

ARTICLES OF THE CONSTITUTION

Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of Shropshire County Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

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.

Article 2 – Members of the Council

2.1 Composition and Eligibility

- (a) **Composition.** The Council will comprise 48 members, otherwise called councillors. One councillor will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the administrative county or those living or working there will be eligible to hold the office of councillor.

2.2 Election and Terms of Councillors

Election and Terms. The regular election of councillors will be held on the first Thursday in May every four years beginning in 2001. 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.

2.3 Roles and Functions of all Councillors

- (a) **Key Roles.** All councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
 - (iii) effectively represent the interests of their electoral division and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council; and
 - (vi) maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
 - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
 - (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations; the Local Codes on Planning and Regulatory Committees; the Local Members' Code; the Council's Whistle Blowing Policy and any other protocols set out in Part 5 of this Constitution.

NOTE: More detail as to a Councillor's role is explained in an appendix to the Constitution entitled 'Office of County Councillor – Role and Expectations'.

Article 3 – Citizens and the 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 Part 4 of this Constitution:

- (a) **Voting and Petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Executive when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the Executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's and Cabinets' question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman;
 - (iii) the Standards Board for England about a breach of the Councillor's 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 council, councillors or officers.

Article 4 – The Full Council

The full Council will have responsibility for approving or adopting the following policies, plans, strategies and the Council's budget.

4.1 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

(i) *those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any amendments and regulations proposed under Section 32 of the Local Government Act 2000 to be adopted by the Council:*

- Best Value Performance Plan;
- Children's Services Plan;
- Community Care Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Early Years Development & Childcare Plan;
- Education Development Plan;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan (Structure Plan, Mineral Plan, Waste Plan);
- Youth Justice Plan;
- Local Transport Plan.

(ii) *those other plans and strategies which Chapter 2 of DETR Guidance recommends should be adopted by the Council as part of the Policy Framework:*

- Council's Corporate Plan;
- Adult Learning Plan;
- Local Agenda 21 Strategy;
- Quality Protects Management Action Plan;
- Food Law Enforcement Service Plan;
- Asset Management Plan;
- County Council Health Strategy;
- Cultural Strategy;
- School Organisation Plan.

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

4.2 Functions of the Full Council

Only the Council will exercise the following functions;

- (a) adopting and changing the Constitution, subject to;
- (b) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (c) electing a Chairman;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for regulatory, joint committees and overview and scrutiny committees, 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 by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (l) all other matters which, by law, must be reserved to Council; and
- (m) to determine the meaning of 'significant' in relation to key decisions (see Article 13).

4.3 Council Meetings

There are four types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings; and
- (d) state of the area debate;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Article 5 – Chairing the Council

Title of the Person Chairing Council Meetings

5.1 Role and Function of the Chairman

The Chairman will be elected by the Council annually.

The Chairman of the Council and in their absence, the Vice-Chairman, will have the following role and function:

Ceremonial Role

The Chairman is the civic leader of the Council. He/she will be the principal representative of the Council on ceremonial occasions and in representing the Council at other ceremonial events.

Title of the Person Chairing Council Meetings

5.2 Chairing the Council Meeting

The person elected to chair meetings of the Council will hereinafter be referred to as 'The Speaker'. For the sake of clarity the Speaker is the Chairman for the purpose of the Local Government Act 1972 Schedule 12 paragraph 5.

The Speaker will be elected by the Council annually. The Speaker will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
4. to ensure that the Council meeting is in the place at which members who are not on the Executive are able to hold the Executive to account;
5. to promote public involvement in the Council's activities; and
6. to be the conscience of the Council.

The Deputy to the Speaker will be the Chairman of the Council.

5.3 Speaker's Role in Urgent Decisions Outside the Budget or Policy Framework

Under the Budget and Policy Procedure Rules, in the absence of the Chairman of the relevant scrutiny committee, the Speaker of the Council or in the absence of both, the Deputy Speaker can give consent to such a decision.

Article 6 – Overview and Scrutiny Committees

Scrutiny – General Comments

6.1 Terms of Reference

The Council will appoint the overview and scrutiny committees set out in the left-hand column of the table below to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000 in relation to the matters set out in the right-hand column of the same table.

6.2 Except where the context otherwise requires, the term ‘overview and scrutiny committee’ should mean any of the following committees:

COMMITTEE	SCOPE
Scrutiny Panel: Corporate Support Services	The provision, planning, management and review of the services provided by the Chief Executive’s Office, Legal and Democratic Services, and the Resources Directorate. Key responsibilities include: <ul style="list-style-type: none"> • overview role for Scrutiny • monitoring and maintaining corporate health • assisting the achievement of compliance with the Council’s legal and regulatory requirements • supporting and encouraging compliance with best practice in the governance of the Council • leading on budget scrutiny Shropshire County Council services within the remit of this panel include: <ul style="list-style-type: none"> • Human Resources and Development • Health and Safety • Performance and Corporate Policy • Equality and Diversity • Corporate Communications • Legal and Democratic Services • Financial Services • Shire Services • Property Services • Information Technology and e-Government

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<p>Scrutiny Panel: Children and Young People Services</p>	<p>The provision, planning, management and review of services that support the achievement of the Children and Young People shared priority and the associated corporate priorities, and to lead on the scrutiny of the Every Child Matters five outcomes.</p> <p>Shropshire County Council services within the remit of this panel include:</p> <ul style="list-style-type: none"> • Schools • Early Years and Sure Start • Youth Service • Children Social Services • Advisory Service • Children’s Joint Commissioning
<p>Scrutiny Panel: Community Services</p>	<p>The provision, planning, management and review of services that support the achievement of the Stronger and Safer Communities and the Healthier Communities and Older People shared priorities and the associated corporate priorities.</p> <p>Shropshire County Council services within the remit of this panel include:</p> <ul style="list-style-type: none"> • Culture Services (including Countryside, Arts, Archives, Museum and Libraries) • Adult Education (including County Training) • Community Safety • Substance Misuse Services • Adult Social Services (including Older People’s Services, Physical and Learning Disabilities, Mental Health) • Joint Commissioning for Adults
<p>Scrutiny Panel: Health Overview and Scrutiny</p>	<p>In accordance with the Health and Social Care Act 2001 review and scrutinise the commissioning, purchasing and provision of health services relevant to the needs to Shropshire people, and the interface between the NHS family and other parts of the system.</p>
<p>Scrutiny Panel: Economy and Environment Services</p>	<p>The provision, planning, management and review of services that support the achievement of the Sustainable Communities shared priority and the associated corporate priorities.</p> <p>Shropshire County Council services within the remit of this panel include:</p> <ul style="list-style-type: none"> • Waste Management • Highways • Transport Policy and Planning

	<ul style="list-style-type: none">• Traffic Management• Road Safety• Public Transport• Integrated Transport Unit• Planning Policy and Control• Sustainability• Economic Development• Rural Policy• Trading Standards
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6.3 General Role

Within their terms of reference, overview and scrutiny committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive (Cabinet) and/or any joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or area committees.

6.4 Specific Functions

(a) **Policy Development and Review.** Overview and scrutiny committees may:

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

(b) **Scrutiny.** Overview and scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the Executive (Cabinet) and Council officers both in relation to individual decisions and over-time;

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Executive (Cabinet) and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Executive (Cabinet) and/or Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committees and local people about their activities and performance; and
 - (vi) question and gather evidence from any person (with their consent).
- (c) **Annual Report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.5 **Proceedings of Overview and Scrutiny Committees**

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

Article 7 – The Executive (Cabinet)

The Role of the Executive (Cabinet)

7.1 Role

The Executive (Cabinet) will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.2 Form and Composition

The Cabinet will consist of the Executive (Cabinet) Leader, together with at least 2, but not more than 9, councillors appointed to the Executive (Cabinet) by the Council.

7.3 Leader

The Leader will be a councillor elected annually to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor; or
- (d) save that the Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council. Political control will be deemed to have changed when political group leaders are able to demonstrate to the Chief Executive that they have signed up to their group(s) more than one half of the total members of the Council, and they are, therefore seeking a change in control of the Council.

7.4 Other Executive (Cabinet) Members

Other Executive (Cabinet) members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 although they may resume office at the end of the period of suspension; or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Council.

7.5 Shadow Executive (Cabinet)

The opposition will have a shadow cabinet but this group will have no decision-making powers or responsibilities. Its main role will be to develop opposition priorities and policies. The shadow cabinet has no formal function or role within the Council.

Article 8 – Regulatory and Other Committees

8.1 Regulatory and Other Committees

The Council will appoint the committees set out in the left-hand column of the table 'Responsibility for Council Functions' in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

Article 9 – The Standards Committees

9.1 Standards Committee

The Council meeting will establish a standards committee.

9.2 Composition

Political Balance

The Standards Committee will be composed of at least 4 councillors (one from each group) of whom not more than one shall be an Executive member, two parish councillors and at least 5 persons who are not councillors or an officer of the Council (the independent members).

Independent Members

The committee must consist of at least 25% independent members. Such members will be entitled to vote at meetings.

Parish Councillors

At least two members of the committee must be Parish Councillors who are not also members of the Council.

9.3 Chairman of Standards

The Chairman and Vice-Chairman of the Standards Committee will be independent members.

9.4 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with written allegations addressed direct to the committee, that a member or co-opted member of the Council has failed, or may have failed, to comply with the Code of Conduct.
- (h) providing to the Standards Board for England such information including the number of written allegations, request for reviews and the exercise of functions

by the Standards Committee and monitoring officer, as the Standards Board directs.

- (i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred either by the committee itself or by an ethical standards officer to the Monitoring Officer.

9.5 Sub Committees

- (a) There will be three sub-committees made up of at least three members and all chaired by an independent member.
- (b) The “assessment” sub-committee will consider all written allegations addressed to the committee that a member or co-opted member has failed, or may have failed, to comply with the Code of Conduct. The sub-committee will have regard to the guidance of the Standards Board for England in deciding, within 20 working days, whether to:
 - (i) refer the allegation to the monitoring officer
 - (ii) refer the allegation to the Standards Board for England
 - (iii) decide that no action should be taken in respect of the allegation
- (c) Where the assessment sub-committee decides to take no action in respect of a written allegation the person who made the allegation may make a request to the Standards Committee for that decision to be reviewed. This will be considered by the review sub-committee which must have different members from those on the referrals sub-committee who took the initial assessment decision and must be chaired by a different independent member.
- (d) The “hearings” sub-committee shall be convened to consider the reports of the Monitoring Officer or an ethical standards officer and to hold hearings. It must be chaired by an independent member and members who took part in either the referrals or review stages will not be precluded from being members of the hearings sub-committee. The sanctions available to the hearings sub-committee are set out in the Standards Committee procedures.

9.6 Additional Roles of Standards Committees

The committee shall also have the following roles and functions:

- (a) the monitoring and overview of the Whistle Blowing Policy;
- (b) drawing up, advising, reviewing and monitoring of all protocols under the Constitution;
- (c) member training involving monitoring and evaluating the effectiveness of training which has taken place. Such training to include training for new members, induction, training to support members’ changing roles, including training of members in matters related to the Members’ Code of Conduct, mentoring and shadowing. The above would link into the overview of the annual programme of seminars for members;
- (d) to advise and assist in the promotion and encouragement of local democracy, e.g. linking into the development of the school curriculum on citizenship.

Article 10 – Area Committees and Forums

10.1 Definition

Area committees within Shropshire shall be known as ‘Area Panels’.

10.2 Area Committees

The Council may appoint area committees. It will do this to seek to ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision-making. It will also use area committees to encourage greater participation and democratic involvement.

10.3 Form, Composition and Function

(a) **Table of Area Committees.** The Council will appoint the area committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

Name of Committee	Composition	Terms of Reference
1. Bridgnorth County Area Panel 2. North Shropshire County Area Panel 3. Oswestry District Area Panel 4. Shrewsbury County Area Panel 5. South Shropshire County Area Panel	Members of authority all from area - no political balance necessary. Could have co-optees who may vote only on functions under Regulation 4 of the 1990 Regulations.	1. To provide a forum for local consultation and for liaison with other local authorities in their area. 2. To raise and discuss issues of their own local choice. 3. Delegated power to consider objections to permanent traffic orders published by the Head of Legal and Democratic Services and relevant to that area panel.

(b) **Delegations.** The Council and the Executive (Cabinet) will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Executive (Cabinet) and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.4 Conflicts of Interest - Membership of Area Committees and Scrutiny Panels

(a) **Conflict of Interest.** If a scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the

councillor concerned is a member, then the councillor may speak but not vote at the scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.

- (b) **General Policy Reviews.** Where the scrutiny panel is reviewing policy generally, the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.5 **Area Committees - Access to Information**

Area committees will comply with the Access to Information Rules in Part 4 of this Constitution. Agendas and notices for area committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

10.6 **Executive (Cabinet) Members on Area Committees**

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

Article 11 – Joint Arrangements

11.1 Arrangements to Promote Well-being

The Council or the Executive (Cabinet), in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive (Cabinet) may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, Executive (Cabinet) may only appoint Executive (Cabinet) members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive (Cabinet) may appoint members to a joint committee from outside the Executive (Cabinet) 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 Executive (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 Executive (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 of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegations in Part 3 of this Constitution.

11.3 Access to Information

- (a) If all the members of a joint committee are members of the Executive (Cabinet) in each of the participating authorities then its access to information regime is the same as that applied to the Executive;
- (b) 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;
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.5 Contracting Out

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

Article 12 – Officers

12.1 Management Structure

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

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision-making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions. Representing the Council on partnership and external bodies (as required by statute of the Council).
Corporate Director of Economy and Environment	Strategic Planning and Transportation, Environment and Economy, Trading Standards, Libraries, Highways, Arts, Sports, Museums, Countryside and Heritage Services.
Corporate Director of Children and Young People	Education and training, lifelong learning.
Corporate Director of Community Services	The provision of social care and social work services and their quality.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Director of Resources	Chief Finance Officer

Such posts will have the functions described in Article 12.2 - 12.4 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.2 Functions of the Head of Paid Service

- (a) **Discharge of Functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

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

12.3 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 consultation by members, staff and the public.
- (b) **Ensuring Lawfulness and Fairness of Decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving Reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting Investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper Officer for Access to Information and any Procedure Rules.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising Whether Executive Decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (h) **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.4 Functions of the Chief Finance Officer

- (a) **Ensuring Lawfulness and Financial Prudence of Decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.
- (e) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.5 **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

12.6 **Conduct**

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

12.7 **Employment**

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

Article 13 – Decision-Making

13.1 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. This record is set out in Part 3 of this Constitution.

13.2 Principles of Decision-making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) consideration of alternative options;
- (g) recording reasons for the decision, including details of any alternative options considered and rejected; and
- (h) that in relation to decisions of the Executive (Cabinet) that these are lawful and consistent with the powers delegated by the Council.

13.3 Types of Decision

(a) **Decisions Reserved to Full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

(b) **Key Decisions:**

- (i) A key decision is an Executive decision which is likely:
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the local authority. In two member divisions ie Oswestry and Market Drayton, these are to be treated for the purpose of a key decision as two divisions.

NOTE: The current Financial and Contract Rules recommend any financial decision over and above a budget value of £140,000 to be a key decision.

- (ii) A decision-taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

13.4 **Decision-making by the Full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.5. **Decision-making by the Executive (Cabinet)**

Subject to Article 13.8, the Executive (Cabinet) will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.6 **Decision-making by Scrutiny Panels**

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

13.7 **Decision-making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.8 **Decision-making by Council Bodies Acting as Tribunals**

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

13.9 **Executive (Cabinet) Acting Outside its Existing Powers**

In the event of the Executive (Cabinet) acting outside its existing powers, the call-in arrangements will be automatically activated.

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 rules set out in Part 4 of this Constitution.

14.2 Contracts

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

14.3 Legal Proceedings

The Head of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

14.4 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 Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £10,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by two duly authorised officers of the authority or made under the common seal of the Council attested by at least one officer in accordance with the Contract Procedures Rules.

14.5 Common Seal of the Council

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

Article 15 – Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

The Standards Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council, subject to the Head of Legal and Democratic Services making routine revisions and by replacing references to any repealed or amended, consolidated or replacement legislation, or secondary legislation with current references.
- (b) **Change from a Leader and Cabinet Form of Executive to Alternative Arrangements or Vice Versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 16 – Suspension, 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. The rules specified below may be suspended by the full Council to the extent permitted within those rules and the law.
- (b) **Procedure to Suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension.** The following Rules may be suspended in accordance with Article 16.1:
 - (i) Council Procedure Rules.

16.2 Interpretation

The ruling of the Speaker of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.3 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

SCHEDULE 1 - Description of Executive Arrangements

The following parts of this Constitution constitute the cabinet arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive (Cabinet)) and the Executive Procedure Rules;
3. Article 10 (Area Committees) - to consider objections to Permanent Road Traffic Orders;
4. Article 11 (Joint arrangements);
5. Article 13 (Decision-making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).