

PART 2 ARTICLES OF THE CONSTITUTION

Article 1 – The Constitutional Framework

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution is the Constitution of Stroud District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents 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 is appointed to scrutinise a decision in which they were 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 continuously improving the delivery of services to the community and achieving Best Value;
- (i) ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above, and which ensures that the highest standards of probity and ethics are met.

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

Article 2 – Members of The Council

2.1 Composition and eligibility

Composition. The Council will comprise 51 Members (otherwise called Councillors). One or more Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

Eligibility. Only registered voters of the District of Stroud or those living or working or holding property there are eligible to hold the office of Councillor. Certain Council employees and others are prohibited from holding such office.

2.2 Election and terms of office for Councillors

Elections for one third of the Council will be held each year. The elections will be held on the first Thursday in May in each year except those years when there are County Council elections.

The terms of office of Councillors will normally 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.

2.3 Roles and functions of all Councillors

(a) Key roles.

All Councillors will: -

- (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, acting as advocates for their communities;
- (iii) deal with individual case-work and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within their wards and represent the ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics;
- (viii) take part in member development and training.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information, which is confidential or exempt, without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) Ward Members have additional rights to information regarding activities in their Ward as covered in the Access to Information Rules in Part 4 of the Constitution.

(iv) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

(c) **Councillor Call for Action (CCfA)**

Councillors, can, if they so wish, make use of the Councillor Call for Action powers in accordance with the attached protocol (Annexe A).

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the protocol on Member/Officer Relations set out in Part 5 of this Constitution and comply with any reasonable request of the Council's Standards Committee.

2.5 Allowances

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

Article 3 – Citizens and the Council

3.1 Citizens' rights

Citizens 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.**

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

No more than one such referendum can, however, be held in any five year period.

(b) **Information.**

Citizens have the right to:

- (i) attend meetings of the Council, Cabinet and Committees except where confidential or exempt information is likely to be disclosed, in which case the meeting would be held in private;
- (ii) find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers, except in the circumstances where those reports contain exempt information, and any records of decisions made by the Council and the Cabinet;
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation.**

Citizens have the right to ask relevant questions at Council meetings and when invited, to assist investigations by the Overview and Scrutiny Committees.

(d) **Complaints.**

Citizens 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 Committee about an alleged breach of the Members' Code of Conduct.

3.2 Citizens' responsibilities

Citizens are expected to behave in a manner that contributes to the well being of the District.

Violent, abusive or threatening behaviour to Councillors or officers or their families is not acceptable and citizens must not wilfully damage things owned by the Council, Councillors or officers.

Citizens are required to register to vote and actively encouraged to exercise their vote, as part of their commitment to citizenship and local democracy.

Article 4 – The Full Council

4.1 Functions of the full Council

The Council will have sole responsibility for the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, the Budget and setting the Council Tax,
- (c) any application to the Secretary of State in respect of any Housing Land Transfer;
- (d) decisions not consistent with Policy and Budget framework, unless they have been taken as a matter of urgency by the Executive under the Procedure Rules set out in Part 4 of the Constitution;
- (e) Electing the Leader and receiving notification of appointments by the Leader to the Cabinet.
- (f) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.5;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council has decided should be undertaken by itself rather than the Cabinet;
- (l) all other matters which by law must be reserved to Council.

4.2 Council meetings

There are four types of Council meeting:

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

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

4.3 Policy and Budget Framework

The Policy & Budget Framework comprises:

- (a) the following plans and strategies which are a statutory requirement:
 - (i) Best Value Performance Plan;
 - (ii) Sustainable Community Strategy;

- (iii) Crime & Disorder Reduction Strategy;
 - (iv) Local Plan;
 - (v) Procurement Strategy;
 - (vi) Capital Strategy,
 - (vii) Equality Scheme.
- (b) The following plans and strategies are those recommended in Government Guidance:
- (i) Asset Management Plan;
 - (ii) Integrated Electronic Government Statement;
 - (iii) Food Law Enforcement Plan;
 - (iv) Housing Strategy and Investment Programme;
 - (v) Treasury Management Strategy.
- (c) Other plans and strategies which the Cabinet may recommend the Council to adopt. These include the Corporate Delivery Plan and supporting strategies, the Local Strategic Partnership, the Human Resources Strategy, the Regeneration and Cultural Strategy and the Environment Strategy.
- (d) 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.
- (e) Housing land transfer.

Article 5 – Chairing the Council

5.1 Appointment of Chair of Council

The Chair of Council shall be chosen by the Council each year at its annual meeting in May.

5.2 Role and function of the Chair of Council business

The Chair of Council will have the following responsibilities:

- (a) 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;
- (b) to ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (c) to carry out such civic duties as are appropriate as Chair of Council and to act as ambassador for the Council.

5.3 Chair of Council

The Chair of Council shall **not** be a member of the Executive.

Article 6 – The Executive

The Executive is generally known as ‘the Cabinet’

6.1 Role

The Cabinet will 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.

6.2 Form and composition

The Cabinet will consist of the Leader together with up to 9 Councillors (to include a nominated Deputy) proposed by the Leader and approved by the Council.

6.3 Leader

The Leader will be a Councillor elected to that position by the Council. The Leader will hold office until:

- (a) s/he resigns from the office; or
- (b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- (c) s/he is no longer a Councillor; or
- (d) a new Leader is appointed by the Council.

6.4 Other Cabinet members

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 by the Leader who must give written notice of any removal to the proper officer and may then appoint a replacement for confirmation by Council.

6.5 Proceedings of the Cabinet

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

Article 7 – Overview and Scrutiny Committees

7.1 Overall terms of reference

The Council will appoint 2 Overview and Scrutiny Committees to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations. These will be:

- Strategic Overview and Scrutiny Committee
- Performance Overview and Scrutiny Committee

7.2 General Role

- (i) Within their terms of reference, Scrutiny Committees will
 - (a) review and scrutinise decisions made and actions taken in connection with the discharge of any of the Council's functions;
 - (b) make recommendations or requests to the full Council and/or Cabinet in respect of the discharge of any functions;
 - (c) exercise the right to call in, as set out in paragraph 7 of the Scrutiny Procedure Rules;
 - (d) examine whether the Council is meeting its objectives set through the budget and policies and, if this is not so, suggest ways in which the Council may achieve this;
 - (e) carry out scrutiny on any matter affecting the District or its inhabitants, and recommend accordingly;
 - (f) promote open and transparent decision making and democratic accountability;
 - (g) promote best practice and innovation with the services, functions and policies for which the Council has responsibility or over which it exerts influence;
 - (h) focus attention on performance issues and strategic matters that are of concern to the people of the Stroud District.

- (ii) Scrutiny Committees will not consider or scrutinise:
 - (a) any quasi-judicial decision which is the responsibility of the Development Control Committee or the Licensing and Regulation Committee, unless either the period for legal challenge has expired or such challenge has been finally determined; or
 - (b) any matter relating to standards of behaviour, conduct, ethics or probity, directly or indirectly involving any Member or officer of the Council.

Cabinet Members and Officers are strongly expected to comply with any request for attendance at any Overview and Scrutiny Committee meeting.

7.3 Specific Terms of Reference

Strategic Overview and Scrutiny Committee

- i. To call in for review any resolution passed by the Cabinet which the Chair or Vice-Chair, or five Members of the Committee consider relevant to the activities of the Committee.
- ii. To undertake reviews and topics of enquiry of a broad strategic nature that reflects the concerns of the public, Council members and the Council as a whole.
- iii. To identify and review matters that are likely to be of public interest and to respond to the needs of the local community by engaging with the Public, Parish Councils, Ward Councillors and other Community Bodies.
- iv. To promote the scope and work of the Committee in a way that will encourage both Council and public involvement.
- v. To measure annually the effectiveness of the Committee and its value to the work of the Council in light of what has been achieved and the measurable outcomes.
- vi. To undertake the Council's functions in respect of the Councillor Call for Action protocol as set out in Article 2 of the Constitution.

Performance Overview and Scrutiny Committee

- i. To call in for review any resolution passed by the Cabinet which the Chair or Vice-Chair, or five Members of the Committee consider relevant to the activities of the Committee.
- ii. To consider the budget proposals of the Cabinet.
- iii. To focus on all aspects of Performance Management, including delivery of the Corporate Delivery Plan and the Forward Plan.
- iv. To focus on the arrangements for preventing and detecting fraud and corruption.
- v. To oversee service reviews; monitor and validate both the process and the outcomes and provide challenge where appropriate.
- vi. To measure annually the effectiveness of the committee and its value to the work of the Council in light of what has been achieved and the measurable

outcomes.

- vii. To focus on the authority's arrangements with regard to procurement.
- viii. To consider the effectiveness of the authority's risk management arrangements in accordance with CIPFA guidelines and to seek assurances that action is being taken on risk related issues.

7.4 Whipping

The Whip will not apply from any of the political groups on their respective members of the Committees while they are taking part in scrutiny business. No political meetings of Scrutiny Committee members shall take place. Each political group shall present to the Chief Executive at the start of each civic year a statement that demonstrates the necessary freedom of its members from the whipping process on these Committees.

Each member of the Committee will act in accord with protocols and guidance that the Council may determine.

7.5 Co-ordination of Scrutiny Committees

The Chairs and Vice-Chairs of the Scrutiny Committees and the Chief Executive will meet as necessary to ensure the work of the Committees is co-ordinated and that there is no duplication or overlap.

7.6 General Operation

The Committees will work to a programme that they agree each year, based on priorities, time available and resources, but with the opportunity to include items during the year as the need arises. The committees will monitor their programmes and make adjustments as and when necessary.

The Strategic Overview and Performance and Audit Overview and Scrutiny Committees will construct mechanisms to improve the ways in which cross cutting issues are handled by both Committees.

7.7 Scrutiny Process

The Scrutiny Committees will put in place measures and processes that facilitate public engagement. These may include the involvement of 'expert witnesses', outside agencies and any other appropriate measures which will bring about a satisfactory outcome to Inquiries.

7.8 Member Training

Each Member serving on a Scrutiny Committee will be strongly expected to undertake development activities in relation to the scrutiny function.

Article 8 – Audit Committee

8.1 Terms of Reference

- To consider the internal Audit Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- To consider summaries of specific internal audit reports as requested.
- To consider reports dealing with the management and performance of the providers of internal audit services.
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To liaise with the Audit Commission over the appointment of the Council's external auditor.
- To commission work from internal and external audit.

8.2 Regulatory Framework

- To maintain an overview of the Council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- To review any issue referred to it by the Chief Executive or a Strategic Team officer, or any Council body.
- To monitor the effective development and operation of risk management and corporate governance in the Council.
- To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process.
- To oversee the production of the Authority's Statement on Internal Control and to recommend its adoption.
- To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- To consider the Council's compliance with its own and other published standards and controls.

8.3 Accounts

- To review the annual statement of accounts. Specifically, to consider whether

appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

8.4 Whipping

The Whip will not apply from any of the political groups on their respective Members of the Committee while they are taking part in audit business. No political meetings of Audit Committee Members shall take place. Each political group shall present to the Chief Executive at the start of each civic year a statement that demonstrates the necessary freedom of its Members from the whipping process on this Committee.

Each Member of the Committee will act in accord with protocols and guidance that the Council may determine.

8.5 General Operation

The Committee will work to a programme that they agree each year, based on statutory timescales, priorities, time available and resources, but with the opportunity to include items during the year as the need arises. The Committee will monitor their programmes and make adjustments as and when necessary.

8.6 Member Training

Each Member serving on the Audit Committee will be required to undertake development activities in relation to the audit function.

Article 9 – Licensing and Regulation Committee

9.1 Terms of Reference

The Council will appoint a Licensing and Regulation Committee with the responsibility for discharging the following functions:

- (a) To undertake the functions of a licensing committee under the Licensing Act 2003 and the Gambling Act 2005, and any Regulations made thereunder.
- (b) The responsibility for all general licensing matters including the power to hear and determine on behalf of the Council, any appeal by any person aggrieved by a decision of the Council where the initial right of appeal is to the Council.
- (c) To hear and determine matters, excluding those dealt with by the Development Control Committee, where it is proposed:
 - (i) to take action that will alter the terms of or revoke any permission or licence previously granted by the Council;
 - (ii) to refuse an application for a licence made to the Council in any case where there has been no objection from any consultee;
- (d) To hear and determine, within the policy approved by the Council, all applications for and relating to Sex Establishments.
- (e) To hear and determine new applications and renewals for gaming permits (amusement with prizes machines), and other licences and permits, in the following cases:-
 - (i) in the case of a gaming permit, if the application is for three or more machines; or
 - (ii) if, in the officers' view, there is already adequate provision of such facilities in the area; or
 - (iii) in the case of other licences and permits where (b)(i) or (b)(ii) applies;
 - (iv) Where applications or renewals for gaming permits (amusement with prizes machines) relate to applications under 'grandfather rights' for a premises licence and variations thereto and no representations are received in respect of that application such determination will be delegated to the Council's licensing officer.
 - (v) Where new applications or renewals for gaming permits (amusement with prizes machines) relate to applications for up to two machines in total per premises in circumstances other than above, determination of that application will continue to be delegated to officers.
- (f) To hear and determine any application where its nature requires that the applicant be given the opportunity to be heard before the Council

makes a decision and where any appeal is to a body other than the Council.

9.2 **Whipping**

The Whip will not apply from any of the political groups on their respective Members of the Committee while they are taking part in its business. No political meetings of Licensing and Regulation Committee Members shall take place. Each political group shall present to the Chief Executive at the start of each civic year a statement that demonstrates the necessary freedom of its Members from the whipping process on this Committee.

Each Member of the Committee will act in accord with protocols and guidance that the Council may determine.

9.3 **Member Training**

Each Member serving on the Licensing and Regulation Committee will be required to undertake development activities in relation to the licensing and regulation functions. Any Member not undertaking these development activities will be unable to serve on the Licensing and Regulation Committee.

Article 10 – Development Control Committee

10.1 Terms of Reference

The Council will appoint a Development Control Committee with the responsibility for discharging the following functions:

- (a) Statutory development and planning control
- (b) Statutory Building Control
- (c) All matters relating to public rights of way, traffic orders, street lighting, street naming and numbering and dangerous land (as defined in the Highways Act 1980)
- (d) Consideration and report on such matters as are referred to the Committee by Council and/or the Cabinet.

10.2 Whipping

The whip will not apply from any of the political groups on their respective Members of the Committee while they are taking part in its business. Each political group shall present to the Chief Executive at the start of each civic year a statement that demonstrates the necessary freedom of its Members from the whipping process on this Committee.

Each Member of the Committee will act in accord with protocols and guidance that the Council may determine.

10.3 Local Code of Conduct for Councillors and Officers

All Members and officers involved in the Development Control Committee and the planning process will have due regard to, and abide by, the Local Code of Conduct adopted on 20 April 2000 (amended in December 2001) and contained in Part 5.

10.4 Member Training

Each Member of the Development Control Committee will be required to undertake appropriate training in relation to the development control function. Any Member not undertaking these training activities will be unable to serve on the Development Control Committee.

Article 11 - Standards Committee

11.1 Composition

The Council will appoint a Standards Committee comprising a maximum of four Independent Members, two District Councillors and two Parish Councillors.

11.2 Terms of Reference

- (a) To undertake the functions of a Standards Committee as set out in the Local Government Act 2000 and the Local Government and Public Involvement in health Act 2007
- (b) To consider and determine complaints made to the Council alleging breaches of the Mandatory Code of Member Conduct in respect of both District Councillors and Town/Parish Councillors in the area of Stroud District Council.
- (c) To process the initial sifting of complaints either through a Sub-Committee or through joint arrangements with other Gloucestershire Principal Councils.
- (d) To refer to the Standards Board for England such complaints as exceptionally the Committee may consider should be dealt with by the Standards Board.
- (e) To refer to the Adjudication Panel any case where the Standards Committee considers that the sanction available to it is inadequate.
- (f) To appoint such Sub-Committees as may be appropriate to deal with complaints alleging breaches of the mandatory Code of Member Conduct.
- (g) To formulate and to recommend to the Council local protocols governing the Council's internal and external conduct, including the Whistle Blowing Policy.
- (h) To recommend to the Council such changes to the Council's procedure rules (including procedure rules in relation to contracts) as relate to the Committee's terms of reference and to have general oversight of the Council's Constitution.
- (i) To give advice and guidance to Members on Members' interests and the receipt and recording of gifts and hospitality.
- (j) To grant dispensations to Councillors and co-opted Members in accordance with the relevant regulations from requirements relating to interests set out in the Members' Code of Conduct.
- (k) To receive and act on reports from:
 - Case Tribunals of the Adjudication Panel
 - Ethical Standards Officers
 - The Monitoring Officer.
- (l) To have oversight of complaints handling and Ombudsman investigations.

- (m) To liaise with external agencies, in particular the Local Government Ombudsman and the District Auditor, in connection with any matter within the Committee's terms of reference.
- (n) To undertake all the above roles in relation to the Town and Parish Councils in the Stroud District and the Members of those Councils.

Article 12 – Chief Executive and Chief Officers’ Terms and Conditions of Service Panel

12.1 Terms of Reference

The Council will appoint a Chief Executive and Chief Officers’ Terms and Conditions of Service Panel with the responsibility for discharging the following functions:

- (a) To recommend to Council the appointment, dismissal or retirement of the Chief Executive (Head of Paid Service)
- (b) To vary the terms and conditions of employment of the Head of Paid Service
- (c) To appoint Chief Officers

Article 13 - Joint Arrangements

13.1 Arrangements to promote well-being

The Council or the Cabinet, 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) exercise on behalf of that person or body any functions of that person or body.

13.2 Joint arrangements

The Council will make arrangements, as necessary, with one or more local authorities to carry out such functions as it considers appropriate. These arrangements may involve the appointment of a Joint Committee.

The Cabinet, as defined in Article 6, will make joint arrangements, as necessary, to carry out functions for which it is responsible. These arrangements may involve the appointment of a Joint Committee.

13.3 Appointments to a Joint Committee

The Cabinet may appoint non-Cabinet Members to a Joint Committee provided:

- (a) the Joint Committee has functions for only part of the area of the Authority;
- (b) that area is smaller than two-fifths of the Authority by area or population;

In all other cases, the Cabinet must appoint a Cabinet Member to a Joint Committee.

13.4 Information on Joint Arrangements

Details of any Joint Arrangements, including any delegations to Joint Committees, are set out in the Council's Scheme of Delegation.

13.5 Delegation to and from other local authorities

The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

13.6 Contracting out

Provided there is no delegation of the Council's discretionary decision making, the Cabinet may contract out to another body or organisation functions:

- (a) 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
- (b) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

Article 14 – Staff

14.1 Management structure

- (a) **General.** The full Council may engage such staff as it considers necessary to carry out its functions;
- (b) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council has designated the following statutory posts as shown:

Designation	Post
Head of Paid Service	Chief Executive
Monitoring Officer	Head of Legal Services
Chief Financial Officer	Head of Finance

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

- (c) **Structure.** The Head of Paid Service will determine and publicise a description of the overall staff structure of the Council and amend it as necessary. This is set out at Section 7 of this Constitution.

14.2 Functions of the Head of Paid Service

The core role of the Head of Paid Service is:-

- (a) To have overall responsibility as policy adviser;
- (b) To have overall corporate management and operational responsibility (including overall management responsibility for all staff);
- (c) To provide professional advice to all parties in the decision making process (Cabinet, Overview and Scrutiny, Full Council and other Committees);
- (d) Together with the Monitoring Officer, to be responsible for a system of record keeping for all the local authority's decisions (Cabinet or otherwise);
- (e) To represent the Council on partnership and external bodies (as required by statute or the local authority).

The Head of Paid Service will have responsibility for;

Discharge of functions by the Council. The Head of Paid Service will report to full Council on how the Council's functions are co-ordinated, and the organisation of staff required for these functions.

14.3 Functions of the Monitoring Officer

The Monitoring Officer will have responsibility for:

- (a) **Maintaining the Constitution.** Ensuring an up-to-date version of the Constitution is widely available for consultation by Members, staff and the public, and available on the Council's intranet and website;
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in

relation to a Cabinet function, if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;

- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support and training to the Standards Committee;
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals;
- (e) **Conducting investigations.** To conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee;
- (f) **Proper officer for access to information.** To ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- (g) **Advising whether Cabinet decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework;
- (h) **Providing advice.** To 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;
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Head of Paid Service or Chief Financial Officer.

14.4 Functions of the Chief Financial Officer

The Chief Financial Officer will have responsibility for:

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council, or to the Cabinet in relation to an Executive function, and the Council's external auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully;
- (b) **Administration of financial affairs.** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council;
- (c) **Contributing to corporate management.** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice;
- (d) **Providing advice.** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy

framework issues to all Councillors and will support and advise Councillors and officers in their respective roles;

- (e) **Give financial information.** The Chief Financial Officer will provide financial information to the media, members of the public and the community.

14.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer

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

14.6 Conduct

Staff will comply with the Staff Code of Conduct and the Protocol on Member/officer relations set out in Part 5 of this Constitution.

14.7 Employment

The recruitment, selection and dismissal of staff will comply with the Staff Employment Rules set out in Part 5 of this Constitution.

14.8 Politically Restricted Posts

A number of posts have been designated by the Council as being politically restricted for the purposes of Part 1 of the Local Government and Housing Act 1989. Personal political activity is restricted in accordance with the Local Government Officers (Political Restrictions) Regulations 1990 and those regulations are deemed to be incorporated into the terms and conditions of the contract of employment of the post holders. A list of such posts is kept and maintained by the Head of Human Resources.

Article 15 – Decision Making

15.1 Responsibility for decision making

The Council will issue and keep up to date a record of which individual or part of the Council 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.

15.2 Principles of decision making

All decisions of the Council, the Cabinet and officers will be made in accordance with the following principles:

- (a) the action must be proportionate to the desired outcome;
- (b) after due consultation and the taking of professional advice from officers;
- (c) with respect for human rights;
- (d) with a presumption in favour of openness;
- (e) with clarity of aims and desired outcomes;
- (f) after due consideration of all objections and
- (g) after explaining what options were considered and giving the reasons for the decision.

15.3 Decision making by the full Council

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

15.4 Decision making by the Cabinet

Subject to Article 6, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

15.5 Decision making by individual Cabinet Members

Subject to Article 6, the individual Cabinet Members taking decisions in accordance with their terms of reference as set out in part 3 – Responsibilities for Functions will follow the Executive Procedure Rules set out in Part 4 of this Constitution.

15.6 Recommendations of the Overview and Scrutiny Committees

Subject to Article 7, the Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

15.7 Decision making by other Committees and Sub-Committees established by the Council

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

15.8 Decision making by Council bodies acting as tribunals

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

15.9 Types Of Decision

(a) Decisions reserved to full Council

Decisions relating to the functions listed in Article 4 will be made by the full Council and will not be delegated.

(b) Key Decisions

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 state that a key decision means a Cabinet decision which, is likely:

- (i) to result in the local authority incurring expenditure or making savings that are significant, having regard to the local authority's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority

subject to any guidance issued by the Secretary of State in relation to the meaning of 'significant'.

By way of defining 'significant' for the Council's purposes a key decision is:

- any Executive decision which requires a budget expenditure or saving of £10,000 or more that is not in the budget presented to Council;
- any Executive decision to vire £50,000 or more in the budget presented to Council;
- any Executive decision where the outcome will have a significant impact on a significant number of people living or working in an area comprising two or more District Wards.

A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules.

Article 16 – Finance, Contracts and Legal Matters

16.1 Financial management

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

16.2 Contracts

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

16.3 Legal proceedings

The Head of Legal 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 Head of Legal Services considers that such action is necessary to protect the Council's interests and he is satisfied as to the available evidence.

16.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or any other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

16.5 Common Seal of the Council

The common seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which, in the opinion of the Head of Legal Services, should be sealed. The affixing of the common seal must be attested by the Head of Legal Services or in his absence by a Principal Solicitor.

Article 17 – Review and Revision of the Constitution

17.1 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of Constitution by Monitoring Officer

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

In undertaking this task the Monitoring Officer may:

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

17.2 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the comments from the Monitoring Officer, except that routine changes to keep the Constitution up to date may be made by the Monitoring Officer.
- (b) **Change from a Leader and Cabinet form of executive to alternative arrangements or vice versa.**

Ensure that the Council takes reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 18 – Suspension, Interpretation and Publication of the Constitution

18.1 Suspension of the Constitution

The Articles of this Constitution may not be suspended, except in accordance with the Council's Procedure Rules.

18.2 Interpretation

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

18.3 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each Member of the authority upon delivery to him of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Council offices, Council website (www.stroud.gov.uk), 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 will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

PROTOCOL FOR COUNCILLOR CALL FOR ACTION

1 Introduction

The Local Government and Public Involvement in Health Act 2007 introduced the Councillor Call for Action from 1 April 2009. This protocol sets out how elected members of Stroud District Council can make use of this new power.

2 What is a Councillor Call for Action?

- 2.1 The prime aim of the Councillor Call for Action (CCfA) is to support elected members in achieving improvements for their local areas. In their day to day roles councillors identify issues of significant concern to their communities. They seek to resolve problems by talking to the Council and other service providers. If they cannot resolve a particular issue they are now able to refer it to an overview and scrutiny committee for further investigation.
- 2.2 The new legislation extends overview and scrutiny powers so that any member of the council (and not just a member of the relevant committee) can refer matters to an overview and scrutiny committee. The Strategic Overview and Scrutiny Committee will exercise these functions. The matters that can be referred may include those that the Council and its partners are delivering through the local area agreement.
- 2.3 The Police and Justice Act 2006 makes provision for a CCfA for crime and disorder and community safety issues. In practice, referrals made relating to these issues should be dealt with in the same way as other CCfAs.

3 Outline of the process

- a) Councillor resolves the issue at a local level.
- b) If this is not possible, the councillor refers the issue to the Chief Executive who will send it to the Chair and Vice Chair of the Strategic Overview and Scrutiny Committee.
- c) Relevant members, partners and officers agree how the CCfA is to be handled.
- d) The CCfA is considered at the next scheduled meeting of the Overview and Scrutiny Committee unless the Chair accepts that the matter needs to be considered urgently, in which case a special meeting of the Committee will be arranged.
- e) The Overview and Scrutiny Committee agrees a resolution for the CCfA.

Each of these areas is discussed in more detail as follows.

4 Activity to resolve issue

- 4.1 Before referring a matter to the Strategic Overview and Scrutiny Committee it is important that councillors make use of existing mechanisms. The emphasis is on

Councillors resolving issues at an early stage by making use of existing local mechanisms.

- 4.2 Councillors will need to be able to demonstrate that they have taken reasonable steps to resolve the matter. Appendix 1 provides some guidance on the sorts of activity that it is expected that a councillor will have undertaken before making a request to the Strategic Overview and Scrutiny Committee.

5 Referral to overview and scrutiny

- 5.1 If the councillor is unable to resolve the matter, then they will be able to refer the matter to the Strategic Overview and Scrutiny Committee.
- 5.2 Councillors will be expected to exercise some judgment over what is referred to the Committee. Issues that should be referred are those which have wider policy or strategic implications, are indicative of a broader issue or are particularly problematic.
- 5.3 If a Councillor is satisfied that they have a viable CCfA, they should complete the form included at appendix 2. This formal notification should be sent to the Chief Executive.
- 5.4 The Chair and Vice Chair of the Strategic Overview and Scrutiny Committee will consider the request and inform the Councillor whether they accept the CCfA. In the event of disagreement, the matter will be referred to the Committee.
- 5.5 Reasons the Chair and Vice Chair may not agree to take the CCfA forward to the Committee could include:
- Insufficient information has been provided
 - More could be done to resolve the issue at a local level
 - The CCfA is, or has stemmed from, a vexatious complaint
 - The matter has recently been examined by overview and scrutiny
 - The matter is the subject of an ombudsman complaint or other official complaints procedure.
 - The matter falls under excluded matters. For example: planning and licensing appeals.
- 5.6 The Councillor has the opportunity to reply to the Chair and Vice Chair with further information to substantiate the CCfA.
- 5.7 If the CCfA is accepted, the relevant Cabinet Members, senior officers and partners will be notified by the Chief Executive.

6 Determining how each CCfA is to be handled

- 6.1 To allow the Chair and Vice Chair of the Strategic Overview and Scrutiny Committee to make an informed decision, it is suggested that they hold a meeting with the relevant Councillor to agree how the CCfA is to be handled. This meeting would be an opportunity for them to agree the key questions to be answered, the

information required, who needs to be involved and the timescale.

- 6.2 Relevant partners, Cabinet Members and senior officers should be involved in the CCfA at an early stage. It is necessary to get a balance between involvement to resolve issues at the earliest opportunity and not involving people unnecessarily.
- 6.3 It is also a critical part of the process in making sure that councillors are fully aware of the roles, responsibilities and priorities of the organisations concerned. This should help to ensure that neither the public nor Councillors have unrealistic expectations of what can be achieved.

7 Role of the Strategic Overview and Scrutiny Committee

- 7.1 The Strategic Overview and Scrutiny Committee will hear from relevant witnesses, including the Councillor submitting the CCfA, and will determine the matter as follows:
- Write a report setting out the Committee's findings and recommendations
 - Decide that it is a complex issue requiring further investigation and refer the matter to another body for more detailed scrutiny. This could be another scrutiny committee or a task group set up specifically to look at a particular issue.
 - Decide not to make a report. This might be because it is not considered to be the right time to consider a particular issue.
- 7.2 In any event (subject to the rules on confidential and exempt information) the outcome of the meeting will be published and details sent to the Councillor who submitted the CCfA, relevant Cabinet Members and partners.
- 7.3 Where Cabinet Members and partners are requested to take action to resolve a particular issue they will be asked to make a formal response to a future meeting of the Strategic Overview and Scrutiny Committee.

Examples of the steps which a councillor could be expected to have taken before submitting a councillor call for action to overview and scrutiny

- 1) The relevant complaints procedures have been complied with
If the issue appears to be that a standard service has not been provided, or not provided to a sufficient standard, then the Councillor should check that the relevant complaints procedure has been used, and that the service provider has responded to the complaint.
- 2) The Head of Service has been approached
The issue may at its core be that local people feel that the standard service is not the right one for local conditions, and therefore the matter may be a question of making some slight adjustments at management's discretion. The Councillor would therefore be expected to have discussed the matter with the Head of Service in an attempt to secure the change. Again, this could apply across the range of partner agencies.
- 3) Relevant partnership bodies or local groups have been approached
It is more likely though that matters which merit a Councillor Call for Action are more complicated than the former examples. One likely possibility is that the matter requires attention from a number of agencies acting in partnership. The Councillor should in such cases demonstrate that local partnership bodies have had an opportunity to respond.
- 4) The relevant Cabinet Members have been approached
The Councillor may come to the view that a pattern of conditions in the local area can only be addressed through a substantial policy change. In that case, the Strategic Overview and Scrutiny Committee will expect to see that the Councillor has approached the relevant Cabinet Members and at least given them a reasonable opportunity to respond.

Councillor call for action request

To: Chief Executive
c/o Democratic Services

Date: _____

Summary of issue
and why it should be
raised with scrutiny
committee: _____

Action taken
including list of
people and
organisations already
contacted _____

Key dates (if
relevant) _____

Signature: _____
Name (printed): _____

Continue on a separate sheet, if necessary