

PART 2

ARTICLES OF THE CONSTITUTION

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ARTICLE 1 – THE CONSTITUTION

This Article sets out the fundamental provisions of the Constitution. It confirms that the Council will act within the law and the provisions of this Constitution. It defines those documents which comprise 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, and all its appendices, is the Constitution of the Council of the Metropolitan Borough of Rochdale.

1.03 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 members of the public, businesses and other organisations
- (b) Support the active involvement of members of the public in the process of local authority decision-making as a means of strengthening and renewing local democracy through community partnership
- (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 shall review or scrutinise a decision in which he or 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 resourcing and improving the delivery of services to the community in accordance with Best Value
- (i) Enable the Council to combat poverty and social exclusion
- (j) Enable the Council to promote equality
- (k) Enable the Council to promote the regeneration of the Borough
- (i) Enable the provision of a cleaner, safer and healthier environment.

1.04 Interpretation and Review of the Constitution

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

The Council shall arrange to monitor and evaluate the operation of the Constitution as set out in Article 15.

ARTICLE 2 – MEMBERS OF THE COUNCIL

DEVELOPING ROLES FOR COUNCILLORS

2.01 Composition and eligibility

(a) Composition

The Council shall comprise 60 Members, otherwise called Councillors. Three Councillors shall 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 living or working there shall be eligible to hold the Office of Councillor.

2.02 Election and terms of Councillors

The ordinary election of a third of all Councillors will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth year after there will be no regular election unless otherwise determined by the Government. The terms of office of Councillors shall 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.

2.03 Filling of casual vacancies

Casual vacancies which may arise as a result of a Councillor ceasing to be a Member before the termination of his or her term of office, shall be filled by the holding of a by-election. The by-election shall be held on an appropriate Thursday. However, in all cases where a person ceases to become a Councillor in the final six months of his or her term of office, the election may be held in abeyance until the normal May election.

2.04 Roles and functions of all Councillors

(a) Key roles:

All Councillors shall:-

- (i) Exercise the governance, management and legislative functions of the Council
- (ii) Act in accordance with the purpose of the Constitution
- (iii) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions
- (iv) Contribute to the good governance of the area and actively encourage community participation and involvement of members of the public in decision making
- (v) Effectively represent the interests of their ward and of individual constituents
- (vi) Respond to constituents' enquiries and representations, fairly and impartially
- (vii) Maintain the highest standards of conduct and ethics and
- (viii) Be available to represent the Council on other bodies.

(b) Rights and duties

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

2.05 Conduct

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

2.06 Allowances

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

ARTICLE 3 – MEMBERS OF THE PUBLIC

3.01 Rights of Members of the Public

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

(a) Voting and petitions

A minimum of five per cent of members of the public on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) Information

Members of the public have the right to:-

- (i) Attend meetings of the Council and its committees except where personal, confidential or exempt information is likely to be disclosed, and the meeting is held in private
- (ii) Attend meetings of the Executive except where personal, confidential or exempt information is likely to be disclosed, and the meeting is held in private
- (iii) Find out from the Forward Plan what key decisions are to be taken by the Executive and when
- (iv) See reports and background papers, and any records of decisions made by the Council, its committees and the Executive and
- (v) Inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

Members of the public have the right to participate in the Council's question time and the Open Forum at Township Committees, and contribute to reviews undertaken by Overview and Scrutiny Committees.

(d) Complaints

Members of the public have the right to complain to:-

- (i) The Council itself under its complaints scheme
- (ii) The Ombudsman after using the Council's own complaints scheme
- (iii) The Standards Board for England about a breach of the Councillors' Code of Conduct.

3.02 Responsibilities of members of the public

Members of the public must not be violent, abusing or threatening to 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:-

- Improvement Plan
 - Corporate Challenges
 - Annual Library Plan
 - Best Value Performance Plan
 - Budget Strategy
 - Children's Services Plan
 - Community Care Plan
 - Community Plan
 - Crime and Disorder Reduction Strategy
 - Early Years and Child Care Development Plan
 - Education Development Plan
 - Local Transport Plan
 - Local Education Authority Five Year Strategic Plan
 - The Unitary Development Plan and all the other Plans and Alterations which comprise the Development Plan for the Borough
 - Youth Justice Plan
 - Food Standards Agency Framework Agreement Local Enforcement Plan
 - Housing Strategy
 - Adult and Community Learning Plan
 - Action 2000 Local Agenda 21 Strategy
 - Quality Protects Management Action Plan
 - Capital Strategy and Corporate Asset Management Plan
 - Treasury Management Policy Statement
 - Human Resources Strategy
 - Education Asset Management Plan
 - Plans and Strategies which together will comprise a Cultural Strategy
 - Health Improvement Programme
 - School Organisation Plan
 - Waste Reduction and Recycling Strategy
 - Air Quality Strategy and Action Plan
 - Development Plan Documents
- and any other strategies or plans so determined.

(b) Budget

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

(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 Council**

Only the Council shall 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 which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget, subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution
- (d) Appointing the Leader
- (e) Agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them
- (f) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council
- (g) Adopting an allowances scheme under Article 2.06
- (h) Changing the name of the area, conferring the title of honorary alderman or to admit to being an honorary freeman
- (i) Confirming the appointment of the Chief Executive
- (j) Making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local or personal Bills
- (k) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive
- (l) Agreeing or amending the Schemes of Delegation
- (m) Considering Petitions for Debate submitted in accordance with the Council's Petition Scheme and
- (m) All other matters which, by law, must be reserved to the Council.

4.03 **Council meetings**

There are three types of Council meeting:-

- (a) The annual meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

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

4.04 **Responsibility for functions**

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

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 Role and function of the Mayor and Vice-Chairman of the Council

The Mayor and Vice-Chairman of the Council shall be elected by the Council annually. The Mayor (and in his/her absence, the Vice-Chairman of the Council) shall have the following responsibilities:-

- 1 To uphold and promote the purpose of the Constitution, and to interpret the Constitution 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 main place at which Members, who are not on the Executive, are able to hold the Executive to account
- 4 To promote public involvement in the Council's activities.

5.02 Role and Function of the Mayor and Deputy Mayor

The Mayor and Deputy Mayor shall be elected by the Council annually. The Mayor (and in his or her absence, the Deputy Mayor) shall have the following responsibilities:-

- 1 To attend such civic and ceremonial functions as the Council and he or she determines appropriate

ARTICLE 6 – THE EXECUTIVE

6.01 Role

The Executive shall carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Many of executive functions shall be carried out by the Cabinet, but in certain instances, executive functions shall be carried out by individual Cabinet Members, Township Committees, Officers or Joint Arrangements, in accordance with the Council's Scheme of Delegation. Where the Constitution refers to the Executive, this covers executive functions carried out by the Cabinet, Committees of the Cabinet, individual Cabinet Members and/or Township Committees or Sub-Committees, Officers, and/or Joint Arrangements.

Where the Constitution refers to the Cabinet, this relates solely to functions undertaken by the Cabinet.

6.02 Form and composition of the Cabinet

The Cabinet shall consist of the Leader of the Council, together with up to a further nine Councillors appointed to the Cabinet by the Leader of the Council. The Leader shall specify the responsibilities of each Cabinet Member, including responsibility for any specific portfolio of services and issues. A Councillor allocated such a portfolio shall be referred to as a Portfolio Holder.

6.03 Leader

The Leader of the Council shall be appointed by the Full Council for a term of four years at its first meeting after an ordinary Council election and shall be the Leader of the Cabinet. The Leader will hold office until the day of the annual meeting after their conclusion of their ordinary term of office unless :

- (a) He or she resigns from the office or
- (b) He or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension) or
- (c) He or she is no longer a Councillor or
- (d) He or she is removed from office by the resolution of Full Council.

The Leader shall determine all delegations of Executive functions and appoint a Cabinet of between two and nine members and determine portfolio holder arrangements and responsibilities.

6.04 Deputy Leader

The Leader shall appoint one of the Cabinet Members as Deputy Leader to act in their absence.

6.05 Other Cabinet members

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Mayor nor Vice-Chairman of the Council may be appointed to the Cabinet, and Members of

the Cabinet (including the Leader) may not be Members of an Overview and Scrutiny Committee.

Other Cabinet Members shall hold office until:-

- (a) They resign from office or
- (b) They are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) or
- (c) They are no longer Councillors or
- (d) They are removed from office, either individually or collectively, by the Leader.

6.06 **Cabinet Portfolios**

The Cabinet shall comprise

Leader of the Council

Cabinet Member for Adult Care and Health covering Adult Care and Vulnerable Adults Services; and general responsibility for health issues and for relationships with the NHS.

Cabinet Member for Children, Schools and Families covering Schools, Learners and Young People, and Children's Social Care Services.

Cabinet Member for Devolved and Environment Services covering the Environmental Management Service; Planning, Environmental Health and Licensing Services; Strategic Housing; Townships; Safer Communities; community centres; the relationship with CVS/voluntary sector; and for Waste Services issues.

Cabinet Member for Finance covering Finance and Procurement and Business Partnerships Services, and with responsibility for assets, including land.

Cabinet Member for Corporate Management and Economic Regeneration covering Customers and Communications Service; Legal Services and Committee Services; Human Resources Service; the Performance and Transformation Service; and holds responsibility for economic regeneration issues, including relationship with Rochdale Development Agency.

Cabinet Member for Partnerships and holds responsibility for libraries and for relationships with the Council's partners Rochdale Boroughwide Housing, the Impact Partnership and Link4Life.

6.07 **Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

6.08 **Responsibility for functions**

The Chief Executive shall maintain a list in Part 3 of this Constitution setting out the arrangements for the exercise of executive functions.

ARTICLE 7 – OVERVIEW AND SCRUTINY

7.01 Terms of reference

The Council shall appoint to the Overview & Scrutiny Committees and other bodies set out in the left hand column of the table below to discharge the functions conferred by Section 21 of the Local Government Act 2000, Section 7 of the Health & Social Care Act 2001 and the Police and Justice Act 2006 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Policy Overview Committee	To respond to policy consultation by the Cabinet; to identify topics and set up in-depth studies and reviews; to consider the Cabinet's annual budget proposals; and to consider annual Service Plans
Performance Scrutiny Committee	To scrutinise in-year Service performance; and to deal with any executive decisions which have been called-in by Members of the Council to deal with matters referred under the Council's Petition Scheme
Health Overview and Scrutiny Committee	To address health inequalities and health improvement throughout the Borough and undertake the specific scrutiny of the Heywood, Middleton and Rochdale Primary Care Trust.

7.02 General role

Within their terms of reference, Overview and Scrutiny Committees shall:-

- (i) Maintain and overview of, review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
- (ii) Make reports and/or recommendations to the Executive and/or the Council in connection with the discharge of any functions
- (iii) Consider any matter affecting the area or its inhabitants
- (iv) Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or committees
- (v) Undertake Best Value Fundamental Service Reviews of Council Services as detailed in Overview and Scrutiny Procedure Rule 16
- (vi) Monitor performance in all Council service areas
- (vii) Consider Service Plans and Reports
- (viii) Not consider any matter relating to standards of behaviour, conduct, ethics or probity, directly or indirectly involving any Member of the Council, such matters are to be referred immediately to the Service Director for Legal and Democratic Services

- (ix) Not scrutinise any individual decisions made by quasi-judicial Committees or non-executive Committees of the Council.

7.03 **Specific functions**

(a) **Policy development and review**

Overview and Scrutiny Committees may:-

- (i) Assist the Council and the Executive 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 Executive and Executive Directors or Heads of Service about their views on issues and proposals affecting the area, and
- (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

Overview and Scrutiny Committees may:-

- (i) Review and scrutinise the decisions made by and performance of the Executive and 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 Executive and Officers 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 reports and/or recommendations to the Executive and/or the Council arising from the outcome of the scrutiny process
- (v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance, and
- (vi) Question and gather evidence from any person (with his or her consent).

The detailed Terms of Reference and Membership of the Overview and Scrutiny Committees are shown in Table 1 of this Article.

(c) **Finance**

Overview and Scrutiny Committees shall exercise overall responsibility for any finances made available to them.

(d) **Annual report**

Overview and Scrutiny Committees shall report their Work Programmes annually to the Council.

(e) **Officers**

The role of Statutory Scrutiny Officer to promote and manage the scrutiny function of the Council shall be undertaken by the Scrutiny and Performance Manager (or any future equivalent post).

Overview and Scrutiny Committees shall exercise overall responsibility for the work programme of the Officers employed to support their work.

7.04 **Reference to the Service Director for Legal and Democratic Services**

Any dispute about an Overview and Scrutiny Committee's right to consider a matter shall be referred to the Service Director for Legal and Democratic Services, whose decision shall be binding.

7.05 **Conflicts of Interest – Membership of Township Committees and Overview and Scrutiny Committees**

When a Councillor is a member of an Overview and/or Scrutiny Committee that is considering an executive decision/proposal made by a Township Committee of which he or she is a member, that Councillor may not attend, speak or vote, unless provided for within the Council's Code of Conduct for Councillors and Voting Co-opted Members or dispensation to do so is given by the Standards Committee.

7.06 **Whipping**

The Whip shall not apply from any of the political groups on their respective Members on Overview and Scrutiny Committees while they are taking part in Overview and Scrutiny business.

No political meetings of Overview and Scrutiny Committee Members shall take place. Each Member of the Committee shall act in accordance with such Protocols and Guidance as the Council shall determine.

7.07 **Proceedings of Overview and Scrutiny Committees**

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

POLICY OVERVIEW COMMITTEE

13 Members of Council on a politically balanced basis, together with three Church representatives, two Parent Governor representatives and five further Members of the Council when considering education-related items.

TERMS OF REFERENCE

- To respond to consultation by Cabinet on policy development and the annual budget proposals.
- To maintain an overview of the work undertaken by the Council's external Partnerships and other outside bodies, when appropriate.
- To maintain an overview of the Rochdale Safer Communities Partnership and of the discharge by the Responsible Authorities of their crime and disorder functions as set out in the Police and Justice Act 2006.
- To receive reports, where appropriate, from the Council's representatives on outside bodies, and to direct representatives to report to the Council, where appropriate.
- To commission, scope and oversee studies and reviews relating to Council Services and issues directly affecting the Borough and, where appropriate, to make recommendations to the Cabinet arising from such studies and reviews.
- To consider annual Service Plans in line with Council Policy.

PERFORMANCE SCRUTINY COMMITTEE

13 Members of Council on a politically balanced basis, together with three Church representatives, two Parent Governor representatives and five further Members of the Council when considering education-related items.

TERMS OF REFERENCE

- To scrutinise the in-year performance of Council Services, Rochdale Boroughwide Housing, the Impact Partnership, Leisure Trust, Rochdale Safer Communities Partnership, and other appropriate bodies, in accordance with the Council's Quarterly Performance Management Framework and against approved Service Plans, where appropriate.
- To scrutinise the discharge by the Responsible Authorities within Rochdale Safer Communities Partnership of their crime and disorder functions as set out in the Police and Justice Act 2006.
- To instigate the appropriate action in response to adverse service performance.
- To scrutinise in-year budget performance.
- To scrutinise inspection reports and associated action plans produced by external agencies.
- To review and scrutinise executive decisions in accordance with the Council's Constitution, which have been called-in by Members of the Council.

HEALTH OVERVIEW & SCRUTINY COMMITTEE

13 Members of Council on a politically balanced basis

TERMS OF REFERENCE

- To be responsible for discharging the Council's scrutiny responsibilities under the Health & Social Care Act 2001.
- To maintain overview and scrutiny of the services provided by the Heywood, Middleton and Rochdale Primary Care Trust and of any other NHS body that may be established to provide health services in the Borough area only, the scope of this role to be:-
 - To receive, comment upon and, where appropriate, seek further detail regarding the planning, provision, and operation of health services provided by those bodies as considered necessary by the Committee to discharge their health scrutiny duties
 - To be the scrutiny body consulted under the statutory requirement for NHS organisations to consult on proposed substantial developments of the service or substantial variation in the provision of a service.
- To respond to the Health Care Commission's Annual Health Check Self Assessment by the Heywood, Middleton and Rochdale Primary Care Trust.
- To undertake specific detailed studies and reviews as directed by the Overview Commission.
- To scrutinise general matters relating to the health of the population of the Borough, addressing matters relating to health inequality and health improvement by scrutinising Policy and commenting upon Policy Development specific to the health and wellbeing of the Borough population.
- To undertake the scrutiny of other health organisations providing services to the Borough population, where such consideration does not conflict with delegated arrangements to Joint Health Overview and Scrutiny Committees
- To submit reports, recommendations and consultation responses on matters coming before the Committee to relevant individuals and agencies
- To scrutinise and respond to Inspection reports produced by external agencies which are relevant to the health services for which the Committee is responsible for scrutinising.
- To consider and respond to issues referred to the Committee by the Local Involvement Network (LINK).

ARTICLE 8 – REGULATORY AND OTHER NON-EXECUTIVE COMMITTEES AND SUB-COMMITTEES

8.01 Regulatory and other Committees

The Council shall appoint the Committees set out in the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the non-executive functions described in that table.

ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council shall establish a Standards Committee.

9.02 Composition

POLITICAL BALANCE

Standards Committees do not have to comply with the political balance rules in section 15 of the Local Government and Housing Act 1989.

The Standards Committee shall comprise at least seven Councillors, who may not include the Mayor and the Leader, and between one and eight independent persons who are neither Councillors nor Officers of the Council or any other Body having a Standards Committee. The independent members shall be entitled to vote at meetings. A member of the Cabinet may not chair the Committee.

9.03 Quorum

A meeting of a Standards Committee or Sub-Committee of a Standards Committee shall not be quorate unless at least three Members (including at least one independent Member) of that Committee or Sub-Committee are present for its duration.

9.04 Role and Function

The Standards Committee shall have the following roles and functions:-

- a. Promoting and maintaining high standards of conduct by Councillors, Independent Members and Co-opted Members;
- b. Assisting Councillors, Independent Members and Co-opted Members to observe the Members' Code of Conduct;
- c. Advising the Council on the adoption and/or revision of the Members' Code of Conduct;
- d. Monitoring the operation of the Members' Code of Conduct;
- e. Advising, training, or arranging to train, Councillors, Independent Members and Co-opted Members on matters relating to the Members' Code of conduct;
- f. Granting dispensations to Councillors, Independent Members and Co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- g. Maintaining an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Regulations and Codes of Conduct;
- h. To consider and determine complaints about breaches of the Members' Code of Conduct under the Standards Committee (England) Regulations 2008, (as amended);

- i. Appointing Assessment Sub-Committees, Review Sub-Committees, and Standards Panels in relation to the local assessment of complaints against Members for breach of the Members' Code of Conduct;
- j. Agreeing assessment criteria in respect of local assessment of complaints of breaches of the Members' Code of Conduct;
- k. Reviewing, from time to time, the said assessment criteria;
- l. Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter;
- m. Considering applications from local authority employees for exemptions from political restrictions in respect of their posts;
- n. Where appropriate, issuing directions requiring the inclusion of a post in the list of politically restricted posts;
- o. Giving general advice on the application of criteria for designation of a politically restricted post;
- p. Reviewing any issues referred by the Chief Executive, an Executive Director or Monitoring Officer;
- q. Monitoring the Constitution and making recommendations thereon to the Regulatory Committee and/or the Full Council in respect of any proposed amendments;
- r. Monitoring Council policies on "Whistle-blowing" and the Anti Fraud and Corruption Strategy and the Council's complaints process;
- s. Agreeing joint working on Standards Joint Committees (e.g. with the Audit Committee and with the Performance Scrutiny Committee);
- t. To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- u. To deal with other functions delegated to the Committee by the Council in accordance with Section 54(3) of the Local Government Act 2000, in accordance with any Regulations made under that Act

9.05 **Additional Roles of the Standards Committee**

- Overview of Internal and External Audit in relation to Members' Code of Conduct
- Overview of the Confidential Reporting Policy
- Overview of complaints handling and Ombudsman investigations
- To deal with any appropriate matter referred to
- To authorise payments or provide other benefits in cases of maladministration etc. under Section 92 of the Local Government Act 2000.

ARTICLE 10 – TOWNSHIP COMMITTEES

10.01 **Township Committees**

The Council has power to appoint Township Committees.

10.02 **Form, Composition and Function**

(a) **Table of Township Committees**

The Council shall appoint the Township Committees as set out in the first column of the following table, composed as set out in the second column of that Table and with the Terms of Reference set out in the third column. The Terms of Reference apply equally to each Township Committee.

Name of Committee	Composition	Terms of Reference
Heywood Township Committee	Those Members for the Wards of:- <ul style="list-style-type: none"> • North Heywood • West Heywood • Hopwood Hall (9 members)	<ul style="list-style-type: none"> • To exercise powers and responsibilities in respect of Devolved Services – <ul style="list-style-type: none"> • Environmental Management (excluding Refuse Collection and Recycling and Bereavement Services) • Highways • Community Centres • Libraries • Development Control • Township Funds • Leisure Projects - commissioning ensuring that services and facilities for which the Committee is responsible are managed in a manner consistent with Borough-wide policies. • To identify opportunities for specific local improvements or developments in respect of influenced Services – <ul style="list-style-type: none"> • Planning and Regulation • Housing and Regeneration (including Rochdale Development Agency) • Customer and Communications Services • Learners and Young People (except Community Centres) • Refuse Collection and Recycling • Bereavement Services • Adult Social Care • Children’s Social Care • Schools • Leisure (via the Cultural Trust) • Property (Impact Partnership)
Middleton Township Committee	Those Members for the Wards of:- <ul style="list-style-type: none"> • Hopwood Hall • Middleton East • Middleton North • Middleton South • West Middleton (15 members)	
Pennines Township Committee	Those Members for the Wards of:- <ul style="list-style-type: none"> • Littleborough Lakeside • Littleborough West and Wardle • Milnrow & Newhey • Smallbridge and Firgrove (12 members)	
Rochdale Township Committee	Those Members for the Wards of:- <ul style="list-style-type: none"> • Balderstone and Kirkholt • Bamford 	

	<ul style="list-style-type: none"> • Castleton • Central Rochdale • Healey • Kingsway • Milkstone and Deeplish • Norden • Spotland and Falinge <p>(27 members)</p>	<ul style="list-style-type: none"> • Council Housing (via Rochdale Boroughwide Housing) • To carry out all the functions referred to in the approved Scheme of Delegation (Appendix 1) or as may be specified elsewhere in the Council's Constitution • To expend the budget allocated for the Township Fund and other devolved budgets • To determine, within the scope of the approved Development Control Scheme (Appendix 2), local planning applications • To consider, review and monitor all services and activities provided by the Council within the Township • To develop and support a range of appropriate Working Parties and Working Groups to promote detailed advice on particular issues, on matters relating to specific geographical areas of the Township and to ensure that such bodies work in an open and accessible way that encourages community involvement.
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(b) Delegations

The Council and the Executive shall refer to details of the delegations to Township Committees in Part 3 of this Constitution.

10.03 Conflicts of Interest – Membership of Township Committees and Overview and Scrutiny Committees

(a) Conflicts of Interest

If an Overview and/or Scrutiny Committee is scrutinising a decision or proposal in relation to the business of a Township Committee of which a Councillor is a Member and was present at the meeting when that decision or proposal was approved, then the Councillor should declare his or her interest, may not speak or vote and shall leave the meeting, unless provided for in the Code of Conduct for Councillors and Voting Co-opted Members or a dispensation has been granted by the Standards Committee.

(b) **General Policy Reviews**

Where the Overview and/or Scrutiny Committee is reviewing policy generally the Member should declare his or her interest, may not speak or vote and shall leave the meeting, unless provided for in the Code of Conduct for Councillors and Voting Co-opted Members or a dispensation has been given by the Standards Committee.

10.04 **Township Committees – Access to Information**

Township Committees shall comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for Township Committee meetings which deal with both executive functions and functions which are not the responsibility of the Executive shall state clearly which items are which.

10.05 **Executive Members on Township Committees**

A member of the Cabinet may serve on a Township Committee if otherwise eligible to do so as a Councillor.

10.06 Appointments to Township Sub-Committees, Township Working Parties, Partnership Arrangements and Local Outside Bodies shall be made at the first meeting of the appropriate Township Committee in the new Municipal Year.

10.07 The Chair and Vice-Chair of each Township Committee and Township Sub-Committees shall be appointed at the first ordinary meeting of appropriate Township Committee in the new Municipal Year.

ARTICLE 11 – JOINT ARRANGEMENTS

11.01 Arrangements to promote well being

The Executive, 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.

11.02 Joint Arrangements

- (a) The Council may establish Joint Arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with the other local authorities
- (b) The Council may establish Joint Arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with the other local authorities
- (c) Except as set out below, the Council may only appoint Cabinet Members to a Joint Committee and those Members need not reflect the political composition of the Council as a whole
- (d) The Council may appoint Members to a Joint Committee from outside the Cabinet in the following circumstances:-
 - the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Council may appoint to the Joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area Political balance requirements do not apply to such appointments
 - the Joint Committee undertakes health scrutiny functions as set out in Section 7 of the Health and Social Care Act 2001
- (e) Any Joint Arrangements including any delegations to Joint Committees shall be contained in Part 3 of this Constitution
- (f) As and when joint arrangements are established, procedure rules will be established in line with the statutory guidance.

11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply
- (b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating Authorities then its access to information regime is the same as that applied to the Executive
- (c) If the Joint Committee contains Members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other Local Authorities

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

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

11.05 **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 12 – OFFICERS

TERMINOLOGY

12.01 Management structure

(a) General

The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions

(b) Chief Executive and Executive Directors

The Council shall engage persons for the post of Chief Executive and four posts of Executive Director. A further post of Executive Director shall be engaged for a period up to 2012.

(c) Heads of Service

The Council shall engage persons for the following posts who shall be designated Heads of Service:-

Service Director for Adult Care Operations
Service Director for Business Partnerships
Service Director for Children's Social Care
Service Director for Customers and Communications
Service Director for Environmental Management
Service Director for Finance and Procurement
Service Director for Housing and Regeneration
Service Director for Human Resources
Service Director for Learners and Young People
Service Director for Legal and Democratic Services
Service Director for Performance and Transformation
Service Director for Planning and Regulation
Service Director for Schools
Service Director for Vulnerable Adults

(d) Service Director for Paid Service, Monitoring Officer and Chief Financial Officer

The Council shall designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Service Director for Legal and Democratic Services	Monitoring Officer
Service Director for Finance and Procurement	Chief Finance Officer

Such posts shall have the functions described in Article 12.02–12.04 below.

The Council shall also designate the following statutory posts as shown:-

Post	Designation
Executive Director with responsibility for Children's Social Care	Statutory Director for Children's Services
Executive Director with responsibility for Adult Social	Statutory Director for Adult Services

Care	
------	--

(e) **Structure**

The Chief Executive shall 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.

12.02 **Functions of the Head of Paid Service (Chief Executive)**

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

The Chief Executive shall report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of Officers.

(b) **Restrictions on Functions**

The Chief Executive 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 (Service Director for Legal and Democratic Services)**

(a) **Maintaining the Constitution**

The Service Director for Legal and Democratic Services shall maintain an up-to-date version of the Constitution and shall ensure that it is widely available for consultation by Councillors, Officers and the public.

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

After consulting with the Chief Executive and the Service Director for Finance and Procurement, the Service Director for Legal and Democratic Services shall report to the full Council or to the Executive (in relation to an executive 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. Any such reports by the Service Director for Legal and Democratic Services shall be considered by the Council or the executive at their next available meeting or as soon as possible thereafter.

(c) **Supporting the Standards Committee**

The Service Director for Legal and Democratic Services shall contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Receiving reports**

The Service Director for Legal and Democratic Services shall receive and act on reports made by ethical standards officers and decisions of the case tribunals or interim case tribunals.

(e) **Conducting investigations**

The Service Director for Legal and Democratic Services shall conduct investigations into matters referred through the Local Assessment Framework or ethical standards officers and make reports or recommendations in respect of them to the Standards Committee/or its Sub-Committees.

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

The Service Director for Legal and Democratic Services shall ensure that executive 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 executive decisions are within the budget and policy framework**

The Service Director for Legal and Democratic Services shall advise whether decisions of the Executive are in accordance with the budget and policy framework.

(h) **Contributing to corporate management**

The Service Director for Legal and Democratic Services shall contribute to the Corporate Management of the Council through the provision of professional legal advice.

(i) **Provision of advice**

The Service Director for Legal and Democratic Services shall 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.

(j) **Restrictions on posts**

The Service Director for Legal and Democratic Services, as Monitoring Officer, cannot be the Chief Finance Officer or the Service Director for Paid Service.

(k) **Protocol**

A Protocol providing a role description for the Monitoring Officer is contained within Part 5 of the Constitution.

12.04 **Functions of the Chief Finance Officer (Service Director for Finance and Procurement)**

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

After consulting with the Chief Executive and the Service Director for Legal and Democratic Services, the Service Director for Finance and Procurement shall report to the Council or to the Executive (in relation to an executive function) and the Council's external auditor if he or she considers that any proposal, decision or course of action shall 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 Service Director for Finance and Procurement shall have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

The Service Director for Finance and Procurement shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Provision of advice

The Service Director for Finance and Procurement shall 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 shall support and advise Councillors and Officers in their respective roles.

(e) Provision of financial information

The Service Director for Finance and Procurement shall provide financial information to the media, members of the public and the community.

(f) Protocol

A Protocol providing a role description for the Monitoring Officer is contained within Part 5 of Constitution

12.05 Duty to provide sufficient resources to the Service Director for Legal and Democratic Services and the Service Director for Finance and Procurement

The Council shall provide the Service Director for Legal and Democratic Services and Service Director for Finance and Procurement with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Impact Partnership

A joint venture company, the Impact Partnership, acts as an agent on behalf of the Council in respect of certain services. Employees are seconded to this Company and fulfil similar roles and responsibilities, having the same specific duties as Council Officers as previously exercised by Council Officers at an equivalent level. Separate staff employed by the joint venture company may exercise Council functions as authorised by the Council under contractual arrangements acting as the Council's agent. Designated Service Director posts, or equivalent, are

Director of Highways and Engineering
- the Council's 'Service Director for Highways and Engineering'

Director of Property

- the Council's 'Service Director for Property'

Director of Business and Customer Services

12.07 **Conduct**

Officers shall comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

12.08 **Employment**

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

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for decision making

The Council shall issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

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

- (a) Proportionality (meaning the action must be proportionate to the results to be achieved)
- (b) Due consultation (including the taking of relevant professional advice)
- (c) Respect for human rights
- (d) Presumption in favour of openness
- (e) Clarity of aims and desired outcomes
- (f) Due consideration to be given to alternative options
- (g) Reasons for the decisions to be given provided there is no breach of confidentiality

13.03 Types of decision

- (a) Decisions reserved to the Council. Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.
- (b) Key Decisions
 - (i) A decision of the Cabinet/a Portfolio holder/a Township Committee/an Officer acting in accordance with the Scheme of Delegation shall be a Key Decision if it falls within one or more of the following categories:-
 - (a) It is likely to have a major impact on the life of a community within the Borough (e.g. the closure of a school or a major traffic regulation scheme)
 - (b) It forms part of the development of, or the development of a change to, the Policy or Budget Framework
 - (c) Either:
 - (i) it involves revenue expenditure or saving that is neither provided for within the Budget, or virement not permitted by the Constitution
 - or
 - (ii) it involves revenue expenditure or saving in excess of £500,000
 - (d) It involves capital expenditure that is estimated to exceed £500,000 or is not provided for within the budget
 - (e) It involves a significant reduction in or significant change to a service or facility provided by the Council, such reduction or change not being within the Policy or Budget Framework
 - (f) It consists of the declaration of land or property, the estimated value of which exceeds £500,000 as surplus to the Council's requirements
 - (g) It involves securing approval in principle to the acquisition or disposal of land or property, the value of which is estimated to exceed £500,000

- (h) It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, variation or termination of any leases, licences, easements or wayleaves, at considerations in excess of £10,000 per annum or a premium of £100,000
 - (i) A financial decision whose consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees
- (c) A decision taker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.04 Decision making by the Council

Subject to Article 13.08, the Council meeting shall follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Executive

Subject to Article 13.08, the Executive shall follow the Executive Procedure 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 shall follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other regulatory and other non-executive Committees and Sub-Committees

Subject to Article 13.08, other Council Committees and Sub-Committees shall follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution 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 shall 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 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial management

The management of the Council's financial affairs shall be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

14.02 Contracts

Every contract made by the Council shall comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14.03 Legal proceedings

The Service Director for Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Service Director for Legal 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 shall be signed by the Service Director for Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two Officers of the Council or made under the Common Seal of the Council attested by at least one Officer.

14.05 Common Seal of the Council

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

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 Duty to monitor and review the Constitution

The Service Director for Legal and Democratic Services shall monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for the monitoring and review of the Constitution

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

- 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 or her by Members, Officers, the public and other relevant stakeholders
- 4 Compare practices in the Council with those in other comparable authorities, or national examples of best practice, and
- 5 Take such action as he or she considers appropriate

15.02 Changes to the Constitution

(a) Approval

Changes to the Constitution, including additions to and amendment of the Council's Schemes of Delegation, shall be submitted to Council for approval after consideration of the proposal by the Regulatory Committee. The Service Director for Legal and Democratic Services is authorised to amend the Constitution subsequent to decisions taken at the Annual Council meeting in accordance with Council Procedure Rule 1.2 without reference to the Regulatory Committee; to amend the Constitution on matters arising from organizational or other review; and to amend the Scheme of Delegation to Officers on matters arising from legislative and/or approved operational changes, such amendments to be reported to the Regulatory Committee on a twice yearly basis.

(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) The Articles of this Constitution may not be suspended
- (b) Any suspension of a Procedure Rule must be in accordance with the Council's Procedure Rules

16.02 Interpretation

The ruling of the Mayor as Chairman of the 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 shall have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

- (a) The Chief Executive shall give a printed copy of this Constitution to each Member of the Council upon delivery to him or her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council.
- (b) The Chief Executive shall ensure that copies of the Constitution 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 Chief Executive shall ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

SCHEDULE 1

DESCRIPTION OF EXECUTIVE ARRANGEMENTS

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

- 1 **Article 6:** Overview and Scrutiny Committees and the Overview and Scrutiny Procedure Rules

- 2 **Article 7:** The Executive and the Executive Procedure Rules

- 3 **Article 10:** Township Committees insofar as the Committees are determining executive matters delegated to them by the Council

- 4 **Article 11:** Joint arrangements insofar as any Joint Committee is determining executive matters delegated to it by the Council

- 5 **Article 13:** Decision making and the Access to Information Procedure Rules

- 6 **Part 3:** Responsibility for Functions