

Part 2

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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 the Borough Council of Test Valley.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

The Council will monitor and evaluate the operation of the Constitution in accordance with Article 14.

Article 2 – Members of the Council

2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 43 Councillors, otherwise called Members. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Subject to the rules on disqualification and having attained the age of 18, registered voters of the Borough will be eligible to hold the office of Councillor, provided that he/she has lived or had their principal place of work in the borough for 12 months before standing; or have been an owner or tenant of any land or premises in the Borough for at least 12 months before standing.

2.2 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. A Councillor's term of office 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 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 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 which is exempt, other than with the consent of the Council; nor
 - 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.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol for Member and Officer Relations set out in Part 5.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6.

Article 3 – Citizens and the Council

3.1 Citizens' rights

Citizens have the following rights.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote, and to sign petitions in accordance with the Council's Petition Scheme, as set out in Part 4.
- (b) **Information.** Citizens' rights to information are explained in more detail in the Access to Information Rules in Part 4. Citizens have the right to:
 - (i) attend meetings of the Council, its Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Work Programme what key decisions will be taken by the Cabinet and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate at meetings of the Council, Committees and the Cabinet so far as the Council's Public Participation Scheme in Part 4 allows.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its Complaints Procedure Rules (see Part 4);
 - (ii) the Local Government Ombudsman after using the Council's own Complaints Procedure; and
 - (iii) the Monitoring Officer about a breach of the Member's Code of Conduct (this includes complaints about parish and town councillors).

3.2 Citizens' responsibilities

Citizens have many responsibilities when interacting with the Council. These include, but are not limited to, behaving according to the law; not being violent, abusing or threatening to Councillors or officers; and not wilfully harming property of the Council, its Councillors or officers.

Article 4 – The Full Council

4.1 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies, as required by law to be adopted by the Council:

- (i) those required by Schedule 3 of the Local Authorities (Functions and Responsibilities) England Regulations 2000 (as amended), namely:
 - Community Safety Partnership Strategic Assessment;
 - Plans and strategies which together comprise the Local Development Plan;
 - Licensing Authority Policy Statements under the Licensing Act 2003 and Gambling Act 2005.
- (ii) Treasury Management Policy Statement;
- (iii) Capital Programme and Capital Strategy;
- (iv) Housing Strategy; and
- (v) Any regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council.

Furthermore, the Council has chosen to adopt the following as part of the Policy Framework:

- (i) Medium Term Financial Strategy; and
- (ii) Corporate Plan.
- (b) **Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the council tax base, setting the council tax, and decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

(d) **Resolving Disputes between the Council and the Cabinet**

The mechanism for resolving disputes between the Council and Cabinet shall be as stated in the Budget and Policy Framework Procedure Rules in Part 4 and shall comply with the requirements of Schedule 2 Part II of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

4.2 **Functions of the Council**

Subject to the provisions of this Constitution, only the Council will exercise the following functions:

- (a) electing the Mayor and Deputy Mayor;
- (b) adopting and changing the Constitution;
- (c) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4, making decisions about any matter where the decision maker is proposing to take a decision which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the budget;
- (e) appointing or removing the Leader;
- (f) agreeing and/or amending the powers and duties for Committees, deciding on their composition and making appointments to them;
- (g) entering into joint arrangements in respect of joint Committees or agency arrangements with other authorities involved in Council functions in so far as these have not been delegated;
- (h) to take all decisions in respect of delegating Council functions to another local authority;
- (i) appointing representatives to outside bodies unless the appointment is an executive function or it has been delegated by the Council;
- (j) adopting a scheme for Members' allowances;
- (k) changing the name of the area, conferring the title of Honorary Alderman or Freeman or granting the Freedom of the Borough;
- (l) designating the Monitoring Officer and Chief Finance Officer, and the designation of "proper officers"
- (m) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills;
- (n) all local choice functions set out in Part 3 which the Council decides should be undertaken by itself rather than the Cabinet; and
- (o) all other matters which, by law, must be reserved to Council.

4.3 Meetings of the Council

Meetings of the Council will be conducted in accordance with the Council Procedure Rules set out in Part 4 and these meetings fall into the following categories:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

4.4 Responsibility for Local Choice Functions

The Council will maintain the table in Part 3 setting out the responsibilities for the Council's Local Choice functions.

Article 5 – Chairing the Council

5.1 Role and function of the Mayor

As the First Citizen of the Borough of Test Valley, the Mayor, or in his/her absence the Deputy Mayor, has the following roles and responsibilities:

- (a) to uphold the Constitution, and to take advice on the interpretation of the Constitution when necessary;

- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members 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 and the place at which Members who are not on the Cabinet are able to hold the Cabinet and other Committees to account;
- (d) to encourage public involvement in the Council's activities; and
- (e) to attend such civic and ceremonial functions as the Council or he/she determines appropriate.

Article 6 – The Cabinet

6.1 Role

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

6.2 Form and composition

The Cabinet will consist of the Leader, together with between 2 and 9 Councillors appointed to the Cabinet by the Leader.

6.3 Leader

The Leader will be a Councillor elected to the position by the Council. The Leader will hold office until his/her successor is appointed unless:

- (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) the expiry date of his/her fixed term of office as Leader, which is the date of the post-election annual meeting which follows his/her election as Leader (e.g. for a Leader elected at the Annual Council in May 2019, the period of election will continue to the Annual Meeting in May 2023); or
- (e) he/she is removed from office by resolution of the Council following a motion of no confidence. Such a motion will not be considered unless supported in writing by at least one quarter of the Members of the Council. (Note: Such a motion may arise in the event of a change in political control of the Council.)

In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting for the remainder of the term of the Council.

6.4 Other Cabinet members

The Leader will appoint the other members of the Cabinet, including the appointment of a Deputy Leader.

The members of the Cabinet including the Deputy Leader will hold office until the end of the Leader's term of office, unless:

- (a) he/she resigns from 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) he/she is removed from office by the Leader.

The Leader must appoint another Deputy Leader, where a vacancy occurs.

If for any reason the Leader is unable to act, or the office of Leader becomes vacant and pending the election of a new Leader, the Deputy Leader shall discharge all roles and functions of the Leader.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet shall act in the Leader's place or arrange for another member of the Cabinet to act in his/her place.

6.5 Meetings of the Cabinet

Meetings of the Cabinet will take place in accordance with the Cabinet Procedure Rules set out in Part 4.

6.6 Responsibility for functions

The Cabinet collectively will be responsible for the carrying out of its functions.

Notwithstanding this, the Leader may take decisions him/herself or may appoint members of the Cabinet as "Portfolio Holders" to lead on certain subjects as set out in Part 3.

The Proper Officer, on behalf of the Leader, will maintain a list in Part 3 (Functions retained by the Leader and Delegations to the Deputy Leader and Portfolio Holders) setting out the allocation of responsibility for the exercise of particular executive functions to individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements (in accordance with Section 15(2) of the Local Government Act 2000).

6.7 Scrap Metal Dealers Hearing Sub-Committee

The Cabinet has established a Scrap Metal Dealers Hearing Sub-Committee which will consist of three members drawn by the Head of Legal and Democratic Services from the membership of the Cabinet.

Article 7 – Overview and Scrutiny Committee

7.1 Role

Within their terms of reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council and/or the Cabinet and/or any policy, joint or area Committee in connection with the discharge of any functions;

- (c) consider any matter affecting the area or its inhabitants; and
- (d) consider "called-in" decisions made but not yet implemented, subject to the call-in process as set out in the Overview and Scrutiny Procedure Rules in Part 4.

7.2 **Form and composition**

The Council will appoint an Overview and Scrutiny Committee 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. The size and composition of the Committee will be determined by Council from time to time as it sees fit.

7.3 **Meetings of Overview and Scrutiny Committee**

Meetings of the Overview and Scrutiny Committee will take place in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4.

7.4 **Specific functions**

- (a) **Policy development and review.** The Overview and Scrutiny Committee may:
 - (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) 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 Cabinet or Committees, the Chief Executive, Deputy Chief Executive and/or Heads of Service 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.** The Overview and Scrutiny Committee may:
 - (i) review and scrutinise the decisions made by and performance of the Council, Cabinet, Committees and/or 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 Cabinet or Committees, the Chief Executive, Deputy Chief Executive and/or Heads of Service 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 Cabinet and/or appropriate Committee 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 Committee and local people about their activities and performance; and
 - (vi) question and gather evidence from any person (with their consent).
- (c) **Finance.** The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** The Overview and Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

Article 8 – Regulatory and other Committees

8.1 Regulatory and other Committees

The Council will appoint the following Committees and Sub-Committees to discharge the functions as set out in Responsibility for Council Functions in Part 3.

8.2 Northern and Southern Area Planning Committees

The Council will appoint two Development Control Committees which will be responsible for dealing with planning applications and other functions.

8.3 Licensing Committee and Licensing Sub-Committee

The Council will appoint a Licensing Committee which will be responsible for the Council's licensing function.

8.4 General Purposes Committee and its Sub-Committees

The Council will appoint a General Purposes Committee which will be responsible for promoting and maintaining high standards of conduct by Members, as well as considering Human Resources issues including changes to terms and conditions of employment.

8.5 Other Committees and Sub-Committees

- a) The Council will appoint such other Committees as it considers appropriate to exercise any of its functions.
- b) Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year.

Article 9 – Area Committees and Forums

9.1 Area Committees

The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery and more efficient, transparent and accountable 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 or forums.

Article 10 – Joint Arrangements

10.1 Arrangements to promote well being

The Council, 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.

10.2 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 to advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) The 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, the Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
 - (i) If, 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 Cabinet may appoint to the joint Committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
 - (ii) If, the joint Committee is between a County Council and the Council and relates to functions of the Cabinet of the County Council. In such cases, the 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 can be found in Responsibility for Council Functions in Part 3 of this Constitution.

10.3 Access to information

- (a) If all the members of a joint Committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

- (b) If the joint Committee contains members who are not on the Cabinet/Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.
- (c) The Council's Access to Information Rules in Part 4 apply to any joint Committee.

10.4 Delegation to and from other local authorities

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

10.5 Contracting out

The Council (for functions which are not executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which:

- (a) are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- (b) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles;

provided there is no delegation of the Council's discretionary decision making.

Article 11 – Officers

11.1 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Executive, Deputy Chief Executive and Heads of Service.** The Council will engage persons for the following posts.

POST	FUNCTIONS & AREAS OF RESPONSIBILITIES
Chief Executive	<p>The Chief Executive is the Head of Paid Service, head of the Council's management team, principal advisor and general manager for the local authority whose principal accountabilities include:</p> <ol style="list-style-type: none"> 1) Overall responsibility for the development, co-ordination and implementation of the Council's corporate strategies, policies and programmes and for the management of its resources 2) Leadership and direction of the officers of the Council

	<ol style="list-style-type: none"> 3) Overall responsibility for managing the officer/Member interface 4) Support and advice to all Members of the Council in their executive, scrutiny and democratic functions 5) Officer leadership in the modernisation of Test Valley Borough Council and the process of corporate and community planning 6) Officer leadership in implementing the Council's Performance Management Framework, in accordance with the Council's "duty of best value" 7) Overall responsibility for the provision of cost effective, high quality and competitive services 8) Overall responsibility for the Council's Human Resources function including pay, benefits and conditions of service 9) Ambassador for the Council; responsible for developing and fostering external relations as part of the Council's role in community leadership; and taking the lead in ensuring good civic, public and media relations 10) Officer leadership in the creation and maintenance of partnerships in the community 11) Electoral Registration Officer and Returning Officer
Deputy Chief Executive	<p>Works with the Chief Executive to deliver the following key objectives:</p> <ol style="list-style-type: none"> 1) Develop strategy for Council consideration 2) Turn strategy into performance plans 3) Integrate diverse services 4) Lead through vision 5) Oversee delivery of all services and business plans within budget 6) Interface with other Chief Executive and Heads of Service to ensure Council-wide best value and consistency
Head of Community and Leisure Services	<ol style="list-style-type: none"> 1) Strategic public open space management 2) Nature reserves 3) Leisure centres and swimming pools 4) Arts 5) Leisure marketing and promotions 6) Wildlife conservation

	<ul style="list-style-type: none"> 7) Community Engagement and Member Support 8) Wellbeing and Social Inclusion 9) Community Safety, CCTV and Safeguarding 10) Partners in ensuring the delivery of the national Supporting Troubled Families Programme at local level and holders of the Partnership funding relating to this programme 11) Grants Administration and Authorisation
Head of Environmental Services	<ul style="list-style-type: none"> 1) Waste and Recycling Collection 2) Street Cleaning 3) Grounds Maintenance 4) Vehicle and Plant Maintenance 5) Vehicle and Plant Procurement 6) Environmental Enforcement 7) Playground Inspections 8) Burials and Cemetery Maintenance
Head of Finance and Revenues	<ul style="list-style-type: none"> 1) Accounting service and systems 2) Financial advice and budgetary control 3) Internal audit 4) Corporate Governance 5) Risk Management 6) Insurance 7) Banking and Treasury Management 8) VAT 9) Mortgages 10) Payment of Invoices 11) Receipt of Income 12) Procurement

<p>Head of Housing and Environmental Health</p>	<ol style="list-style-type: none"> 1) Investigating new housing initiatives to meet identified needs 2) Ensuring new affordable homes are provided in partnership with Housing Associations 3) Administering the Test Valley Joint Housing Register 4) Dealing with Homelessness 5) Housing Advice and information 6) Home Renovation Grants 7) Disabled Facilities Grants 8) Private housing conditions 9) Home Energy Efficiency 10) Dog Control and Animal Welfare 11) Licenses and registrations, e.g. pet shops, animal boarding, breeding and riding establishments 12) Contaminated land control 13) Control of atmospheric pollution 14) Abatement of noise and nuisance 15) Control of food hygiene and safety and purity of water supplies 16) Investigation of infectious diseases and food borne disease 17) Pest Control 18) Health, Safety and Welfare of people at work 19) Control of caravan and camping sites 20) Street Trading
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<p>Head of Information Technology</p>	<ol style="list-style-type: none"> 1) Data processing/data storage 2) Network Infrastructure maintenance and support 3) Voice/telephony services 4) IT Service Desk (help desk) 5) IT advice and training 6) Line Of Business (LOB) systems IT support 7) Corporate application development and support 8) GIS (Graphical Interface Systems) and Address Management 9) Information Management 10) IT security and architecture 11) IT system and services procurement and management 12) IT shared service delivery
<p>Head of Legal and Democratic Services</p>	<ol style="list-style-type: none"> 1) Servicing meetings of the Council and its Committees 2) Member Support and Development 3) Assisting the Mayor 4) Registration of Local Land Charges 5) Freedom of Information 6) Data Protection 7) Publicise the Constitution as required by Article 15.3 8) Licensing Act 2003 (Alcohol, Entertainment and Late Night Refreshment Licensing) 9) Gambling Act 2005 (Premises, Gaming Machines and Lotteries Licensing) 10) Charity Street and House to House Collections 11) Sex Establishments 12) Tables and Chairs on the Highway

	<ul style="list-style-type: none"> 13) Scrap Metal Dealers 14) Hackney Carriage and Private Hire Drivers, Vehicles and Operators 15) Electoral Registration and Elections 16) Emergency Planning (under the direction of the Chief Executive) 17) Advice to the Council on all legal matters affecting the Council 18) Litigation, criminal and civil 19) Contracts 20) Conveyancing including commercial work
Head of Planning and Building Services	<ul style="list-style-type: none"> 1) Processing planning applications 2) Enforcement of planning control 3) Defending appeals against planning decisions 4) Building Regulations 5) Dangerous Structures 6) Tree Preservation Orders 7) Building Preservation Orders 8) Land Drainage Act 9) Providing specialist advice on historic buildings; landscaping and trees 10) Input into conservation area statements
Head of Planning Policy and Economic Development Service	<ul style="list-style-type: none"> 1) Preparation and review of the land use plan for the Borough 2) Input into village plans and town schemes 3) Preparation of development briefs for sites within the Borough 4) Local Agenda 21 5) Economic Development and the Promotion of Test Valley

<p>Head of Property and Asset Management Service</p>	<ol style="list-style-type: none"> 1) Landlord and Tenant work 2) Valuations 3) Development 4) Andover Market 5) Tourism 6) Public conveniences 7) Maintenance of Council Buildings 8) Venue management 9) Facilities management 10) The management of Joint ventures partnership with Kier Property 11) Design of roads and sewers on housing estates 12) Engineering design work 13) Car Parking 14) Street naming and numbering
<p>Head of Revenues and Finance</p>	<ol style="list-style-type: none"> 1) Housing and Council Tax Benefits administration 2) Billing and Collection of Local Taxation, i.e. Council Tax, and Non-Domestic Rates 3) Customer Service Unit 4) Corporate printing 5) Corporate post opening and distribution 6) Council Tax Support administration 7) Award Discretionary Housing Payments 8) Project Enterprise

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

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal & Democratic Services	Monitoring Officer
Head of Finance and Revenues	Chief Finance Officer (S151 Officer)

Such posts will have the functions described in Article 11.2–11.4 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.

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) **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.

11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution, in accordance with Article 15.
- (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 Council, or to the Cabinet in relation to an executive function, if he/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 General Purposes Employment Appeals & Ethics Sub-Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the General Purposes Employment Appeals & Ethics Sub-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 of complaint and, as directed by the General Purposes Employment Appeals & Ethics Sub-Committee, make reports or recommendations in respect of them to the Sub-Committee.
- (f) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (g) **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 Members.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- (i) **Members' Interests.** The Monitoring Officer will establish, maintain and publicise a Register of Interests of the Members and co-opted Members of the authority as required by Section 29 of the Localism Act 2011. To this end Members will be reminded annually of their duty to update the Registers of Interests.

11.4 **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 Council or to the Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief 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.

11.5 **Functions of the Head of Legal and Democratic Services**

The Head of Legal and Democratic Services, as the Proper 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.

11.6 **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.

11.7 **Conduct**

Officers will comply with the Officers' Code of Conduct, the Protocol for Member and Officer Relations, the Member and Officer Interests Protocol, and the Local Code for Members and Officers dealing with Planning Matters as set out in Part 5.

11.8 **Employment**

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

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.

12.2 Principles of decision making

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

- (a) due consultation and having regard to professional advice from officers;
- (b) respect for human rights;
- (c) a presumption in favour of openness; and
- (d) clarity of aims and desired outcomes.

And in the case of Cabinet decisions:

- (e) the need to record the reasons for a decision and what other options were considered as required by Regulation 3 of the *Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012*.

12.3 Types of decision

- (a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.2 will be made by the Council and not delegated.
- (b) Key decisions.
 - (i) A key decision, in accordance with Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, is defined by the Council as being an executive decision which is likely:
 - (a) *to result in the Authority incurring expenditure, or making savings, outside of the Council's budget, or included in the annual budget with reservations, in excess of £75,000 per item; or*
 - (b) *to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority."*
 - (ii) The decision maker will have regard to any advice which may be issued by the Secretary of State under Section 38 of the Local Government Act 2000.
 - (iii) A decision maker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4.

12.4 Decision making by the Council, its Committees and Sub-Committees

Subject to Article 12.7, meetings of the Council, its Committees and Sub-Committees will follow the Council Procedure Rules set out in Part 4 when considering any matter.

12.5 Decision making by the Cabinet and its Sub-Committees

Subject to Article 12.7, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 when considering any matter.

12.6 Decision making by the Overview and Scrutiny Committee

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 when considering any matter.

12.7 Decision making by Council bodies acting as tribunals

The Council, or its Committees, 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.

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 Procedure Rules set out in Part 4.

13.2 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4.

13.3 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 he/she considers that such action is necessary to protect the Council's interests.

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 either 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.

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 Head of Legal and Democratic Services, and shall be affixed to a document only on the authority of:

- (a) a resolution of the Council or Cabinet;
- (b) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal; or
- (c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the seal shall be attested by the signature of either the Chief Executive, the Deputy Chief Executive, the Head of Legal and Democratic Services, the Legal Services Manager (Corporate) or the Legal Services Manager (Planning), and such signature shall be a full and sufficient certificate that the document has been duly and validly sealed in compliance with all Standing Orders of the Council in that behalf.

An entry of the sealing of every document to which the seal has been affixed shall be made and consecutively numbered in a book provided for that purpose by the Head of Legal and Democratic Services, and shall be signed by the person who attested the seal.

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 and 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 will be approved by the Full Council.
- (b) **Changes from Leader and Cabinet form of Executive.** If there are proposals to change the executive arrangements, the Council will take reasonable steps to consult local electors and other interested persons when drawing up proposals.

14.3 Exception of the requirement

The following changes to the Constitution may be effected by the Monitoring Officer, subject to reporting the change to full Council (after reporting the change to the next appropriate meeting of a Committee where the changes relate to that Committee's powers and duties):

- (a) Changes to the delegated functions to Chief Officers (as defined in the Officer Employment Procedure Rules in Part 4);
- (b) Changes required giving effect to any change in the law or directives issued under legal powers by Government;
- (c)
 - (i) Typographical or similar changes; or
 - (ii) In consultation with the Democracy and Governance Portfolio Holder, minor changes, as may be identified from time to time, such as changes to the names of Committees, Portfolios, or job titles etc.

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. The Rules specified below may be suspended by the Council, Cabinet or a Committee to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rule will not be moved without notice unless at least one half of the membership is present, and shall not be carried unless supported by two-thirds of the Members present at the meeting.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 15.1:
 - (i) Council Procedure Rules
 - (ii) Cabinet Procedure Rules
 - (iii) Committee Procedure Rules

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 Head of Legal and Democratic Services will make available a copy of this Constitution to each member of the authority upon receipt of that individual's Declaration of Acceptance of Office on the member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are available for inspection at Council offices and other appropriate locations, and hard copies can be purchased on payment of a reasonable fee to be determined by the Council.