

## PART 2 – ARTICLES OF THE CONSTITUTION

### Article 15 – Suspension, Interpretation and Publication of the constitution and Transitional Provisions

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#### 15.1 Suspension of the Constitution

(a) **Limit to suspension**

The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended in whole or in part by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### 15.2 Interpretation

(a) Where the Constitution permits the Authority to choose between different courses of action, the Authority will always choose that option which it thinks is closest to the purposes stated in Article 1.

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

(c) The following words, phrases and terms shall have the meanings ascribed to them unless the context requires or it is otherwise provided at law.

| <b>Word, phrase or term</b>                 | <b>Meaning</b>  |
|---|---|
| Access to Information Procedure Rules       | The rules so titled set out in Part 4 of the Constitution                     |
| Article                                     | An Article of this Constitution   |
| Authority                                   | The corporate body being the County Council of the City and County of Cardiff |
| Budget                                      | Has the meaning set out in Article 4.2.(b)                                    |
| Budget and Policy Framework Procedure Rules | The rules so titled set out in Part 4 of the Constitution                     |

| <b>Word, phrase or term</b>       | <b>Meaning</b>   |
|-----------------------------------|--|
| Cabinet                           | The executive of the Council   |
| Cabinet Procedure Rules           | The rules so titled set out in Part 4 of the Constitution  |
| Call in                           | The referral of a decision in accordance with the Scrutiny Procedure Rules   |
| Cardiff Undertaking               | A commitment given by the presentation at a meeting of the Council (which is open to the public) of a signed document undertaking to uphold the highest standards of conduct and to serve the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty. Such commitment to be in the form or like form to that set out in Part 5 of the Constitution. |
| Chair                             | The person elected by the Council as the Chair of a Committee or appointed as the Chair of a sub-committee or in his or her absence the Deputy Chair of such committee or sub-committee where one has been elected or appointed or the person presiding at the meeting of a committee or sub-committee   |
| Chairman                          | The person who presides at a meeting of the Council or a Committee pursuant to the provisions of this Constitution   |
| Clear Days                        | Mean days excluding the day when the document is first made available for inspection or dispatched to Councillors and the date of the meeting to which it relates but includes any intervening date when the document is available for public inspection   |
| Committee                         | A committee or sub-committee of the Authority  |
| Committee Meeting Procedure Rules | The rules so titled set out in Part 4 of the Constitution  |
| Confidential information          | Confidential information as defined by section 100A(3) of the Local Government Act 1972 as more particularly set out in Article 10.3 of the Access to Information Procedure Rules  |
| Constitution                      | This constitution, as amended  |
| Contract Procedure Rules          | The Contract Standing Orders and Procurement Rules set out in Part 4 of the Constitution   |
| Council                           | The Authority meeting together in accordance with Schedule 12 of the Local Government Act 1972   |

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| Council Meeting Procedure Rules | The rules so titled set out in Part 4 of the Constitution  |
| Council Procedure Rules         | The rules set out in Part 4 of the Constitution  |
| Councillor                      | A member of the Authority  |
| Employee                        | An employee of the Authority   |
| Employment Procedure Rules      | The rules so titled set out in Part 4 of the Constitution  |
| Executive Decision              | A decision made for the purpose of discharging an Executive Function   |
| Executive Function              | A function of the Authority which is determined to be an executive function in accordance with section 13 of the Local Government Act 2000                                   |
| Exempt information              | Information of a nature described in Schedule 12A of the Local Government Act 1972 as more particularly set out in Article 10.4 of the Access to Information Procedure Rules |
| Financial Procedure Rules       | The rules so titled set out in Part 4 of the Constitution  |
| Forward Plan                    | The agreed plan of business for the Cabinet, to be published on a monthly basis, setting out all the business to be undertaken by the Cabinet for a 12 month period          |
| Head of Paid Service            | The officer of the Council designated by the Council under section 4 of the Local Government and Housing Act 1989  |
| Leader                          | The executive leader as defined in section 48 of the Local Government Act 2000   |
| Lord Mayor                      | The Lord Mayor for the time being and in his / her absence the Deputy Lord Mayor   |
| Member                          | Unless otherwise stated means a member of the committee or body to which the rule or requirement applies   |
| Members Code of Conduct         | The Code of Conduct adopted by the Council in accordance with section 51 of the Local Government Act 2000  |
| Members' Allowances Scheme      | The scheme referred to in Part 6 of the Constitution   |

| <b>Word, phrase or term</b> | <b>Meaning</b>   |
|-----------------------------|--|
| Monitoring Officer          | The officer of the Council designated by the Council under section 5 of the Local Government and Housing Act 1989  |
| Non-Executive Function      | A function of the Authority which is determined to be a non-executive function in accordance with regulations made under section 13 of the Local Government Act 2000   |
| Operational Land / Property | Council land and property held to facilitate delivery of Council services to include without limitation land and property such as offices; schools and associated playing fields; nurseries; youth centres; caretakers houses; libraries; community centres and halls; sport/leisure and outdoor centres and pools; residential homes; day and training centres; enterprise centres; housing area offices; depots; civic amenity sites; cemeteries; crematoria; laboratories; animal pounds; public conveniences; theatres and concert halls; historic buildings and civic residences; and parks, recreation grounds, sports pitches, play areas and all associated buildings, changing rooms and ancillary residential accommodation, but excluding land held for investment or development purposes. In the case of doubt, the Corporate Director, Resources and the Director of Governance and Legal Services shall determine the issue |
| Ombudsman                   | Commission for Public Administration in Wales  |
| Petition                    | A petition in writing requesting some action or redress in respect of a matter within the jurisdiction of the Council.   |
| Policy Framework            | The plans and strategies referred to in Article 4 paragraph 4.2 of the Constitution  |
| Proper Officer              | An officer of the Authority designated for that purpose by the Authority and in the absence of such designation the County Clerk and Monitoring Officer will be deemed to be the Proper Officer  |
| Regulatory committee        | Any committee with statutory recognised regulatory functions, for example, Licensing Committee, Planning Committee and Public Protection Committee. A Scrutiny Committee or a Committee of the Cabinet cannot be a Regulatory Committee  |
| Scrutiny Committees         | Those committees of the Authority appointed in accordance with Article 6   |

| Word, phrase or term     | Meaning  |
|--------------------------|--|
| Scrutiny Procedure Rules | The rules so titled set out in Part 4 of the Constitution  |
| Section 151 Officer      | The officer of the Council designated by the Council under section 151 of the Local Government Act 1972 as the person having responsibility for the administration of the financial affairs of the Authority   |
| Working Day              | Means any day on which the main offices of the Authority are open for usual business and for the avoidance of doubt the phrase 'clear working days' shall exclude the day when notice is given or the documents is made available for inspection or is dispatched to Councillors as the case may be and the date of the meeting or event to which it relates     |
| Writing                  | A requirement that something shall be submitted in writing will be satisfied by the submission by email to an address designated by the proper Officer for that purpose provided that it is transmitted by the Councillor concerned from the Councillor's email address and in such circumstances will be deemed to have been signed by the Councillor concerned |

- (d) Reference to any statute or statutory provision includes a reference to:
  - (i) that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and
  - (ii) all statutory instruments or orders made pursuant to it.
- (e) Words denoting the singular number only shall include the plural and vice versa.
- (f) Words denoting any gender include all genders.
- (g) The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Constitution.
- (h) References to a designated employee of the Council includes (except where the law prescribes that the function, action or the like must be taken by that person alone) a person duly authorised to act for or on behalf of that person provided that the employee designated by or for the purposes of the Constitution shall remain responsible to the Authority.
- (i) References to a post or designation shall be deemed to include a reference to the employee for the time-being performing those

functions where the post or designation name is altered or the functions are reallocated and where there is a reference to a generic title (e.g. Chief Operating Officer, Chief Officer) such reference will be deemed to include other posts whatever their designation or name but being within the same tier of management or responsibility.

### **15.3 Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Councillor of the Authority.
- (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.

### **15.4 Transitional Provisions**

- (a) Anything which as at the date this Constitution comes into effect, is in the process of being done in the exercise of, or in connection with the functions of the Authority, may be continued by the person or body by which those functions become exercisable in respect of the function in question.
- (b) Anything done by, or in exercise of, or in connection with any of the functions of the Authority, prior to the date of the adoption of this Constitution by the Council shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the body or person who is charged with that function.
- (c) Notwithstanding anything in the Scrutiny Procedure Rules, a report of a Scrutiny Committee which has been prepared and approved by a Scrutiny Committee prior to the date of the Constitution coming into effect may be submitted to a meeting of the Council for its consideration provided that nothing in this provision shall permit any person or body to make a decision upon any such report except in accordance with the Constitution.