

PART 2

ARTICLES OF THE CONSTITUTION

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the Mole Valley District Council (“the Council”).

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

Article 2 - Members of the Council

2.1 Composition and Eligibility

(a) Composition

The Council comprises 41 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each of the 21 wards in the District in accordance with a scheme approved by the Secretary of State.

(b) Eligibility

The eligibility criteria for a person to be qualified to be elected and be a member of a local authority are set out in section 79 of the Local Government Act 1972 as amended.

2.2 Election and Terms of Councillors

The ordinary election of one-third (or as near as maybe of Councillors) will be held on the first Thursday in May every year beginning in 2002 with the exception of the fourth year when County Council elections take place (except where prescribed by Regulation). The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of all Councillors

(a) Key Roles

All Councillors will:-

- (i) collectively be the ultimate policy-makers and carry out a number of strategic functions, taking a district-wide view;
- (ii) represent their communities whose views they will bring into the Council's decision-making process (i.e. become the advocate of and for their communities);
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) be involved in decision making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary

for the proper discharge of their functions and in accordance with the law.

- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct, the Members' Planning Code of Good Practice and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

The Council is required to maintain and update a Register of Interests of its Members and co-opted Members. Registration requirements are set out in Part 4 of the Members' Code of Conduct. The Register is available for public inspection at the Council's Offices and is published on the Council's website.

2.5 Allowances

Councillors will be entitled to be remunerated in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

Article 3 - Residents and the Council

3.1 Residents' Rights

Residents have the following rights. Their rights to information and to participate are explained in more detail in the Public Speaking Procedure Rules and Access to Information Rules – See Parts 4(a) Rules 19 and 20 and Part 4(b) of this Constitution.

(a) Voting and Petitions

Residents on the electoral register for the area have the right to vote and sign a petition to request a referendum on the Council's form of governance. Every year, the Council will publish details of the number of electors required to instigate such a referendum.

(b) Information

Residents have the right to:-

- (i) attend meetings of the Council, Cabinet and Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private, and to take photographs, film and audio-record the proceedings, and report on such meetings;
- (ii) see reports and background papers, and any records of decisions made by the Council, Cabinet and Committees except where confidential or exempt information is likely to be disclosed;
- (iii) inspect the Council's accounts and make their views known to the external auditor; and
- (iv) make representations about why an Cabinet meeting, or part of an Cabinet meeting, should be open to the public when a notice of an intention to meet in private is published.

(Residents' rights to information are explained in more detail in the Access to Information Rules in Part 4(b) of this Constitution)

(c) Participation

Residents have the right to present petitions, ask questions or address meetings of the Council, its Cabinet and the Development Control and Licensing Committees and to contribute to investigations by the Scrutiny Committee, as set out in this Constitution.

(d) Complaints

Residents have the right to complain to:-

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government Ombudsman; and

- (iii) the Monitoring Officer about a breach of the Members' Code of Conduct in Part 5 of this Constitution.

3.2 Residents' Responsibilities

Residents are entitled to attend public meetings of the Council, Cabinet and Committees, but must comply with the rulings of the Chairman. They must not disrupt the meeting or cause undue disturbance or they may be removed from the meeting. Residents must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm property owned by the Council, Councillors or officers.

Article 4 - The Council

4.1 Meanings

(a) Policy Framework

The Policy Framework comprises the following plans and strategies:-

- Corporate Strategy
- Local Plan
- Policy Budget including the Capital Programme.

(b) Policy Budget

The policy budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax, 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 Council

There will be an annual meeting of the Council, plus up to five ordinary meetings of the Council.

Only the Council will normally exercise the following functions:

- Adoption of the Constitution and any subsequent changes to it (apart from changes to Part 3 in relation to Cabinet functions which will be discharged by the Leader and reported to the Council)
- Election of Chairman and appointment of Vice-Chairman
- Establishment of the Council's Committees
- Allocation of Members to Committees on the request of the Group Leaders
- Election and removal of the Leader of the Council
- Adoption of Scheme of Members' Allowances
- Adoption of the Members' Code of Conduct
- Approval of the Policy Framework, as set out in the following 4 bullet points
 - Approval of the Corporate Strategy
 - Setting of the Policy Budget and Council Tax and approval of the Capital Programme
 - Approval of proposed submission local plan documents in accordance with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012
 - Adoption of a local plan document in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012.
- Receive the Cabinet Leader's Statement and, if appropriate, the Leader's Annual Report
- Approval of statement of licensing policy under Licensing Act 2003 and statement of principles under Gambling Act 2005

- Consideration of public Questions with the exception of questions submitted under Standing Orders to be answered at an Cabinet or Committee meeting
- Consideration of questions from Members to the Leader/Cabinet Members
- Consideration of any recommendations from the Cabinet
- Consideration of any recommendations from Committees as appropriate
- Appointment of Leader and Deputy Leader of the Opposition
- Determination of those matters relating to elections and electoral registration which it is required to do by legislation
- Power to make, amend, revoke, re-enact or enforce byelaws or to promote or oppose local or personal Bills
- Debate wider issues affecting the District
- Consideration of reports of Head of Paid Service (Section 4 of the Local Government and Housing Act 1989), Monitoring Officer (Section 5 of the Local Government and Housing Act 1989), Chief Finance Officer (Sections 114 and 115 of the Local Government Finance Act 1988) and the Auditor under Section 8 of the Audit Commission Act 1998 (NB: Any Monitoring Officer reports under S.5 relating to Cabinet functions would be made to the Cabinet)
- Confirmation of appointment of Head of the Paid Service
- Confirmation of dismissal of Head of Paid Service, S151 Officer and Monitoring Officer, taking account of the recommendations of the Appointments Committee, the conclusions of any investigation and any representations from the relevant officer
- Designation of the appropriate officers as S151 Officer, Monitoring Officer, Electoral Registration Officer (including Deputy) and Returning Officer
- Notices of Motion from Members relating to non-Cabinet functions unless referred to the Cabinet or a Committee as set out in Standing Orders
- Any local choice functions which the Council decides should be undertaken by itself rather than the Cabinet
- Any other matters which by law must be reserved to the Council.

4.3 Council Meetings

There are three types of Council meeting:

- (a) the Annual meeting;
- (b) ordinary meetings (on dates agreed annually); and
- (c) extraordinary meetings (to deal with urgent or special business).

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

4.4 Responsibility for Functions

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

Article 5 - Chairing the Council

5.1 Role and Function of the Chairman

The Chairman of the Council will be elected by the Council annually.

The Chairman, and in his/her absence the Vice-Chairman, will have the following roles and functions, to:-

1. uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. ensure that Council meetings are a forum for debating matters of concern to the local community and the place at which Members who are not on the Cabinet or do not hold Committee Chairmanships are able to hold the Cabinet and Committee Chairmen to account;
4. attend such civic and ceremonial functions as the Council and he/she determines appropriate.

Article 6 – Scrutiny Committee

6.1 Terms of Reference of the Scrutiny Committee

The Council will appoint a Scrutiny Committee to discharge the scrutiny and review functions conferred by Section 21 of the Local Government Act 2000 or Regulations made under Section 32 of the Local Government Act 2000, as follows:-

1. Review decisions made and actions taken by the Cabinet or any of the Council functions with the exception of regulatory decisions (where third party rights might be affected) and decisions of the Standards Committee.
2. Review, monitor or scrutinise the performance of the Council in relation to its policy objectives, performance targets, action plans and relationship with external partnership bodies and organisations.
3. To undertake investigations into such matters relating to the Council's functions and powers as:-
 - (i) may be referred by the Council or Cabinet; or
 - (ii) the Committee may consider appropriate
 - (iii) have been referred to the Committee pursuant to the 'call-in' procedure set out in the Scrutiny Procedure Rules in Part 4 of this Constitution.

In respect of (i) and (ii) above:-

- Where the proposals relate to Cabinet functions, the report shall be considered initially by the Scrutiny Committee and then referred to the Cabinet for adoption.
- Where the proposals relate to the Council (non-Cabinet/non-regulatory) functions, the report shall be considered initially by the Scrutiny Committee and then referred to the Cabinet for comments and, if appropriate, further recommendations. The report, together with any comments or recommendations agreed by the Cabinet, shall then be referred to the Council for adoption.

Where a Cabinet report is first considered by the Council, that report will not be submitted to the Scrutiny Committee

4. Establish Scrutiny Panels where appropriate to the Scrutiny functions.
5. Make recommendations to the Cabinet or the Council arising from the outcome of the scrutiny process.
6. Question the Leader and/or Cabinet Members and/or Officers on areas within their remit.
7. To receive the annual report in respect of complaints and from the Ombudsman.

8. Consider requests from Members for a review of matters affecting the District or its inhabitants including the reference of any local government matter relevant to the functions of the Committee.
9. Review and scrutinise the performance of other public and private organisations, where they are contributing to helping the Council achieve its objectives.
10. To review by way of a standing item on the agenda, the Leader's Forward Plan.
11. To review or scrutinise decisions made, or other actions taken by the local Community Safety Partnership (CSP) in connection with the discharge of their Crime and Disorder function.
12. To review or scrutinise the Council's functions relating to equality and diversity.

6.2 Composition of the Scrutiny Committee

The Scrutiny Committee will comprise 11 Members of the Council. No Member of the Cabinet will sit on the Scrutiny Committee.

6.3 Proceedings of the Scrutiny Committee

The Scrutiny Committee will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6.4 Scrutiny Panels

The Scrutiny Committee may appoint Scrutiny Panels to undertake reviews as appropriate. Scrutiny Panels will comprise from 5 to 7 Members.

No Member of the Cabinet will sit on a Scrutiny Panel unless the Scrutiny Committee specifically requests that the Cabinet Member be a Member of the specific panel and as set out below.

There will no more than five Scrutiny Panels operating at any one time.

One of the five Scrutiny Panels will be a Standing Budget Panel.

Article 7 – Audit Committee

7.1 Terms of Reference of the Audit Committee

The Council will appoint an Audit Committee to discharge the Audit functions conferred on the Council as follows:-

1. To provide the Council with:
 - independent assurance of the adequacy of the risk management framework and the associated control environment;
 - independent scrutiny of the authority's financial and non-financial activities and performance to the extent that it affects the authority's exposure to risk and weakens the control environment;
 - and to oversee the financial reporting process.
2. To consider the reports of external audit and other inspection agencies and to seek assurances that action is being taken on risk related issues identified.
3. To be satisfied that the authority's assurance statements, including the Statement of Corporate Governance and Annual Governance Statement, properly reflect the risk environment and any actions required to improve it.
4. To review and scrutinise the financial statements, external auditors' opinion and reports to members and monitor management action in response to the issues raised by external audit.
5. To oversee the implementation of the Accounts and Audit Regulations 2003/533 (as amended or replaced) including the Statement of Accounts and the Council's Statement of Accounting Policies.
6. To approve the Council's internal audit strategy and work plans, and to monitor performance against the agreed strategy.
7. To review internal audit reports and the main issues arising, and to seek assurance that appropriate actions have been taken where necessary.
8. To review the effectiveness of Internal Audit.
9. To scrutinise the Council's Treasury Management strategy and functions.
10. To scrutinise the Council's risk management arrangements.
11. To scrutinise the Council's corporate counter fraud arrangements.
12. To maintain an overview of the Council's Contract Standing Orders and Financial Regulations.
13. To consider other matters as referred to the Committee by the Chief Cabinet or Section 151 Officer.

7.2 Composition of the Audit Committee

The Audit Committee will comprise 7 Members of the Council. No Member of the Cabinet will sit on the Audit Committee.

Article 8 – The Leader

8.1 Role

The Leader will be a councillor elected to the position of Leader by the Council at its post-election annual meeting (or if the Council fails to elect the Leader at that meeting, at a subsequent meeting of the Council). The term of office of the Leader starts on the day of his/her election as Leader and ends on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor unless:

- a. he/she resigns from the office; or
- b. he/she is no longer a councillor; or
- c. he/she is removed from office by resolution of the Council

The Leader 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, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

8.2 Functions of the Leader

The Leader will maintain a list in Part 3 of this Constitution setting out who will authorise Cabinet functions. Cabinet functions can be exercised by the Leader, Cabinet, individual Cabinet Members or Officers.

The Executive Head of Service with responsibility for Democratic and Electoral Services will, on behalf of the Leader, maintain a list in Part 3 of this Constitution setting out who is responsible for the exercise of particular Cabinet functions. Any changes to Part 3 of the Constitution in relation to Cabinet functions will be reported to the next appropriate meeting of the Council.

The Leader will be the Chairman of the Cabinet.

Only the Leader will exercise the following functions:

- (a) appointment of the Deputy Leader,
- (b) appointment of the Cabinet, and
- (c) approval of the Leader's Cabinet Forward Plan
- (d) approval of the Leader's scheme of delegation.

8.3 Responsibility for Leader Functions

The Leader shall comply with Part 3(i) (Appendix 2) by giving the appropriate written notice to the Executive Head of Service with responsibility for Democratic and Electoral Services of the appointment, removal and/or replacement of the Deputy Leader or other Cabinet Member(s) and of any changes to his/her Scheme of Delegation.

8.4 Removal of the Leader

The Council may consider the removal of the Leader following receipt of a motion signed by ten Members of the Council (in accordance with Standing Order 5).

8.5 Deputy Leader

The Deputy Leader will be a Councillor appointed to the position of Deputy Leader by the Leader. The Deputy Leader will hold office until the end of the term of office of the Leader, or until:

- (a) he/she resigns from the office, or
- (b) he/she is no longer a councillor, or
- (c) he/she is removed from office by the Leader.

8.6 Role of the Deputy Leader

- (a) The Deputy Leader will be the Deputy Cabinet Leader and Vice-Chairman of the Cabinet.
- (b) The Deputy Leader will exercise all functions reserved to the Leader in his/her absence.
- (c) If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant, the remaining members of the Cabinet shall either act collectively in the Leader's place, or they shall arrange for a Cabinet Member to act in the place of the Leader.

Article 9 – The Cabinet

9.1 Role of the Cabinet

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, as delegated by the Leader.

9.2 Form and Composition

The Cabinet will consist of the Cabinet Leader (the Leader of the Council) who shall act as Chairman of the Cabinet together with no fewer than two and no more than nine other Councillors appointed to the Cabinet by the Leader. At no time will the Cabinet comprise more than the Leader and nine Members.

The Leader will determine the scope of portfolios and allocate them to the members of the Cabinet.

9.3 Cabinet Members

Cabinet Members for specified areas of the Council's work will be appointed by the Leader. Cabinet Members shall hold office until:-

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) such time as the Leader may remove them from office, either individually or collectively.

The Chairman and Vice-Chairman of the Council may not be members of the Cabinet.

9.4 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution. All decision-taking meetings will be generally open to the public in accordance with the Access to Information Procedure Rules.

Article 10 – Regulatory Committees

10.1 Regulatory Committees

The Council will appoint Regulatory Committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described.

The Regulatory Committees, although normally required to be politically balanced in composition, will make all decisions on a purely non-party political basis.

10.2 Development Control

The Council will appoint a Development Control Committee which will be responsible for dealing with planning applications and other functions as set out in Part 3 of this Constitution – Responsibility for Functions.

The Development Control Committee will comprise up to 19 Members of the Council.

The Development Control Committee will meet in accordance with the Rules of Procedure set out in Part 4 of this Constitution.

10.3 Licensing Committee

The Council will appoint a Licensing Committee which will be responsible for licensing functions as set out in Part 3 of this Constitution – Responsibility for Functions.

The Licensing Committee will comprise up to 11 Members of the Council.

The Licensing Committee will meet in accordance with the Rules of Procedure set out in Part 4 of this Constitution.

Article 11 – The Standards Committee

11.1 Standards Committee

The Council will establish a Standards Committee.

11.2 Composition

(a) Membership

The Standards Committee will comprise:-

- Six Councillors;
- two non-voting representatives of Parish Councils in the Council's area (parish members).

11.3 Role and Function

The Standards Committee (either itself or by Sub-Committees where appropriate) will have the following roles and functions:-

1. To exercise all the functions of the Council relating to standards and in particular to promote and maintain high standards of conduct by Members and co-opted Members.
2. To advise the Council on the adoption or revision of the Members' Code of Conduct.
3. To advise the Council generally on matters relating to the ethical conduct of the Council and its Members.
4. To monitor the operation of the Members' Code of Conduct.
5. To advise or arrange to train Members and co-opted Members on ethical matters including the Members' Code of Conduct.
6. Subject to the authority delegated to the Monitoring Officer, to grant dispensations to Members and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct.
7. To deal with all reports on Members' conduct from the Monitoring Officer.
8. To establish a Complaints Sub-Committee to hear and determine allegations about the conduct of Members where an allegation requires investigation and the Investigation concludes that there has been a breach of the Code of Conduct.
9. To exercise the above in relation to the Parish Councils within Mole Valley (where appropriate).
10. To authorise appropriate delegation to officers.
11. To be responsible for the granting and supervision of exemptions of posts from political restrictions.

11.4 Standards Sub-Committees

The following Sub-Committee shall be established to carry out the following functions in relation to allegations of misconduct by Members:

(a) Complaints Sub-Committee

To consider the report of an Investigating Officer that has been referred by the Monitoring Officer where there is evidence of the failure of an elected or co-opted member of Mole Valley District Council or any Parish Council within Mole Valley to comply with the Code of Conduct, and to determine at a local hearing whether the member's conduct constitutes a failure to comply and, if so, any action to be taken.

- (b) The Complaints Sub-Committee shall comprise three members of the Standards Committee appointed by the Executive Head with responsibility for Democratic and Electoral Services or the Monitoring Officer.

11.5 Hearing Procedures for the Complaints Sub-Committee

The procedures for the hearing and determination of complaints against Members by the Complaints Sub-Committee and actions which can be taken where a member has failed to comply with the Code of Conduct are set out in Part 5 of this Constitution.

11.6 Meetings with the Chairman

Regular meetings may be held between the Chairman of the Standards Committee and the Monitoring Officer and/or the Executive Head of Service with responsibility for Democratic and Electoral Services as appropriate.

Article 12 – Joint Arrangements

12.1 Arrangements to Promote Well-Being

The Council or the Leader/Cabinet, in order to promote community leadership, communication and to improve the economic, social or environmental well-being of the 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.

12.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions (which are not Cabinet 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 (the composition and terms of reference of any such Joint Committees are included in Part 3 of this Constitution).
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of a Joint Committee with these other local authorities (the composition and terms of reference of any such Joint Committees are included in Part 3 of this Constitution).
- (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) Where the functions of the Joint Committee are not the responsibility of the Cabinet, in which case the political balance requirement will apply
 - (ii) Where 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 a case, 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.

12.3 Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.

- (b) 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.
- (c) If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

12.4 Delegation to and from other Local Authorities

- (a) The Council may delegate non-Cabinet functions to another local authority.
- (b) The Leader/Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority.
- (d) The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.

12.5 Contracting Out

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

Article 13 - Officers

13.1 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

The Council will engage a Chief Executive, who will have the following functions and responsibilities:-

- Leadership of the Council's Service:

To be responsible to Members for the efficient leadership and management of the Council's paid service.

- Financial Management and Provision of Best Value Services:

To be accountable for ensuring that the Council's services are provided and monitored in a cost-effective manner, achieving best value from expenditure.

- Working in Partnership with Elected Members:

To establish and maintain effective and enduring operational processes and relationships with the elected Members of the Council to ensure that the political decision-making process takes place in an informed and integrated manner.

- Managing Change:

To manage the development and promotion of forward strategic process to enable the Council to deliver its aims and objectives, whilst ensuring that all opportunities are identified to modernise and improve local government within Mole Valley.

(c) Director(s)

The Council will engage Director(s)/Deputy Chief Executive who will have certain over-arching functions and responsibilities.

(d) Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer)

The Council will designate the following Officers as shown:-

Officer	Designation
Chief Executive	Head of Paid Service as referred to in Section 4 of the Local Government and Housing Act 1989

Deputy Chief Executive	Section 151 Officer and Chief Financial Officer as referred to in Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988
Democratic Services & Electoral Services Manager	Monitoring Officer as referred to in Section 5 of the Local Government and Housing Act 1989

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

(f) **Structure**

The Head of Paid Service will determine and publicise a description of the management structure of the Council and the deployment of Officers. This is set out in Part 7 of this constitution.

13.2 Functions of the Head of Paid Service

(a) **Discharge of Functions by the Council**

The Head of Paid Service will report to the 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 Financial Officer if a qualified Accountant.

13.3 Functions of the Monitoring Officer

(a) **Ensuring Lawfulness and Fairness in Decision-Making**

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Council, or to the Cabinet in relation to a Cabinet function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision 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.

(c) **Receiving Reports**

The Monitoring Officer will receive and, after consulting the appropriate persons, act on reports made by Investigating Officers.

(d) **Conducting Investigations**

The Monitoring Officer will consider a complaint that a member or co-opted member has failed to comply with the Authority's Code of Conduct to decide whether it merits formal investigation, after consulting the appropriate persons where required. He or she shall refer such complaints to an Investigating Officer if the complaint merits formal investigation, and may make reports in respect such investigations to the Standards Committee or Complaints Sub-Committee as appropriate.

(e) **Restrictions on Posts**

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

13.4 Functions of the Chief Financial Officer

(a) **Ensuring Lawfulness and Financial Prudence of Decision-Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Council or the Cabinet in relation to any Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of Financial Affairs**

The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to Corporate Management**

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

(d) **Give Financial Information**

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

(e) **Financial Management**

The Chief Financial Officer will determine a financial framework within which the Council's financial affairs will operate. This will be documented through the Medium Term Financial Strategy, the Financial Procedure Rules and an effective Internal Audit function.

(f) **Determining Accounting Records and Control Systems**

The Chief Financial Officer will determine the Council's accounting records (including the form of accounts and supporting accounting records) and the accounting control systems.

(g) **Calculating the Council Tax**

In connection with the calculations to set the Council tax, the Chief Financial Officer will report on:-

- (a) the robustness of the estimates made for the purpose of the calculations, and
- (b) the adequacy of financial reserves.

13.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer

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

13.6 Conduct

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

13.7 Employment

The recruitment, selection and dismissal of Officers will be in accordance with Part 3 of this Constitution (Responsibility for Functions).

Article 14 – Decision-Making

14.1 Responsibility for Decision-Making

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. The Leader of the Council will maintain a list setting out who will take decisions on Cabinet functions. These records are set out in Part 3 of this Constitution.

14.2 Principles of Decision Making

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

- (a) the rule of law;
- (b) proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) due consultation and taking of professional advice from Officers;
- (d) respect for human rights;
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes;
- (g) providing information on the options considered and giving reasons for the decision taking.

14.3 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) Key decisions are those which are likely to:-
 - result in expenditure or savings of at least £100,000; or
 - have a specific and significant impact on two or more Wards within the District.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

14.4 Decision-Making by the Council

Subject to Article 14.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution.

14.5 Decision-Making by the Cabinet

Subject to Article 14.8, the Leader/Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.6 Decision-Making by the Scrutiny Committee

The Scrutiny Committee will follow the Scrutiny Committee's Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.7 Decision-Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 14.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

14.8 Decision-Making by Council Bodies Acting as Tribunals

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

Article 15 - Finance, Contracts and Legal Matters

15.1 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 of this Constitution.

15.2 Contracts

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

15.3 Legal Proceedings

The Legal Services Manager 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 or she considers that such action is necessary to protect the Council's interests.

15.4 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 Legal Services Manager or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract which amounts to or exceeds £50,000 in value must, unless the Legal Services Manager determines otherwise, be sealed with the Common Seal of the Council. If the Legal Services Manager decides that a contract which amounts to or exceeds £100,000 in value may be signed, it must be signed, subject to compliance within the Council's Financial Procedure Rules, by two of the Strategic Leadership Team. Contracts not exceeding £50,000 in value may be sealed with the Common Seal or must be signed by the relevant Executive Head of Service or, subject to compliance with the Council's Financial Procedure Rules, his or her nominee.

15.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Legal Services Manager. A decision of the Council, or of any part of it (including officers acting under delegated powers), 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 Legal Services Manager should be sealed.

The affixing of the Common Seal will be attested by one of the following: the Chief Executive, Deputy Chief Executive, the Legal Services Manager, and Executive Head of Service with responsibility for Democratic and Electoral Services or the Senior Solicitor or some other person authorised by one of the above officers.

A record of every sealing will be made in a book kept for the purpose and signed by the person who attested the seal.

Article 16 - Review and Revision of the Constitution

16.1 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.

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

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities or national examples of best practice.

16.2 Changes to the Constitution

(a) Approval

Changes to the Constitution will only be approved by the Council after consideration of a proposal from the Head of Paid Service or by way of members proposing a motion on notice in accordance with Council Procedure Rule 9 after consulting with the Head of Paid Service.

(b) Change from a Leader and Cabinet Form of Cabinet

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 17 – Suspension, Interpretation and Publication of the Constitution

17.1 Suspension of the Constitution

(a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules of Procedure (Standing Orders) may be suspended as regards any business at the meeting where their suspension is moved to the extent permitted within those Rules and the law.

(b) Procedure to Suspend

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

17.2 Interpretation

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

17.3 Publication

- (a) The Head of the Paid Service will give a printed copy of this Constitution to each Member of the Council upon delivery to him or her of that individual's Acceptance of Office on the Member first being elected to Council.
- (b) The Head of the Paid Service will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations, and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of the Paid Service will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Cabinet Arrangements

The following parts of this Constitution constitute the Cabinet arrangements:-

1. Article 6 (Scrutiny Committee) and the Scrutiny Procedure Rules;
2. Article 8 (The Leader)
3. Article 9 (The Cabinet) and the Cabinet Procedure Rules;
4. Article 12 (Joint Arrangements)
5. Article 14 (Decision-Making) and the Access to Information Procedure Rules; and
6. Part 3 (Responsibility for Functions)