).

(Note- the Leader has appointed 9 Cabinet Members with Responsibility to sit with him as the Cabinet)

6.3 Leader

The Leader of the Council will be a councillor elected to that position by the County Council. The Leader will hold office until the first meeting of the Council following the next regular election unless:

- (a) he or she resigns from the office of Leader; or
- (b) he or she is suspended from being a councillor of the Council under Part III of the Local Government Act 2000 (although he/she will resume office at the end of the period of suspension); or
- (c) he or she is disqualified from being or remaining a councillor; or
- (d) he or she is no longer a councillor of the Council for any reason; or
- (e) he or she is removed from office by a ordinary resolution on notice by the County Council at any time during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting).

6.4 Other Cabinet Members

- (a) Only councillors may be appointed to the Cabinet by the Leader as above and there may be no co-optees and no Deputies nor Substitutes for Cabinet Members upon the Cabinet.
- (b) Neither the Chairman nor Vice-Chairman of the Council will be appointed to the Cabinet. Members of the Cabinet will not serve on the Overview and Scrutiny Performance Board or Scrutiny Panels or exercise Overview and Scrutiny functions.
- (c) A Cabinet Member shall hold office in the Cabinet until:
 - (i) he or she resigns from office; or
 - (ii) he or she is suspended from being a councillor of the Council under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension if so determined by the Leader); or
 - (iii) he or she is disqualified from being or remaining a member or is no longer a councillor for any reason; or
 - (iv) he or she is removed from office by the Leader of the Council;
- (d) If any Cabinet member, including the Leader, fails for 6 months to attend any meeting of the Cabinet, or any committee of it, then unless the failure was due to some reason approved by or on behalf of the Council, he/she

shall cease to be a member of the Council in accordance with the provisions of the Local Government Act 1972.

[Note – any councillor becomes disqualified if he or she fails for 6 months to attend any meeting of the authority without prior approval as above]

6.5 Cabinet Members with Responsibility

- (a) The Leader will decide on the number, and extent of areas of responsibility, of Cabinet members and will decide to which members of the Cabinet such areas of responsibility shall be allocated; and
- (b) The Leader will decide the extent to which responsibility for formal decision-making for functions of the executive is held collectively by the Cabinet, by individual members of the Cabinet or Officers.

6.6 Role Description / Protocols

Role descriptions and protocols governing how Cabinet Members with Responsibility should carry out their responsibilities are contained in Appendix 12.

6.7 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Appendix 3 of this Constitution.

6.8 Responsibility for functions

- (a) Appendix 1 sets out the functions assigned to the Cabinet and officers;
- (b) Unless delegated to an individual officer or Cabinet member the Leader may determine that the responsibility of the Cabinet for the exercise of an executive function and decision-making is collective;
- (c) The Leader may delegate any responsibility of the Leader or the Cabinet for the exercise of an executive function to any Cabinet Member with Responsibility or any other individual member of the Cabinet, or officer;
- (d) The Leader or Cabinet, in relation to an executive function, may specify that a particular decision which would otherwise fall within a power delegated to an officer in accordance with the Scheme of delegation to officers shall not be exercised by that officer but shall be reserved or referred to the Leader, Cabinet or an individual Cabinet member for that decision to be made. An officer may decide not to exercise any executive function delegated to him/her and invite the Leader or Cabinet to take a particular decision in relation to that function.

ARTICLE 7 – DECISION-MAKING

7.1 Responsibility for decision-making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions which are not the responsibility of the executive. The Leader will do the same with respect to executive functions. These records are set out in Appendix 1 of this Constitution (scheme of assignment of responsibility for functions) and may change from time to time.

7.2 Principles of decision- making

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

- (a) due regard to all relevant and material considerations and without regard to any irrelevant considerations;
- (b) where appropriate, the realistic evaluation of alternatives;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- (d) due consultation and the taking of professional advice from officers;
- (e) respect for human rights and equalities;
- (f) a presumption in favour of openness;
- (g) clarity of aims and desired outcomes; and
- (h) reasons being given for the decision, as appropriate.

7.3 Key decisions

- (a) A 'key decision' is one made in the exercise of an executive function which is likely:
 - (i) to result in the County Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
 - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County area.

- (b) The Leader, Cabinet member or Cabinet may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Appendix 3 of this Constitution and the provisions of paragraphs 13 to 24 of the Access to Information Rules set out in Appendix 5 of this Constitution.
- (c) A key decision shall not constitute an action or decision taken by a Chief Officer under delegated powers which is in the furtherance of the day to day administration of the service for which the Chief Officer is responsible.

7.4 Decision- making by the full Council

Subject to Article 7.9 the County Council meeting will follow the Procedural Standing Orders set out in Appendix 2 of this Constitution when considering any matter.

7.5 Decision- making by the Cabinet

Subject to Article 7.9, the Cabinet will follow those parts of the Procedural Standing Orders set out in Appendix 2 which may apply to it and the Cabinet Procedure Rules set out in Appendix 3 of this Constitution when considering any matter. The procedures relating to the taking of key decisions are set out in paragraphs 13 to 24 of Appendix 5 of this Constitution (Access to Information Rules).

7.6 Overview and Scrutiny

- (a) Subject to Article 7.9, the Overview and Scrutiny Performance Board and the Health Overview and Scrutiny Committee and the formal Overview and Scrutiny Panels as indicated in Article 8 will when considering any matter follow those parts of the Procedural Standing Orders set out in Appendix 2 of this Constitution which may apply to them, and the Overview and Scrutiny Procedure Rules set out in Appendix 4 of this Constitution.
- (b) The Overview and Scrutiny Performance Board and the Health Overview and Scrutiny Committee have no executive decision-making powers in relation to the functions within their scope, nor does any Overview and Scrutiny Panel or task group established by the Council or Overview and Scrutiny Performance Board.
- (c) Scrutiny Task Groups will follow those parts of the Overview and Scrutiny Procedure Rules set out in Appendix 4 as apply to them.

7.7 Decision-making by other Committees established by the Council

Subject to Article 7.9 other Council Committees (and any Sub-Committees) will follow those parts of the Procedural Standing Orders set out in Appendix 2 of this Constitution as apply to them. 'Committees' for

the purposes of this Constitution comprise those Committees and Panels of the Council established under Articles 8, 9 and 10 and for the avoidance of doubt include the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, the Overview and Scrutiny Panels but not Scrutiny Task Groups nor Joint Committees operating under their own rules of procedure.

7.8 Decision-making by Officers

Subject to Article 7.9 certain officers are empowered to take decisions on behalf of the County Council in accordance with the provisions of the Constitution and scheme of delegation to officers in Appendix 1 of this Constitution. These provisions relate to both Executive and non-executive functions.

7.9 Decision making by Council bodies acting in a quasi-judicial or appellate capacity

The Council, councillors, a councillor or an officer acting as a tribunal or as an appellate body 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 proceed in accordance with the requirements of natural justice and the Human Rights Act 1998.

ARTICLE 8 – OVERVIEW AND SCRUTINY ARRANGEMENTS

8.1 Establishment

- (a) The Council will appoint an Overview and Scrutiny Performance Board which will have the role and functions as set out in the scheme of assignment of responsibility for functions (Appendix 1);
- (b) The Council will appoint a Health Overview and Scrutiny Committee and four Overview and Scrutiny Panels as set out below. Their respective roles and functions are set out in the scheme of assignment of responsibility for functions (Appendix 1)
- Children and Young People Panel (whose Sustainable Community Strategy Theme is: Meeting the needs of Children and Young People (including their health))
 - Environment and Economy Panel (whose Sustainable Community Strategy Themes are: A better environment for today and tomorrow; Economic success shared by all; Stronger Communities)
 - Adult Care and Well-Being Panel (whose Sustainable Community Strategy Themes are: Improving health and well-being; Communities that are safe and feel safe)
 - Resources Panel (Support functions)
- (c) The Overview and Scrutiny Performance Board will comprise a Chairman and Vice-Chairman and 6 other Councillors, one of whom will chair the Health Overview and Scrutiny Committee and four of whom will chair and lead the work of the Overview and Scrutiny Panels;
- (d) Places on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels will be allocated in accordance with the political balance of the Council;
- (e) The Chairman of the Overview and Scrutiny Performance Board will be not be a member of a political group forming part of the ruling administration. The Chairman will not, however, hold the position of a Group Leader within the Council;
- (f) The Health Overview and Scrutiny Committee will comprise 14 Members. In addition to 8 County Councillors, each District Council within Worcestershire will nominate one member to serve and who will be entitled to vote. The Chairman will be a County Councillor appointed by the Council and the Vice-Chairman will be selected by District Council representatives from amongst the District Council representatives serving on the Committee and approved by Council;

- (g) The Overview and Scrutiny Panels will comprise 8 members. The Overview and Scrutiny Performance Board and Overview and Scrutiny Panels will co-opt in a voting capacity such non-councillors as required by law when dealing wholly or in part with education matters. Other non-councillors may be co-opted in a non-voting capacity as and when required.
- (h) All members (other than Cabinet Members) are, irrespective of political group, eligible to serve on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or any Scrutiny Task Groups;
- (i) Any Scrutiny Task Group established by the Overview and Scrutiny Performance Board will be led by an identified member of the Overview and Scrutiny Performance Board. The Chairman of the Overview and Scrutiny Performance Board is not expected to lead a Scrutiny Task Group carrying out an in-depth scrutiny. The size of each Scrutiny Task Group will vary according to the purpose for which it is established and its membership shall be agreed by the Overview and Scrutiny Performance Board in consultation with leaders of the political Groups;
- (j) Scrutiny Task Groups will not be established as Committees of the Council for the purposes of the Council's Procedural Standing Orders or Access to Information Rules. Places on Scrutiny Task Groups need not be allocated strictly in accordance with the political balance of the Council. Instead, the principle of proportionality will be applied more flexibly to enable members with a particular knowledge or interest or commitment to take part in a particularly scrutiny task;
- (k) The Chairman of the Overview and Scrutiny Performance Board and Lead Scrutiny Members will be appointed by Council;
- (l) No substituted membership is permitted on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or Scrutiny Task Groups.

8.2 Proceedings and Reports

- (a) The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels will conduct their proceedings in accordance with those Procedural Standing Orders (Appendix 2 of this Constitution) as apply to them and in accordance with the Overview and Scrutiny Procedure Rules set out in Appendix 4 to this Constitution.
- (b) Scrutiny Task Groups will conduct their proceedings in accordance with those parts of the Overview and Scrutiny Procedure Rules set out in Appendix 4 as apply to them.
- (c) The outline Scrutiny Programme developed by the Overview and Scrutiny Performance Board will be approved from time to time by Council.

- (d) The Overview and Scrutiny Performance Board will submit an Annual Scrutiny Report to the Council as part of the overview and scrutiny arrangements.

8.3 General rôle

The terms of reference of the Scrutiny bodies are set out in Appendix 1. In summary their rôle is to

- a) assist the Council and Leader and Cabinet in the development of its budget and policy framework or other policy matters;
- b) review or scrutinise decisions or actions taken in connection with the discharge of any of the Council's functions; and
- c) exercise call-in powers in respect of executive decisions not yet implemented in accordance with Appendix 4.

ARTICLE 9 – PLANNING, REGULATORY, AUDIT AND APPELLATE FUNCTIONS

- 9.1** The Council will establish the **Planning and Regulatory Committee** which will carry out the functions set out in the scheme of assignment of responsibility for functions (Appendix 1). The Chairman and Vice - Chairman of the Committee will be appointed by the Council.
- 9.2** Membership of the Committee may include the member of the Cabinet who leads on strategic planning but such member would not normally be the Chairman of the Committee.
- 9.3** Every member who serves on the Planning and Regulatory Committee will undertake to abide by the Planning Code of Conduct. No member may serve on the Planning and Regulatory Committee unless and until they have undertaken training considered suitable by the Director of Corporate Services.
- 9.4** The Council will establish the **Audit and Governance Committee** which will carry out the functions set out in the scheme of assignment of responsibility for functions (Appendix 1). The Chairman and Vice-Chairman will be appointed by the Council.
- 9.5** The Council will establish an **Appellate Panel** from which the Director of Corporate Services will select a small number of members to form individual ad hoc panels which will carry out the functions set out in the scheme of assignment of responsibility for functions (Appendix 1).
- 9.6** Each individual panel will include independent persons where so required.
- 9.7** No member will serve on an individual panel who has had any prior involvement in the particular matter or decision being appealed. Whilst members of the Cabinet are not precluded from serving on individual panels, they will not serve on any panel involving an appeal against a decision of the Cabinet.
- 9.9** The Council will establish an **Appointments etc Panel** to which the Director of Corporate Services will appoint individual members to ad hoc panels which will carry out the functions set out in the scheme of assignment of responsibility for functions (Appendix 1).

ARTICLE 10 – THE STANDARDS AND ETHICS COMMITTEE

10.1 Composition

- (a) The Council will establish a Standards and Ethics Committee. This will include at least one person who is not a councillor nor an officer either of the Council or of any other relevant authority as defined in the Local Government Act - the independent member(s). The independent member(s) will be entitled to vote at Committee meetings;
- (b) Only a maximum of one member of the Cabinet (who shall not be the Leader of the Council) may be a member of the Standards and Ethics Committee and that member may not be the Chairman of the Committee;
- (c) The Chairman of the Standards and Ethics Committee must be an independent member. If there are more than three members of the Standards and Ethics Committee then at least 25% of the members of it must be independent members;
- (d) An independent member cannot be appointed if he/she is a member or officer of any relevant authority or has been a member or officer of the Council within the last five years or is a relative or close friend of a member, co-opted member or officer of the Council in order that it could not be said that that friendship or relationship would influence his/her judgement. An independent member can only be appointed if the person has applied to the Council, there has been an advertisement in a newspaper, and the appointment has been approved by a majority of the members of the Council;
- (e) The Council has:
 - established a Standards and Ethics Committee of 11 persons, of whom 8 are councillors and three are independent members
 - whilst councillor places on the Committee are not legally required to be allocated according to the political balance of the Council, determined that places be so allocated
 - decided that the Chairman and Vice-Chairman of the Committee be independent members appointed by the Council
 - established Assessment and Review Sub-Committees each comprising 3 members appointed by the Monitoring Officer on an ad hoc basis and each to be chaired by one of the independent members
 - established a Hearing Sub-Committee comprising five members appointed by the Monitoring Officer on an ad hoc basis of which three are councillors and two are independent persons and to be chaired by one of the

independent persons.

(Membership of the sub-committees is appointed on a case by case basis as appropriate and not subject to the political balance requirements.

10.2 Role and Function

The Standards and Ethics Committee is the statutory standards committee of the Council and the Committee and its Sub-Committees will carry out the roles and functions set out in the scheme of assignment of responsibility for functions (Appendix 1) or as assigned by legislation.

ARTICLE 11 – JOINT ARRANGEMENTS

11.1 Arrangements to promote well being or statutory functions

The Council (in respect of matters which are not Executive functions), the Leader or the Cabinet (in respect of matters which are Executive functions or otherwise the responsibility of the Executive), in order to promote the economic, social or environmental well-being of its area or in pursuance of other statutory functions, 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.

11.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of joint Committees with those other local authorities;
- (b) The Leader or Cabinet may establish joint arrangements with one or more local authorities or their executives to exercise functions which are executive functions. Such arrangements may involve the appointment of joint Committees with those other local authorities or their executives;
- (c) Subject to (d), the Leader or Cabinet may only appoint Cabinet members to such a joint Committee referred to in (b) and those members need not reflect the political composition of the Council as a whole.
- (d) The Leader or Cabinet may appoint members from outside the Cabinet to a joint Committee in the following circumstances:-
 - the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Leader or Cabinet may appoint to the joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area
 - the joint Committee is between a County Council and a single District Council and relates to functions of the executive of the County Council. In such cases, the Leader or Cabinet 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 cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegation to Joint Committees are set out in the scheme of assignment of responsibility for functions (Appendix 1) of this Constitution.

11.3 Access to Information

- (a) The Access to Information Rules in Appendix 5 of this Constitution apply as follows:
- (b) If all the members of a Joint Committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet by legislation (set out in Appendix 5 of this Constitution).
- (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.

11.4 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority, or receive such delegations.
- (b) The Leader or Cabinet may delegate Executive functions to another local authority or the executive of another local authority in certain circumstances, or receive such delegations.

11.5 Contracting Out

The Council (in respect of functions which are not Executive functions) and the Leader or Cabinet (in respect of Executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles provided there is no delegation of the Council's discretionary decision-making.

ARTICLE 12 - AREA ARRANGEMENTS

- 12.1** The County Council is committed to developing area based arrangements to cover the whole county and recognises that area bodies can be a very valuable part in helping the Council to develop community leadership by providing satisfying roles for non-Cabinet members, making connections in the community supporting the various community strategies and informing the work of the Worcestershire Partnership and District Local Strategic Partnerships.
- 12.2** The Council believes that given the diverse nature of the county area, it is not appropriate to apply the same prescriptive arrangements to each part of its area. Instead flexible arrangements are more appropriate based on or within the District Council boundaries involving, as appropriate, Parish and District Councils, the public and partners/stakeholders according to local circumstances. The presumption is that any such arrangements are purely consultative with no decision-making powers, but the Council does not preclude the delegation of decision-making powers if and when it deems it appropriate.

(Note: the Council is involved in the following varied arrangements:

Bromsgrove District

A series of public meetings involving County and District Councils, Primary Care Trust and West Mercia Police. Located around Bromsgrove Town, Rubery/Barnt Green, Hagley/area and Alvechurch/Wythall. Meetings based on these locations take place every six months.

Attended by County and District and Parish members, stakeholder partners and the general public.

Redditch Borough

The Redditch Forum meeting is linked to the Borough Council neighbourhood meetings and involves County and Borough Councils, Primary Care Trust and West Mercia Police. The meeting takes place three times a year

Attended by County and Borough members, stakeholder partners and the general public.

Malvern Hills

Tenbury Area Partnership now feeds the Malvern Hills Partnership with local issues from Tenbury.

Attended by invited officers of County, District and Town Councillors as well as partners and officers of service providers.

No other public meetings are held in the Malvern Hills District led by the County Council

Wychavon District

A series of County Council led public meetings located in urban and rural areas around the three market towns of Evesham, Pershore and Droitwich – two meetings per year in each location. The County Council works in partnership with West Mercia police, the voluntary sector and South Worcestershire Primary Care Trust in delivering these forums, which are attended by members of the Senior Management Team of Wychavon District Council.

Attended by relevant County, and Parish Councillors, partner agencies and the general public.

Worcester City

Arrangements are in hand to set up a number of partnership agency sponsored public meetings on a pilot basis throughout the city during 2009/10

Intended for County, City and (where appropriate) Parish members, stakeholder partners and the general public.

Wyre Forest

There are currently no joint meeting arrangements in the district. However, it is the intention of the 'Wyre Forest Matters' Local Strategic Partnership to implement a future public meeting programme

Highways Partnership Forums

All County Councillors are members of their respective district based Highways Partnership Forums.

Single Issue events/meetings

Locally based public meetings, based around specific current events or proposals, with involvement by other agencies where appropriate and relevant. Convened in response to request by a local member and/or officer, or as a result of public concern.

Attended by relevant local members at County, District and Parish levels and/or stakeholder partners, as appropriate, and the general public.

12.3 District Local Strategic Partnerships

One County Councillor (except a Cabinet Member with Responsibility) will represent, on a non-political basis, the County Council on each District Local Strategic Partnership. Such Councillors will represent an electoral

division within the area of the respective Local Strategic Partnership.
Protocols for representation on Local Strategic Partnerships are contained
in Appendix 12 of the Constitution.

ARTICLE 13 - OFFICERS

13.1 Management structure

(a) General

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

(b) Chief Officers

- (i) The County Council may engage a Chief Executive and such Directors with corporate or service responsibilities as it considers necessary (collectively known as Chief Officers).

(Note: The Council has agreed that the following officers be the Chief Officers of the County Council:

*Chief Executive
Director of Adult and Community Services
Director of Children's Services
Director of Corporate Services
Director of Environmental Services
Director of Financial Services
Director of Planning, Economy and Performance
Director of Public Health (jointly with Health)*

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council must appoint to these positions and designates the following posts as shown:

Chief Executive - Head of Paid Service
Head of Legal and Democratic Services - Monitoring Officer
Director of Financial Services - Chief Financial Officer

Such posts will have the functions described in Article 13.2 – 13.4 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure. This is set out in Appendix 14 of this Constitution.

13.2 Functions of the Head of Paid Service

(a) Discharge of functions by the Council

The Head of Paid Service where he/she considers it appropriate to do so will report to full Council on the manner in which the discharge of the County Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation and proper management of officers.

(b) Restrictions on designation

The Head of Paid Service may not be the Monitoring Officer.

13.3 Functions of the Monitoring Officer

(a) Maintaining the Constitution

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

(b) Ensuring lawfulness and fairness of decision making

After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Leader or Cabinet in relation to an executive function) if he/she considers that any proposal, decision or omission has given rise to or is likely to or would give rise to unlawfulness, or maladministration (if investigated by the Ombudsman). Such report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards and Ethics Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Ethics Committee and its Sub-Committees.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals or Standards and Ethics Committee or its Sub-Committees.

(e) Conducting investigations

The Monitoring Officer will conduct or arrange investigations into matters referred for investigation by the Standards and Ethics

Committee or its Sub-Committees or by ethical standards officers and make reports or recommendations in respect of such investigations to the Standards and Ethics Committee or its Sub-Committees as appropriate.

(f) **Proper officer for access to information**

The Monitoring Officer will ensure that Cabinet decisions, together with any reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as practicable.

(g) **Advising whether Cabinet decisions are within the budget and policy framework**

The Monitoring Officer in consultation, as necessary, with the Chief Financial Officer will advise whether decisions of the Leader or Cabinet are in accordance with the budget and policy framework.

(h) **Providing advice**

The Monitoring Officer will in consultation, as necessary, with the Chief Financial Officer provide advice on the scope of powers and authority to take decisions, and concerning maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors in their respective roles.

(l) **Restrictions on Designation**

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

13.4 Functions of the Chief Financial Officer

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council (or to the Leader or Cabinet in relation to an executive function) and the Council's external auditor if he/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 Financial Officer will have responsibility for:-

- (i) the proper administration of the financial affairs of the Council,

under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988; and

- (ii) conducting a continuous internal audit of the financial affairs of the Council as required by the Accounts and Audit Regulations 2003; for maintaining an adequate and effective system of internal audit as required by those Regulations; and for reporting to the Audit Committee on matters within its remit.

(c) **Contributing to corporate management**

The Chief Financial Officer will contribute to the corporate management of the County Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Chief Financial Officer will in consultation as necessary with the Monitoring Officer provide advice in relation to financial matters on the scope of powers and authority to take decisions and concerning maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Giving financial information**

The Chief Financial Officer will provide financial information to the media, the public and the community.

13.5 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer

The County Council will provide the Head of Paid Service, Monitoring Officer and Chief Financial Officer with such officers, accommodation and other resources as are in the opinion of those officers sufficient to allow their duties to be performed.

13.6 Conduct

Officers of the Council will comply with the Officers' Code of Conduct and any Protocol on Officer/Member Relations from time to time (set out in Appendices 11 and 12 of this Constitution).

13.7 Employment

The recruitment, selection and dismissal of officers and the taking of any other personnel decisions will comply with the Officer Employment Procedure Rules set out in Appendix 9 of this Constitution.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix 7 of this Constitution.

14.2 Contracts

Every contract made by the Council will comply with the approved Contract Standing Orders set out in Appendix 8 of this Constitution, together with the approved Corporate Procurement Strategy and Code applicable from time to time.

14.3 Legal proceedings

A Chief Officer is authorised to institute, defend, appeal, make any application or representation within or withdraw from any criminal or civil legal proceedings before any court, tribunal or inquiry, provided that the Head of Legal and Democratic Services or other officer authorised by him agrees that it is appropriate and in the Council's interests to take such action. The Head of Legal and Democratic Services may, in any case, take or authorise others to take such action on his/her own authority.

14.4 Authentication of documents

Where any document is a necessary step in any legal procedure or proceedings on behalf of the County Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given the necessary authority to some other person for the purposes of such proceedings

14.5 Common Seal of the County Council

- (1) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal and Democratic Services.
- (2) In any case where it is necessary that the Common Seal of the Council should be affixed to any document to give effect to a resolution of the Council (or any decision of the Cabinet, a Committee or other member body or of an officer of the Council where the Cabinet, Committee or other member body or officer has the power), that resolution (or decision) shall be of a sufficient authority for sealing that document.
- (3) The affixing of the seal shall be attested either by the Head of Legal and Democratic Services or any person authorised by him/her present at the sealing, and an entry of every sealing of a document shall be made in a book kept for the purpose and shall be initialled by the person who has attested the affixing of the seal.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the Constitution

- (a) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and may make recommendations for ways in which it can be changed.
- (b) In undertaking this task the Monitoring Officer may:
 - (i) observe meetings of different parts of the member and officer structure;
 - (ii) undertake an audit trail of a sample of decisions;
 - (iii) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
 - (iv) compare practices in the County Council with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

- (a) **Articles.** Changes to the Articles of the Constitution will only be approved or authorised by the full Council after consideration of a report and recommendations by the Monitoring Officer. Council may authorise the Monitoring Officer to make changes to the Articles.
- (b) **Change from a Leader and Cabinet form of Executive to another form of Executive or vice versa.** The Council will take reasonable steps to consult local electors and other interested persons in the area when drawing up such governance proposals in accordance with statutory provisions.
- (c) The Monitoring Officer is authorised at any time to make any variations to the constitution (other than the Articles unless authorised to do so by Council) to give effect to any changes in the Articles or the law or where, in his/her opinion, needs and circumstances require it. The Monitoring Officer will make any necessary changes to the Articles of the Constitution to give effect to decisions of the Council.

ARTICLE 16 – INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

(a) Limit to suspension

The Articles of this Constitution may not be suspended. Any provision of those parts of the Constitution other than the Articles may be suspended to the extent and in the manner permitted therein and by the law.

- (b) The extent and duration of any suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

16.2 Interpretation

- (a) Notes in italics contained within the Articles are for information and do not form part of the Articles.

- (b) The Monitoring Officer shall except to the extent otherwise provided for in the Constitution be the final arbiter in relation to the interpretation and application of the Constitution and its provisions.

16.3 Publication

- (a) The Monitoring Officer will ensure that a copy of the Constitution is accessible on the Council's website and may give a printed copy of it on request to any member of the authority.
- (b) The Monitoring Officer will ensure that such a copy is available for inspection at County Hall and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.