

## Part 2

### Articles of the Constitution

#### Article 17 - Interpretation

17.1 The Interpretation Act 1978 shall apply to the interpretation of this Constitution as it applies to the interpretation of an Act of Parliament.

17.2 In this Constitution, unless the context otherwise admits, the following terms have the meaning assigned to them:

"Access to Information Rules" means the rules set out in [Part 4E](#) of this Constitution;

"Appropriate" in relation to: a Committee shall mean the Committee or Sub-Committee with responsibility for the function of the Council to which a particular matter, proposal or Contract relates and includes an Overview and Scrutiny Committee and Appropriate Committee Chair shall be construed accordingly; a Cabinet Member shall mean the Cabinet Member who has responsibility for the function or matter under consideration; an Officer shall mean the Officer who has responsibility for the function or matter under consideration

"Article" means an Article in Part 2 of this Constitution;

"Authority" means Cheltenham Borough Council;

"Borough Solicitor" means the Director of the shared legal service (known as 'One Legal') who may also be designated by the Council as Monitoring Officer;

"Budget" has the meaning set out in [Article 4.5](#);

"Cabinet" means the Executive for the purposes of Section 11(3) of the Local Government Act 2000 and includes the Leader of the Council and the Cabinet Members appointed by the Leader;

"Cabinet Member" means any member of the Cabinet and may include the Leader;

"Cabinet Rule" means one of the rules set out in [Part 4B](#) of this Constitution;

"Chair" means the Chair of the Appropriate Committee or in his/her absence the Vice-Chair, and Vice-Chair and is to be construed accordingly;

"Chief Executive" means the Officer designated as the Authority's Head of Paid Service;

“Chief Finance Officer” means the Section 151 Officer;

"Committee" means a Committee or a Sub-Committee of the Council appointed under Section 101 of the Local Government Act 1972 or, where appropriate, Section 21 of the Local Government Act 2000 (Overview and Scrutiny Committees);

"Confidential Information" means confidential information as defined by Section 100A of the Local Government Act 1972 (reproduced in the Access to Information Rules at Part 4E of this Constitution);

"Contract" means a transaction entered into by the Authority whereby a person or body or Direct Service acting as a Contractor will for consideration undertake work, provide services or provide goods or materials, or for the disposal of goods other than contracts for the employment of Employees; or for the acquisition or disposal of land or interest in land, but does not include the appointment of counsel. Any reference to a Contract of a particular value shall mean a single transaction or a series of transactions which in aggregate amount to that value;

"Contractor" means any person or body or Direct Service selected by the Authority to perform a Contract;

"Council" or “Full Council” means the elected Members of the Authority acting collectively;

“Council Chair” means the Member elected as Chair by the Council under the Council Procedure Rules and includes the civic office of Mayor of Cheltenham;

“Council Vice-Chair” means the Member elected as Vice-Chair by the Council under the Council Procedure Rules and includes the civic office of Deputy Mayor of Cheltenham;

"Councillor" means an elected Member of the Authority;

“Deputy Chief Executive/Deputy Head of Paid Service” means the Officer so designated;

"Deputy Chief Officer" means a Director but excluding the Monitoring Officer and Section 151 Officer;

“Deputy Leader” means the Cabinet Member so designated by the Leader from time to time;

“Deputy Mayor” means the Member elected as Council Vice-Chair and to the civic office of Deputy Mayor of Cheltenham;

“Director” means an Officer so designated;

"Direct Service" means any Employee or group of Employees who asks or is invited to put in a tender or quotation for the performance of a Contract;

"Disciplinary Action" means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Authority be recorded on the Employee's personal file and includes any proposal for dismissal of an Employee for any reason other than redundancy or permanent ill-health or infirmity of mind or body, but does not include failure to renew a Contract of employment for a fixed term unless the Authority has undertaken to renew such a Contract;

"Employee" means any employee of the Authority;

"EU" means European Union and "EU threshold" means the minimum value of a Contract above which the EU's Public Procurement Directives apply;

"Executive" means any part of the Authority when discharging the functions that are the responsibility of the Leader and/or Cabinet;

"Executive Board" means the Chief Executive, Managing Director Place and Economic Development, Director of Resources and Projects and the Chief Finance Officer. The Director of Planning and the Director of Environment are also invited to attend.

"Executive Director" means the Chief Executive, Managing Director Place and Economic Development or Director of Resources and Projects

"Executive Functions" means all the functions and duties of the Authority other than those reserved to the Council or delegated by the Council to an Appropriate Committee or to an Officer;

"Executive Officer" means Chief Executive, Managing Director Place and Economic Development, Director of Planning, Director of Environment, Director of Resources and Projects, Chief Finance Officer (where employed by the Council) and Monitoring Officer 10 (where employed by the Council).

"Exempt Information" means exempt information as defined by Section 100A of the Local Government Act 1972 (reproduced in the Access to Information Rules at Part 4E of the Constitution);

"Forward Plan" means the rolling plan produced in respect of proposed Executive decisions;

"Goods" includes materials, plant and equipment of any sort;

"Group Leader" means the leader of a Political Group as defined in the Local Government (Committees etc.) Regulations 1990 or his/her

deputy or other person appointed by the Group Leader to represent him/her in relation to any matter;

"Head of Law" means a head of law in the shared legal service (known as 'One Legal');

"Head of Paid Service" means the person so designated under section 4 of the Local Government and Housing Act 1989;

"Housing Land Transfer" means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985;

"Key Decision" means a decision by the Executive as defined in Article 13.

"Land" includes any legal or equitable interest in land;

"the Leader" means the Member of the Council appointed as Leader of the Executive for the purposes of Section 11(3)(a) of the Local Government Act, otherwise known as the Leader of the Council or in the event of his/her inability to act, due to absence, conflict of interest or otherwise, the Deputy Leader or someone authorised in writing by the Leader;

Lead Member means a Cabinet Member acting in portfolio as set out in [Appendix A](#);

"Majority Group" means a Political Group to which belongs either:

- (a) more than half of the members of the Council; or
- (b) exactly half of the members of the Council, including the Mayor;

"Mayor" means the Member elected as Council Chair and to the civic office of Mayor of Cheltenham;

"Meeting" means a meeting of the Council, a Committee or a Sub-Committee or of the Cabinet or a Committee of the Cabinet, as the case may be;

"Member" means, in relation to the Council, a Councillor and, in relation to the Cabinet, a Cabinet Member, and in relation to any Committee a member of that Committee, whether or not entitled to vote; but shall not include any person who is a member of the Council only by virtue of Section 3(3) or Section 5(2) of the Local Government

Act 1972 (Council Chair and Council Vice-Chair to remain members until replaced);

"Monitoring Officer" means the Officer designated under Section 5(1) of the Local Government and Housing Act 1989 and, where appropriate, any person authorised by them to act as a Deputy Monitoring Officer;

"Month" means a calendar month;

"Municipal Year" means the period between one Annual Council Meeting and the next following Annual Council Meeting;

"Number of Members" means, in relation to the Council, the number of persons who may act at the time in question as members of the Council, and in relation to a Committee, the number of persons who may act at the time in question as voting members of that body;

"Officer" means an Employee, a member of staff or someone seconded to the Authority;

"Ordinary Meeting" means, in relation to the Council, a meeting the date of which has been fixed by the Council before or at the start of the new Municipal Year under the Council Procedure Rules, including any such meeting which is rearranged for a date other than that originally set;

"Overview and Scrutiny Committee" means any Committee which the Council appoints as an Overview and Scrutiny Committee for the purposes of Section 21 of the Local Government 2000 and includes a Sub-Committee;

"Person" in relation to the Contracts Rules includes a body, firm, company, corporation and, where appropriate, Direct Services;

"Person Presiding" means the Member elected to take the chair at Council or Committee at which the Chair and Vice-Chair are absent or unable to act;

"Planning Committee" means the Committee, by whatever name known, that discharges the Council's development control functions (including the determination of applications for planning permission, listed building consent and similar permissions and consents) when acting in that capacity;

"Political Group" means a political group as defined in the Local Government (Committees etc.) Regulations 1990 as amended;

"Political Proportionality" means balanced in proportion to the strengths of the Political Groups on the Council, according to law.

"Policy Framework" has the meaning set out in [Article 4](#);

"Proper Officer" means, for the purposes of this Constitution, an Officer as set out in Appendix F;

"Procedure Rule" means a rule set out in Part 4 of this Constitution;

"Quotation" includes an offer;

"Remuneration" means salary received by the employee or executive for duties undertaken during his/her employment,

"Regulatory Committee" means the Planning Committee and any Committee that discharges the Council's functions to determine applications for licences, certificates, registrations and similar consents, when acting in that capacity;

"Sale" includes any form of disposal and vice versa;

"Section 151 Officer" means the Officer designated by the Council for the purposes of Section 151 of the Local Government Act 1972 to administer the financial affairs of the Authority;

"Executive Leadership Team" "ELT" means the Chief Executive, Executive Director Communities and Place, Executive Director Finance, Assets and Regeneration, Monitoring Officer (including substitutes), Chief Finance Officer (including substitutes) and such operational programme managers and other officers as are invited to attend;

"Service Manager" means an Officer so designated;

"Services" includes the giving of advice and the supply of professional technical assistance;

"Significant Decision" means a non-Executive decision as defined in Article 13.

"Solicitor to the Council" means the Director of One Legal;

"Sub-Committee" means a sub-committee of a Committee;

"Supervising Officer" means the relevant Executive Director or Director or any other person nominated by him/her in writing who has the responsibility for a particular Contract;

"Supply" includes provision;

"Variation" means:

- (a) the material alteration or modification of the design, quality or quantity of works, Goods or Services provided under a Contract; or
- (b) the material alteration, omission or substitution of any such works, Goods or Services.

"Without Comment" means in relation to the moving, seconding or putting of a motion, without any person speaking except to indicate the wording of the motion, the fact that it is being moved, seconded or put, or (in the case of the Chair) the effect of adopting the motion;

- 3. Unless the context otherwise requires, where provision is made in the Constitution for the calling of meetings, submitting matters for inclusion in agendas, call-in or similar procedural matters relating to meetings:

"day" means a calendar day;

"working day" means a calendar day but excluding Saturdays, Sundays and Bank Holidays.

"clear days" means a period of time prior to the meeting or procedural event excluding both the day on which public notice is given of the meeting or procedural event and the day of the meeting or procedural event.

Where there is a requirement to give a day or several days or clear days or working days notice of any kind before a meeting, the whole of the day on which the meeting is held is to be ignored.

- 4. Any reference in the Constitution to legislation shall be construed as a reference to any legislation that replaces or amends it.
- 5. In respect of any function of the Authority, should the function of an Officer as shown in the Constitution no longer rest with that Officer due to a structural re-organisation, change in officer responsibilities, staff departure, commissioning exercise or other reason, that function shall be exercisable by the Chief Executive, an Executive Director or an Officer who has, or has assumed, the role of Appropriate Officer for that function.