

# ROTHERHAM BOROUGH COUNCIL



# THE CONSTITUTION OF THE COUNCIL



# ROTHERHAM BOROUGH COUNCIL THE CONSTITUTION

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# THE CONSTITUTION

## INTRODUCTION

### **Rotherham Borough Council**

The Council is a metropolitan borough council, which means that it is responsible for providing all the services that a local authority provides to local people. These services or functions include adult services, children and young people's services, consumer protection, education, electoral registration, environmental health, highways and parking, housing, libraries, museums and art galleries, planning and development control, a variety of licensing and registration functions and refuse collection and disposal.

Rotherham is at the centre of the UK and in the heart of the South Yorkshire regeneration area. The borough spans some 118 square miles linked by a network of 706 miles of roads and 17 miles of motorway. While still a major steel producer, it has widely diversified its industrial base in recent years, with growth in sectors including information technology, high-value engineering, food, healthcare, construction and services.

Although 70 per-cent rural, Rotherham is a thriving centre for business. The Dukeries and the Peak District lie nearby, to the south and southwest, while to the north and northwest are the sweeping moors of West and North Yorkshire. The town of Rotherham itself is the main urban centre, surrounded by a variety of villages and townships, such as Anston, Aston, Dinnington, Kiveton Park, Maltby, Rawmarsh, Swinton, and Wath-upon-Deerne, as well as other smaller suburban and rural communities. Many act to some extent as dormitories for larger conurbations such as Rotherham itself, Sheffield, Barnsley, Doncaster and Worksop.

The children of the borough are educated at 3 nurseries, 99 primary schools, 16 secondary schools and 6 special schools. Recreation is provided at 4 sports and leisure centres, 2 museums, 1 art gallery and 15 libraries.

Over a quarter of a million people living in the borough are served by 63 members of the Council. Some members of the Council also sit on joint authorities established to deal with passenger transport, police and fire and rescue services provided throughout South Yorkshire.

Three Members of Parliament serve the peoples of the borough. Their respective constituencies are Rotherham, Rother Valley and Wentworth and Dearne. The constituency boundary of Wentworth & Dearne extends into the Barnsley MBC area. The MP for this constituency, therefore, also represents electors from two electoral wards of Barnsley MBC but the greater part of the constituency is contained within the Rotherham area.

## **The Operation of the Council**

The Council's Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.

The Constitution comprises 19 articles. The articles set out the basic rules governing the manner in which the Council conducts its business. The Appendices to the Constitution contain more detailed procedures and codes of practice regulating different aspects of the Council's business.

The Council has adopted the "strong" leader with a cabinet form of executive. The executive is responsible for most day-to-day decisions, including major decisions, which are publicised in advance in so far as they can be anticipated. Executive decisions are made in accordance with the Council's overall policies and budget. Any decision that falls outside the budget or policy framework must be referred to the full Council to decide.

The Council's overview and scrutiny committees monitor the work of the executive and enable local people to have a greater say in the Council's business by holding public inquiries into matters of local concern. The Council's Overview and Scrutiny Management Board can "call-in" certain executive decisions that have been made but not yet implemented and question the appropriateness of the decision. The executive can also consult overview and scrutiny select commissions before making a decision or shaping policy.

The Council's Licensing Board and Planning Board are responsible for discharging functions that are not the responsibility of the executive. These functions are regulatory in nature, for example the licensing of operators of hackney carriages and private hire vehicles and the determination of planning applications. Liquor licensing is dealt with by a Licensing Committee comprising members of the Licensing Board.

The Council's complaints panels consider complaints from individual members of the public who are not satisfied with the standard of a Council service. Subject to any legal mechanism for challenging or appealing against a Council decision, a member of the public may complain about the particular decision in so far as it concerns or affects him or her.

The Council's officers give advice, implement decisions and manage the day-to-day delivery of services. The Council's Assistant Director of Legal Services and Strategic Director of Finance and Customer Services have a duty to ensure that the Council acts within the law and manages its resources wisely.

The Council's Standards and Ethics Committee is responsible for ensuring high standards of conduct by councillors and co-opted members and overseeing other probity issues.

The Council is involved in partnership working through the Rotherham Together Partnership, the Children and Young People's Board and other arrangements.

**PART I**  
**THE CONSTITUTION, THE COUNCIL AND CITIZENS' RIGHTS**

**1 The Constitution**

*Exercise of powers and duties*

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

*The Constitution*

- 1.2 This Constitution, together with the documents contained in the appendices to the Constitution, is the Constitution of Rotherham Borough Council.

*Purpose of the Constitution*

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

*Interpretation of the Constitution*

- 1.4 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 in article 1.3.

## **2 Members of the Council**

### *Composition and eligibility*

- 2.1 The Council comprises 63 members or Councillors.
- 2.2 Only registered voters of the borough or those living, working or occupying premises in the borough are eligible to hold the office of councillor.

### *Election and term of councillors*

- 2.3 The ordinary election of all councillors usually takes place on the first Thursday in May in every fourth year. The next ordinary election of councillors will take place in May 2020.
- 2.4 The term of office of councillors is 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.

### *Roles and functions of all councillors*

- 2.5.1 All councillors will -
- collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - represent their communities and bring their views into the Council's decision-making process, that is to say, become the advocate of and for their communities;
  - deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - balance different interests identified within the ward and represent the ward as a whole;
  - be involved in decision-making;
  - be available to represent the Council on other bodies; and
  - maintain the highest standards of conduct and ethics.

### *Rights and duties*

- 2.6 Councillors have the right of access to the documents, information, land and buildings that are owned or in the possession of the Council in so far as such access is necessary for the proper discharge of their functions and in accordance with the law.
- 2.7 Without the Council's consent, councillors must not make public information which is confidential or exempt or divulge information given in confidence to anyone other than another councillor or an officer entitled to know it.



- 2.8 The terms "confidential information" and "exempt information" are explained in the Council's *Access to Information Rules*.

*Conduct*

- 2.9 Councillors must at all times observe the *Members' Code of Conduct and the Member/Officer Protocol*.

*Allowances*

- 2.10 Councillors are entitled to receive allowances in accordance with the *Members' Allowances Scheme*.

### **3 The full Council**

#### *Policy framework*

3.1 The policy framework means the following plans and strategies:–

- The Adult Learning Plan
- The Annual Library Plan;
- The Children and Young People’s Plan;
- The Corporate Plan;
- The Crime and Disorder Reduction Strategy;
- The Development Plan documents and the plans and alterations which together comprise the Development Plan;
- The Licensing Authority Policy Statement;
- The Local Transport Plan;
- The Medium Term Financial Strategy;
- The plan or strategy for the control of the Council’s borrowing, investments or capital expenditure or for determining the Council’s minimum revenue provision;
- The Youth Justice Plan;
- The adoption or approval of any plan or strategy (whether statutory or non-statutory) that the Council has determined should be taken by the full Council;

#### *Budget*

3.2 The budget includes –

- the allocation of financial resources to different services and projects;
- proposed contingency funds;
- establishment and use of reserves and also review of reserves and balances;
- setting the council tax and decisions relating to the control of the Council’s borrowing requirement;
- control of the Council’s capital expenditure and the setting of virement limits.

#### *Housing land transfer*

3.3 “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 Housing and Regeneration Act 2008; or
- the disposal of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### *Functions exercised by the full Council*

- 3.4 Only the full Council will exercise the functions of –
- adopting and changing the Constitution;
  - approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer;
  - making decisions about any matter (subject to the urgency procedure contained in the *Access to Information Rules*) in the discharge of an executive function, where the decision-maker is minded to make it in a manner which is not covered by the policy framework or budget;
  - electing the Mayor and Deputy Mayor;
  - electing the Leader of the Council as and when required;
  - agreeing and amending the terms of reference for committees, deciding on their composition and making appointments to them;
  - appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
  - adopting an allowances scheme;
  - changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
  - making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
  - deciding which functions should be undertaken by the full Council rather than the Executive in matters where the Council has a choice as to this;
  - confirming the appointment of the Chief Executive, who is the head of paid service; and
  - making decisions about all other matters that by law must be reserved to the full Council.

### *Council meetings*

- 3.5 A Council meeting is classified as an ordinary meeting, an extraordinary meeting or the annual meeting, but they are all conducted in accordance with the Council's *Procedure Rules*. The Council will set its budget and council tax at a meeting held before 10 March each year.

### *Responsibility for functions*

- 3.6 The Council's arrangements for the discharge of functions are set out in the Council's *Delegation Scheme for Members and Officers*.

## **4. Chairing the full Council**

### *Roles and functions of the Mayor*

- 4.1 The Mayor and in his or her absence the Deputy Mayor have the roles and functions set out in article 4.2.
- 4.2 The Mayor is elected by the Council annually and performs a ceremonial role as the representative of the Council and its citizens as well as being responsible for –
- upholding and promoting the purposes of the Constitution, and interpreting the Constitution when necessary;
  - presiding over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
  - ensuring that the full Council meeting is a forum for the debate of matters of concern to local communities and the place at which councillors who are not members of the Cabinet are able to hold the Cabinet and individual Cabinet members and committee chairmen to account;
  - resolving any dispute on the interpretation of the Council's *Procedure Rules* and any Council proceedings;
  - promoting public involvement in the Council's activities; and
  - attending such civic and ceremonial functions that the Council and he or she consider appropriate.

### *First citizen*

- 4.3 The Mayor has precedence, that is to say he or she is the first citizen of the borough.

### *Promotion of the Council*

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

### *Ceremonial matters*

- 4.5 The Mayor and Deputy Mayor will carry out civic and ceremonial duties throughout their year of office as they consider appropriate and (following discussions with officers) necessary. In so doing they will uphold the dignity and honour bestowed upon them.

## 5. Decision-making

### *Responsibility for decision-making*

- 5.1 The Council will issue and keep up-to-date a record of which part of the Council, which individual member or which officer has responsibility for particular types of decisions or decisions relating to particular areas or functions.
- 5.2 The record is Part 9 of the Constitution – *Responsibility for Functions*.

### *Principles of decision-making*

- 5.3 All decisions of the Council will be made in accordance with certain immutable principles, which are –
- proportionality (that is to say, the action proposed must be proportionate to the desired outcome);
  - due consultation and the taking of professional advice from officers;
  - respect for human rights (see below for further details);
  - a presumption in favour of openness; and
  - clarity of aims and desired outcomes.

### *Decisions reserved to full Council*

- 5.4 Decisions relating to the functions listed in article 3.4 will be made by the full Council and not delegated.

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

- 5.5 When considering any matter, the Council meeting will follow, subject to article 5.9, the Council's *Procedure Rules*.

### *Decision-making by the executive*

- 5.6 When considering any matter, the executive will follow, subject to article 5.9, the *Executive Procedure Rules*.

### *Decision-making by overview and scrutiny committees*

- 5.7 When considering any matter, overview and scrutiny committees will follow the *Overview and Scrutiny Procedure Rules*.

### *Decision-making by other committees and sub-committees established by the Council*

- 5.8 When considering any matter, other Council committees and sub-committees will follow, subject to article 5.9, those parts of the Council's *Procedure Rules* that apply to them.

*Decision-making by Council bodies acting as tribunals*

- 5.9 In acting as a tribunal or in a quasi-judicial manner for either of the purposes specified in article 5.10, the Council, a councillor or an officer must 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
- 5.10 Other than for the purpose of giving advice, the specified purposes are the determination or consideration of civil rights and obligations or the criminal responsibility of any person.

## 6. Citizens' rights and the Council

### *Right to vote and sign petitions*

- 6.1 Citizens on the electoral roll for the borough have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution.
- 6.1A Any citizen may organise, sign and present a petition to the Council in accordance with the Council's Scheme for handling petitions.

### *Information*

- 6.2 Citizens have the right to -
- attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is, therefore, held in private;
  - attend meetings of the executive when key decisions (as defined in the *Executive Procedure Rules*) and other decisions are being considered, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
  - find out from the forward plan what key decisions will be taken by the executive and when;
  - see reports and background papers and any records of decisions made by the Council and the executive; and
  - inspect the Council's accounts and make their views known to the Council's external auditors.
  - such other information as may be specified in the Council's *Publication Scheme* under the Freedom of Information Act 2000.
  - make requests to the Council under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 for information not contained within the *Publication Scheme*.

### *Participation*

- 6.3 Citizens have the right to submit written questions to meetings of the Council and to attend and ask questions at meetings of the Cabinet and overview and scrutiny committees. They may also contribute to investigations undertaken by overview and scrutiny committees.

### *Complaints*

- 6.3 Citizens have the right to complain to -
- the Council itself under its complaints procedure;
  - the local government ombudsman;
  - the Council's Standards and Ethics Committee about a breach of the *Members' Code of Conduct*.
  - The Information Commissioner about a refusal by the Council to disclose information.

## **PART II THE EXECUTIVE, ETC.**

### **7. The Executive**

#### *Role*

- 7.1 The Council has adopted a “strong” Leader and Cabinet form of executive. The executive will carry out all of the Council’s functions that are not the responsibility of any other part of the Council, whether by law or under the Constitution.

#### *Form and composition*

- 7.2 The Cabinet will consist of the Council Leader together with up to nine councillors appointed to the Cabinet by the Leader.

#### *Leader*

- 7.3 The Leader will be a councillor elected to the position of Leader by the Council at its annual meeting for a term of four years, or until the day of the first annual meeting of the Council held after the expiry of their term of office as a councillor, if the latter is a shorter period. He or she will hold office until:

- he or she resigns from the office; or
- he or she is no longer a councillor; or
- he or she is removed from office by resolution of the Council, whereupon his or her term of office as leader shall end on the day of that Council meeting.

- 7.4 If any of the events in article 7.3 occurs, then the Council must elect a new leader either at the same meeting of the Council in which the event occurred or at the next following meeting of the Council after the event.

#### *Deputy Leader*

- 7.5 The Leader shall appoint one of the other members of the Cabinet to be his or her deputy.

- 7.6 The Deputy Leader shall hold office for the same term as the Leader unless –
- he or she resigns from the office
  - 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
  - he or she is no longer a councillor or
  - he or she is removed from office by decision of the Leader.



- 7.7 If the Leader removes the Deputy Leader from office he or she shall appoint another member of the Cabinet as Deputy Leader and shall immediately notify the Head of Democratic Services who will notify the other members of the Council as soon as reasonably practicable.
- 7.8 The Deputy Leader must act in place of the Leader if for any reason the Leader is unable to act or the office of Leader is vacant, until respectively the Leader is able to resume his or her duties or the Council appoints a new leader.
- 7.9 If for any reason the Leader and Deputy Leader are both unable to act or their offices are vacant, then the Cabinet shall act in the Leader's place or arrange for another member of the Cabinet to do so.

#### *Other Cabinet members*

- 7.10 Other Cabinet members will hold office until –
- they resign from office; or
  - 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
  - they are no longer councillors; or
  - they are removed from office, either individually or collectively, by decision of the Leader.
- 7.11 If the Leader removes a Cabinet member from office, or appoints a member of the Council as a Cabinet member, the Leader shall directly notify the Head of Democratic Services who will notify the other members of the Council as soon as reasonably practicable.

#### *Proceedings of the Cabinet*

- 7.12 Proceedings of the Cabinet will take place in accordance with the *Executive Procedure Rules* and the Council's *Procedure Rules*.

#### *Responsibility for functions*

- 7.13 The Cabinet shall have power to appoint a committee or committees to deal with such of its functions as it may determine or as may be determined by the Leader.
- 7.14 The Cabinet may establish a committee to deal with urgent executive matters arising during the month of August when the Council is in recess, but subject still to the *Executive Procedure Rules*, *Access to Information Rules* and *Council Procedure Rules* and *Financial and Procurement Procedure Rules* of the Council.
- 7.15 The Leader shall allocate Cabinet portfolios to the Cabinet members, which will be set out in the *Executive Procedure Rules* and *Responsibility for Functions*.

- 7.16 The Leader may discharge any executive functions himself or herself, and may arrange for them to be discharged by the Cabinet collectively, another member of the Cabinet, a committee of the Cabinet, an officer or by joint arrangements with another authority or authorities.
- 7.17 The responsibility for the discharge of executive functions will be set out in the *Responsibility for Functions*, which will be updated to include any changes made by the Leader.

#### *Advisors*

- 7.18 The Leader may appoint councillors to act as advisors to some or all of the Cabinet members. Such advisors are not part of the executive. Members of the Cabinet may consult their advisors before taking executive decisions but are not obliged to do so.

## 8. Overview and scrutiny committees

### *Terms of reference*

- 8.1 The Council will appoint the overview and scrutiny committees specified in the *Responsibility for Functions* to discharge between them the functions conferred by section 21 of the Local Government Act 2000, namely –
- to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive;
  - to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the executive;
  - to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;
  - to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the executive;
  - to make reports or recommendations to the Council or the Cabinet on matters which affect the borough or the inhabitants of the borough.

### *General role*

- 8.2 Within their terms of reference, the Overview and Scrutiny Management Board and overview and scrutiny select commissions will between them –
- review or scrutinise decisions or review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - make reports or recommendations to the full Council or the Cabinet (or both) and to a joint committee, area assembly or area assembly co-ordinating group in connection with the discharge of any of the Council's functions;
  - consider any matter affecting the borough or its inhabitants;
  - exercise in the case of the Overview and Scrutiny Management Board right to call-in for reconsideration decisions made but not yet implemented by the executive or an area assembly co-ordinating group (if applicable);
  - under the Council's scheme for handling petitions,
    - make reports or recommendations in response to petitions referred by the Council;
    - question senior officers in response to qualifying petitions holding officers to account;
    - review the Council's response to petitions upon request by the petition organiser.

- 8.2A The Overview and Scrutiny Management Board shall consider the plan of key decisions referred to in Rule 7 of the Executive Procedure Rules on a regular basis and shall identify decisions to be scrutinised and shall also meet prior to the each meeting of the Cabinet to consider what recommendations to make to the Cabinet to consider what recommendations to make to the Cabinet in respect of matters on the agenda for the Cabinet meeting.

*Policy development and review*

- 8.3 Overview and scrutiny select commissions may –
- assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
  - conduct research and consult with local communities and others, in the analysis of policy issues and possible options;
  - consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - question members of the Cabinet and committees and chief officers about their views on issues and proposals affecting the borough; and
  - liaise with other external organisations operating in the borough, whether national, regional or local, to ensure that the interests of local communities are enhanced by collaborative working.

*Scrutiny*

- 8.4 The Overview and Scrutiny Management Board and overview and scrutiny select commissions may between them –
- review and scrutinise the decisions made by, and performance of, the executive and committees and council officers both in relation to specific decisions and generally;
  - review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas;
  - question members of the Cabinet and committees and chief 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;
  - make recommendations to the Cabinet, the committees and the Council arising from the outcome of the scrutiny process;
  - review and scrutinise the performance of other public bodies (including health authorities) in the borough and invite reports from them by requesting them to address the particular overview and scrutiny committee and local people about their activities and performance;
  - scrutinise issues affecting the well-being of the population of the borough
  - question and gather evidence from any person (with their consent);
  - consider any requests submitted by a member of the Council under the councillor call for action procedure.

### *Finance*

- 8.5 The Overview and Scrutiny Management Board and overview and scrutiny select commissions may exercise overall responsibility for any finances made available to them.

### *Annual report*

- 8.6 The Overview and Scrutiny Management Board will report annually to the full Council on the operation of overview and scrutiny select commissions and make recommendations where appropriate for future work programmes and amended working methods.

### *Officers*

- 8.7 The Overview and Scrutiny Management Board and overview and scrutiny select commissions may exercise overall responsibility for the work programme of the officers employed to support their work.

### *Proceedings of overview and scrutiny committees*

- 8.8 Overview and scrutiny committees will conduct their proceedings in accordance with the *Overview and Scrutiny Procedure Rules*.

## **9. Audit Committee**

9.1 The Council has established an Audit Committee comprising five non-executive members of the Council. The Committee will be attended by a representative of the Council's external auditors as well as senior officers of the Council. The Committee's remit is –

- to consider all issues relating to audit matters, both internal and external;
- to monitor and review the effectiveness of risk management systems, including systems of internal control;
- to consider the preparation and monitoring of the internal audit plan;
- to consider summary reports of each internal audit and value for money study undertaken;
- to consider the external audit plan;
- to consider reports from the external auditor, including value for money, systems and final accounts audits;
- to review and monitor the performance of internal audit;
- to review and monitor the anti-fraud strategy and initiatives;
- to ensure the receipt of 'Best Value' from all audit resources;
- to review and monitor corporate governance matters in accordance with audit guidelines.

The Audit Committee will consider the external auditor's annual report on the Council's statement of accounts income and expenditure and will also consider the SAS 610 report from the external auditor. However, the external auditor's management letter will be presented to the full Council.

## **10. Regulatory boards and other committees**

- 10.1 The Council will appoint a Planning Board and a Licensing Board to discharge the planning and licensing functions which are the responsibility of those boards under the *Responsibility for Functions*.
- 10.2 The Council has established a separately constituted Liquor Licensing Committee. This Committee comprises fifteen members drawn from membership of the Licensing Board. The Committee will perform the functions described in the *Responsibility for Functions*.

## 11 The Council's Standards and Ethics Committee

### *Membership*

- 11.1 The Council's Standards and Ethics Committee will be composed of –
- eight Councillors other than the Mayor and Leader;
  - three members of town or parish councils within the Borough (parish members) to be appointed by the town and parish councils that have delegated their powers under Chapter 7 of the Localism Act 2011 to the Council; and
  - five persons who are not councillors or officers of the Council (independent members).

### *Independent members*

- 11.2 Independent members are not entitled to vote at meetings of the Council's Standards and Ethics Committee.

### *Parish members*

- 11.3 Town and parish council members are entitled to vote at meetings of the Standards and Ethics Committee.

### *Chairing the Committee*

- 11.4 The chair and vice-chair of the Committee shall be borough councillors.

### *Primary roles and functions*

- 11.5 The Council's Standards and Ethics Committee's primary roles and functions are –
- promoting and maintaining high standards of conduct by councillors and co-opted members;
  - assisting councillors and co-opted members to observe the *Members' Code of Conduct*;
  - advising the Council on the adoption or revision of the *Members' Code of Conduct*;
  - monitoring the operation of the *Members' Code of Conduct*;
  - advising, training or arranging to train councillors and co-opted members on matters relating to the *Members' Code of Conduct*;
  - granting dispensations to councillors and co-opted members from requirements relating to interests in the *Members' Code of Conduct in accordance with the Localism Act 2011 and the Council's previous delegation*;
  - for a Panel composed of not less than 3 and not more than 5 independent members to receive initial referrals from the Monitoring Officer and consider whether to recommend to the Standards and Ethics Committee that the matter should be investigated;



- for a Complaints Hearing Sub-Committee, formed from voting members of the Standards and Ethics Committee, to consider and determine allegations of breaches of the Code of Conduct that have not been locally resolved;
- to perform similar functions in respect of all town and parish councils within the Borough that have delegated their functions under Chapter 7 of the Localism Act 2011 to the Borough.

*Standards and Ethics Committee's additional roles*

11.6 The Standards and Ethics Committee additional roles include –

- preparing and reviewing protocols, local codes, advice and guidance;
- overview of the whistle-blowing policy (the *Confidential Reporting Code*);
- review of the application of *Council Procedure Rules* and *Financial & Procurement Procedure Rules*;
- consideration of any reports or investigation which casts doubt on the honesty and integrity of the Council and recommending action to the Council or Cabinet.

## PART III JOINT ARRANGEMENTS

### 12. Joint arrangements

#### *Arrangements to promote well-being*

- 12.1 In order to promote the economic, social or environmental well-being of the borough and its inhabitants, the Council or the Cabinet may –
- enter into arrangements or agreements with any person or body;
  - co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - exercise on behalf of that person or body any functions of that person or body.

#### *Joint arrangements with other councils*

- 12.2 The Council may establish joint arrangements with one or more councils or their executives (or both) to exercise non-executive functions in any of the participating authorities, or advise the Council.
- 12.3 The Cabinet may establish joint arrangements with one or more councils, or their executives, or both to exercise functions that are executive functions.
- 12.4 Joint arrangements may involve the appointment of joint committees with these other councils.
- 12.5 Where a joint committee is discharging executive functions the Cabinet may appoint executive members only to a joint committee and these members need not reflect the political composition of the Council as a whole.
- 12.6 The Council has entered into the following joint arrangements with the councils of Sheffield, Barnsley and Doncaster and created the following joint committees:-
- The South Yorkshire Archaeological Joint Committee
  - The South Yorkshire Archives Joint Committee
  - The South Yorkshire Trading Standards Joint Committee
  - The South Yorkshire Police and Crime Panel

#### *Access to information*

- 12.7 The *Access to Information Rules* apply to joint committees.
- 12.8 If all the members of a joint committee are members of the executive in each of the participating councils, the parts of the *Access to Information Rules* applicable to the executive apply to the joint committee.
- 12.9 If the joint committee contains members who are not on the executive of any participating council, the parts of the *Access to Information Rules* applicable to non-executive meetings apply to the joint committee.

### *Delegation to and from other councils*

- 12.10 The Council may delegate non-executive functions to another council or, in certain circumstances, the executive of another council.
- 12.11 The Cabinet may delegate executive functions to another council or, in certain circumstances, the executive of another council.
- 12.12 The decision whether or not to accept such a delegation from another council is reserved to the full Council in the case of a non-executive function and to the Leader in the case of an executive function.

### *Contracting out*

- 12.13 The Council (for functions which are not executive functions) or the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised –
- by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or
  - under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making beyond what may be permitted by any such order.

### *Strategic Partnerships*

- 12.14 The council may establish strategic partnerships with one or more public or private or voluntary organisations and may appoint members to any such strategic partnerships.

### *Rotherham Together Partnership (Local Strategic Partnership)*

- 12.15 The Council participates in the Rotherham Together Partnership on which local organisations and agencies are represented. The Council has a statutory responsibility to produce the Sustainable Community Strategy and does this in consultation with its partners on the board.
- 12.16 The board is a single non-statutory multi-agency body which matches the Council's boundaries and aims to bring together at a local level the different parts of the public, private, community and voluntary sectors. The role of the Rotherham Partnership Board includes ensuring that the strategies of all participating organisations are consistent with the wider Sustainable Community Strategy and objectives. The board's roles include:-
- setting aspirational targets;
  - overseeing performance management;
  - overcoming obstacles to performance.

These responsibilities are shared by all partners, but are a key part of the Council's responsibility as community leader.

### *Rotherham Children and Young Peoples Board*

12.17 Under the Children's Act 2004, the Council is under a duty to promote cooperation between itself, partners and certain other bodies with a view to improving the wellbeing of children within the Council's area. The Council, in conjunction with NHS Rotherham, the police, probation and voluntary sector has established the Rotherham Children's and Young People's Board, to ensure the effective development of partnership working and ensure that all Rotherham children and young people have the best life opportunities. It is the role of the People's Board to:

- agree the strategic policy framework for children and young people's services;
- raise standards and improve the quality and effectiveness of services;
- ensure cost effectiveness, including consideration of proposals for pooled budgets and lead commissioning.

## **PART IV OFFICERS' ROLES**

### **13 Officers**

#### *General*

13.1 The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The Council has established a Staffing Committee whose remit includes:

- conditions of service and remuneration of the Chief Executive and chief officers;
- employment policies and procedures;
- responses to consultations;
- responses to emergency staffing matters.

#### *Conduct*

13.2 Officers must comply with the *Code of Official Conduct*.

#### *Employment*

13.3 The recruitment, selection and dismissal of officers is in accordance with rules established by the Council for that purpose. Appointments of all staff except the Chief Executive and designated chief officers are made by officers

#### *Chief officers*

13.4 The Council through its Appointments Panel engages persons who are designated chief officers, including the chief officers responsible for the functions described in articles 14 (the Chief Executive's role), 15 (the monitoring officer's role) and 16 (the chief finance officer's role).

#### *Chief Executive*

##### *Designation of statutory posts*

13.5 The Council has designated the Chief Executive as the head of paid service, the Strategic Director of Finance and Customer Services as the chief finance officer and the Assistant Director of Legal Services as the monitoring officer.

##### *Duty to provide sufficient resources to chief finance officer and monitoring officer*

13.6 The Council will provide the Strategic Director of Finance and Customer Services and the Assistant Director of Legal Services with the officers, accommodation and other resources that are in their opinion sufficient to allow their duties to be performed.

## *Management Structure*

- 13.7 The Chief Executive will prepare and publicise a document called the *Management Structure* describing the overall departmental structure of the Council and showing the management structure and deployment of officers.

## **14. The Chief Executive's role**

### *Responsibilities*

- 14.1 The Chief Executive is the head of paid service and he or she is responsible for:–
- ensuring the overall corporate management and operation of the Council (including overall management responsibility for all Council officers);
  - providing professional advice to all parts of the Council in the decision-making process;
  - representing the Council on partnership and external bodies, as required by law or by the Council.

### *Discharge of council functions*

- 14.2 The Chief Executive may report to the full Council as necessary 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 those functions and the organisation of officers.

### *Restrictions on Chief Executive's role*

- 14.3 The Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 15. The Monitoring Officer's role

### *Maintaining the Constitution*

- 15.1 The Assistant Director of Legal Services will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

### *Unlawful decisions or maladministration*

- 15.2 After consulting with the Chief Executive and the Strategic Director of Finance and Customer Services, the Assistant Director of Legal Services will report to the full Council or to the Cabinet (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.
- 15.3 A report submitted to the full Council or to the Cabinet by the Assistant Director of Legal Services under article 15 (2) will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### *Supporting the Council's Standards and Ethics Committee*

- 15.4 The Assistant Director of Legal Services will contribute to the promotion and maintenance of high standards of conduct by providing support to the Council's Standards and Ethics Committee.

### *Conducting investigations or taking other action*

- 15.5 The Assistant Director of Legal Services will conduct investigations into matters referred by the Standards and Ethics Committee or take other action as may be directed by the Committee following allegations that members are in breach of the Council's Code of Conduct and make reports or recommendations in respect of them to the Standards and Ethics Committee.

### *Register of Members' Interests*

- 15.6 The Assistant Director of Legal Services will maintain the *Register of Members' Interests* which members and co-opted members are required to complete under the terms of the Council's *Code of Conduct for Members and Co-opted Members*. The register is available for public inspection at the Council's offices at Riverside House, Main Street, Rotherham S60 1AE and on the Council's website.

### *Proper officer for access to information*

- 15.7 The Assistant Director of Legal Services will 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.



*Contributing to corporate management*

- 15.8 The Assistant Director of Legal Services will contribute to the corporate management of the Council, in particular through the provision of professional, legal and constitutional advice and advising whether decisions of the executive are in accordance with the budget and policy framework.

*Providing advice*

- 15.9 The Assistant Director of Legal Services will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the budget and policy framework, and will support and advise councillors and officers in their respective roles.

*Legal proceedings*

- 15.10 The Assistant Director of Legal Services is authorised to institute and defend matters on behalf of the Council in respect of legal proceedings in any court or tribunal.

*Restrictions on posts*

- 15.11 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## **16. The Chief Finance Officer's role**

### *Ensuring lawfulness and financial prudence of decision-making*

- 16.1 After consulting with the Chief Executive and the Assistant Director of Legal Services, the Strategic Director of Finance and Customer Services will report to the full Council or to the executive (in relation to an executive function) and the District Auditor if he considers that any proposal, decision or course of action –
- will involve incurring unlawful expenditure;
  - is unlawful and is likely to cause a loss or deficiency;
  - will result in the Council entering an item of account unlawfully.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### *Administration of financial affairs*

- 16.2 The Strategic Director of Finance and Customer Services will have responsibility for the administration of the financial affairs of the Council.
- 16.3 The Strategic Director of Finance and Customer Services will advise the Cabinet in making its proposals for the budget and the Council upon setting the budget, including advice as to the level of reserves and balances that should be maintained by the Council. He will also advise on the establishment and use of reserves.

### *Contributing to corporate management*

- 16.4 The Strategic Director of Finance and Customer Services will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### *Providing advice*

- 16.5 The Strategic Director of Finance and Customer Services will provide advice to all councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the budget and policy framework, and will support and advise councillors and officers in their respective roles.

### *Provision of financial information*

- 16.6 The Strategic Director of Finance and Customer Services will provide financial information to the media, members of the public and the community.

**PART V  
MISCELLANEOUS**

**17. Finance, contracts and legal matters**

- 17.1 The Council's *Financial and Procurement Procedure Rules* govern the financial management of the Council, the financial management, the making of contracts, financial regulations and the use of the Common Seal of the Council.

## **18. Review and revision of the Constitution**

### *Duty to monitor and review the constitution*

- 18.1 The Chief Executive, the Assistant Director of Legal Services and the Strategic Director of Finance and Customer Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### *Protocol for monitoring and review of the Constitution*

- 18.2 In reviewing the operation of the Constitution, the Chief Executive, the Assistant Director of Legal Services and the Strategic Director of Finance and Customer Services may -
- observe meetings of different parts of the member and officer structure;
  - undertake an audit trail of a sample of decisions;
  - record and analyse issues raised with them by members, officers, the public and other relevant stakeholders; and compare Council practices with national examples of best practice or with the practices of other comparable authorities.

### *Changes to the Constitution*

- 18.3 The full Council will only approve changes to the Constitution after considering proposals from the Chief Executive, the Assistant Director of Legal Services and the Strategic Director of Finance and Customer Services. However, the Assistant Director of Legal Services may make clerical amendments to the Constitution to reflect any changes in legislation or changes in the title and responsibilities of Council officers or bodies without need for reference to the Council.
- 18.4 The Council must take reasonable steps to consult with local electors and other interested persons in the borough when drawing up proposals to change from a leader and cabinet form of executive, to an elected Mayor and Cabinet form of executive or vice versa.

## **19. Suspension and publication of the Constitution**

### *Limit to suspension*

19.1 The articles of the Constitution may not be suspended.

### *Publication*

19.2 The Chief Executive will give a printed copy of the Constitution to each member of the Council upon delivery to him of that person's declaration of acceptance of office on the member first being elected to the Council.

19.3 The Head of Democratic Services will ensure that copies of the Constitution are available for inspection at council offices, libraries and other appropriate locations, including the internet, and can be purchased by members of the local press and the public on payment of a reasonable fee.

19.4 The Head of Democratic Services will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.