About the Constitution

1.1 Status of the Constitution

This Constitution is the Constitution of the Council within the meaning of Section 37 of the Local Government Act 2000. Further copies may be obtained on request to the Head of Democracy and Community and the Constitution is available on the Council's website (www.rushmoor.gov.uk).

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

1.2 Aims and purpose

The aims and purpose of the Constitution are to

(a) explain how the Council works;

(b) provide a framework within which the Council can establish and deliver its priorities, and provide clear leadership to the community in partnership with residents, businesses and other organisations;

(c) support the active involvement of the public in the process of local decision-making;

(d) help councillors represent their constituents more effectively;

(e) enable decisions to be taken efficiently and effectively;

(f) set out the Executive arrangements which separate the roles of the Executive, Overview and Scrutiny Committee and non-executive committees in a way which is easily understood;

(g) provide a means of holding decision-makers to public account; and

(h) ensure that those responsible for decision-making are clearly identifiable and that they explain the reasons for decisions.

1.3 Interpreting the Constitution

Where questions about the Constitution or the interpretation of it arises, they will normally be addressed by the Monitoring Officer, or Deputy Monitoring Officer. In interpreting the Constitution, the Monitoring Officer, will have regard to the aims and purpose set out in paragraph 1.2.

At Council meetings, the Mayor's interpretation of Standing Orders will be final (Standing Order No. 24). In all other matters related to the interpretation of the Constitution, the decision of the Monitoring Officer will be final.

If the Constitution has no procedures for a meeting, or if there is a gap in in the procedures for a meeting, the Chairman will decide what to do. The Chairman must take account of the aims and purpose set out in paragraph 1.2.

1.4 Duty to Monitor and Review the Constitution

The Monitoring Officer, supported by the Deputy Monitoring Officers, will monitor and review the operation of the Constitution and may recommend changes.

The Licensing and Corporate Business Committee will appoint a Constitution Working Group to enable cross-party consideration of proposals for changes to protocols and Standing Orders in the Constitution before recommendations are brought to Committee and Council for approval.

1.5 Changes to Constitution

Minor and operational changes

The Corporate Manager - Democracy may update the Constitution to correct clerical errors, or to make operational changes, for example, to make updates because of changes in officer or Member designations (responsibilities/role titles etc.), or to reflect changes in legislation which are required to be applied.

Should the Council be given permanent powers to hold remote or 'virtual' meetings for the purposes of council decision making, the updates to the Constitution to incorporate powers and provisions for such meetings shall also be made by the Corporate Manager - Democracy.

Executive Matters

The Corporate Manager - Democracy can also make changes to executive matters related to responsibilities and arrangements for Cabinet portfolios, and delegations to Cabinet Members to reflect the wishes of the Leader. For any changes, a record of the decisions will be published.

Other Changes

Apart from changes to Part 3 in relation to the Scheme of Delegation for Executive Matters, which will be discharged by the Leader in consultation with the Cabinet where appropriate, changes to the Constitution other than minor changes will be agreed by the Council after considering a report from the Licensing and Corporate Business Committee (or other Committee if appropriate) or the Monitoring Officer or Head of Paid Service.

1.6 Changing governance arrangements

The Council may, by resolution, change the form of its executive arrangements or change to a different permitted model of governance. The Council may choose to hold a referendum in that event.

1.7 Suspending the Constitution

The Rules and Procedures in Part 4 of this Constitution may be suspended by the Council or other decision-making body, to the extent permitted within those rules and the law. The extent and duration of suspension will be proportionate to the result to be achieved, taking account the purposes of the Constitution set out in paragraph 1.2.

No other Parts of the Constitution may be suspended.

1.8 Publishing the Constitution

The Corporate Manager - Democracy will make sure that each Member of the Council has access to the Constitution as soon as possible after his or her acceptance of office.

Copies will be made available at the Council's offices and on the Council's website.

How the Council Operates

2. Councillors

2.1 Terms of office

There are 39 elected councillors. Each Councillor is elected to represent an area in the Borough, called a ward, normally for a period of 4 years. There are thirteen wards in the Borough. Council elections are usually held for one-third of the available seats every year on the first Thursday in May (except in the year when there is a County Council election), although by-elections may arise from time to time to fill any casual vacancy. These elections use the first past the post system. Only eligible persons, as defined by electoral law, will be permitted to hold the office of Councillor.

Generally, 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 ordinary election of councillors four years later.

2.2 Roles and Functions of all Councillors

The key roles of councillors are to

(a) collectively be responsible for setting the Council's overall policies, including the budget and statutory and strategic plans;

(b) support the council to achieve its objectives;

(c) act as community leaders;

(d) contribute to good governance of the local area and actively encourage community participation and the involvement of residents in decision-making;

(e) represent people in their wards and bring their views into the Council's decision -making process, balancing different interests;

(f) deal with casework for people in their wards and act as an advocate for constituents in resolving concerns or grievances;

(g) attend Council and committee meetings;

(h) collectively elect the Leader;

(i) represent the Council on other bodies; and

(j) maintain the highest standards of conduct.

2.3 Rights and duties of councillors

The Council will give councillors the information and resources they need to do their jobs, as far as the law allows.

Councillors must always observe the Code of Conduct for Councillors, Members Planning Code of Good Practice, Protocol for Member/Officer relations and the Information Security Policy set out in Part 5 of this Constitution.

Councillors will not make any information public if it is confidential or exempt, without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or employee entitled to know it.

2.4 Allowances

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

3. Governance of the Council

3.1 Decision-making structure

The decision-making structure of the Council is set out in **Figure 1** at the end of this section below.

3.2 Council

This is when all councillors meet together. The Council will provide the focus for decisions on major items of policy. There are three types of Council meetings: annual meetings, ordinary meetings and special/extraordinary meetings. The Council meeting will follow the Standing Orders for the Regulation of Business set out in Part 4 of this Constitution.

The Council has a number of roles which are set out in Part 3 (Section 5) of this Constitution. These include:

- agreeing the Council's overall budget and policies (which are known as the budget and policy framework)
- electing the Leader of the Council
- appointing Committees of the Council
- confirming who will be the Head of Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer

Proposals that go against the budget or policy framework must normally be agreed by Council. But there is a procedure for urgent decisions outside the budget and policy framework (see Part 4 – Budget and Policy Framework).

3.3 Leader and Cabinet

The Council has adopted executive arrangements in the form of a Leader and Cabinet. The following parts of the Constitution constitute the executive arrangements:

- Part 3 – Responsibility for Functions
- Part 4 – Cabinet Procedure Rules
- Part 4 – Overview and Scrutiny Procedure Rules
- Part 4 – Access to Information Procedure Rules

The Cabinet is made up of the Leader, together with the Deputy Leader and five other councillors who are appointed by the Leader. Each Member holds the brief for a portfolio of services (See Part 3 – Section 3).

The Cabinet is responsible for making decisions about the day to day running of council services, developing the budget and making recommendations to the Council on major items of policy. A full list of matters that are the responsibility of the Cabinet is set out in Part 3 – Section 3.

Decisions made by the Cabinet must be in line with the Council's overall policies and budget and the Cabinet Procedure Rules set out in Part 4. A forward work programme for the Cabinet is published on the Council's website.

3.4 Policy and Project Advisory Board

A Policy and Project Advisory Board supports the Cabinet and the Council in the development of policies and projects that will help to deliver the Council's priorities. The role of the Policy and Project Advisory Board is set out in Part 3 of this Constitution.

The Policy and Project Advisory Board may commission task and finish groups to consider policy issues in greater depth and to make recommendations.

3.5 Overview and Scrutiny

The Council has one Overview and Scrutiny Committee.

The Council also appoints three non-executive Members to the Joint Scrutiny Committee of the North Hampshire Community Safety Partnership (Hart District Council/Basingstoke & Deane Borough Council and Rushmoor Borough Council).

The Overview and Scrutiny Committee can review decisions made, or planned to be made, by the Cabinet (executive decisions), and has a role to monitor the Council's performance against its targets and hold other public service providers to account. The terms of reference for the Committee are set out in Part 3 – Role of the Overview and Scrutiny Committee. The Committee will follow the committee's procedure rules, as set out in Part 4 of this Constitution when considering any matter.

The Overview and Scrutiny Committee sets a programme of work and appoints standing groups and task and finish groups to support the delivery of this.

3.6 **Regulatory Committees**

The Council has three regulatory Committees that deal with quasi-judicial and other non-executive matters. The Development Management Committee has responsibility for the Council's planning functions, the Audit and Governance Committee is responsible for Audit and corporate risk, and the Licensing and Corporate Business Committee which appoints licensing sub-committees for licensing matters.

3.7 **Rushmoor Development Partnership**

The Council has established the Rushmoor Development Partnership to support the delivery of the Council's Regeneration Programme, which is 50:50 controlled by the Council and its Investment Partner. The governance arrangements are set out in Part 3.

3.8 **Rushmoor Homes Limited**

The Council has established a Housing Company 'Rushmoor Homes Limited' to enable the Council to participate directly in the provision of housing, which will be set up and governed as a Wholly Owned Company (WOC) with the Council holding 100% of the shares. The governance arrangements are set out in Part 3.

3.9 **Access to Information**

Meetings and papers relating to the full Council, the Cabinet and Committees are open to the public, and documents are available on the Council's website except where 'exempt' or 'confidential' items are discussed.

Webcasts and Virtual Meetings

Formal committee meetings are usually available to view on a live webcast and some non-decision-making meetings are held remotely as 'virtual meetings' which are accompanied by a live webcast for public viewing. The link to view a meeting webcast is published on the Council's website, on the relevant meeting's webpage.

3.10 **Decision Making**

The Council will keep a record of what part of the Council, or which officer, has responsibility for particular types of decisions, which is set out in Part 3 – Responsibility for Functions.

The types of decision are:

(a) Decisions reserved to the full Council (see Part 3 – Section 5).

(b) Non-executive decisions which are not to be the responsibility of the Cabinet such as those that relate to Licensing and Development Management (see

Part 3 – Sections 4 and 6).

(c) Local choice decisions where it is up to the Council to determine whether they are the responsibility of the Cabinet and Leader, the Council or an officer.

(d) Executive decisions which are the responsibility of the Cabinet and Leader. This comprises all decisions which are not the responsibility of any other part of the Council whether by law or under the Council's Constitution (see Part 3 – Sections 2 and 3).

(e) Statutory Officer decisions which are taken by officers appointed directly through statutory provisions (see Part 3, Section 11).

(f) Key decisions (see definition in paragraph 3.12 below, and Part 4 – Access to Information Procedure Rules).

3.11 **Principles of Decision Making**

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

- proportionality (i.e. the action must be proportionate to the desired outcome)
- due consultation and the taking of professional advice from officers;
- to take into consideration financial, legal, equalities and risk implications
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- clarity of aims and desired outcomes;
- account being taken of relevant considerations and options; and
- an explanation of the reasons for a decision

Decisions taken by the Council, the Cabinet, cabinet members, committees and certain decisions taken by officers, including key decisions will be recorded in accordance with the Access to Information Procedure Rules in Part 4.

3.12 **Key Decisions**

A key decision means an Executive Decision (taken by the Cabinet, cabinet sub-committee, cabinet member or officer) which is likely to

- result in the Council incurring expenditure or making savings which are significant in as much as they will have a material effect on the level of council tax or balances or contingencies in relation to the Council's overall budget; or

- be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough.

Expenditure or savings of £100,000 is considered to be significant for the purposes of recording key decisions. However, for the acquisition or disposal of property or leases the threshold for key decisions is £250,000.

A decision taker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.

3.13 **Joint Arrangements, delegation to and from other local authorities, and contracting out**

In order to promote the economic, social or environmental well-being of the area, the Council or the Cabinet 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.

The Council has a number of joint arrangements in place for the delivery of services including (e.g. community safety partnership, building control services). The provisions for joint arrangements, delegation of arrangements to other local authorities and contracting out are set out in Part 3 Responsibility for Functions.

3.14 **Mayoralty**

Each year, the Council elects a Mayor and Deputy Mayor for the Borough from amongst the elected Members of the Council. The Mayor is the first citizen and the King's representative in the Borough. A Mayoral Protocol is included in Part 5 of the Constitution.

The key responsibilities of the Mayor are to

(a) act as the civic head of the Borough;
(b) uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary at Council meetings;
(c) 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 interest of the community;
(d) ensure that the Council meeting provides an opportunity for debate on matters of concern to the local community;
(e) ensure that the Council meeting provides a forum at which Members who are not part of the Cabinet are able to hold the Cabinet to account;
(f) promote the interests and reputation of the Council and the Borough both inside and outside the area and to act as an ambassador for both; and
(g) undertake civic, ceremonial and community-based functions and to promote the Council in the local community, acting at all times in an inclusive and non-partisan manner.

<u>Restrictions</u>

- In accordance with the provisions of the Local Government Act 2000, neither the Mayor or the Deputy Mayor of the Borough can be a Member of the Cabinet.

- During their mayoral year, the Mayor shall not hold the position of Chair of any of the Council's committees or the Policy and Project Advisory Board.

3.15 The Council's Staff and Management Structure

The Council employs officers to give advice, implement and take decisions under delegation arrangements and manage the day-to-day delivery of its services. The Chief Executive, Executive Director, Executive Heads of Service and Monitoring Officer comprise the Executive Leadership Team (ELT). This team provides strategic advice to the Council, coordinates Council activity to the best effect and ensures high standards of performance. The wider Senior Leadership Team (SLT) comprises the roles as set out in the Appendix to Part 3, Section 3 (Scheme of Delegation for Executive Matters).

3.16 Financial Management

Each year the Council sets an annual revenue budget and capital programme which indicates how it is going to spend the money which it has available to it. The Council spends money in a number of different ways to provide services in accordance with its powers and duties. These include employment of staff, maintaining premises, contracting with others to provide services and insuring itself and its property.

To help the Council exercise its statutory financial responsibilities, safeguard its finances and assets and ensure the proper record keeping and reporting of its accounts, the Council has Financial Procedure Rules and Risk Management Procedures which it must follow. The Financial Procedure Rules are set out in Part 4 of the Constitution.

3.17 Contracts

The Council spends a large proportion of its budget on procuring services, works and goods from other people. To ensure that the Council is protected when it enters into contracts and also that it acts fairly and secures best value from the use of budget the Council has Contract Procedure Rules which can be found in Part 4 of the Constitution.

3.18 Legal Proceedings, Authentication of Documents and Affixing the Common Seal of the Council

There are occasions when the Council needs to institute legal proceedings against other people in the exercise of its powers and duties and also to defend itself against actions taken by others. The Executive Head of Governance and Law is empowered to institute and defend legal proceedings on behalf of the Council and to represent it in court and at tribunals (Part 3 – Section 1).

The Chief Executive, Executive Director, and Executive Head of Governance and Law are empowered to witness or authenticate documents and to affix the Common Seal of the Council to deeds in accordance with Standing Order 25 (Part 4 – Standing Orders for the Regulation of Business).

The Public's Rights

4.1 Introduction

The public's rights to information and to participate in the decision-making process are explained in more detail in the Access to Information Procedure Rules and Public Speaking Procedure Rules in Part 4 of this Constitution. In summary residents have the following rights:

4.2 Voting and Petitions

People on the electoral roll for the Borough have the right to vote at local elections if they are registered and to contact elected Members about matters of concern to them.

Residents also have the right to petition the Council and to petition to request a referendum on a mayoral form of Executive decision making.

Petitions shall be dealt with in accordance with the Council's Petitions Scheme in Part 4 of the Constitution. However, petitions related to planning and licensing applications, or other quasi-judicial matters where there is already an existing right of appeal, such as council tax banding and non-domestic rates will be dealt with outside of this Scheme in accordance with existing provisions. All petitions related to planning applications shall be reported to the Council's Development Management Committee.

4.3 Information

Residents have the right to

- attend meetings of the Council, the Cabinet and committees except for items of business where confidential or exempt information is likely to be disclosed and the item is therefore considered in private;
- see the Cabinet Work Programme which sets out what key and 'in private' decisions will be taken by the Cabinet and when;
- see reports and background papers and any records of decisions made by the Council, the Cabinet and committees;
- see the Register of Members' Interests
- inspect the Council's accounts and make their views known to the external auditor;
- exercise their right to seek information in accordance with the provisions of the Freedom of Information Act 2000; and
- Obtain a copy of the Constitution

Members of the public are welcome to attend any meetings of the Council that are open to the public, except for any part that contains exempt or confidential information.

Dates of meetings and related agendas and reports are listed and published on the Council's website at www.rushmoor.gov.uk and the Modern.gov App.

4.4 Participation

Residents can ask questions or address meetings of the Cabinet and Committees and to participate in the work of the Overview and Scrutiny Committee and Policy and Project Advisory Board, where appropriate, in accordance with the Public Speaking Procedure Rules (in Part 4) and individual arrangements made by Committees.

4.5 Complaints

Members of the public have the right to complain to:

- the Council itself under its complaints scheme;
- the Local Government Ombudsman after using the Council's own complaints scheme; and
- the Monitoring Officer about a breach of the "Code of Conduct for Councillors", as set out in Part 5 of this Constitution.