

PART 2

ARTICLES OF THE CONSTITUTION

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PART 2

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 and the Council's values to:

- deliver the results that people want
- operate as one Council
- challenge each other to improve the organisation
- empower individuals and teams to make accountable decisions

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which is in keeping with its values as stated above.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

(a) Composition

The Council has 35 Members elected for 15 wards

(b) Eligibility

Only registered voters of the City of Worcester or those living or working there or owning or occupying land or other premises within the City are eligible to be elected as a Councillor.

2.2 Election and terms of Councillors

The term 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 regular election in the year of retirement.

2.3 Roles and functions of all Councillors

(a) Key roles

All Councillors will comply with the law, this Constitution, and promote the Council's values to:

- deliver the results that people want
- operate as one Council
- challenge each other to improve the organisation
- empower individuals and teams to make accountable decisions

and

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will have rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions
- (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.

2.4 Conduct

Councillors will at all times observe the local Members' Code of Conduct and the Protocol on Member/Officer Relations; the Code of Conduct on Planning Matters, the Council's Confidential Reporting Policy and all other protocols set out in this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 16 of this Constitution.

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1 Citizens' rights

(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) see reports and background papers, and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts and make their views known to the Council's external auditor.

(c) **Participation**

Citizens have the right to participate in the public participation sessions of the Council and its committees.

(d) **Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer and the Standards Committee about a breach of the local Councillor's Code of Conduct.

3.2 **Citizens' responsibilities**

Citizen's should be polite and respectful to Councillors and officers and treat with due care all property belonging to the Council

ARTICLE 4 - THE COUNCIL

4.1 **Meanings**

(a) **Policy Framework**

The policy framework means the following plans and strategies:-

- Plans and strategies which together comprise the Local Development Scheme
- Worcestershire Housing Strategy
- Plans and Strategies for Finance and Asset Management
- Corporate Plan
- Statement of Licensing Policy under the Licensing Act 2003

(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;
- (b) approving or adopting the policy framework and the budget
- (c) subject to the urgency procedure contained in the Scheme of Delegation to Officers, making decisions about any matter which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- (d) electing the Mayor and Deputy Mayor;
- (e) appointing and removing the Leader of the Council;
- (f) appointing and removing the Deputy Leader of the Council;
- (g) establishing, agreeing and amending the terms of reference for committees, deciding on their composition, appointing and removing Members to and from them and appointing their chairs and vice-chairs unless the appointment and removal of members of committees has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.5;
- (i) changing the name of the City or of a parish within the City, conferring the title of honorary alderman or honorary alderwoman or freedom of the City;
- (j) confirming the appointment of the head of paid service, terminating such appointment and taking disciplinary action in respect of such post;
- (k) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all functions set out in Part 3 of this Constitution which the Council has reserved to itself;
- (m) appointing Independent Members to the Standards Committee;
- (n) all other matters which, by law, must be referred to Council.

4.3 **Council meetings**

There are three types of Council meeting:-

- (a) the annual meeting

- (b) ordinary meetings
- (c) extra-ordinary meetings

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 the responsibility of Committees of the Council.

4.5 Rules of Political Balance

Where the Council is comprised of more than one Political Group the rules of political balance set out in the Local Government and Housing Act 1989 and Regulations made under it shall apply to membership of all Committees appointed by the Council.

ARTICLE 5 - CHAIRING THE COUNCIL

TITLE OF THE PERSON CHAIRING COUNCIL MEETINGS

5.1 Role and function of the Mayor

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

- (a) to uphold and promote the law, the purposes of the Constitution and the values of the Council.
- (b) 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;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community
- (d) to attend such civic and ceremonial functions as the Council and they determine appropriate.

ARTICLE 6 - THE LEADER AND DEPUTY LEADER OF THE COUNCIL

THE LEADER OF THE COUNCIL

6.1 Election of the Leader of the Council

The Leader of the Council will be a Councillor elected to the position of Leader of the Council. The Council will elect a Leader of the Council on an annual basis at its Annual meeting.

6.2 Term of Office

The Leader of the Council will hold office until:-

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor or
- (c) they are no longer a Councillor; or
- (d) for one year from the date of election, save that they may be removed from office at an earlier date by resolution of the Council.

THE DEPUTY LEADER OF THE COUNCIL

6.3 Election of the Deputy Leader of the Council

The Deputy Leader of the Council will be a Councillor elected to the position of Deputy Leader of the Council. The Council will elect a Deputy Leader of the Council on an annual basis at its Annual meeting.

6.4 Term of Office

The Deputy Leader of the Council will hold office until:-

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor or
- (c) they are no longer a Councillor; or
- (d) for one year from the date of election, save that they may be removed from office at an earlier date by resolution of the Council.

ARTICLE 6A - THE LEADER AND DEPUTY LEADER OF THE COUNCIL (NO OVERALL POLITICAL CONTROL)

THE LEADER OF THE COUNCIL (NO OVERALL POLITICAL CONTROL)

6.1A Appointment of the Leader(s) of the Council

In circumstances of no overall political control, the Council will elect two Leaders, one from each of the two largest political groups. The Council will elect the two joint Leaders of the Council on an annual basis at its Annual meeting. In the event that one of the two political groups eligible to nominate a Joint Leader elects not to do so, the Council shall elect one Leader only and the other Joint Leader position will be vacant.

6.2A Term of Office

In circumstances of no overall political control, each Leader of the Council will hold office until:-

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor or

- (c) they are no longer a Councillor; or
- (d) for one year from the date of election, save that they may be removed from office at an earlier date by resolution of the Council.

ARTICLE 7 – AUDIT COMMITTEE

- 7.1 The purpose of the Audit Committee is to provide independent assurance to our members of the adequacy of the risk management framework and the internal control environment. The Audit Committee shall work in co-operation with the Council's statutory officers on corporate governance issues. The Audit Committee provides independent review of the Council's governance and is responsible for risk management and control frameworks and oversees the financial management and annual governance processes. It oversees internal and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- 7.2 All Councillors are eligible to be Members of the Audit Committee. The size of the Audit Committee shall be determined from time to time by the Council. The Audit Committee may recommend to Council the appointment of one other person with particular skills that will be useful to the committee as a non-voting co-optee.

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 of 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 COMMITTEE

9.1 Membership and Composition

- (i) The Standards Committee will be composed of at least:
 - Six Councillors (other than the leaders of political groups).
 - Up to one person who is not a Councillor or Officer of the Council or who has not within the previous five years been a Member or Officer of the Council and who is not a relative or close friend of a Member or Officer of the Council (Independent Member).
 - Two Members from each of the Parish Councils within the City (Parish Members).

9.2 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 Parish Councillors.
- (b) Advising the City Council and its Parish Councils on the adoption and amendment of local Codes of Conduct for Councillors, protocols for member officer relations,

whistleblowing policies and complaints procedures collectively known as Local Codes.

- (c) Monitoring the operation of the Local Codes adopted by the City Council and its Parish Councils
- (d) Advising and training or arranging for the training of City Councillors, Parish Councillors, Co-opted Members and Officers on matters relating to the Local Codes
- (e) Granting dispensations in respect of Members' Interests in accordance with regulations made by the Secretary of State for Communities and Local Government.
- (f) Considering allegations of breaches of the Local Codes by members of the City Council or its Parishes and considering what sanctions, if any, to impose where allegations are found proven
- (g) Considering reports from the Monitoring Officer.
- (h) Considering any reports issued by the Local Government Ombudsman regarding the City Council, authorising any payments proposed by the Local Government Ombudsman and recommending any other action that may be appropriate.
- (i) Considering any reports issued by the Local Government Ombudsman regarding either of the City's Parish Councils and recommending any appropriate action to them.
- (j) Approving payments or the provision of other benefits to a person (or persons) where the Committee considers that maladministration has occurred on the part of the City Council and that the person or persons has or have been adversely affected by it.
- (k) Considering and taking any appropriate action in respect of any alleged breaches of the Council's Local Codes

ARTICLE 10 - JOINT ARRANGEMENTS

10.1 Joint arrangements

- (a) The Council may establish joint arrangements with other local authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

ARTICLE 11 - OFFICERS

11.1 Management Structure

- (a) **Senior Management**

The full Council will engage persons for the following posts who will be designated the senior management of the Council.

Managing Director
Corporate Director - Finance and Resources

Corporate Director - Operations, Homes and Communities
Corporate Director - Planning and Governance

They are collectively responsible for ensuring that the Council exercises all its powers and duties in accordance with the law and this Constitution and the Council's values to:

- deliver the results that people want
- operate as one Council
- challenge each other to improve the organisation
- empower individuals and teams to make accountable decisions

(b) **Head of Paid Service, Monitoring Officer, and Section 151 Officer**

The Council will designate the following statutory posts:-

Post	Designation
Managing Director	Head of Paid Service
Corporate Director - Finance and Resources	Section 151 Officer
Corporate Director - Planning and Governance	Monitoring Officer

11.2 **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) **Overall Management Responsibilities**

The Head of Paid Service is responsible for the corporate and operational management of the Council

(c) **Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

11.3 **Functions of the Monitoring Officer**

(a) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council if they 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.

(b) **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 and conducting investigations on their behalf.

(c) **Record keeping**

The Monitoring Officer is responsible for ensuring that all decisions made by or on behalf of the Council are properly recorded

(d) **Proper Officer for Access to Information**

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

(e) **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.

(f) **Restrictions on posts**

The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

11.4 **Functions of the Section 151 Officer**

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

After consulting with the Head of Paid Service and the Monitoring Officer, Section 151 Officer will report to the full Council 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 Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Providing advice**

The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respect roles.

11.5 **Conduct**

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

11.6 **Employment**

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

ARTICLE 12 - DECISION MAKING

12.1 **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.

12.2 **Principles of decision making**

Decisions of the Council will be made in accordance the law, the Constitution and the Council's values to:

- deliver the results that people want
- operate as one Council
- challenge each other to improve the organisation
- empower individuals and teams to make accountable decisions

and in accordance with the following principles:-

- (a) proportionally (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; and
- (g) recording reasons for the decision including details of any alternative options considered and rejected.

12.3 **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 unless delegated by the Council.

(b) **Decisions falling within the functions of more than one Committee of the Council**

Decisions which fall within the functions of more than one Committee of the Council shall be determined by the Policy and Resources Committee.

ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

13.1 Financial Management

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

13.2 Contracts

Every contract made by the Council will comply with the Procurement Code set out in this Constitution.

13.3 Legal proceedings

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings involving the Council.

13.4 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 Monitoring Officer or other person authorised by them unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts exceeding the value specified in the Procurement Code shall be made in writing. Such contracts must either be signed by two Officers of the authority or made under the common seal of the Council attested by at least one Officer in accordance with the Procurement Code.

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or 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 Monitoring Officer (or their deputy) or the Managing Director should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer (or their deputy) or the Managing Director or some other person authorised by them.

ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

14.1 Duty to monitor and review the Constitution

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

14.2 Changes to the Constitution

(a) Approval

Changes to the Constitution may be approved by a simple majority of the full Council, except the Monitoring Officer may make revisions by replacing references to any repealed or amended, consolidated or replacement legislation, or secondary legislation with current references and other minor amendment that they consider appropriate.

(b) **Change from a Committee form of governance 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 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 Suspension of the Constitution

(a) **Limit to suspension**

The Articles of this Constitution may not be suspended.

(b) **Rules capable of suspension**

The following Rules may be suspended:

- (i) Council Procedure Rules
- (ii) Committee Procedure Rules

At a meeting by a majority of those attending and voting

15.2 Interpretation

The ruling of the Mayor 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.

15.3 Publication

- (a) The Monitoring Officer will provide a printed copy of this Constitution to each Member of the Authority upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Monitoring Officer will ensure that the Constitution and a summary are available on the Council's website and 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.