

# **PART 2**

## **Articles of the Constitution**



# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

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

## **1.02 The Constitution**

This Constitution with its appendices is the Constitution of Babergh District Council.

## **1.03 Interpretation**

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

For the purposes of this Constitution the following definitions, except where otherwise stated, shall apply:-

- Budget – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax and Council House Rents.
- Chief Executive – the Head of the Council’s Paid Service under Section 4 of the Local Government and Housing Act 1989.
- Chief Finance Officer - the Officer appointed by the Council under Section 151 of the Local Government Act 1972 with responsibility for the proper administration of the Council’s finances.
- Committees – means the Strategy Committee, Standards Committee, Overview and Scrutiny Committees, the Development Committee, Licensing and Appeals Committee and any other Committees which may be established from time to time.
- Council – means the Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972.
- Monitoring Officer – means the Officer appointed under Section 5 of the Local Government and Housing Act 1989.
- Strategic Plan setting out the issues facing the District and expected long term actions and outcomes.

#### 1.04 **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 their contribution to 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 the decision in which he/she was directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) provide a means of improving the delivery of services to the community.

# **Article 2 – Members of The Council**

## **2.01 Composition and eligibility**

- (a) **Composition.** The Council will comprise 43 Members otherwise called Councillors. 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.** Only registered voters of the district or those with property or living or working within the District will be eligible to hold the office of Councillor.

## **2.02 Election and terms of Office of Councillors**

### **ELECTION OF THE WHOLE COUNCIL EVERY FOUR YEARS**

#### **Election and terms of Office**

The regular election of Councillors will ordinarily be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish at midnight on the third day after the date of the next regular election.

## **2.03 Roles and functions of all Councillors**

Role Descriptions for Councillors are appended to Article 2.

### **(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) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.
- (viii) be available for Membership of Sub-Committees, Task Groups and Panels of the Council except in circumstances where Members are specifically excluded from such Membership within this constitution, for example where a conflict of interest may arise as a result of the Councillor being a member of the Strategy Committee or an Overview and Scrutiny Committee.

(b) **Leadership roles.**

- (i) The Chairman of Strategy Committee shall act as the principal spokesperson for the Council on major policy issues including casting the Council's vote at meetings of bodies which represent local Government such as the Local Government Association and its subsidiary bodies.
- (ii) Chairmen of Committees shall act as the Council's spokespersons on any issues which have been or are to be considered by their Committees.
- (iii) In circumstances where Council elects a Leader at its Annual Meeting the position of Leader of the Council shall be subject to annual election and the Leader shall take up the Chairmanship of Strategy Committee.
- (iv) Those Members appointed by Council as specialist spokespersons or Priority/Member Champions in specific areas/functions of the Council shall act as the Council's spokespersons on these specified areas and in so doing shall consult with the relevant Committee Chairman from time to time as necessary in the event that the specialist spokesperson is not the Chairman of the relevant Committee.
- (v) Role of Group Leaders/Groups and links with Management Team.

(c) **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 Procedure Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution. The Members' Code of Conduct will require Members to report any wrong-doing which comes to their attention in addition to complying with the Council's Anti-Fraud & Corruption and Whistle-Blowing Procedure. Copies of these policies can be obtained from the Council.

2.05 **Allowances**

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

## **APPENDIX TO ARTICLE 2**

### **Role Descriptions For Members**

1. District Councillor
2. Group Leader and Deputy Group Leader
3. Chairman of the Council
4. Chairman of Strategy Committee
5. Chairman of Overview and Scrutiny Committee
6. Chairmen of Regulatory and Standards Committees, and other Council Committees/Sub-Committees
7. Leader of the Council
8. Vice-Chairmen of Council Committees and Vice-Chairman of the Council.

## **DISTRICT COUNCILLOR'S ROLE DESCRIPTION**

1. To participate constructively and effectively in the governance of the District and your local area.
2. To contribute actively to the formulation and scrutiny of the Council's policies, priorities, plans, strategies, budget and service delivery.
3. To represent effectively the community interests of the Electoral Ward for which you are elected and deal fairly and effectively with enquiries and representations from local people.
4. To ensure that the Council considers the needs of all sections of the community.
5. If appointed, to represent the District Council actively and effectively on outside bodies, providing two way communication between the District Council and the relevant bodies.
6. To fulfil all requirements of an elected Member of the District Council, including compliance with all the relevant Codes of Conduct and participation in those decisions and activities reserved to the full Council.
7. To participate effectively as a member of any Council Committee to which you are appointed.
8. Where a District Councillor is a member of a political Group, to contribute within the Group to effective, positive and constructive discussion of Council Business in order to assist the Group Leader in performing his/her key duties.
9. To develop and maintain a sound level of working knowledge of the District Council's policies and practices generally and in particular in relation to services, plans and policies affecting committees to which you are appointed and your local area.
10. To develop and maintain good and effective working relationships with the Chairmen and Vice-Chairmen of the Council's Committees and relevant officers of the Council.
11. To develop and maintain a working knowledge of the organisations, services, activities and other matters which affect and impact on the local community.
12. To contribute effectively to the processes informing the community strategy through active encouragement of the community to participate constructively in consultative arrangements and service provision to the local community.

## **GROUP LEADER AND DEPUTY–GROUP LEADER ROLE DESCRIPTION**

### **Role Description of Group Leader**

1. To ensure effective, positive and constructive discussion of Council Business within the Group.
2. To provide and carry forward to the relevant bodies the views of his/her Group.
3. To be the principal spokesperson for the political Group.
4. To participate effectively within a non-decision working group (“Political Leaders Group”) to:-
  - (a) facilitate ongoing dialogue with Management Team.
  - (b) act as a “sounding board” for new proposals, policies, strategies
5. To lead effectively the view of the political Group at Council, Committees or through other channels.
6. To meet regularly with his/her Group Members to ensure good communications.
7. To maintain effective relationships with the Chairman of the Council and the Chairmen of the Committees, the Chief Executive, the Deputy Chief Executive, Directors and other relevant senior officers and to meet them, as required, to ensure he/she is sufficiently and effectively briefed on service and relevant corporate areas and any other relevant issues pertaining to the District Council.
8. After consultation with the Group, to nominate Council Members of his/her Group to serve or be substitutes on Committees, Panels, etc. and if appropriate, outside bodies.
9. To ensure effective contact with community representatives and other local stakeholders as appropriate and represent their views.
10. As requested by the District Council to represent the District Council on county-wide regional and national bodies and national and international events relating to or organised by those bodies.

### **Role Description of Deputy Group Leader**

To assist the Group Leader in his/her functions detailed in the role description for the Group Leader, and to deputise for the Group Leader in all those functions.

## **CHAIRMAN OF THE COUNCIL ROLE DESCRIPTION**

1. To open, regulate and control proceedings at Council meetings.
2. To ensure that the proceedings at Council meetings are conducted in a proper manner.
3. To determine that the meeting is properly constituted and that a quorum is present.
4. To inform himself/herself as to the business and objects of the meeting.
5. To preserve order in the conduct of those present.
6. To confine discussion within the scope of the meeting and reasonable limits of time.
7. To decide whether proposed motions and amendments are in order.
8. To formulate for discussion and decision questions which have been moved for the consideration of the meeting.
9. To decide points of order and other incidental questions which require decision at the time.
10. To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon (and if so minded giving a casting vote); declaring the result/causing a ballot to be taken if duly demanded.
11. To approve the draft of the minutes or other record of proceedings.
12. To adjourn or suspend the meeting when circumstances justify or require that course.
13. To declare meeting closed when its business has been completed.
14. To represent the Council at civic and ceremonial events.
15. To ensure the effectiveness of the Council as a collective decision making body.

## **CHAIRMAN OF STRATEGY COMMITTEE ROLE DESCRIPTION**

1. To chair the meetings of the Strategy Committee and ensure its overall effectiveness.
2. To ensure through the Committee the development of the District Council's policy, strategy and budget proposals to be submitted to Council.
3. To ensure through the Committee the development of the District Council's partnerships with other organisations throughout the county.
4. In undertaking the role of Chairman of Strategy Committee to consider the needs of all sections of the community.
5. To act as the principal spokesperson for the District Council on major policy issues, at local, regional, national and international level.
6. To determine that the meeting is properly constituted and that a quorum is present.
7. To inform himself/herself as to the business and objects of the meeting.
8. To preserve order in the conduct of those present.
9. To confine discussion within the scope of the meeting and reasonable limits to time.
10. To decide whether proposed motions and amendments are in order.
11. To facilitate discussion on questions which have been moved for the consideration of the meeting.
12. To decide points of order and other incidental questions which require decision at the time.
13. To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon (and if so minded giving a casting vote); declaring the result/causing a ballot to be taken if duly demanded.
14. To approve the draft of the minutes or other record of proceedings.
15. To adjourn or suspend the meeting when circumstances justify or require that course.
16. To declare meeting closed when its business has been completed.
17. The Chairman of Strategy Committee has overall responsibility for ensuring the effective functioning of the Strategy Committee. In carrying out this responsibility, he/she will
  - (a) Recommend through the Strategy Committee to the Council the adoption of appropriate policies, strategies and budget provision to meet the changing demands on the District Council.
  - (b) Ensure the effectiveness of the Strategy Committee as a collective decision making body.

- (c) Ensure effective arrangements for consulting other Committees and their Chairmen where appropriate.
- (d) Ensure the effective delivery and development of strategies and policies to meet changing demands on the District Council.
- (e) Represent the District Council on county-wide, regional and national bodies and events relating to or organised by those bodies.

## **CHAIRMAN OF OVERVIEW AND SCRUTINY COMMITTEE ROLE DESCRIPTION**

1. To chair one of the District Council's Overview and Scrutiny Committees.
2. To ensure he/she is sufficiently and effectively briefed on the service and relevant corporate areas and issues pertaining to those areas.
3. To ensure effective consideration and scrutiny by the Committee of recommendations and decisions of the Strategy Committee; the effectiveness of the call-in procedures and policies; the development of policies; and as appropriate, the work of external agencies impacting on the community.
4. To determine that the meeting is properly constituted and that a quorum is present.
5. To inform himself/herself as to the business and objects of the meeting.
6. To preserve order in the conduct of those present.
7. To confine discussion within the scope of the meeting and reasonable limits of time.
8. To decide whether proposed motions and amendments are in order.
9. To formulate for discussion and decision questions which have been moved for the consideration of the meeting.
10. To decide points of order and other incidental questions which require decision at the time.
11. To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon (and if so minded giving a casting vote); declaring the result/causing a ballot to be taken if duly demanded.
12. To approve the draft of the minutes or other record of proceedings.
13. To adjourn or suspend the meeting when circumstances justify or require that course.
14. To declare meeting closed when its business has been completed.
15. To ensure the effective and orderly operation of the particular Overview and Scrutiny Committee.
16. To ensure that an annual programme of work is established for the Committee.
17. To meet regularly with the relevant officers to ensure the receipt of appropriate independent advice to inform effective overview and scrutiny and the functioning of the Overview and Scrutiny Committee.
18. To ensure regular contact with Councillors, community representatives and local stakeholders to inform effective overview and scrutiny of policies, strategies, budget and performance.
19. To initiate and develop constructive relationships with Members of the Strategy Committee, Chief Executive, Deputy Chief Executive, Directors and appropriate senior staff.

20. To contribute effectively to the District Council's scrutiny process by ensuring the questioning of relevant senior officers and, where appropriate, Chairman of Strategy Committee and regulatory committees on the development of policy and strategies and the performance against such strategies and policies.
21. To co-ordinate with the other Overview and Scrutiny Committee Chairman to share good practice and further develop the overview and scrutiny role.

## **CHAIRMEN OF REGULATORY COMMITTEES, STANDARDS COMMITTEE AND OTHER COUNCIL COMMITTEES/SUB-COMMITTEES**

1. To chair the Regulatory Committee, (i.e. Development Committee or Licensing and Appeals Committee) Standards Committee or any other Committee (or Sub-Committee) subsequently established by the Council.
2. To ensure he/she is sufficiently and effectively briefed on the relevant corporate areas/issues relating to the work of the Committee.
3. To chair the Committee meeting and ensure its overall effectiveness.
4. To act as a principal spokesperson on behalf of the Council on the functions undertaken by the Committee and relevant issues.
5. To determine that the meeting is properly constituted and that a quorum is present;
6. To inform himself/herself as to the business and objects of the meeting;
7. To preserve order in the conduct of those present;
8. To confine discussion within the scope of the meeting and reasonable limits of time;
9. To decide whether proposed motions and amendments are in order;
10. To formulate for discussion and decision questions which have been moved for the consideration of the meeting;
11. To decide points of order and other incidental questions which require decision at the time;
12. To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon (and if so minded giving a casting vote); declaring the result/causing a ballot to be taken if duly demanded;
13. To approve the draft of the minutes or other record of proceedings;
14. To adjourn or suspend the meeting when circumstances justify or require that course;
15. To declare meeting closed when its business has been completed.
16. Overall responsibility for ensuring the effective functioning of the Committee.
17. Ensure the effectiveness of the Committee as a collective decision-making body.
18. Ensure effective arrangements for consulting other Committees and their Chairmen as appropriate.

## **LEADER OF THE COUNCIL ROLE DESCRIPTION**

1. To provide leadership to the District Council;
2. To chair the meetings of Strategy Committee and ensure its overall effectiveness;
3. To lead in the development of the District Council's policy, strategy and budget proposals;
4. To lead in the overall control and development of the District Council, within the agreed policy, strategy and budget framework;
5. To lead in developing the District Council's partnerships with other organisations;
6. To undertake in addition all the duties specified in the District Councillor's role description;
7. To ensure the District Council considers the needs of all sections of the community.
8. To undertake within the confines of the existing law, responsibility for the development and delivery of the District Council's overall strategy, policy, budget and service provision;
9. To provide the lead on proposals for new policies and strategies or changes to approved policies and strategies to meet changing demands;
10. To act as the principal political spokesperson for the District Council at local, regional, national and international level.
11. The Leader has overall responsibility for ensuring the effective functioning of the Strategy Committee, the proper and effective provision of Overview and Scrutiny and effective representative role for all District Councillors together with leading on the local, regional and national interests of the Council. In carrying out this responsibility he/she will
  - (a) Provide an overall cohesive and corporate direction for the Council;
  - (b) Ensure the Council adopts appropriate policies, strategies and budget provision to meet the changing demands on the District Council;
  - (c) Ensure the effectiveness of the Strategy Committee as a collective decision making body;
  - (d) Ensure effective arrangements for consulting other Committees and their Chairman and Vice Chairman;
  - (e) Ensure proper Overview and Scrutiny arrangements;
  - (f) Ensure the effective delivery and development of strategies and policies to meet changing demands on the District Council and the duty of best value;
  - (g) Ensure effective arrangements for external consultation;

- (h) Ensure the District Council's corporate policies are communicated effectively;
12. Represent the Council on countywide, regional and national bodies and events relating to or organised by those bodies (including International events).

## **VICE CHAIRMEN OF COUNCIL COMMITTEES AND VICE CHAIRMAN OF THE COUNCIL ROLE DESCRIPTION**

1. To assist the Chairman in his/her functions (including chairing meetings of the Committee/Council in his/her absence) detailed in the Role Description for the Chairman of the relevant Committee/Chairman of Council.
2. For the avoidance of doubt the Vice Chairman of the Council may hold another office within the Council.

## **Article 3 – Citizens and The Council**

### **3.01 Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

#### **(a) Information.**

Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.

#### **(b) Participation.**

Citizens have the right to contribute to investigations by Overview and Scrutiny Committees if asked to do so and may speak at Development Committee in accordance with the Council's Procedure for speaking on Planning Applications at meetings of the Development Committee.

#### **(c) Complaints.**

Citizens have the right to complain to:

- (i) the Council itself under its formal Complaints Procedure;
- (ii) the Ombudsman;
- (iii) Standards for England about a breach of the Members' Code of Conduct.

#### **(d) Voting and Petitions.**

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution.

### **3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers. In circumstances where, though rare, citizens act in such a way that is threatening or abusive to Councillors or Officers, the Council may decide to take action against the citizen which may include prohibiting the citizen from visiting the Council's Offices or involving the Police. Any action taken will be proportionate to the behaviour complained of.

# **Article 4 – The Full Council**

## **4.01 Meanings**

- (a) **Policy Framework.** The policy framework includes the following plans and strategies:-
- The Strategic Plan, incorporating the Crime and Disorder Reduction Strategy and Housing Strategy;
  - The Local Development Framework, with reference to relevant plans such as the Local Transport Plan and the Structure Plan;
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting council house rents and other service charges, setting the council tax and making decisions relating to the control of the Council's borrowing requirement, 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.

## **4.02 Functions of the full Council**

The proposed remit of the Council is based on the division of functions as contained in the Local Authorities (Functions and Responsibilities) England Regulations 2000 and on current practice which allows certain matters to be referred to Council for decision. Reference to any Statutes referred to in this article shall include any amendment or re-enactment of the Statute.

Only the Council will exercise the following functions:

- (1) Adopting and changing the Constitution;
- (2) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (3) Adopting rules relating to meetings and proceedings, procurement and contracts and any subsequent amendment of these documents.
- (4) Approving the arrangements for the discharge of functions by officers of the Council and for the authorisation of officers as necessary.
- (5) Appointing a Leader of the Council at its Annual Meeting in circumstances where a majority of Councillors vote in favour of such an election.

- (6) To deal with matters which are statutorily required to be dealt with by the Council under any of the following statutes or any amendments thereto:-
  - (a) The setting of Council Tax (Local Government Finance Act 1992).
  - (b) The determination of the Council's borrowing limits
  - (c) The approval or adoption of a plan or strategy for the control of the local authority's borrowing or capital expenditure.
  - (d) The consideration of reports by the Head of Paid Service (Section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council's functions and staffing and management of the Council's staff.
  - (e) The consideration of reports by the Monitoring Officer (Section 5 of the Local Government and Housing Act 1989) regarding any contravention, maladministration or injustice by the Council.
  - (f) The consideration of reports by the Chief Finance Officer (Section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to him or her that the Council, a Committee of the authority, a person holding any office or employment under the authority or a joint Committee on which the Authority is represented has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or is about to enter an item of account the entry of which is unlawful.
  - (g) The designation of land as a Litter Control Area (Environmental Protection Act 1990).
  - (h) To approve schemes for local authority run lotteries.
  - (i) Final approval of the Council's 3 year licensing policies under the Licensing Act 2003 and the Gambling Act 2006 and any decisions under the Council's policy not to permit Casinos.
- (7) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (8) Adopting an allowances scheme under Article 2.05 (Members' Allowances Scheme);
- (9) To appoint or dismiss the following officers:
  - (a) The Chief Executive (the Head of the Council's Paid Service)
  - (b) The Deputy Chief Executive
  - (c) The Monitoring Officer

- (d) The Returning Officer for the purpose of conducting elections.
  - (e) The Chief Finance Officer (S151 Officer) (if not the Chief Executive or the Deputy Chief Executive).
- (10) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills:
- (11) Changing the name of the area, conferring the title of honorary alderman;
- (12) Considering reports which any Committee refers to it in accordance with this Constitution;
- (13) Requesting the Overview and Scrutiny Committees to prepare a report on any particular issue;
- (14) Deciding issues where a decision of the Strategy Committee has been called in by an Overview and Scrutiny Committee and the matter is to be decided by Council in accordance with the Rules of Procedure for Overview and Scrutiny Committees;
- (15) Deciding whether the 'call-in' procedure should continue to apply during the year in circumstances where the two Overview and Scrutiny Committees have 'called-in' in total between them 20 Strategy decisions in any particular Council year;
- (16) To adopt the following plans and strategies:
- (a) The Council's Strategic Plan.
  - (b) The Local Development Framework.
- (17) The authorisation of the making of an application:
- (a) for the inclusion of a disposal in a disposals programme under subsection (5) of section 135 (programme for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993 or
  - (b) for consent to that disposal under section 32 (power to dispose of land held for the purposes of part II) or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985.
- (18) To determine any issues which in the opinion of the Chief Executive are of an exceptional nature and warrant consideration by the Council.
- (19) Alterations to electoral arrangements including:
- (a) Any proposed alterations to District boundaries or electoral areas
  - (b) approval to the making of Orders altering the number of Parish Councillors for any Parish
  - (c) the designation of polling places.
- (20) Any proposed alterations to local authority status or functions following review.

- (21) To debate Council wide issues including those included in Government White Papers.
- (22) To provide a Forum whereby Members of the public can attend and ask questions or partners/stakeholders can discuss issues with the Council, e.g. annual state of the Babergh District debate.
- (23) To enable individual Councillors to pursue issues, ask questions and initiate policy.
- (24) Adopting Financial Regulations and Procedures and any subsequent amendment, variation, revocation or re-enactment of these documents.
- (25) The composition of and appointments to Strategy Committee, Overview and Scrutiny Committees, Standards Committee, Regulatory Committees and the establishment, composition and appointment to any other Committees or sub-Committees as shall be established by Council from time to time.
- (26) The exercise of Babergh District Council's functions in relation to the Local Government Pension Scheme
- (27) The approval of the Council's Statement of Accounts
- (28) The promotion of, or opposition to, Local Bills in Parliament
- (29) All other matters which by law must be referred to Council.

#### 4.03 **Council meetings**

There are three types of Council meeting:

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

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

# **Article 5 – Chairing The Council**

## **5.01 Role and function of the Chairman**

- (a) The Chairman and Vice Chairman shall be elected by the Council annually and each shall continue in office until his/her successor becomes entitled to act.
- (b) The Chairman shall not hold any other office within the Council during the term of chairmanship.

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

- (1) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.
- (2) To preside impartially over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- (3) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who do not sit on Strategy Committee are able to hold the Members of Strategy Committee to account;
- (4) To promote public involvement in the Council's activities;
- (5) To be the conscience of the Council; and
- (6) To attend such civic and ceremonial functions as the Council and he/she determine appropriate.

## **Article 6 – Overview and Scrutiny Committees**

### 6.01 **Terms of Reference**

The Council will appoint the Overview and Scrutiny Committees set out below to discharge the functions conferred by Section 21 of the Local Government Act 2000.

<b><u>COMMITTEE</u></b>	<b><u>SCOPE</u></b>
<b>Overview and Scrutiny (Stewardship) Committee</b>	Policy and development review relating to the provision, planning and management and performance of local democracy and the achievement of effective, transparent and accountable decision-making by the Council.
	The Scrutiny role on the management of the Council's budget, borrowing, assets and audit arrangements and the provision, planning, management and performance of all Council services, the Strategic Plan and any other Council function not otherwise exercised by any other Overview and Scrutiny Committee.
<b>Overview and Scrutiny (Community Services) Committee</b>	Policy and development review in relation to community development and the natural and built environment including the provision, planning and management and performance of community safety, cultural, economic development, benefits, health, housing, tourism and transport services in the Babergh District and the environment, including the planning and protection of the built environment and the countryside.
	The Scrutiny role (a) in the light of concerns relating to the services above referred by the regulatory Committees or included in Ombudsman reports, report of statutory inspections, reports from the External Auditor and complaints received under the Council's Complaints Procedure, (b) to review and scrutinise the performance of other public bodies in the area on relevant issues and to invite and receive reports from them.

## 6.02 **General Role**

Within their Terms of Reference, the Overview and Scrutiny Committees 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 Strategy Committee in connection with the discharge of any functions;
- (c) Consider any matter affecting the area or its inhabitants; and
- (d) Exercise the right to call-in for reconsideration, decisions made but not yet implemented by the Strategy Committee (or any Area Committee with decision making-power).

## 6.03 **Specific Functions**

### (a) **Policy Development and Review**

In accordance with their Terms of Reference the Overview and Scrutiny Committees may:-

- (i) Assist the Council 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 Strategy Committee and where appropriate Members of the Regulatory Committees and Members of the Management Team/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.
- (v) Make recommendations to the Strategy Committee and/or the Council arising from the outcome of the scrutiny process;
- (vi) Question and gather evidence from any person (with his/her consent).

### (b) **Finance**

Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

### (c) **Annual Report**

The Overview and Scrutiny Committees must report annually to Full Council on their work and make recommendations for future work programmes and amended working methods if appropriate.

6.04 **Proceedings of Overview and Scrutiny Committees**

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

## **Article 7 – Strategy and Regulatory Committees**

- 7.01 The Council will appoint the Committees set out in Part 3 of this Constitution: “Responsibility for Functions” and the Committees shall discharge the functions described herein.
- 7.02 All group leaders shall be Members of the Strategy Committee subject to political balance requirements as set out in the Local Government and Housing Act 1989.
- 7.03 The Chairman of the Council shall not be the Chairman of Strategy Committee.
- 7.04 Strategy Committee may establish such Sub-Committees, Task Groups or Panels as it considers appropriate and may appoint Co-optees on to any Task Group or Panel as it considers appropriate.
- 7.05 The Development Committee must report annually to Overview and Scrutiny (Community Services) Committee on its performance with particular reference to those decisions taken contrary to policy, decisions taken contrary to officer recommendations and also relating to its performance on appeals.

## **Article 8 - The Standards Committee**

### 8.01 **Standards Committee**

The Council will establish a Standards Committee.

### 8.02 **Composition**

#### **POLITICAL BALANCE**

*Standards Committees do not have to comply with the political balance rules in section 15 of the 1989 Act.*

(a) **Membership.** The Standards Committee will be composed of:

- four Councillors representing each of the political groups (other than the Chairman of the Council or the Chairman of Strategy Committee and the Leader of the Council in circumstances where Council appoint a Leader).
- three persons who are not Councillors or an officer of the council or any other body having a Standards Committee (Independent Members);
- three members of a parish council wholly or mainly in the Council's area (Parish Members).

(b) **Independent Members of the Standards Committee.** Independent Members will be entitled to vote at meetings and at least one Independent Member must be present at a meeting for the meeting to be valid.

(c) **Parish Members of the Standards Committee (who cannot be District Councillors).** At least one Parish Member must be present when matters relating to parish councils or their Members are being considered by the Standards Committee.

### 8.03 **Terms of Reference**

(a) To design, implement, monitor and review the ethical framework of the Council. The Committee's powers shall include responding to consultation documents, and the promulgation of codes of conduct and behaviour, but the adoption and revisions to the code of conduct for Councillors shall be reserved to the Council.

(b) To promote a culture of openness, accountability and probity in order to ensure the highest standards of conduct.

(c) To promote the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.

(d) To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors.

(e) To be responsible for the Council's public register of Members' interests and to receive reports from the Monitoring Officer on the operation of the register from time to time.

- (f) To be responsible for written guidance and advice on the operation of the system of declaration of Members' interests and to receive reports from the Monitoring Officer on the operation of the system from time to time.
- (g) To establish, monitor and issue advice and guidance to Councillors on a system of dispensations to speak on, or participate in, matters in which they have interests and to grant dispensation in appropriate cases on matters relating to the Members' Code of Conduct.
- (h) To exercise the functions of the Council in relation to the ethical framework and standards of conduct of Parish Councils, Joint Committees and other bodies.
- (i) To determine appropriate action on matters referred to the Council by the Standards Committee.
- (j) To support the Monitoring Officer in his or her statutory role, and the issuing of guidance on his or her role from time to time.
- (k) To support the Director responsible for the administration of the Council's financial affairs in his or her statutory role in connection with financial probity and the issuing of national guidance on his or her role from time to time.
- (l) To establish and maintain a process to reprimand Councillors as appropriate. (Subject to Regulations and guidance from the Standards Board and Government).
- (m) To manage the resources assigned to the Committee, subject to any framework set by Strategy Committee.
- (n) To be responsible for securing equality in relation to the functions of the Standards Committee.
- (o) To receive, consider and make decisions on reports received from the Strategy or Overview and Scrutiny Committees.
- (p) To refer any issue of standards and probity to the Overview and Scrutiny Committee for consideration as deemed appropriate by the Standards Committee.
- (q) To delegate to any Parish Sub-Committee as appropriate and manage that Sub-Committee.
- (r) To receive, consider and make decisions on reports received from any Sub-Committees, and to make recommendations to Council in relation to matters reserved to the Council by statute or Procedure Rules.
- (s) To make representations to the Local Government Association and Central Government, or other organisations, about any matter relating to the general principles of conduct for Members of the Council.
- (t) To consider and determine any issues in connection with the Public Interest Disclosure Act 1998 or any other legislation which appears to the Committee to be relevant.

- (u) To be responsible for liaison between the Council and external agencies, in particular the District Auditor and the Local Government Ombudsman, in connection with any matter within the Committee's terms of reference.
- (v) To provide advice and guidance to Members and make arrangements for training in connection with any matters within the terms of reference of the Committee.
- (w) To review and make recommendations on Members' training generally.

## **Article 9 – Area Committees and Forums**

*(The Overview and Scrutiny Committee (Stewardship) will take forward development of Area Committees and Forums).*

### **9.01 Establishment of Area Committees and Forums**

The Council may appoint area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value 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 in addition to other consultees such as Suffolk County Council.

### **9.02 Form, composition and function**

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

<b>Name of Committee</b>	<b>Composition</b>	<b>Terms of Reference</b>
<b>Variation 1 – None</b>	Not applicable	Not applicable
Variation 2 – (List non-decision making area forums)	As the body is advisory only, there is no requirement for political balance – Members could be all from the relevant area together with co-optees.	To reflect its consultative role, the body has an advisory capacity. It may be able to submit reports on matters of concern locally to the Strategy Committee (or the Council) on, for example, an annual or half yearly basis
<b>Variation 3 – (List names of e.g local area planning Committees)</b>	Members of the authority all from area – no political balance necessary	Has, for example, decisions on planning applications which in the opinion of the Head of Planning Control have no material effect outside the area of the Committee where less than 3 objections raised, and below defined threshold.
<b>Variation 4 – (list area Committees)</b>	Members of the authority all from area – no political balance necessary. Could have co-optees who may vote only on functions under Regulation 4 of the Local Government (Committees and Political Groups) Regulations 1990	Has functions including those under Regulation 4 Local Government (Committees and Political Groups) Regulations 1990 (the management of non-housing land, some housing functions up to 1500 properties, promotion of tourism, running local festivals etc). Could have maximum expenditure limits.

9.03 **Conflicts of interest – Membership of area Committees and Overview and Scrutiny Committees**

- (a) **Conflict of interest.** If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the Overview and Scrutiny Committee is reviewing policy generally, the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

9.04 **Area Committees – access to information**

Area Committees will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

# **Article 10 – Joint Arrangements**

## **10.01 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.

## **10.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

## **10.03 Access to information**

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

## **10.04 Delegation to and from other local authorities**

- (a) The Council may delegate functions to another local authority.
- (b) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

## **10.05 Contracting out**

The Council 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 11 – Officers

## 11.01 Management structure

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

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers).  Provision of professional advice to all parties in the decision making process.  Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.  Representing the Council on partnership and external bodies (as required by statute or the Council).
Deputy Chief Executive	Corporate Management and operational responsibility including providing overall guidance and support to the following divisions:-  Contract and Asset Management; Natural and Built Environment; Customer Services; Community Development
Director of Finance	Corporate Management and operational responsibility including providing overall guidance and support for the Finance Division.
Director of Corporate Services	Corporate Management and operational responsibility including providing overall guidance and support for the Corporate Services Division.

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

Post	Designation
Chief Executive	Head of Paid Service
Solicitor to the Council	Monitoring Officer
Corporate Director responsible for the administration of the Council's financial affairs	Chief Finance Officer

Such posts will have the functions described in Article 11.02–11.04 below.

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

#### 11.02 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.

#### 11.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers (of the National Standards Board) and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions.

#### 11.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on financial impropriety and probity, to all Councillors.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, Members of the public and the community.

11.05 **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.

11.06 **Conduct**

Officers will at all times comply with the [Officers' Code of Conduct](#), and with the Member/Officer Protocol set out in Part 5 of this Constitution.

11.07 **Employment**

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

## **Article 12– Decision Making**

### **12.01 Responsibility for decision making**

Responsibility for particular types of decisions or decisions relating to particular areas or functions is set out in Part 3 of this Constitution.

### **12.02 Principles of decision making**

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

- (a) legality;
- (b) proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) due consultation and the taking of professional advice from officers;
- (d) respect for human rights;
- (e) a presumption in favour of openness; and
- (f) clarity of aims and desired outcomes.

### **12.03 Decision making by the full Council**

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **12.04 Decision making by Overview and Scrutiny Committees**

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

### **12.05 Decision making by Strategy Committee and other Committees and Sub-Committees established by the Council**

Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

### **12.06 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 13 – Finance, Contracts and Legal Matters**

## **13.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations and Procedures set out in Part 4 of this Constitution.

## **13.02 Contracts**

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

## **13.03 Legal proceedings**

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

## **13.04 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 proper officer or other person authorised by her/him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## **13.05 Common Seal of the Council**

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

# **Article 14 – Review and Revision of the Constitution**

## **14.01 Duty to monitor and review the Constitution**

The Council's Overview and Scrutiny (Stewardship) Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **Overview and Scrutiny Committees**

A key role for the Overview and Scrutiny (Stewardship) Committee 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 Committee may:

- (a) undertake an audit trail of a sample of decisions;
- (b) record and analyse issues raised by Members, officers, the public and other relevant stakeholders; and
- (c) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

## **14.02 Changes to the Constitution**

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Overview and Scrutiny Committee.
- (b) **Change from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area if drawing up proposals and must hold a binding referendum.
- (c) **Change from alternative arrangements to cabinet form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area if drawing up proposals.

# **Article 15 – Suspension, Interpretation and Publication of the Constitution**

## **15.01 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 15.01:-

Any of the Rules of Procedure may be suspended at any meeting of the Council once a motion to that effect has been moved, seconded and carried with the exception of the rule regarding interpretation of the rules of procedure and the rule regarding changes in the rules of procedure.

## **15.02 Interpretation**

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purpose of this Constitution contained in Article 1.04.

## **15.03 Publication**

- (a) The Director of Corporate Services will make available a copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Director of Corporate Services will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee.
- (c) The Director of Corporate Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# **Schedule 1: Description of Alternative Arrangements**

The following parts of this Constitution constitute the alternative arrangements:

## **Article 6**

Overview and Scrutiny Committees and the Overview and Scrutiny Procedure Rules;

## **Article 7**

Strategy and Regulatory Committees

## **Article 9**

Area Committees and Forums (*details yet to be incorporated*)

## **Article 10**

Joint Arrangements (*details yet to be incorporated*)

## **Article 12**

Decision Making

## **Access to Information**

Procedure Rules

## **Part 3:**

Responsibility for Functions.