

## 2. Articles of the Constitution

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# **Article 1: The Constitution**

## **1.01 Powers of the Council**

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

## **1.02 The Constitution**

This Constitution, and all its Appendices, is the Constitution of Cumbria County Council.

## **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

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

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 18 – Review and Revision of the Constitution.

# Article 2: Members of The Council

## 2.01 Composition and Eligibility

- (a) **Composition:** The Council will comprise 84 Members, otherwise called Councillors. One Councillor will be elected by the voters of each Electoral Division in accordance with a Scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility:** Only registered voters of the County/area, or those living or working there, or owning or leasing property there, will be eligible to hold the office of Councillor.

## 2.02 Election and Terms of Councillors

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

## 2.03 Roles and Functions of all Councillors

- (a) **Key Roles:** All Councillors will:
  - (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities. This can be achieved through various means including the Councillor Call for Action.
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) balance different interests identified within the Electoral Division and represent the Electoral Division as a whole;
  - (v) be involved in decision making;
  - (vi) be available to represent the Council on other bodies; and
  - (vii) maintain the highest standards of conduct and ethics.
  - (viii) Where appropriate, undertake regulatory duties through the Development Control and Regulation Committee.

(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 except in accordance with the provisions of the Members Code of Conduct..
- (iii) For these purposes, ‘confidential’ and ‘exempt’ information is defined in the Access to Information Procedure Rules in Part 4B of this Constitution.

(c) **Role Description**

The Council has approved the role description for all members set out in Schedule 2 to the Articles of the Constitution.

## 2.04 **Conduct**

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

## 2.05 **Allowances**

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

## 2.06 **Members’ Interests**

A Register of Members’ and co-opted members’ direct and indirect financial and other interests is maintained by the Monitoring Officer, and is open to inspection by the public during normal office hours at The Courts, English Street, Carlisle.

The Council will advertise the Register in local newspapers and on its website, and will ensure that it is updated immediately on receipt of notification by a Member or co-opted member.

# Article 3: Citizens and The Council

## 3.01 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4B 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.
- (b) **Information:** Citizens have the right to:
  - (i) attend Meetings of the Council and its Committees, and Meetings of the Executive when key decisions are being considered, except where confidential or exempt information is likely to be disclosed and the Meeting is therefore held in private;
  - (ii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
  - (iii) see reports and background papers, and any records of decisions made by the Council and the Executive; and
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation:** Citizens have the right to attend and take part in Neighbourhood Forums and to participate in the business of the Council at Local Committees, Cabinet and Council. Local Committees can refer particular issues raised by citizens to the Executive or to the Council.
- (d) **Complaints:** Citizens have the right to complain to:
  - (i) the Council itself, under its Complaints Procedure;
  - (ii) the Ombudsman, after using the Council's own Complaints Procedure;
  - (iii) the Monitoring Officer, about a breach of the Councillors' Code of Conduct.

## 3.02 Citizens' Responsibilities

Citizens must not be violent, abusing, or threatening to Councillors or Officers, and must not wilfully harm things owned by the Council, Councillors, or Officers.

# Article 4: The Full Council

## 4.01 Meanings

(a) **Policy Framework:** The Policy Framework means the following plans and strategies:-

(i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and Regulations made under section 32 of the Local Government Act 2000 to be adopted by the Council;

- Cumbria Community Strategy\*
- Council Plan
- Cumbria Agreement (the Local Area Agreement for Cumbria)\*
- Children and Young People's Plan\*
- Cumbria Economic Plan\*
- Local Transport Plan\*
- Plans which together comprise the Development Plan including the Cumbria Sub-Regional Spatial Strategy and countywide Supplementary Planning Documents, currently the Wind Energy Supplementary Plan
- Youth Offending Service Capacity and Capability Assessment
- Cumbria Minerals and Waste Development Framework
- Crime and Disorder Reduction Strategy (Community Safety Strategy)\*

(ii) those other Plans and Strategies which Government guidance recommends should be adopted by the Council as part of the Policy Framework:

- Sustainability Strategy.

(iii) other Plans and Strategies which the Council may decide should be adopted by the Council Meeting as a matter of local choice, currently:

- Joint Municipal Waste Management Strategy\*
- Fire and Rescue Service Integrated Risk Management Plan (three year strategy)
- Cumbria Joint Strategic Needs Assessment for Health and Social Care\*

\* these documents are produced in partnership or are initiated by partners and require County Council approval.

(b) **Budget:** The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax, and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, and the setting of virement limits.

The Council shall normally approve as part of the budget the annual Treasury Management Strategy Statement and the annual Value for Money and Efficiency Strategy.

- (c) **\*Days:** Except where statute or regulations require otherwise, any reference in this Constitution to “days” shall refer to “working days” and all timescales shall be calculated by reference to “working days”.

#### 4.02 **Functions of the Full Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework and the Budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4B of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget;
- (d) appointing the Leader of the Council;
- (e) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition, and making appointments to them, unless the Council has delegated the latter function;
- (f) appointing representatives to outside bodies, unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an Allowances Scheme under Article 2.05;
- (h) changing the name of the area, or conferring the title of Honorary Alderman;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting, or adopting byelaws, 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 decides should be undertaken by itself rather than the Executive;
- (l) approving the Council’s Statement of Accounts, Income and Expenditure, and Balance Sheet; and
- (m) all other matters which, by law, must be reserved to Council.

#### 4.03 **Council Meetings**

There are three types of Council Meeting:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings;

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

#### 4.04 **Responsibility for Functions**

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

# Article 5: Chairing The Council

## 5.01 Role and Function of the Chair

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

- (a) **Ceremonial Role:** To represent the Council at events of a civic or ceremonial nature, whether organised by the Council or by some other body.
- (b) **Chairing the Council Meeting:** The Chair will be elected by the Council annually. The Chair will have the following responsibilities:
  - (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - (ii) 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;
  - (iii) to ensure that the Council Meeting is a forum for the debate of matters of concern to the local community, and the place at which Members who are not on the Executive are able to hold the Executive to account;
  - (iv) to promote public involvement in the Council's activities;
  - (v) to be the conscience of the Council.

## 5.02 Council Management Group

The Council will establish a Council Management Group to consider the Agenda for full Council Meetings, with a view to ensuring the efficient conduct of Council business. Membership will comprise the Chair of Council, the Leader of the Council, the Leaders of other Political Groups, and the Chair of the Scrutiny Management Board.

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

## **6.01 Membership**

- (a) The Scrutiny Management Board shall comprise between 11 and 14 non-executive members of the Council to include the chairs and vice-chairs of the four scrutiny advisory boards below plus the chair of the Cumbria Health and Well-being Scrutiny Committee.
- (b) The four Scrutiny Advisory Boards below shall each comprise 13 non-executive members of the Council.

In addition the Children and Young People's Scrutiny Advisory Board shall include the statutory parent governor representatives and the Church of England and Roman Catholic diocese representatives as voting members with respect to Education matters.

There shall be a maximum of six named substitutes with voting rights for each Scrutiny Advisory Board.

## **6.02 Terms of Reference**

The Council will appoint the Overview and Scrutiny Committees in accordance with the Overview and Scrutiny rules at section 4E of this Constitution.

## **6.03 General Role**

Within their Terms of Reference, Overview and Scrutiny Committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Executive and/or any Joint or Local Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any Local Committee;
- (e) consider "Councillor Calls for Action" in accordance with approved arrangements and statutory timescales.

## 6.04 **Specific Functions**

- (a) **Policy Development and Review:** Overview and Scrutiny Committees may:
- (i) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question Members of the Executive and/or Committees and Corporate Directors about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area, whether national, regional, or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny:** Overview and Scrutiny Committees may:
- (i) review and scrutinise the decisions made by, and performance of, the Executive and/or Committees and Council Officers, both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets, and/or particular service areas;
  - (iii) question Members of the Executive and/or Committees and Corporate Directors about their decisions and performance, whether generally in comparison with Service Plans and targets over a period of time, or in relation to particular decisions, initiatives, or projects;
  - (iv) make recommendations to the Executive and/or appropriate Committees and/or Council arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area, and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
  - (vi) question and gather evidence from any person (with their consent).
- (c) **Finance:** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them. The Scrutiny Management Board will determine the allocation of funding between the Overview and Scrutiny Committees.

- (d) **Annual Report:** The Scrutiny Management Board must report annually to full Council on the work of Overview and Scrutiny, and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers:** The Scrutiny Management Board shall exercise overall responsibility for the work programme of the Officers employed to support their work.

#### 6.05 **Proceedings of Overview and Scrutiny Committees**

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

# **Article 7: The Cabinet**

## **7.01 Role and Function**

The Cabinet has all the functions of the County Council which are not the responsibility of any other part of the County Council, whether by law or under this Constitution.

The main responsibilities of the Cabinet are:

- (a) making recommendations on the Policy Framework and annual revenue budget and capital programme to the County Council;
- (b) agreeing strategies and plans at a level below the Policy Framework;
- (c) taking decisions to implement the County Council's policies;
- (d) ensuring the effective use of the County Council's resources and securing continuous improvement;
- (e) when not made by local committees, making appointments to outside bodies.

## **7.02 Form and Composition**

The Executive will consist of the Leader, together with the Deputy Leader, and at least one but not more than eight other councillors, all appointed to the Executive by the Leader of the Council.

## **7.03 Leader**

The Leader will be a councillor elected to the position of Leader of the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is removed from office by resolution of the Council; or
- (d) the date of the Council's Annual Meeting in the year in which ordinary county council elections take place.

Where the Council passes a resolution to remove the Leader from office a new Leader shall be elected at the meeting which passes the resolution or at a subsequent meeting following the appointments procedure laid down in the Council Procedure Rules. The County Council shall decide, by a simple majority of members present and voting, whether to elect a new Leader at the same meeting as the resolution was carried to remove the Leader from office.

#### 7.04 **Deputy Leader**

- (a) The Deputy Leader will be a member of the Cabinet and will be appointed by the Leader of the Council.
- (b) If for any reason the Leader of the Council is unable to act or the office of Leader of the Council is vacant, the Deputy Leader will act in his/her place.

#### 7.05 **Deputy Leader and Cabinet Members**

The Deputy Leader and 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 removed from office, either individually or collectively, by the Leader of the Council; or
- (d) the date of the Council's Annual Meeting in the year in which ordinary county council elections take place.

#### 7.06 **Proceedings of the Executive**

- (a) If for any reason:-
  - (i) the Leader of the Council is unable to act or the office is vacant, and
  - (ii) the Deputy Leader of the Council is unable to act or the office is vacant, the Executive will act in the Leader of the Council's place or will arrange for a member of the Executive to act in his place.
- (b) The proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4D of this Constitution.

#### 7.07 **Responsibility for Functions**

The Corporate Director - Resources will maintain a list in Part 3 of this Constitution setting out on the advice of the Leader of the Council which individual members of the executive, local committees, officers, or joint arrangements are responsible for the exercise of particular executive functions.

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

### **Regulatory and Other Committees**

The Council will appoint the Committees set out in Part 3 of this Constitution to discharge the functions described there.

## **Article 8A: Audit and Assurance Committee**

### **Audit and Assurance Committee**

The Council will also appoint an Audit and Assurance Committee to discharge the functions described in Part 3 of this Constitution.

## **Article 8B: Statement of Accounts Committee**

The Council will appoint a Statement of Accounts Committee to discharge the functions described in Part 3 of this Constitution.

# **Article 9: The Standards Committee**

## **9.01 Standards Committee**

The Council will establish a Standards Committee to discharge the functions described in Part 3 of this Constitution.

# Article 10: Local Committees

## 10.01 Local Committees

The Council will appoint Local Committees, for each District Council area, to ensure improved service delivery and more efficient, transparent, and accountable decision making.

## 10.02 Form, Composition, and Function

- (a) **Table of Local Committees:** The Council will appoint the Local Committees set out in the first column of the table below, composed as set out in the second column of that table, and with the Terms of Reference set out in the third column.

<b>Name of Committee</b>	<b>Composition</b>	<b>Terms of Reference</b>
County Council Local Committee for Allerdale	The 16 County Councillors elected for the Allerdale area.	Has executive functions, and functions which are not the responsibility of the Executive.
County Council Local Committee for Barrow in Furness	The 12 County Councillors elected for the Barrow area.	Has executive functions, and functions which are not the responsibility of the Executive.
County Council Local Committee for Carlisle	The 17 County Councillors elected for the Carlisle area.	Has executive functions, and functions which are not the responsibility of the Executive.
County Council Local Committee for Copeland	The 12 County Councillors elected for the Copeland area.	Has executive functions, and functions which are not the responsibility of the Executive.
County Council Local Committee for Eden	The 9 County Councillors elected for the Eden area.	Has executive functions, and functions which are not the responsibility of the Executive.
County Council Local Committee for South Lakeland	The 18 County Councillors elected for the South Lakeland area.	Has executive functions, and functions which are not the responsibility of the Executive.

- (b) **Delegations:** The Council and the Executive will include details of the delegations to Local Committees in Part 3 of this Constitution, including the functions delegated, showing which are the responsibility of the Executive and which are not, the composition and membership of the Committees, budgets, and any limitations on delegation.
- (c) **Agenda:** The agenda of each Local Committee meeting shall include as a standing item “Items from Neighbourhood Forums”.

### 10.03 **Conflicts of Interest - Membership of Local Committees and Overview and Scrutiny Committees**

- (a) **Conflict of Interest:** A matter decided by a local committee cannot be scrutinised in an overview by an overview and scrutiny committee member who was included in the original decision, in accordance with paragraph 14 of the Access to Information Procedure Rules in part 4B of this Constitution.
- (b) **General Policy Reviews:** Where Overview and Scrutiny Committees are reviewing policy generally in relation to a specific Local Committee, the Member must declare his/her interest before the relevant Agenda Item is reached, but need not withdraw, and may speak and vote.

### 10.04 **Local Committees - Access to Information**

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

Agendas and Notices for Local Committee Meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

When a local committee is proposing to make a key decision the procedure relating to the leader’s forward plan will be followed.

### 10.05 **Executive Members on Local Committees**

A Member of the Executive may serve on a Local Committee if otherwise eligible to do so as a Councillor.

# **Article 11: Workington Harbour Board**

## **11.01 Workington Harbour Board**

The County Council will establish a committee of the Council (under section 102 of the Local Government Act 1972) to exercise the Council's functions in respect of the Port of Workington under the Harbours Act 1964 and the Workington Harbour Act 1974 (as amended).

# Article 12: Corporate Parenting Panel

## 12.01 Corporate Parenting Panel

The Council will establish a Corporate Parenting Panel to safeguard and promote the interests of looked after children.

## 12.02 Membership and Terms of Reference

The County Council will appoint the Chair, the Vice-Chair and five other members to the Panel.

The following will be invited to appoint one non-voting member each to serve as a co-opted member of the Panel.

Cumbria Primary Care Trust  
District Councils  
Voluntary Sector  
Secondary Headteacher (nominated via Cumbria Association of Secondary Heads)

The Cabinet Member with responsibility for corporate parenting shall be one of the seven county council members or shall be invited to attend meetings in order to ensure close links and the promotion of a wider ownership of the corporate parenting role.

The Panel's terms of reference will be:

- (1) To champion and promote the best interests of all children and young people who are, have been in care or may be at risk of becoming children looked after particularly in relation to the following and will also promote the role of all county councillors as corporate parents -
  - Health and well-being
  - Ability to stay safe
  - Ability to enjoy and achieve
  - Ability and opportunity to make a positive contribution
  - Achievement of economic well-being
- (2) To bring together members/officers/representatives of partner agencies with corporate parenting responsibilities;
- (3) To receive regular reports on issues raised through statutory visits (eg regulation 33 visits);
- (4) To hold regular meetings with the relevant Cabinet Member and the Corporate Director – Children's Services or the responsible Head of Service in order to ensure the widest ownership of the role of corporate parent;

- (5) To receive details of relevant proposed strategic planning, policies, protocols and partnerships to enable the Panel to comment and make recommendations;
- (6) To receive effective 'preventative' and qualitative information in order to hold senior officers to account in relation to meeting the needs and improving the outcomes of children looked after;
- (7) To hold responsibility for the development, implementation and monitoring of the "Pledge to Young People" in care ;
- (8) To establish and maintain strong links with the Children in Care Council which enables young people looked after to meet regularly with Panel members and relevant officers in order to ensure that they are meaningfully and actively consulted on issues and their views and concerns are effectively heard. The means of reporting this would be via reports presented by the Children's Rights Officer.
- (9) To receive six monthly reports from the Complaints Officer on issues raised by looked after children and their carers.

# **Article 13: Neighbourhood Forums**

## **13.01 Neighbourhood Forums**

The Council wishes to encourage as wide a range of people as possible to participate in the work of the Council. To this end Neighbourhood Forums will be established in each Local Committee area. The membership and Terms of Reference of the Forums will be as follows:

## **13.02 Membership**

Each Forum will be encouraged to invite the general public and representatives from as wide a range of organisations as possible to meetings so as to broaden involvement in the democratic process. A standing invitation will be extended to the County Council Members in the Forum area together with representatives of each District and Parish or Town Council.

## **13.03 Terms of Reference**

Without limiting each Forum's scope to set its own agenda, the Terms of Reference of Neighbourhood Forums shall be generally:

- (a) to discuss issues of interest or concern in the Forum area; and where appropriate to make recommendations to the relevant County Council Local Committee;
- (b) to consider and make recommendations to the Corporate Director – Safer and Stronger Communities and the Local Committee as appropriate on the making of grants from any moneys earmarked for the Forum's area.

# Article 14: Joint Arrangements

## 14.01 Arrangements to Promote Wellbeing

The Council or the Executive, in order to promote the economic, social, or environmental wellbeing of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate, or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

## 14.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating Authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other Local Authorities.
- (b) The Executive may establish joint arrangements with one or more Local Authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities.
- (c) Except as set out below, the Executive may only appoint Executive Members to a Joint Committee, and those Members need not reflect the political composition of the Local Authority as a whole.
- (d) The Executive may appoint members to a Joint Committee from outside the Executive in the following circumstances:
  - the joint committee has functions for only part of the area of the Authority, and that area is smaller than two-fifths of the Authority by area or population. In such cases, the Executive may appoint to the Joint Committee any Councillor who is a Member for an Electoral Division which is wholly or partly contained within the area;
  - the Joint Committee is between a County Council and a single District Council, and relates to functions of the Executive of the County Council. In such cases, the Executive of the County Council may appoint to the Joint Committee any Councillor who is a Member for an Electoral Division which is wholly or partly contained within the area.

In both of these cases, the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements, including any delegations to Joint Committees, will be found in the Council's scheme of delegation (Responsibility for Functions in Part 3 of this Constitution).

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

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

# Article 15: Officers

## 15.01 Management Structure

- (a) **General:** The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- (b) **Corporate Directors:** The Council will engage persons for the following posts, who will be designated Corporate Directors:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all Officers). Provision of professional advice to all parties in the decision making process. Representing the Council on partnership and external bodies (as required by statute or the Council).
Corporate Director - Resources	Finance, Audit, Property, Procurement, Scrutiny, Member Services, Legal Services and Premises.
Corporate Director – Environment	Spatial Planning, Environment, Waste Management, Highways, Transportation, Economic Development
Corporate Director – Safer and Stronger Communities	Safer and Stronger, Fire and Rescue Services, Community Services, Trading Standards, Emergency/Resilience Planning, Community Safety
Corporate Director – Children’s Services	Education, Children’s Social Care, Lifelong Learning, Family Support, Leadership/Support of Schools, Partnership and Commissioning Trust, Services to Children and Families
Corporate Director – Adult and Cultural Services	Social inclusion and Wellbeing of Adults in the Community, Assessment and Care Management, Direct Social Care Provision (Cumbria Care), Culture
Corporate Director – Organisational Development	Human Resources, ICT Client, Business Improvement, Equality, Health and Safety, the Management of Change

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

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Chief Legal Officer	Monitoring Officer
Chief Finance Officer	Chief Finance Officer

Such posts will have the functions described in Articles 15.02 – 15.04 below.

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

## 15.02 **Functions of the Head of Paid Service**

- (a) **Discharge of Functions by the Council:** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions, and the organisation of Officers.
- (b) **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

## 15.03 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution:** The Monitoring Officer will maintain an up to date version of the Constitution, and will ensure that it is widely available for consultation by Members, staff, and the public.
- (b) **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Executive in relation to an executive function, if he or she considers that any proposal, decision, or omission would give rise to unlawfulness, or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

- (d) **Receiving Reports:** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.
- (e) **Conducting Investigations:** The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers, and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper Officer for Access to Information:** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions, and relevant Officer reports and background papers, are made publicly available as soon as possible.
- (g) **Advising whether Executive decisions are within the Budget and Policy Framework:** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
- (h) **Providing Advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and Budget and Policy Framework issues, to all Councillors.
- (i) **Restrictions on Posts:** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (j) **Contributing to Corporate Management:** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

#### 15.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Executive in relation to an executive function, and the Council's external auditor, if he or she considers that any proposal, decision, or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs:** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Providing advice:** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and Budget and Policy Framework issues to all Councillors, and will support and advise Councillors and Officers in their respective roles.
- (d) **Give financial information:** The Chief Finance Officer will provide financial information to the media, members of the public, and the community.

- (e) **Internal Audit:** The Chief Finance Officer will have responsibility for the functions of the Internal Audit Unit.
- (f) **Contributing to Corporate Management:** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional finance advice.

#### 15.05 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

#### 15.06 **Conduct**

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

#### 15.07 **Employment**

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

# Article 16: Decision Making

## 16.01 Responsibility for Decision Making

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

## 16.02 Principles of Decision Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from Officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes;
- (f) an explanation of what options were considered and the reasons for the decision.

## 16.03 Types of Decision

- (a) **Decisions reserved to full Council:** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) **Key Decisions:** For the purposes of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, a key decision shall be defined as follows:
  - (i) *Significant in terms of expenditure or savings if it relates to a matter which exceeds £250,000 in value, **except** those decisions taken by :*
    1. *the Corporate Director – Resources or Chief Finance Officer under delegated authority in connection with Treasury Management;*
    2. *the Corporate Director – Children’s Services or the Corporate Director – Adult and Cultural Services under delegated authority in relation to care plans for individual children and young people or adults;*
    3. *Corporate Directors generally under delegated powers in relation to the submission of or acceptance of tenders.*

OR

- (ii) *Significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions if it would change, or proposes changes to, the way in which services are used or provided. Significant in this context means important or far reaching. Examples would include proposals for changing the character of a school, closing down or opening Council services, and major changes in transport arrangements affecting an area. This is not an exhaustive list, and in considering whether a decision is a 'key decision' for the purposes of the Regulations the Council seeks to apply the principle that the public in the area affected should not be taken by surprise by the proposed decision.*

#### **16.04 Decision Making by the Full Council**

Subject to Article 16.08, the Council Meeting will follow the Council Procedure Rules set out in Part 4A of this Constitution when considering any matter.

#### **16.05 Decision Making by the Executive**

Subject to Article 16.08, the Executive will follow the Executive Procedure Rules set out in Part 4D of this Constitution when considering any matter.

#### **16.06 Decision Making by Overview and Scrutiny Committees**

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

#### **16.07 Decision Making by other Committees and Sub-Committees established by the Council**

Subject to Article 16.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4A of this Constitution as apply to them.

# **Article 17: Finance, Contracts, and Legal Matters**

## **17.01 Financial Management**

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

## **17.02 Contracts**

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

## **17.03 Legal Proceedings**

The Chief Legal Officer is authorised to institute, defend, participate or settle 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 Chief Legal Officer considers that such action is necessary to protect the Council's interests.

## **17.04 Authentication of Documents**

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

## **17.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Legal Officer. 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 Chief Legal Officer, should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer, or some other person authorised by him/her.

# **Article 18: Review and Revision of the Constitution**

## **18.01 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution 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 to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (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 those comparable Authorities, or national examples of best practice.

## **18.02 Changes to the Constitution**

Subject to the limited delegation below to the Chief Legal Officer, as Monitoring Officer, changes to the Constitution will only be approved by the Full Council.

The Chief Legal Officer is authorised to amend the Constitution and Scheme of Delegation to give effect to decisions taken by the County Council or changes in legislation by the Government where the County Council has no discretion; such changes to be subsequently reported to the Constitution Review Group and the County Council for information.

# Article 19: Suspension, Interpretation, and Publication of the Constitution

## 19.01 Suspension of the Constitution

- (a) **Limit to Suspension:** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend:** A Motion to suspend any Council Procedure Rules will not be moved without notice, unless at least one half of the total number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension:** The following Rules may be suspended in accordance with Article 19.01:

All of the Council Procedure Rules in Part 4A,  
except Rules 1.3 and 16.2.

## 19.02 Interpretation

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

## 19.03 Publication

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, Libraries, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the Summary of the Constitution is made widely available within the area, and is updated as necessary.

# **Schedule 1: Role Description for all Members**

**(approved by the County Council on 19 February 2009)**

1. To deliver the highest standards of service and governance for local people.
2. To contribute actively to decision-making on the Council's policies, plans and budgets, and to continuously review and improve Council services and performance.
3. To work with the Council's partners in the public, private and third sectors and with customers and service users to shape priorities and improve services.
4. To engage with local communities, representing their interests and championing their causes, improving service planning and delivery, and furthering the Council's contribution to the quality of life of people in Cumbria by offering community leadership.
5. To build collaborative working relationships with local partners, including the parish and town councils, the primary care trust, voluntary organisations and community groups, the police and others; to co-ordinate service development and planning, and to improve service integration and delivery.
6. To encourage local communities to engage and participate in meetings and decision making.
7. To represent the interests of their electoral divisions as a whole, and deal with constituents' enquiries, complaints and representations.
8. To lead by example, in accordance with the highest standards of probity in public life, in all matters relating to the Council's Code of Conduct, related protocols and supporting guidance.
9. To comply with the Constitution, particularly with the rules on decision-making and access to information.
10. To ensure that the Council has proper arrangements for the management of its affairs and stewardship of its resources.
11. To develop and maintain a working knowledge of the Council's statutory powers and duties, its services and strategies, and to develop good working relationships with officers.
12. To participate in the activities of any outside body to which they are appointed as a County Council representative, providing two-way communication between the Council and the outside body.

13. To improve their performance as a councillor and in particular to be aware of any personal learning and development needs and liaise with members of the relevant political group and Council officers to address such needs.
14. To develop effective working relationships based on mutual respect and co-operation with all officers.
15. To act as a 'corporate parent' for children in the care of the authority.
16. To participate in the activities of any political group of which they are a member.