

# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

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

## **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of Swindon Borough Council.

## **1.03 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 more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were 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.

## **1.04 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that 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 15 (Review and Revision of the Constitution).

## Article 2 – Members of the Council

### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 57 Members, otherwise called Councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
- (b) **Eligibility.** Only those over 18 years of age who are either registered voters of the Borough, or who live, work or occupy land there will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all councillors will normally be held on the first Thursday in May in each year, beginning in 2014, except that in 2017 and every fourth year after there will be no regular election. Usually the terms of office of councillors will be four years, starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. There was an 'all-out' election in 2012 as a result of ward boundary changes.

### 2.03 Roles and Functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views 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 that 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 set out within Part 4 of the Constitution.

**2.04 Conduct**

Councillors will at all times observe the Council’s Members’ Code of Conduct and act in accordance with this Constitution.

**2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors’ Allowances Scheme (which is published in Part 6 of the Constitution).

**2.06 Councillor Role Definitions**

To assist Members of the Council, and to help others outside of the Council to understand what Councillors’ roles involve, general Councillor Role Definitions have been agreed by Members. These are published in Part 5 of the Constitution.

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

### **3.01 Citizens' Rights**

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

#### **(a) Voting and Petitions**

- Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Executive.
- Citizens also have the right to vote in a referendum on matters specified in the Localism Act 2011, for example in relation to the making of a neighbourhood development order, and a council tax increase that is determined to be excessive;
- Citizens can petition the Council to take specified action(s). Such petitions will be dealt with under the Council's Petitions Scheme, which is set out in Part 4 of the Constitution.

#### **(b) Information**

Citizens have the right to:

- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- attend meetings of the Cabinet where key decisions are being discussed or decided except where, for example, personal or confidential matters are being discussed;
- record and report on meetings using modern media in accordance with the Council's agreed Protocol and Guidance;
- find out from the Work Programme / Forward Plan what key decisions will be taken by the Cabinet and when;
- find out at least 28 days in advance of either any key decision to be taken by the Cabinet, or any decision / report where it is intended that the public and press will be excluded from a meeting of the Cabinet, or a report to Cabinet will be considered as being "Not for Publication".

Where a report is considered as being "Not For Publication", in such circumstances individuals will be able to express their views on why they believe such decisions should be taken in a meeting open to the public and the Cabinet will be required to respond to these representations and explain why it either supports or rejects the request.

- see reports and background papers, and any record of decisions made by the Council and the Cabinet and Cabinet Members;

- inspect the Council's Accounts and make their views known to the Council's External Auditors.

(c) **Complaints**

Citizens have the right to complain to:

- The Council - The Council's customer feedback policy is available on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- The Ombudsman (after using the Council's own complaints process);
- The Council's Standards Committee about a breach of the Council's Members Code of Conduct.

3.02 **Citizens' Responsibilities**

Citizens must not be violent, abusive or threaten Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## Article 4 – The Full Council

### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Annual Library Plan;
  - Children and Young People's Plan;
  - Sustainable Community Strategy;
  - Community Safety / Crime and Disorder Reduction Strategy;
  - Licensing Authority Policy Statement;
  - Local Transport Plan;
  - Development plan documents
  - Plans and alterations that together comprise the Development Framework Plan;
  - Youth Justice Plan;
  - Council's Corporate Plan;
  - Swindon Economic Strategy
  - Other plans and strategies that the Council and Cabinet consider should be adopted by the full Council as a matter of local choice; for example:
    - Food Law Enforcement Service Plan;
    - The Plans and Strategies that comprise the Housing Investment Programme;
    - Adult Learning Plan;
    - Local Agenda 21 Strategy;
  - The names of these Plans are sometimes amended but still reflect the named subject areas.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the

control of the Council's Borrowing Requirements, 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**

Only the Council or its Special Committee will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) making decisions about any matter in the discharge of an "executive function" which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner that would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) electing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for Committees, and other bodies and deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (g) adopting a Councillors' Allowances Scheme;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough;
- (i) approving the appointment of the Head of Paid Service, and the dismissal of the Head of Paid Service, Chief Finance Officer and the Monitoring Officer;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions (as described in the Local Government Act 2000 and associated Regulations) which the Council decides should be undertaken by itself rather than the Cabinet;

- (l) adoption of any proposals that are a “significant departure” from previously agreed Council policies;
- (m) consider and determine matters referred to it by Overview and Scrutiny Committees or the Cabinet in cases where those bodies cannot reach agreement;
- (n) consider petitions for debate at Council in accordance with the Petitions Scheme as set out in Part 4 of the Constitution; and
- (o) all other matters that, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

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

These will be conducted in accordance with the Council Procedure Rules (Standing Orders) set out in Part 4 of the Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in this Constitution that set out the responsibilities for the Council’s functions that are not the responsibility of the Cabinet (Part 3 of the Constitution).



# **Article 5 – Chairing the Council**

## **5.01 Role and Function of the Mayor**

The Mayor, and in his/her absence the Deputy Mayor, will have the following roles and functions: -

### **(a) Ceremonial Role**

The Mayor shall be the first citizen of the Borough of Swindon and shall undertake such civic and ceremonial duties as shall from time to time occur, in consultation where necessary with the Leader of the Council.

The Mayor will promote Swindon as a whole and together with the Leader of the Council act as a focal point for the community.

### **(b) Chairing the Council Meeting**

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

1. to uphold and promote the purpose of the Constitution and to interpret the Constitution (in particular Part 4 of the Constitution Procedural Rules - “Standing Orders”) when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
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 are able to hold the Cabinet to account;
4. to promote public involvement in the Council’s activities;
5. to be the conscience of the Council.

## Article 6 – Overview and Scrutiny Committees

### 6.01 Terms of Reference

The Council will appoint 5 Overview and Scrutiny Committees. Set out in the left hand column of the table below are the Committees responsible for the discharge of the functions conferred by Section 21 of the Local Government Act 2000 and subsequent legislation in relation to all the matters set out in the right hand column of the same table.

### 6.02 Overview and Scrutiny Committees – General Role

Committee	Scope
Adults' Health, Adults' Care and Housing Overview and Scrutiny Committee	<p>To fulfil all the functions of an overview and scrutiny committee as they relate to –</p> <ul style="list-style-type: none"> <li>• the review, scrutiny and development of policy recommendations,</li> <li>• the management of performance,</li> <li>• the monitoring of progress towards delivering relevant strategies and corporate priorities, and</li> <li>• the formulation of advice for the Cabinet, Council and other partners and stakeholders.</li> </ul> <p>To have specific responsibility for (but not limited to) the scrutiny of:–</p> <ul style="list-style-type: none"> <li>• Adult Social Care,</li> <li>• Housing.</li> </ul> <p>In addition, as these relate to Adults and Adult Social Care:</p> <ul style="list-style-type: none"> <li>• The performance of services seeking to deliver healthy communities towards agreed local and national performance indicators,</li> <li>• Health, health commissioning and service delivery,</li> <li>• Public Health, Health promotion and the work of the Health and Wellbeing Board, and</li> <li>• Health Integration and collaborative working and commissioning with Health agencies and providers and General Practitioners.</li> </ul>
Children's Health, Social Care and Education Overview and Scrutiny Committee	<p>To fulfil all the functions of an overview and scrutiny committee as they relate to –</p> <ul style="list-style-type: none"> <li>• the review, scrutiny and development of policy recommendations,</li> <li>• the management of performance,</li> <li>• the monitoring of progress towards</li> </ul>

	<p>delivering relevant strategies and corporate priorities, and</p> <ul style="list-style-type: none"> <li>the formulation of advice for the Cabinet, Council and other partners and stakeholders.</li> </ul> <p>To have specific responsibility for (but not limited to) the scrutiny of:–</p> <ul style="list-style-type: none"> <li>the performance of services for children towards agreed local and national Performance Indicators,</li> <li>the quality of provision and effectiveness of Local Authority strategies to raise standards of education within Swindon,</li> <li>specialist social services and integrated social services for children and young people in Swindon,</li> <li>the delivery of services to children and young people in Swindon generally.</li> </ul> <p>In addition, as these relate to Children and Young People:</p> <ul style="list-style-type: none"> <li>the performance of services seeking to deliver healthy communities towards agreed local and national performance indicators,</li> <li>Health, health commissioning and service delivery,</li> <li>Public Health, Health promotion and the work of the Health and Wellbeing Board, and</li> <li>Health Integration and collaborative working and commissioning with Health agencies and providers and General Practitioners.</li> <li>Reducing Domestic Violence and Abuse</li> <li>Strategic issues around Licensing</li> </ul>
Streetsmart, Highways and Communities Overview and Scrutiny Committee	<p>To fulfil all the functions of an overview and scrutiny committee as they relate to –</p> <ul style="list-style-type: none"> <li>the review, scrutiny and development of policy recommendations,</li> <li>the management of performance,</li> <li>the monitoring of progress towards delivering corporate priorities, and</li> <li>the formulation of advice for the Cabinet, Council and other partners and stakeholders.</li> </ul> <p>To have specific responsibility for (but not limited to) the scrutiny of: -</p> <ul style="list-style-type: none"> <li>the performance of services seeking to deliver sustainable communities against agreed local and national performance</li> </ul>

	<p>indicators,</p> <ul style="list-style-type: none"> <li>• StreetSmart services,</li> <li>• Transport and strategic transport planning,</li> <li>• Flood risks,</li> <li>• Environment and sustainability,</li> <li>• Waste and Recycling,</li> <li>• Library services,</li> <li>• Business Support.</li> <li>• Parishes and Devolution</li> <li>• Community and Neighbourhoods</li> <li>• Localities</li> <li>• Volunteering</li> </ul>
Growing the Economy Overview and Scrutiny Committee	<p>To fulfil all the functions of an overview and scrutiny committee as they relate to –</p> <ul style="list-style-type: none"> <li>• the review, scrutiny and development of policy recommendations,</li> <li>• the management of performance,</li> <li>• the monitoring of progress against towards corporate priorities, and</li> <li>• the formulation of advice for the Cabinet, Council and other partners and stakeholders.</li> </ul> <p>To have specific responsibility for (but not limited to) the scrutiny of: -</p> <ul style="list-style-type: none"> <li>• The performance of services promoting cultural and economic development and enterprise and regeneration of the Borough against agreed local and national performance indicators,</li> <li>• Regeneration,</li> <li>• Economic and Cultural development,,</li> <li>• Strategy and Research</li> <li>• The Swindon and Wiltshire Local Enterprise Partnership (LEP).</li> <li>• Car parking services</li> <li>• Spatial and Strategic Planning</li> <li>• Superfast Broadband</li> <li>• Wichelstowe</li> <li>• The Borough's Property portfolio</li> </ul>
Resources and Corporate Overview and Scrutiny Committee	<p>To fulfil all the functions of an overview and scrutiny committee as they relate to –</p> <ul style="list-style-type: none"> <li>• The Budget Scrutiny function, at the request of the Scrutiny Committee,</li> <li>• The review, scrutiny and development of policy recommendations,</li> <li>• the management of performance,</li> <li>• the monitoring of progress towards</li> </ul>

	<p>delivering corporate priorities, and</p> <ul style="list-style-type: none"> <li>the formulation of advice for the Cabinet, Council and other partners and stakeholders.</li> </ul> <p>To have specific responsibility for (but not limited to) the scrutiny of: -</p> <ul style="list-style-type: none"> <li>The Council's Revenue and Capital Budget,</li> <li>The Medium Term Financial Strategy,</li> <li>Strategic Projects,</li> <li>Leisure</li> <li>Corporate Customer Services</li> </ul>
Scrutiny Committee	<ul style="list-style-type: none"> <li>To meet at regular intervals to review the policies, process and implications of Cabinet, Cabinet Member, Locality Panel and Officer decision making and the way in which Cabinet and Cabinet Member decisions are made,</li> <li>To consider requests for "Call-in" as defined in the Council's "Call-in" Procedure,</li> <li>To refer decisions back to Cabinet (or the decision maker) for reconsideration. It may do this once for any individual decision, after which if there is no agreement the decision will be referred to the full Council for determination,</li> <li>To refer Cabinet, Cabinet Member and Locality Panel decisions to the relevant Overview and Scrutiny Committee for investigation without delaying the implementation of the decision concerned,</li> <li>To receive a report by the Leader of the Council at its first meeting after each Annual Council Meeting (or at such a meeting as is agreed by the Chair of the Committee and the Leader of the Council) on the service issues for the year ahead, the Leader of the Council's priorities for the coming year and on the Council's performance in the previous year,</li> <li>To oversee the arrangements for Overview and Scrutiny within the Council, including determining (i) where matters fall within the remit of more than one Overview and Scrutiny Committee which of those Committees will assume responsibility for any particular issue, (ii) a system to ensure that referrals from Committees to the Cabinet, either by way of report or for reconsideration are managed efficiently and</li> </ul>

	<p>do not exceed any limits set out in the Council's Constitution, and (iii) in the event of reports to the Cabinet exceeding any limits in this Constitution or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet to make decisions about the priority of referrals made,</p> <ul style="list-style-type: none"> <li>• To carry out any investigation into the business and functions of the Council and to call in any Cabinet Member or senior officer of the Council so that they can offer advice, support or answer any question that will assist the Committee in carrying out its functions,</li> <li>• To carry out an external scrutiny function, particularly in relation to corporate issues and issues falling into the remit of a number of Overview and Scrutiny Committees,</li> <li>• To fulfil all the functions of an overview and scrutiny committee as they relate to –</li> <li>• The review, scrutiny and development of policy recommendations,</li> <li>• The management of performance,</li> <li>• The monitoring of progress towards delivering corporate priorities,</li> <li>• The formulation of advice for the Cabinet, Council and other partners and stakeholders, and</li> <li>• Strategies to reduce or prevent Crime and Disorder.</li> <li>• To have specific responsibility (but not limited to):</li> <li>• Good governance and the operation of Law and Democratic Services, and</li> <li>• The Budget Scrutiny function.</li> </ul>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### 6.03 Overview and Scrutiny Bodies - Specific Functions

(a) The Committees may:

- i) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;

- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the Cabinet and/or other committees, and Chief Executive, Corporate Directors, Directors and Heads of Service (or their representatives) about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### **6.04 Overview and Scrutiny Bodies - General Role**

- (a) Within their terms of reference, Overview and Scrutiny Bodies (and their Sub-Committees / Task Groups) will:
  - i) review and scrutinise decisions made or actions taken in connection with the discharge of any functions that fall under the areas of responsibility of the relevant Overview and Scrutiny Committee;
  - ii) make reports and/or recommendations to the full Council and/or the Cabinet;
  - iii) consider any matter affecting the area or its inhabitants including any councillor call for action, or petition received in accordance with the Council's Petitions Scheme;
  - iv) in the case of the Scrutiny Committee, exercise the right to call-in, for reconsideration, decisions made by the Cabinet and Cabinet Members;
  - v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant bodies and local people about their activities and performance;
  - vi) in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Children's Health, Social Care, and Education Overview and Scrutiny Committee, and the Adult's Care, Adult's Health and Housing Overview and Scrutiny Committee, will specifically scrutinise health commissioners and health providers, (including the Health and Wellbeing Board) and invite reports from them by requesting them to address the relevant bodies and local people about their activities and performance; and
  - vii) in accordance with Section 19 of the Police and Justice Act 2006, the Scrutiny Committee will act as the Council's "Crime and Disorder Committee", in terms of reviewing and scrutinising decisions made, or other actions taken, in connection with the

discharge by the responsible authorities of the Crime and Disorder function.

#### 6.05 **Scrutiny Committee - Specific Functions**

- (a) Scrutiny Committee may:
  - i) review and scrutinise the decisions made by and performance of the Cabinet and Cabinet Members, and/or Council officers both in relation to individual decisions and over time;
  - ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - iii) question members of the Cabinet and the Chief Executive, Corporate Directors, Directors and Heads of Service (or their representatives) about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process; and
  - v) question and gather evidence from any person (with their consent).
- (b) **Annual Report** The Scrutiny Committee will seek to report annually to the Council on the workings of Overview and Scrutiny and make recommendations for future work and amended working methods if appropriate.

#### 6.06 **Proceedings of Overview and Scrutiny Bodies**

Further details of the terms of reference of Overview and Scrutiny Bodies and of the procedural rules by which they will conduct their proceedings are set out in Part 4 of this Constitution.

#### 6.07 **Tenants Scrutiny Panel**

The Tenants Scrutiny Panel will scrutinise decisions relating to the housing revenue account.



## **Article 7 – The Cabinet (The Council’s Executive)**

### **7.01 Role**

The Cabinet will carry out all of the local authority’s functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **7.02 Form and Composition**

The Cabinet will consist of the Leader of the Council together with at least 2, but not more than 9, councillors appointed to the Cabinet by the Leader of the Council.

The Leader of the Council will allocate portfolio responsibilities to the members of the Cabinet from time to time and may delegate decision-making powers to individual Cabinet Members.

Individual Cabinet Members may exercise such powers within their portfolio areas as may be delegated to them by the Leader.

### **7.03 Leader**

The Leader will be a Councillor elected to that position by the Council. The Leader’s term of office ends on the day when the Council holds its first annual meeting after the Leader’s normal day of retirement as a councillor 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 resolution of the Council following Notice of Motion having been given in accordance with the Council’s procedural rules (Standing Orders). In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting.

### **7.04 Other Cabinet members**

The Leader must appoint one member of the Cabinet as Deputy Leader of the Council who will hold office until the end of the Leader’s term of office 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 the Leader.

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

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

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

The Leader appoints the other members of the Cabinet.

Other Cabinet members shall hold office until:

- (a) they resign from office;
- (b) they are no longer councillors;
- (c) they are removed from office on the expiry of their appointed term of office, or by the Leader at an earlier date if he/she so decides, who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

#### **7.05 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Council's Procedural Rules as set out in this Constitution and its associated documents.

#### **7.06 Responsibility for Functions**

The Leader of the Council will maintain a list setting out which individual members of the Cabinet, or sub-committees or other bodies established by the Cabinet, officers or joint arrangements are responsible for the exercise of particular "executive" / Cabinet functions (Set out in Part 3 of this Constitution in accordance with Section 15(2) of the Local Government Act 2000).

#### **7.07 Cabinet Member Advisory Groups**

The Leader and/or a Member of the Cabinet may from time to time appoint one or more Advisory Groups with whom they may consult in the discharge of any or all of their Portfolio responsibilities.

The membership of an Advisory Group may include members and officers. The Cabinet Member shall have sole discretion to determine the membership of an Advisory Group, including whether members are drawn from one or more political groups on the Council. The Cabinet Member or his/her nominee shall chair an Advisory Group. Such bodies shall be informal non decision-making bodies and shall not exercise executive power and shall not constitute a sub-committee of the Cabinet. The Cabinet Member shall determine whether the public or other members of the Council shall be allowed to attend a meeting of an Advisory Group, or be on the circulation list for papers prepared for an

Advisory Group. The Cabinet Member is accountable for his/her Advisory Group(s) and will determine reporting arrangements.

The Cabinet Member shall notify the Monitoring Officer if an Advisory Group is established and of its membership. The Monitoring Officer shall maintain a list of such Advisory Groups which shall be open to public inspection. Details will also be reported to the Annual Meeting of the Council and these details will be published on the Council's website.

# **Article 8 – Regulatory and Other Committees**

## **8.01 Regulatory and Other Committees**

The Council will appoint the following committees to discharge the functions also described below:-

### **Appeals Committee**

An Appeals Committee comprising a pool of Councillors representing the political groups on the Council (Politically Balanced) will be appointed to consider, through a series of Sub-Committees as described below, appeals and / or objections received under different statutory requirements and / or where the Council has allowed a right of appeal against officer or councillor decisions as mentioned below:-

Ad Hoc Appeals Sub-Committee  
Education Transport Appeals Sub-Committee  
(Corporate Directors, Directors and Heads of Service) Staff Appeals Sub-Committee  
Social Services Review Panel

### **Appointments Committee**

An Appointments Committee comprising a pool of Councillors representing the political groups on the Council (Politically Balanced), and including councillors serving on the Cabinet, will be appointed to make appointments, through Sub-Committees to senior management posts (at least one Councillor serving on the Cabinet must serve on each Appointments Sub-Committee.)

Chief Officer Appointment Sub-Committee  
Deputy Chief Officer Appointment Sub-Committee

### **Audit Committee**

To provide independent assurance on the adequacy of the Council's risk management framework, the internal control environment and the integrity of the financial reporting and annual governance process. The Core functions are to:

- Be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it, and demonstrate how governance supports the achievement of the authority's objectives.
- In relation to the authority's internal audit functions:
  - Oversee its independence, objectivity, performance and professionalism
  - Support the effectiveness of the internal audit process
  - Promote the effective use of internal audit within the assurance framework

- Consider the effectiveness of the control environment, including arrangements for ensuring value for money and for managing the authority's exposure to the risk of fraud and corruption.
- Consider the reports and recommendations of external audit and inspection agencies and their implications for governance, risk management or control.
- Support effective relationships between external audit and internal audit, inspection agencies and other relevant bodies, and encourage the active promotion of the value of the audit process.
- Review the financial statements, external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external audit.
- Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

To require any member of the Cabinet or senior officer of the Council (Chief Executive, Corporate Directors, Directors or Heads of Service ) to attend before the Audit Committee to facilitate consideration by the Committee of any matters within the remit of such member or officer.

### **Health and Wellbeing Board**

The Council has established a Health and Wellbeing Board. It is a "standing committee" of the Council established in accordance with the requirements of the Health and Social Care Act 2012.

The Board is made up of Councillors, Council officers, and representatives of the Swindon Clinical Commissioning Group, the NHS Commissioning Board, Swindon Healthwatch, the Police and Crime Commissioner and from the community, voluntary and social enterprise sector, together with such lay members as the Board may appoint. Its main statutory functions are to prepare Joint Strategic Needs Assessments and a Joint Health and Wellbeing Strategy with a view to improving the health and wellbeing of Swindon's population and to reduce inequalities in health experienced by some communities. Its meetings are open to the public. Its key specific responsibilities are as set out in its Terms of Reference available on the Council's website.

### **Licensing Committee**

A Licensing Committee comprising a pool of 15 Councillors representing the political groups on the Council (Politically Balanced) will be appointed to consider, through a series of Sub-Committees as described below, the grant, refusal, revocation, amendment, modification and variance of such consents, licences, permits or registrations, or the conditions, limitations or terms to apply to such consents and licences that fall within the remit and terms of reference of the bodies listed below. These powers shall be exercised by the following bodies:

Ad Hoc Licensing Sub-Committee  
Private Hire / Hackney Carriage Licensing Sub-Committee  
Licensing Panels

The Licensing Committee is constituted as a committee in accordance with the requirements of Section 6 of the Licensing Act 2003.

The Licensing Panel will be delegated to undertake all duties and exercise all powers of the Licensing Authority as set out in the Licensing Act 2003 in respect of the grant, refusal, revocation, amendment, modification and variance of such consents, licences, permits or registrations where such powers have not been delegated by the Licensing Committee to officers.

### **Planning Committee**

To exercise the functions of the Council in relation to development control, legislation relating to historic buildings, conservation areas, including designation of conservation areas, advertisement control, hazardous substances consents, tree preservation orders (including applications to lop, top or fell protected trees), planning enforcement, and land adversely affecting the amenity of a neighbourhood.

To make decisions in respect of Commons registration, and of Public Path or Modification Orders that may change the route or status of public rights of way on the definitive map. This will include the creation, diversion, extinction and modification of definitive footpaths, bridleways, restricted bridleways and byways within the Borough of Swindon.

### **Special Committee**

The Special Committee shall have delegated to it the power to act for the Council on the advice of the Chief Executive or Chief Officer on any policy decision or any particular matter that is urgent and necessary in the best interests of the Council.

## **8.02 Education**

### **Schools Forum**

The Schools Forum is not a Council body. It is an independent statutory body established under the Schools Forum (England) Regulations 2002 (as amended). Its function is to consider issues relating to the schools' budget, as set out in its Terms of Reference. The forum has at least 15 members, including representatives of the various types of schools within the Borough, the Diocese and the Council, including Black and Minority Ethnic Community representation.

### **Standing Advisory Council on Religious Education (SACRE)**

SACRE is not a Council body. It is an independent statutory body established under Section 390 of the Education Act 1996. It has a range of functions, some of them advisory, and some of them executive. These are set out in the SACRE Constitution.

The SACRE is organised in groups and currently has four groups. Each group has a single vote. The groups represent:

- The Council (5 members)
- The Church of England (5 members)
- Teachers' Associations (8 members)
- Christian (except Church of England) and such Other Faiths to reflect the principal religious traditions in Swindon (10 members)

In addition to the above, SACRE can appoint up to 4 co-opted members (non-voting) for a specific purpose and period of time.

### 8.03 **Joint Committees and Other Joint Bodies**

#### **Joint Overview and Scrutiny Committee**

Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 provides that "Two or more local authorities may appoint a joint committee (a "joint overview and scrutiny committee") of those authorities and arrange for relevant functions in relation to any (or all) of those authorities to be exercised by the joint committee subject to such terms and conditions as the authorities may consider appropriate."

Part 4 (Section 30) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 also make specific provisions relating to the establishment of joint committees for the discharge of health scrutiny functions and requires local authorities to do so in certain circumstances.

The Council has agreed that where relevant and where viewed appropriate by the relevant Overview and Scrutiny Committee, an Overview and Scrutiny Committee may establish, or agree to be represented on, a joint overview and scrutiny committee, with one or more other local authorities, for the purpose of the joint review and scrutiny of issues and services relevant to its remit.

#### **Swindon and Wiltshire Local Enterprise Partnership**

The Swindon and Wiltshire Local Enterprise Partnership (SWLEP) is a partnership organisation made up of representatives of Swindon and Wiltshire Councils and the local business community. Its role is to deliver economic sustainability and growth for the area including by way of the Strategic Economic Plan, Growth Deal and Local Growth Fund projects.

It has a number of joint partnership bodies that include representation from Swindon Council as follows:

- **Joint Strategic Economic Committee (JSEC):** Its role is to act as a single voice for Local Government in Swindon and Wiltshire in relation to the delivery of the Strategic Economic Plan and Local Growth Deals; facilitate and enable collaboration between the two Unitary Authorities on economic development and related matters; provide local democratic accountability for the delivery of the Strategic Economic

Plan and the use of public resources to fund the implementation of the Plan and Local Growth Deals

- **Joint Overview and Scrutiny Task Group:** Its role is to act as a critical friend, providing an overview of strategies and plans and providing independent scrutiny of the work of the SWLEP Board and JSEC.
- **Joint Planning Working Party:** Its role is to take a collaborative approach to spatial planning for the two Councils, in particular addressing planning for the longer term growth of Swindon and its environs. In addition, the two Unitary Authorities will take a joint approach to the duty to cooperate with neighbouring councils.
- **Local Transport Body (LTB):** Its role is to advise the SWLEP on transport issues, including proposed schemes and relative priority and to progress the delivery of existing schemes; and to recommend future transport schemes to the SWLEP Board.

### **Police and Crime Panel**

To enable a joint working between the Swindon Unitary Authority and Wiltshire Council to allow the joint Panel to –

- Contribute to the development of the Police and Crime Commissioner for Wiltshire and Swindon's Police and Crime Plan;
- Scrutinise the work of the Police and Crime Commissioner and receive evidence from the Chief Constable on policing matters;
- Review the Police and Crime Commissioner's proposed annual Police precept and appointments to the post of Chief Constable and other defined positions
- Undertake investigations as required into decisions made by the Police and Crime Commissioner, and into topics of particular interest or public concern, and to submit reports and make recommendations to the Police and Crime Commissioner on these matters;
- Review and comment upon the Police and Crime Commissioner's Annual Report.



## Article 9 – The Standards Committee

### 9.01 Composition

- (a) **Membership.** The Standards Committee will be composed of
- at least six Councillors (who may not be the Mayor, the Leader of the Council or the Leader of any other political group on the Council or a Cabinet Member);
  - up to two co-opted members who are not councillors or officers of the Council, and have not been so during the previous 5 years, and are not a close relative or friend of a councillor or officer of the Council (lay members).
  - up to two people who are members of any parish council wholly or mainly in the Council's area (to be nominated by the parish councils within the Borough) who are not also members of the Borough Council (parish members).
- (b) **Lay and Parish Members.** - Lay and parish members will not be entitled to vote at meetings;
- (c) **Quorum.** A quorum shall be three members including at least two councillors

### 9.02 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommending training on any aspect of conduct and behaviour for Councillors, and officers, where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).

- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or which may arise under consideration of complaints as to breaches of the Members Code of Conduct or the Protocol for Member / Officer Relations or any Code or Protocol applying to Members and Co-opted Members;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, arising from requests relating to interests set out in the Members Code of Conduct and/or under section 33 of the Localism Act 2011;
- (k) exercising (a) to (i) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensuring the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular the Standards Committee may
  - receive an annual report on its operation
  - receive monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour;
- (m) reporting to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approving the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommending to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) reporting to the Council, should it deem it necessary, on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (q) approving procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

### 9.03 **Advice and Procedure**

The Council's Monitoring Officer or his/her nominee will act as Clerk to the Committee.

The Committee will adopt such procedures as it considers necessary to discharge its role and appoint such sub-committees or Panels as it thinks fit, including an Assessment or Hearings Panel as required.

# Article 10 – Community Involvement

## 10.01 Parishes

The Borough is completely parished, for the first time, as follows:

Parish
<b>Bishopstone</b> (RWD)
<b>Blunsdon</b> Blunsdon ward (BHC) Kingsdown ward (PSD)
<b>Castle Eaton</b> (BHA)
<b>Central Swindon North</b> Even Swindon ward (MWA,MWD) Ferndale ward (RCA,RCD) Gorsehill ward (GPB,GPD,GPE) Moredon ward (RCB) Penhill ward – (PSA,PSB,PSG) Pinehurst ward – (GPA) Rodbourne Cheney ward – (RCC)
<b>Central Swindon South</b> Central ward – (CEA,CEB,CEC,CED) Eastcott ward – (ETA,ETB,ETC,ETD,ETE) Lawn & Badbury Park ward – (CLA, CLC) Old Town ward – (OTA,OTB,OTC,OTD) Park South ward – (LEA, LEB) Walcot & Park North ward – (WPA,WPB,WPC,WPD)
<b>Chiseldon</b> Badbury ward – (RWA) Chiseldon ward – (CLB)
<b>Covingham</b> CDC,CDD
<b>Hannington</b> (BHB)
<b>Haydon Wick</b> Haydon Wick (GPF,HWA,HWB,HWC,HWD,HWE, ,PSH,PVE,PVF,SAE) Haydon End (PVA,PVB,PVC) Ray (PVD) From 2019 Haydon Wick Parish has two wards – Haydon Wick

Parish
<b>ward (9) and Haydon End ward (9) - Ray ward (PVD) moves into Haydon End Ward.</b> Haydon Wick ward – 9 (GPF,HWA,HWB,HWB,HWB,HWB,HWB, ,PVE,PVF,PSH,SAE) – Haydon End ward – 9 (PVA,PVB,PVC, PVD)
<b>Highworth</b> (BHF,BHG,BHH,BHI)
<b>Liddington</b> RWB
<b>Nythe,Eldene &amp;Liden</b> Eldene ward (LEC) Liden ward (LED,CDE) Nythe (CDB)
<b>South Marston</b> (SMD)
<b>St Andrews</b> (SAA,SAB,SAC,SAD)
<b>Stanton Fitzwarren</b> (BHD)
<b>Stratton St Margaret</b> [To be reduced to 19 in 2019] Coleview ward (SMC) Lower Coleview ward (CDA) Lower Stratton ward (SMA,SMB) Merton ward (GPC) Upper Stratton (PSC,PSE,PSF,)
<b>Wanborough</b> (RWC)
<b>West Swindon</b> Eastleaze & Shaw ward (SHD) Freshbrook ward (LFC,LFE) Grange Park ward (LFA,LFB) Middleaze & Ramleaze ward (SHB,SHC) Peatmoor & Sparcells ward (SHA,SHF) Toothill ward (LFD,MWC) Westlea ward (MWB,SHE)
<b>Wroughton</b> WWA,WWB,WWC,WWD,WWE,WWF

10.02.1 The Borough Council will work with the parishes to promote community involvement and to ensure that community governance within the Borough is

effective and convenient, and reflective of the identities and interests of communities within the Borough,

Parishing will enable community empowerment at local level consistently throughout the Borough, this to include the transfer of Borough Council functions to Parish Councils, and extend localism to those parts of the Borough that full range of options for local service provision.

# **Article 11 – Joint Arrangements**

## **11.01 Arrangements to Discharge Certain Functions**

In order to make arrangements for the discharge of certain functions, the Council or the Cabinet 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.

## **11.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executive to exercise functions which are not Cabinet 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) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet / executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as may otherwise be provided in the relevant regulations (e.g. SI 2012 / 1019) 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 executive in certain circumstances which must be specified and agreed at the time and are in accordance with the provisions of the Local Government Act 2000 and its associated Regulations (e.g. SI 2012 /1019).
- (e) The Council may establish joint arrangements with one or more local authorities to exercise functions required by Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, Such arrangements may involve the appointment of joint committees with these other local authorities.
- (f) Details of any joint arrangements including any delegations to joint committees must be referred to within or added to this constitution as an annex when the joint arrangements are established.

### **11.03 Access to Information**

- (a) The Council's Access to Information Rules 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 / Executive of any participating authority then the access to information rules in Part I of the Local Government Act 1972 will apply.

### **11.04 Delegation to and from Other Local Authorities**

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

### **11.05 Contracting Out**

The Cabinet may contract out to another body or organisation functions that 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 12 – The Council’s Officers

## 12.01 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:

Post	Functions and areas of responsibility
Chief Executive	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). One Swindon Transformation; and Internal Audit
Corporate Director, Resources and Transformation	Law and Democratic Services; Finance, Transformation: Information and Technology (ICT); Performance, People and Engagement; Customer and Business Services;
Corporate Director, Communities and Place	Strategy and delivery of services for- StreetSmart;; Libraries; ; Highways and Transport; Housing and Community Safety; Design and Architecture; Property Maintenance; Public Power Solutions.
Corporate Director Economy, Regeneration and Skills	Economy; Property; Planning, Regulatory Services and Heritage; and Strategic Projects including Wichelstowe.
Director of Adult Services	Strategy and Commissioning of Adult Social Care and Services including; Partnerships; Health Integration and Public Health; Strategy and Commissioning.
Director of Children’s Services	Strategy and Commissioning of Integrated Children’s and Families Services including Safeguarding and Corporate Parenting; Schools and Learning; Traded Services; Access and Provision; Partnerships.
Director of Law and Democratic Services	Legal, Committee and Member Services, Electoral Services, Revenues and Benefits,

	and Registration and Celebratory Services.
Director of Finance (Section 151 Officer)	Administration of the finances of the Council.
Director of Public Health	Public Health, in particular those responsibilities referred to in section 73A(1) of the National Health Service Act 2006; Public Protection;

- (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
Director of Law and Democratic Services	Monitoring Officer
Director of Finance (Section 151 Officer)	Chief Finance Officer

- (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.

## 12.02 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.

## 12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and its supporting documents and will ensure that it is widely available for use 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, or to the Leader and 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 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 reports relating to the Council which may be issued by the Local Government Ombudsman.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by individuals under the local filtering of complaints process, 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 Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Leader, the Cabinet or of individual Cabinet Members are in accordance with the Budget and Policy Framework.
- (h) Contributing to corporate management. The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors, and will support and advise Councillors and officers in their respective roles.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 12.04 **Functions of the Chief Finance Officer (Director of Finance (Section 151 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, or to the Leader and Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### 12.05 **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.

#### 12.06 **Conduct**

Officers will comply with the Protocol on Officer/Member Relations and with the Officers' Code of Conduct.

#### 12.07 **Employment**

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

# Article 13 – Decision Making

## 13.01 Responsibility for Decision Making

The Council will, through its Constitution, issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

## 13.02 Principles of Decision Making

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

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

## 13.03 Types of Decision

- (a) **Decisions reserved to full Council** - Decisions relating to the functions listed in Article 4 of this constitution will be made by the full Council and not delegated.
- (b) **Key Decisions:-**
  - (i) A key decision is any decision in relation to a Cabinet (Executive) function that results in the Council incurring spending that is, or the making of a saving that is, significant having regard to the budget for the service or function to which the decision relates; or a decision that is likely to have a significant impact on two or more Borough Council wards.
  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Local Government Act 2000 and its Associated Regulations and in accordance with procedural rules set out in Part 4 of this Constitution.

(c) **Strategic Decision:-**

A strategic decision is a decision which has a significant effect on the delivery or direction of the service or function to which the decision relates.

**13.04 Decision-making by the full Council**

The Council meeting will follow the procedural rules set out in Part 4 of this Constitution ("Standing Orders"), when considering any matter.

**13.05 Decision-making by the Cabinet and individual Cabinet Members**

The Cabinet and individual Cabinet Members will follow the procedural rules set out in Part 4 of this Constitution, when considering any matter.

**13.06 Decision-making by Overview and Scrutiny Committees**

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

**13.07 Decision-making by other Committees and bodies / sub-committees established by the Council, including Locality Panels**

Other Council committees, bodies and sub-committees will follow those parts of the procedural rules set out in Part 4 of the Constitution when considering matters as apply to them.

**13.08 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.

**13.09 Decision-making by Council Officers**

Council officers shall exercise powers delegated to them in accordance with Article 14 and Part 8 of the Constitution – Scheme of Delegations and Designations of Proper Officers and shall record, in accordance with the relevant statutory provisions and regulations, any executive decisions that they may make.

# **Article 14 – Finance, Contracts and Legal Matters**

## **14.01 Financial Management**

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

## **14.02 Contracts**

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

## **14.03 Legal Proceedings**

The Director of Law and Democratic Services is authorised to institute, defend, conclude, settle, 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 Director of Law and Democratic Services considers that such action is necessary to protect the Council's interests.

## **14.04 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 Director of Law and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## **14.05 Common Seal of the Council**

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

## **14.06 Delegation to Officers**

The Chief Executive, Corporate Directors, Directors and Heads of Service shall be authorised to carry out operational, management and administration functions within their areas of responsibilities and such actions are hereby ratified as acts and decisions of the Council. In particular, this delegation shall include:

- the incurring of expenditure provided for in the annual budget (subject to Part 4 of this Constitution);
- the service and withdrawal of notices, issue of licences, permits, consents, and similar authorisations;
- the entering into of leases and agreements and the settlement of claims;
- the selection of persons or companies to be invited to submit tenders and the acceptance thereof (subject to Part 4 of this Constitution) and the provisions of the Local Government Act 1988 in respect of "defined activities";
- the entry and inspection of property;
- the investigation of relevant matters associated with the institution and defence of legal proceedings and the undertaking of such actions;
- responding to government consultations;
- the exercise of authority when required under Civil Contingencies and emergency planning legislation.

This delegation shall be exercised in accordance with the relevant statutory provisions and regulations and following appropriate prior consultation with relevant ward members and the relevant Cabinet Member, and on the understanding that matters of public importance and significant expenditure shall (following a recommendation for approval from the Cabinet) be submitted to the Council for approval, and that operational decisions shall exclude key or strategic decisions which are reserved to councillors.

#### **14.07 Absence of Chief Executive**

The Chief Executive may make such arrangements for the carrying out of his/ her functions, in the event of him/her being absent or otherwise unable to act, by any other officer of the Council as he/she considers appropriate subject to such arrangements being in written form indicating the officers empowered to exercise the functions, and the functions involved, and to a copy being lodged with the Director of Law and Democratic Services.

In the absence of such arrangements being made, the Corporate Director, Resources and Transformation is hereby authorised to act in the manner described in the preceding paragraph.



# Article 15 – Review and Revision of the Constitution

## 15.01 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 and its supporting documents are given full effect and shall report to the Council on any proposed changes.

## 15.02 Protocol for Monitoring and Review of Constitution by the Monitoring Officer

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 its purposes. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in Swindon with those in other comparable authorities, or national examples of best practice.

## 15.03 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council (or Special Committee) or, in accordance with Article 9, by the Standards Committee in relation to the relevant Codes and Protocols set out in Part 5 of the Constitution.
- (b) **Change from a Leader and Cabinet form of Executive to Alternative Arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# **Article 16 – Suspension, Interpretation and Publication of the Constitution**

## **16.01 Suspension of the Constitution**

- (a) **Limit to Suspension.** The Articles of this Constitution and its associated documents may not be suspended except by the full Council and only to the extent permitted below.
- (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 as set out in Article 1.
- (c) **Rules Capable of Suspension.** The Council's Procedure Rules (Standing Orders), set out within Part 4 of the Constitution, refer to which of the following rules may be suspended.

## **16.02 Interpretation**

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

## **16.03 Publication**

The Director of Law and Democratic Services will

- (a) on request, give a printed copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council, or as soon as practicable thereafter.
- (b) ensure that the Constitution is updated as necessary and that copies are available for inspection on the Council's Website, at Council offices and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

# **Schedule 1: Description of the Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Committee Procedure Rules.
2. Article 7 (The Executive (Cabinet)) and the Executive (Cabinet) Procedure Rules.
3. Article 11 (Joint Arrangements).
4. Article 13 (Decision Making) and the Access to Information Procedure Rules.
5. Part 3 (Responsibility for Functions).