

## Part 2: Articles of the Constitution

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### 2A Article 1 – The Council

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#### 2A.1 The Role of the full Council

Full Council is the policy-making body from which the policy framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Executive (also known as the Cabinet) will be delegated the responsibility of policy implementation and effective service delivery.

The election of the Leader and the establishment and appointment to non-Executive Committees will be the responsibility of full Council.

On an annual basis full Council will elect a Chair, who shall not then be a member of the Executive. On an annual basis full Council will appoint a Deputy Chair, who shall not then be a member of the Executive.

#### 2A.2 Functions of the full Council

Only the Council will exercise the functions set out in [Part 3B](#) of this Constitution.

Full Council will determine the responsibilities for the Council's functions which are not the responsibility of the Executive, also known as Local Choice Functions, and have determined that all functions of the Council that are not reserved to full Council are deemed to be Executive functions (see Part 3D.1).

#### 2A.3 Council meetings

There are four types of Council meeting – the annual meeting; ordinary meetings; extraordinary meetings and special meetings. They will be conducted in accordance with the Council Procedure Rules in [Part 5A](#) of this Constitution.

There will be at least three ordinary meetings plus the annual meeting each year. Extraordinary meetings will be called as and when necessary, as provided for in this Constitution. Special meetings will be called, for a specific purpose, where necessary in accordance with the law and the Council Procedure Rules.

#### **2A.4 Responsibility for functions**

The Council will maintain the lists in [Part 3](#) of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Executive.

## **2B Article 2 – Chairing the Council**

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### **2B.1 Role and function of the Chair of the Council**

The Chair of the Council is elected to be the Civic Head of the Council, representing the Council as a whole in all civic and ceremonial matters, and 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.

The Chair and Deputy Chair of the Council will be elected and appointed by the Council annually. They are both accountable to the full Council and may only be removed during their term by full Council.

The Chair, and, in their absence, the Deputy Chair will have the following roles and functions:

#### Chairing meetings of the Full Council

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having taken advice from the Monitoring Officer or their representative;
- to preside over meetings of the Council in an impartial manner so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive nor are Committee Chairs are able to hold the Executive and Committee Chairs to account;
- to promote public involvement in the Council's activities;
- to be the independent conscience of the Council.

#### Civic and Ceremonial Role

- to attend such civic and ceremonial functions as the Council determine appropriate in order to promote the Council and its interests;
- to promote the Council as a whole and act as a focal point for the Community;
- to host such civic and ceremonial functions as the Council determines appropriate in order to promote the Council and its interests.

#### Charity

- The Chair may promote a Chair's Charity for the charity or charities of their choice during their term of office and will make external arrangements for the provision of all the support necessary in relation to their involvement

with or support of that charity appeal.

## **2B.2 Non-Eligibility for membership of the Executive**

Neither the Chair nor the Deputy Chair can be a member of the Executive.

## **2C Article 3 – Overview and Scrutiny Committee**

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### **2C.1 Terms of reference**

The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations proposed under section 32 of the Local Government Act 2000.

In relation to the scrutiny of Health functions, the Council participates in County wide arrangements primarily administered by the Oxfordshire County Council and appoints members / deputies to serve on a county-wide Health Scrutiny Joint Committee in accordance with arrangements approved by all the principal Councils in Oxfordshire.

### **2C.2 General Role**

Overview and Scrutiny is an important element of the Council's Constitution. The Overview and Scrutiny Committee is a powerful public forum through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the Council's functions and/or other matters affecting the District and hold the Executive to account for their decisions and actions. Overview and Scrutiny is concerned with the overall wellbeing of the District and all factors affecting this and is an important mechanism for Councillors to represent their Wards and are a focus for stakeholder and community involvement.

The Overview and Scrutiny Committee will be responsible for the functions and powers set out in [Part 3C](#) of this Constitution.

### **2C.3 Annual Report**

The Overview and Scrutiny Committee must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **2C.4 Proceedings of Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in [Part 5C](#) of this Constitution.

### **2C.5 Power to co-opt people onto the Committee**

The Overview and Scrutiny Committee will have the power to co-opt any person or persons it thinks appropriate (except for a member of the Executive) onto the

## Constitution of West Oxfordshire District Council

Committee, on whatever basis they think appropriate. Co-opted members may speak in debates but not vote.

### **2C.6 Chair of Overview and Scrutiny Committee**

The Chair of an Overview and Scrutiny Committee must be an opposition Member.

## 2D Article 4 – The Executive

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### 2D.1 Role

The Executive, also known as the Cabinet, carry out all of the local authority's functions as set out in [Part 3D](#) of this Constitution.

### 2D.2 Form and composition

The Executive will consist of the Executive Leader together with at least four, but not more than nine, Councillors, appointed to the Executive by the Leader.

### 2D.3 Leader

The Leader will be a Councillor elected by the Council at the annual meeting. Under the terms of the Local Government and Public Involvement in Health Act the Leader will hold office until the day following their normal day of retirement when they may seek re-election, or until:

- (i) they resign from the office; or
- (ii) they cease to be a Councillor other than on the normal day of their retirement as a Councillor; or
- (iii) the day of the next Annual Council Meeting after the Leader's normal day of retirement as a Councillor; or
- (iv) they are removed from office by resolution of the Council, in accordance with Council Procedure Rules.

The Leader shall appoint a Member of the Executive to be the Deputy Leader, who shall have all the powers, duties and responsibilities of the Leader in their absence.

### 2D.4 Other Executive Members

Only Councillors may be appointed to the Executive. There may be no co-optees and no deputies or substitutes for Executive members (other than the Deputy Leader who may deputise for the Leader in their absence). Neither the Chair nor Deputy Chair of the Council may be appointed to the Executive and members of the Executive (including the Leader) may not be members of an Overview and Scrutiny Committee nor act as Chairs of Regulatory Committees.

Other Executive members shall be appointed annually by the Leader who shall advise the Council formally of their appointments at the annual meeting. They will hold office until the next annual meeting, when they may be reappointed, or until:

- (i) they resign from office; or
- (ii) they are no longer Councillors; or

- (iii) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two clear working days after receipt of the notice by the proper officer and will be notified to full Council at the next ordinary meeting.

#### **2D.5 Members of the Council who are not on the Executive**

Members of the Council who are not on the Executive may attend meetings of the Executive. At the discretion of the Leader, they may ask questions and/or join in debates, but they may not vote.

#### **2D.6 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in [Part 5B](#) of this Constitution.

#### **2D.7 Responsibility for functions**

The Leader will maintain a list in [Part 3D](#) of this Constitution setting out which individual members of the Executive, Committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions. The Leader will notify the Monitoring Officer of any changes which shall take effect two clear working days after such notification is received.

#### **2D.8 Policy Advisors**

Policy Advisors, who are Members of the Council, may be appointed by the Leader to advise Executive Members on any area for which they are responsible. An Executive Member may consult a Policy Advisor before making a decision but a Policy Advisor shall not have the power to take Executive decisions on behalf of or affecting the Council.



## 2E Article 5 – Regulatory and Other Committees

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### 2E1. Council Committees

The Council will establish and appoint to the following Committees as set out in [Part 3](#) of this Constitution.

- Overview and Scrutiny Committee
- Development Control Committee
- Licensing Committee
- Audit and Governance Committee
- Performance and Appointments Committee

### 2E.2 Committee Membership

The appointment of members to these Committees will be made in accordance with the Council Procedure Rules in [Part 5A](#) of this Constitution. Appointments will be made by the Council, in accordance with the rules relating to political balance, having received nominations from Group Leaders. However, where a Group Leader confirms to full Council that he is making no such nomination for a seat that his party is entitled to, appointment to that seat on a Committee will be made by the Council, in accordance with the Council's decision, regardless of political balance.

The Committee, at its first meeting following Annual Council, will elect its Chair for the year and consider the establishment and appointment to any sub-Committees.

### 2E.3 Sub-Committees

Several Committees, in accordance with Part 3 of the Constitution, have the power to establish Sub-Committees and to appoint to their membership from the membership of the 'parent' Committee.

The Development Control Committee has the power to establish Sub-Committees and generally establishes:

- Uplands Sub-Committee, and
- Lowlands Sub-Committee

The Audit and Governance Committee has the power to establish Sub-Committees and generally establishes:

- Standards Sub-Committee

The Licensing Committee has the power to establish Sub-Committees and generally establishes:

- Miscellaneous Licensing Sub-Committee
- Licensing Panel Sub-Committee

#### **2E.4 Appointments to Sub-Committees**

Appointments to Sub-Committees are made by the 'parent' Committee; the body that established the Sub-Committee. The appointments are made by that Committee, from its own membership, in accordance with political balance. The only exception is where the Group Leader has confirmed to the Chair of the 'parent' Committee that no members of his political group on that Committee are nominated for appointment, in which case the parent Committee will appoint to that seat on the Sub-Committee, from its own membership but not necessarily in accordance with political balance.

A Sub-Committee will elect its own Chair at its first meeting.

#### **2E.5 Training**

Members of the Council wishing to serve on the Development Control Committee, the Uplands Sub-Committee or the Lowlands Sub-Committee, including as a substitute member, when they sit to determine Planning Applications, are required to attend mandatory Planning Training prior to participating in any such meeting. All Members sitting on the Development Control Committee, the Uplands Sub-Committee or the Lowlands Sub-Committee, when determining Planning Applications, are also required to attend any update training as may be identified by the Senior Officer with responsibility for Planning. Failure to attend update training may result in the member being removed from the Committee or Sub-Committee, as appropriate, when a Planning Application is being determined.

Members of the Council wishing to serve on the Licensing Committee, its Licensing Panel Sub-Committee or Miscellaneous Licensing Sub-Committee, are required to attend Licensing training prior to participating in a meeting of the Panel. Members of the Licensing Panel Sub-Committee are also required to attend any update training as may be identified by the Senior Officer with responsibility for Licensing. Failure to attend training may result in the member being removed from the Committee or Sub-Committee.

Members of the Council wishing to serve on the Standards Sub-Committee of the Audit and Governance Committee, either as Sub-Committee members or as substitutes (from the Audit and Governance Committee) must have undertaken mandatory Standards Training prior to participating in any Standards Sub-Committee meeting to determine a standards hearing for a code of conduct complaint.

Members of the Performance and Appointments Committee are not required to undertake any mandatory training but are required to take into account the advice of a professional officer allocated to support them when dealing with recruitment, appointment, performance, capability, disciplinary or dismissal matters.

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## 2F Article 6 – Area Committees

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### 2F.1 General

The Council may appoint area Committees as it sees fit, if it is satisfied:

- a) that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making; and/or
- b) that to do so will enable the views of local people to be better taken into account in decision-making.

The Council will consult with relevant parish and town Councils and the chairmen of relevant parish meetings when considering whether and how to establish area Committees.

### 2F.2 Delegation of decision-making powers to area Committees

The Council may delegate decision-making powers to area Committees for functions which are not the responsibility of the Executive.

The Executive may delegate decision-making powers to area Committees for functions which are the responsibility of the Executive.

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

### 2F.3 Conflicts of interest – membership of area Committees and Overview and Scrutiny Committee

**6.3.1 Conflict of Interest** – If the Overview and 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 not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee, in accordance with Regulations and guidance issued by the Secretary of State, or unless participation would be in accordance with the Council's Code of Conduct set out in [Part 6A](#) of the Constitution.

**6.3.2 General Policy Reviews** – where the Overview and Scrutiny Committee is reviewing policy generally the member must declare their interest before the relevant agenda item is reached. Under the Council's Code of Conduct this would be a personal interest but would not be prejudicial.

**2F.4 Area Committees – access to information**

Area Committees will comply with the Access to Information Rules in [Part 5G](#) 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

**2F.5 Executive members on area Committees**

A member of the Executive may serve on an area Committee if otherwise eligible to do so as a Councillor.

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**2G Article 7 – Joint Arrangements**

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**2G.1 Joint Committees**

The Council may establish joint arrangements with one or more local authorities to exercise functions that are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a Joint Committee with these other local authorities and the delegation of functions to the Joint Committee.

The Leader 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 and the delegation of functions to the Joint Committee.

A list of any joint arrangements entered into will be held by Democratic Services.

Any member who represents the Council on a Joint Committee or in any joint arrangement will be required to provide a written annual report, for consideration by Council at its meeting in April each year, detailing the work of the Joint Committee/arrangement over the past year and identifying key work streams for the forthcoming year. In addition the member has an ongoing duty to update relevant ward members of any work which impacts on their ward.

**2G.2 Delegation to and from Other Local Authorities**

The Council may delegate non-Executive functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority. And the Executive may delegate Executive functions to another Local Authority or the Executive of another Local Authority in certain circumstances.

The decision whether or not to accept such a delegation from another Local Authority shall be reserved to full Council.

**2G.3 Contracting Out**

The Executive may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an Order under section 70 of the Delegation 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. Such decision to contract out shall be reserved to full Council.

## 2H Article 8 – Decision Making

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### 2H.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.

### 2H.2 Principles of decision making

Any decision taken must be in accordance with the terms of this Constitution.

Under the Constitution decisions are likely to be taken by the full Council, the Executive (both collectively and by individual members of the Executive), Committees and Sub-Committees, and by officers.

Whichever body or individual is responsible for taking a decision, it should be taken so far as possible in accordance with the following principles:-

- There should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
- Due consultation should take place with those likely to be affected by a decision. So far as practicable, decision taking should be planned in advance and the public given due notification of forthcoming decisions;
- Where a decision is likely to have wide-ranging or significant impact on the community, additional time and emphasis should be given to consultation and members of the public actively encouraged to contribute their views;
- Decisions must be taken reasonably, with regard to all relevant considerations, and ignoring all irrelevant matters;
- Decisions should be taken on the basis of clear aims and desired outcomes from the resultant action;
- All realistic alternatives should be evaluated prior to the decision being taken;
- Appropriate professional advice should be obtained from suitably qualified officers of the authority;
- Decisions must be taken with regard to proportionality – ie the action must be proportionate to the desired outcome;
- Decisions must be taken with regard to any relevant statutory requirements and with respect for human rights;
- Decisions must be taken with regard to the Equality Act 2010 and the associated policy of the Council;
- Decisions must have regard to any relevant approved policies or procedures of the Council;
- Any decision taken must be formally recorded in accordance with the requirements of this Constitution. Where the decision is taken by the

Executive, or a member of the Executive, the formal record should state what alternative options were considered and the reasons for the decision that was taken

In some cases (eg where urgent action is necessary, or confidential matters are under discussion) it may not be practicable to fully comply with all these principles, but decision-makers should satisfy themselves that they have been complied with so far as reasonably practicable in the circumstances. Decision-makers may be held to account for any failure to comply with the principles.

## 2H.3 Types of decision

2H.3.1 Decisions reserved to full Council – Decisions relating to the functions listed in [Part 3B](#) will be made by the full Council and not delegated.

### 2H.3.2 Key decisions –

A “key decision” means an Executive decision which, is likely either:

- 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
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards within the District.

A decision shall be regarded as financially significant if it is a decision which either commits the Council to more than £150,000 in expenditure or would result in savings greater than £150,000.

A decision shall be regarded as significant in terms of its effects on two or more wards if any of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, consider that the decision will fall within the statutory definition.

Key decisions can and may only be taken in accordance with the requirements of the Executive Procedure Rules set out in [Part 5B](#) and the Access to Information Procedure Rules, set out in [Part 5G](#).

2H.3.3 **Decision making by the full Council** – the Council meeting will follow the Council Procedures Rules set out in [Part 5A](#) of this Constitution when considering any matter.

2H.3.4 **Decision making by the Executive** – the Executive will follow the Executive Procedures Rules set out in [Part 5B](#) of this Constitution when considering any matter.

2H.3.5 **Decision making by Overview and Scrutiny Committee** – The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in [Part 5C](#) of this Constitution when considering any matter.

**2H.3.6 Decision making by other Committees and sub-Committees established by Council** – all other Council Committees and sub-Committees will follow those parts of the Council Procedures Rules set out in [Part 5A](#) of this Constitution as apply to them. For example, the Standards Sub-Committee will follow the Standards Procedure Rules.

**2H.3.7 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.



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**2I Article 9 – Finance, Contracts and Legal Matters**

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**2I.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in [Part 5I](#) of this Constitution.

**2I.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in [Part 5G](#) of this Constitution.

**2I.3 Legal Proceedings**

The Head of Legal 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 Services considers that such action is necessary to protect the Council's interests.

**2I.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 Services or other person authorised by them, 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. In accordance with the Council's Contracts Procedure Rules set out in this Constitution such contracts must be signed in accordance with the Contract Procedure Rules. Any Contract with a value exceeding £100,000 shall be under the common seal of the Council.

**2I.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 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 affixing of the Common Seal will be attested by either the Chief Executive, Monitoring Officer, Chief Finance Officer, the Head of Legal Services or the Chair of the Council.

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## 2J Article 10 – The Constitution

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This constitution, and all of its appendices, is the **CONSTITUTION OF WEST OXFORDSHIRE DISTRICT COUNCIL**

### 2J.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Should there be a conflict between the two, the law shall prevail.

### 2J.2 Purpose of the Constitution

The purpose of the Constitution is to:

- Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Support the active involvement of citizens and encourage all sections of the District's communities to be involved in the Council's decision-making processes;
- Help Elected Members represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision-making are clearly identified to local people and that they explain the reasons for their decisions;
- Provide a means of improving the delivery of services to the community;
- Balance speedy and reasoned decision-making with adequate checks and balances;
- Place high standards of conduct and probity at the centre of decision-making.

### 2J.3 Structure and Interpretation of the Constitution

The Constitution is divided into Parts covering differing themes as follows:

- Part 1 Summary
- Part 2 Articles of the Constitution
- Part 3 Responsibility for Functions, Key Decisions and Executive Work Plan
- Part 4 Officer Scheme of Delegations
- Part 5 Policy & Procedure Rules
- Part 6 Codes & Protocols
- Part 7 Members' Allowance Scheme

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

#### **2J.4 Review of the Constitution**

A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for the ways in which it could be amended in order to better achieve the purposes set out at 2J.2 above. In undertaking this task the Monitoring Officer may:

- Observe meetings of different parts of the Member and Officer structure;
- Undertake an audit of a sample of decisions;
- Record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and
- Compare practices in this Council with those in other comparable Councils, or with national examples of best practice.

#### **2J.5 Changes to the Constitution**

Changes to the constitution arising either from a review, a motion from Council, or from the Monitoring Officer, will only be approved by the full Council after consideration by the Monitoring Officer, and will usually be considered by a Constitution Working Group who may make recommendations to full Council.

The Monitoring Officer has delegated authority to update the Constitution arising from decisions of the Council or Executive or where legislation requires a change in wording or terminology. The Monitoring Officer also has delegated authority to make minor and/or consequential changes to the Constitution.

Where a delegation is made to an Officer by the Council, to last 12 months or more, that delegation may need to be reflected in Part 3 of the Constitution, in which case the Monitoring Officer has the authority to update the Constitution to reflect that change.

The Monitoring Officer has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two statutory officers, and where the matter has been subject to consultation with the Leader of the Council, or other appropriate member.

The Monitoring Officer has authority to amend the Constitution to implement decisions of the Leader in relation to the delegation by the Leader of Executive functions to the Executive, or to implement decisions of the Leader in relation to the composition and appointments to the Executive.

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change from Leader and Executive structure to mayoral style Executive and must hold a binding referendum.

## **2J.6 Suspension or Waiver of the Constitution**

The Articles of this Constitution may not be suspended or waived. The Procedure Rules may only be suspended by full Council, the Executive or a Committee, to the extent permitted within those Procedure Rules, and within the law.

The procedure to suspend any Council Procedure Rule will be by way of a motion; such motion will not be moved without notice unless at least one half of the membership of full Council or the relevant Committee are in attendance and present. The extent and duration of any suspension must be proportionate to the result to be achieved, taking into account the purposes of the Constitution as set out in this article.

The following matters may be suspended in accordance with the above provision:

- The Council's procedural rules apart from those relating to quorums, declarations of interests, disturbances by the public and notice of motions;
- Financial procedure rules

A motion to suspend a particular rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Committee.

## **2J.7 Interpretation**

The Chair at any meeting shall take into account advice from the Monitoring Officer, or their representative, or legal advisor to the Committee, in interpreting the Constitution. The ruling of the Chair at any meeting as to the construction or application of the Constitution shall not be challenged at that meeting. Any dispute as to the operation of the Constitution should be referred in the first instance to the Monitoring Officer who will try to resolve the dispute between the parties involved.

## **2J.8 Publication**

An electronic version of the Council's constitution shall be made available to all Members on being elected.

The Monitoring Officer shall ensure that a copy of the Constitution is published on the Council's website and that paper copies of the Constitution are available for inspection at Council Offices and available to purchase by members of the public on payment of a reasonable fee.

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## **2K Article 11 – Roles and Responsibilities of all Councillors**

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### **2K.1 Role of Councillors**

Councillors will participate constructively in the good governance of the District in the interests of all residents, businesses and communities. They will contribute actively to the formation and scrutiny of the Council's policies, budget, strategies, plans and service delivery.

Councillors will deal with the constituents' enquiries and representations, and will effectively represent the interests of the Ward for which they were elected and views of the constituents.

Councillors may also be required to represent the Council on an outside body, such as a governing body or charitable trust.

### **2K.2 Composition & Election**

The Council comprises 49 Members, otherwise called Councillors. Councillors are elected by the voters of the Wards in the District in accordance with a scheme approved by the Secretary of State. Each member either represents a single Ward of electors where the number of electors is small or may share the representation of one Ward with one or more other Councillors where the number of electors is large. The division of the District into electoral wards is undertaken by the Local Government Commission and approved by the Secretary of State. Details of individual members and their Wards are available on the Council's website.

Only registered voters of the District or those living or working within the District are eligible to hold the office of Councillor.

The ordinary election of a third of all Councillors will be held on the first Thursday in May in each year, in three years out of four. A Councillors term of office is four years starting on the fourth calendar day after being elected and finishing on the fourth calendar day after the date of the election four years later, unless they have been elected by a by-election when the term is the remainder of the vacated office they have filled.

### **2K.3 Duties of Councillors**

The Duties of all Councillors include:

- To fulfil the statutory and locally determined requirements of an elected Member of the Council;
- To participate effectively as a Member of any working group to which the

Councillor is appointed;

- To participate in the activities of an outside body to which the Councillor is appointed;
- To participate, as appointed, in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its residents.
- To participate in Working Groups;
- To represent the Council to the community and the community to the Council and to other relevant bodies. To provide a voice and advice for local individuals and interest groups in their dealings with the Council and, where appropriate, to advise them on the pursuit of complaints;
- To develop and maintain a working knowledge of the Council's services, management arrangements, powers and duties and constraints and to develop good working relationships with relevant officers of the Council;
- To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the Community's well-being and identity, including developing and maintaining good working relationships with local Town and Parish Councils and with local County Councillors.
- To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
- To keep up to date with all developments affecting the District and the Council including Government policies and prospective legislation.

#### **2K.4 Rights of Councillors**

- Councillors will have 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;
- Councillors will not make public information which is confidential or exempt without the consent of the Council or the Monitoring Officer or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- Councillors shall not request to inspect any document or have access to any information relating to any matter in which they have a disclosable pecuniary interest unless they have received a dispensation from the Monitoring Officer;
- No Councillor shall have any claim by virtue of their position to enter any land or buildings occupied by the Council to which the public do not have access except with the permission of the management team; to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised by the Council; to exercise any other powers of the Council.

#### **2K.5 Conduct**

Councillors will, when acting in their capacity as a Councillor, observe the Members Code of Conduct at Part 6A of this Constitution, and observe the Member / Officer Protocol in Part 6B of the Constitution.

**2K.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members Allowance Scheme adopted by full Council.

**2K.7 Political Groups**

Councillors may belong to political groups. The groups are entitled to nominate Councillors to fill a proportion of the seats on certain Committees of the Council.

At meetings of the full Council, the Executive and Committees, individual Councillors may have regard to the views of their political group on policy matters, provided that they also take into account all other considerations. However, this would not apply to the determination of individual regulatory matters.

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## **2L Article 12 – Officers of West Oxfordshire District Council**

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### **2L.1 Employment of Staff**

The Council may employ such staff (referred to as ‘officers’) as it considers necessary to undertake the day-to-day operations arising out of the functions for which the Council is responsible. However, the Council acknowledges that upon the transfer of services to Publica on 1 November 2017, Publica will become the main responsible body for the employment of staff. Staff employed by a body other than the Council may, by law, be Officers of the Council.

### **2L.2 Statutory Officers**

There are three officers which statute states must be appointed to the staff of the Council, namely the Head of Paid Service, the Chief Finance Officer (section 151 Officer) and the Monitoring Officer. These officers have special protection of employment rights and are known as the Council’s Statutory Officers.

### **2L.3 Functions of the Head of Paid Service (Chief Executive)**

- This Officer is responsible as the employer of the salaried staff employed directly 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.
- The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

### **2L.4 Functions of the Chief Finance Officer (s151 Officer)**

- This role has a personal responsibility, which requires the Officer to act independently of the Council but in the best interests of the Council. They have the responsibility of ensuring the lawfulness and financial prudence of decision making. After consulting the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council’s external auditor if they consider that any proposal, decision or course of action is likely to cause a loss or a deficiency or if the Council is about to enter an item of account unlawfully.
- They have responsibility for the administration of the financial affairs of the Council.
- They contribute to the corporate management of the Council, in particular through the provision of professional finance advice.



- They provide financial information to the media, members of the public and the community.

## **2L.5 Functions of the Monitoring Officer**

- This role has a personal responsibility, which also applies to the Deputy Monitoring Officer, and requires the Officer to act independently of the Council but in the best interests of the Council.
- Their role is to promote and maintain high standards of conduct within the Council by Officers and members.
- They must maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, officers and the public.
- They must ensure the lawfulness and fairness of decision-making. After consultation with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to Full Council if they consider 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 given effect to until the report has been considered.
- They must promote ethical governance to Parish councillors and the operation of the Code of Conduct for councillors.
- They contribute to the promotion and maintenance of high standards of conduct.
- They receive and act upon complaints made in respect of breaches of the Code of Conduct and undertake or arrange investigations where necessary.
- They manage the Standards regime and complaints into allegations of misconduct by councillors.
- They are the Proper Officer for access to information.
- The Monitoring Officer will ensure that decisions together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- They contribute to the corporate leadership team of the Council
- They provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity to all councillors and will support and advise councillors and officers in their respective roles.
- They appoint their own Deputy Monitoring Officer, to act as the Monitoring Officer, in their absence.

## **2L.6 Provision of sufficient resources to the Chief Executive, Chief Finance Officer and Monitoring Officer**

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

The core roles of the Corporate Leadership Team shall be exercised in accordance with the principles of political neutrality and service to the whole Council, are as follows:

## Constitution of West Oxfordshire District Council

- Overall corporate and strategic management and ultimate operational responsibility (including overall management responsibility for all officers).
- Responsibility for regularly liaising with the Leader of Council to identify, review and prioritise the corporate agenda for the medium term of three years and specifically the key strategic and financial issues which the Council will be considering over each four month period.
- Responsibility for publishing regularly the key strategic policy issues and financial proposals
- Provision of professional advice to all parties in the decision making process (Full Council, Overview and Scrutiny Committee and policy and regulatory committees).
- Responsibility for ensuring the provision of sufficient resources to undertake the functions of the Council to the standard of service identified in corporate objectives.
- 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 or the Council).

### **2L.7 Conduct**

Officers will comply with the Member / Officer Protocol found at Part 6B of the Constitution and with the Officer Code of Conduct.

### **2L.8 Employment**

The recruitment, selection and dismissal of Officers, including the Statutory Officers, will comply with the Officer Employment Procedure Rules found in Part 5K of the constitution.

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## 2M Article 13 – The Public and the Council

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### 2M.1 Voting and Petitions

The electoral register for the area will contain those members of the public who are eligible to have the right to vote in the elections of councillors and to sign a petition to request a referendum for an elected mayoral form of constitution.

### 2M.2 Information

Members of the public have the right to:

- (i) Attend meetings of the Council and its Committees and Sub-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 except where confidential, exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) Be made aware through the Executive Work Plan what and when key decisions will be considered by the Executive;
- (iv) See reports and background papers, and any records of decisions made by the Council, the Executive and any Committees;
- (v) Obtain a copy of the Constitution (for a reasonable fee);
- (vi) Inspect the Council's accounts and make their views known to the external auditor;
- (vii) Request disclosure of information in accordance with the provisions of the Freedom of Information Act 2000, Environmental Information Regulations 2005 and General Data Protection Regulations and any other legislation which is subsequently enacted to add to or replace this legislation;
- (viii) Raise questions at public meetings of the Council, Executive and Committees.

### 2M.3 Participation

Members of the public have the opportunity to participate in question time at Full Council meetings and may be invited to contribute to investigations and inquiries by the scrutiny and review committees. Interested persons in a planning application may request an opportunity to address the relevant planning committee on the application in accordance with the adopted [public speaking protocol](#) but this does not give any one the absolute right to be heard by the committee.

### 2M.4 Complaints

Members of the public have the right to complain to:

- (i) The Council itself, under its adopted [customer feedback procedures](#);
- (ii) An elected Member;
- (iii) The Local Government and Social Care Ombudsman, although the Ombudsman may request that the Council's internal complaints process is exhausted first;
- (iv) The Council's External Auditor.

#### **2M.5 Councillor Call For Action**

Members of the public have the right to ask a local councillor to refer an issue to one of the Council's Overview and Scrutiny Committee for consideration. This is called 'Councillor Call For Action' and details of how this operates are set out at [Part 5C](#).

#### **2M.6 Local Petition Scheme**

The Council has agreed a local petitions scheme. This is set out in [Part 6E](#) of the Constitution. It provides details as to how the Council will respond to petitions.