

PART 2 - ARTICLES OF THE CONSTITUTION

CONSTITUTION 2021 – Version 2 (May 2022)
PART 2 – ARTICLES OF THE CONSTITUTION

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ARTICLE 1 – THE CONSTITUTION

1.0 FUNCTIONS (POWERS AND DUTIES) OF THE COUNCIL

The council will exercise all its powers and duties in accordance with the law and this constitution.

2.0 THE CONSTITUTION

This constitution, and all its sections, is the constitution of Arun District Council.

3.0 PURPOSE OF THE CONSTITUTION

The purpose of the constitution is to:

- (i) enable the council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
- (ii) support the active involvement of residents in the process of local authority decision making;
- (iii) help councillors represent their constituents more effectively;
- (iv) enable decisions to be taken efficiently and effectively;
- (v) create a powerful and effective means of holding decision-makers to public account;
- (vi) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (viii) provide a means of improving the delivery of services to the community.

4.0 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 13.

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ARTICLE 2 – MEMBERS OF THE COUNCIL

1.0 COMPOSITION AND ELIGIBILITY

(a) Composition

The council comprises 54 members otherwise called councillors. Between two and three councillors will be elected by the voters of each ward in accordance with the scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the Arun district, those living or working there, or those who occupy as owner or tenant land or other premises in the district will be eligible to hold the office of councillor.

2.0 ELECTION AND TERMS OF COUNCILLORS

The regular election of councillors will be held on the first Thursday in May every four years. The term 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 election four years later.

3.0 ROLES AND FUNCTIONS OF ALL COUNCILLORS

Key roles – All councillors will:

- (i) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the district and actively encourage community participation and residents' involvement in decision making;
- (iii) effectively represent the interests of the council's area with special responsibility to the residents in their ward;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the council; and
- (vi) maintain the highest standards of conduct and ethics.

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Rights and duties – All councillors will:

- (i) have rights of access to only such documents, information, land and buildings of the council as are necessary for the discharge of their functions and in accordance with the law;
- (ii) not make public information which is confidential or exempt without the written consent of the council, Chief Executive or Monitoring Officer; or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. Confidential and exempt information is defined in the Access to Information Rules at part 6 of this constitution.

4.0 CONDUCT

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in part 8 of this constitution.

5.0 ALLOWANCES

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in part 9 of this constitution.

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ARTICLE 3 – RESIDENTS AND THE COUNCIL

1.0 RESIDENTS’ RIGHTS

Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in part 6 of this constitution.

(a) Voting and petitions

Those on the electoral register for the district have the right to vote in elections in their ward and sign a petition to request a referendum for a change from one form of governance to another. For a petition to be valid to require a referendum, the number of signatures must equate to no less than 5% of the electorate of the area. If there is a referendum, registered electors will have a right to vote in accordance with the timetable as prescribed under legislation, and to vote in any local referendum in respect of an increase in the local authority’s precept.

(b) Other petitions

Any Arun resident can submit a petition as long as it follows the requirements of the Petitions Scheme set out in part 8 of this constitution. A petition can, amongst other outcomes, lead to a council debate or the matter being considered by the relevant service committee.

(c) Attendance & information

Residents have the right to:

- (i) attend, record and report on meetings of the council and its committees and sub-committees except where confidential or exempt information is likely to be disclosed and the meeting, or part of the meeting, is therefore held in private;
- (ii) see reports and background papers and any records of decisions made by the council and committees, excluding confidential and exempt information; and inspect the council’s accounts and make their views known to the external auditor.

(d) Participation

- (i) Residents are able to participate in Public Question Time in full council and service committee meetings.

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- (ii) Residents are able to participate in other meetings of the council in accordance with the rules of that meeting

(e) **Complaints**

Residents have the right to complain to the:

- (i) Council itself under its corporate complaints procedure;
- (ii) Local Government and Social Care Ombudsman or Housing Ombudsman after using the council's own complaints procedure;
- (iii) Monitoring Officer about a breach of the Members' Code of Conduct by an Arun district councillor; and
- (iv) Monitoring Officer about a breach of their respective Members' Code of Conduct of any town and parish councillor in the Arun district.

2.0 RESIDENTS' RESPONSIBILITIES

Residents must not be violent, abusive or threatening to councillors or officers in any form of contact, including through social media platforms, and must not wilfully cause damage to any property owned by the council, councillors or officers.

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ARTICLE 4 – THE FULL COUNCIL

1.0 MEANINGS

- **Policy Framework** – the policy framework means the following plans and strategies:
 - Crime and Disorder Reduction Strategy
 - Development Plan documents
 - Licensing Authority Policy Statement
 - Plans and alterations which together comprise the Development Plan (Local Plan)
 - Sustainable Community Strategy (Arun Priorities, Vision 2022-2026 and Strategic Targets)
 - Corporate Plan
 - Leisure Strategy
 - Asset Management Plan
 - Capital Strategy
 - Commercial Strategy
 - Housing Revenue Account (HRA) Business Plan
 - Property Investment Strategy

- **Budget** – this includes:
 - the allocation of financial resources to different services and projects;
 - proposed contingency funds;
 - setting the council tax;
 - decisions relating to the control of the council's borrowing requirements, investments and capital expenditure; and
 - the setting of virement limits.

2.0 FUNCTIONS OF THE FULL COUNCIL

The functions of the full council are set out in part 3 of this constitution.

3.0 COUNCIL MEETINGS

There are four types of full council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;

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- (c) special meetings; and
- (d) extraordinary meetings

They will be conducted in accordance with the Council Procedure Rules in part 5 of this constitution.

4.0 RESPONSIBILITY FOR FUNCTIONS

The council will maintain the details in part 3 of this constitution setting out the responsibilities for the council's functions.

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ARTICLE 5 – CHAIRING THE COUNCIL

1.0 ROLE AND FUNCTION OF THE CHAIR

The Chair will be appointed by the full council annually as set out in part 3 of this constitution. The Chair of the Council and, in their absence the Vice-Chair of the Council, has the role of acting as the leading citizen in Arun; chairing council meetings; and representing the council at various functions of a civic nature which the council might host or at which it might be represented.

No person shall be eligible for appointment as Chair or Vice-Chair for as long as they hold a position of responsibility as Leader or Deputy Leader within a political group of this council.

The Chair shall remain in office until a new Chair is appointed at the next annual council meeting unless they resign, become disqualified or are removed by a resolution of the council.

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ARTICLE 6 – LEADER AND DEPUTY LEADER OF THE COUNCIL

1.0 LEADER

The Leader will be appointed at the annual meeting of the council. The Leader will hold office from the date of their appointment to that position until they:-

- (a) resign from office; or
- (b) cease to be a councillor; or
- (c) are removed from office by resolution of the council

whichever first occurs.

As the council operates a committee system form of governance, the Leader has no formal powers or duties conferred to them under the Local Government Act 1972 or the Local Government Act 2000.

The Leader will act as Chair of the Policy & Finance Committee and will have the following additional roles and responsibilities:

- Provide a focal point for political leadership and strategic direction for the council
- Represent the interests of the council
- Ensure effective decision making, including working with all political groups to seek to achieve, where possible, cross-party co-operation
- Be the key political contact for outside organisations, including central government, local authority associations and council partners, and internally for the council's corporate management team
- Be the representative of the council in its dealings with central government, other local authorities and positively promote the council within the media
- Promote the long term financial, business and economic stability of the council

2.0 DEPUTY LEADER

The Deputy Leader will be appointed at the annual meeting of the council. The Deputy Leader will hold office until they:-

- (a) resign from office; or
- (b) cease to be a councillor; or
- (c) are removed from office by resolution of the council.

whichever first occurs.

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The Deputy Leader will act as Vice-Chair of the Policy and Finance Committee and will assist the Leader of the council generally in the conduct of the role and will assume the full role of the Leader in any circumstances in which the Leader is unable to act or is unavailable.

3.0 CASUAL VACANCIES

Any vacancy in the position of Leader or Deputy Leader shall be filled by the full council at the meeting that they cease to hold office or at the first subsequent meeting. The person(s) appointed shall be subject to the term of office described in the paragraphs above.

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ARTICLE 7 – COMMITTEES

1.0 COMMITTEES

The council will establish such committees and sub-committees as it requires for efficient and effective decision making and as required by law.

2.0 ROLE AND FUNCTIONS

Details of the committees and sub-committees established, and their roles and functions, are set out in part 3 of this constitution.

3.0 PROCEEDINGS

Committees and sub-committees will conduct their proceedings in accordance with the relevant Procedure Rules set out in part 5 of this constitution.

4.0 MEMBERSHIP

The size and membership arrangements for all committees and sub-committees established are set out in part 3 of this constitution. Their composition will be governed by proportionality rules.

5.0 CHAIR AND VICE-CHAIR OF COMMITTEES

The council shall appoint at each annual council meeting the Chair and Vice-Chair of committees and sub-committees. The Chair and Vice-Chair will remain in office until they:

- (a) resign from office; or
- (b) cease to be a councillor; or
- (c) are removed from office by resolution of the council.

whichever first occurs.

The role of the Chair (and in their absence the Vice-Chair) is to:

- Assume the role of lead member relating to matters within their committee's remit
- Ensure effective conduct of meetings
- Maintain a good understanding of the nature of the business of the committee and key issues within its remit

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- Act as a council spokesperson as appropriate on matters within the committee's remit, including responding to questions at council meetings relating to the business and functions of the committee
- Maintain good communication with the Vice-Chair and committee members to ensure the co-ordination and efficient management of the committee's activity
- Represent the council in connection with matters within the committee's remit and positively promote the council within the media.

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ARTICLE 8 – STANDARDS COMMITTEE

1.0 STANDARDS COMMITTEE

The council will appoint a Standards Committee. Its composition shall be governed by proportionality rules and it shall be subject to the same requirements on confidential and exempt information as any other committee.

The composition and functions of the Standards Committee and its panels are set out in part 3 of this constitution.

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ARTICLE 9 – JOINT ARRANGEMENTS

1.0 Arrangements to promote well-being

The council may, subject to statutory restrictions:

- (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;
- (c) exercise on behalf of that person or body any functions of that person or body;
- (d) create partnerships and partnership bodies.

2.0 Joint arrangements

- (a) In accordance with Section 101 of the Local Government Act 1972, as amended, the council may enter into joint arrangements with one or more local authorities to advise the council on, or exercise council functions.
- (b) Details of any joint arrangements including delegations to joint committees are detailed in part 3 of this constitution.

3.0 Access to information

- (a) The Access to Information Procedure Rules set out in part 6 of this constitution apply to functions in a joint arrangement except in so far as the arrangement itself has made provision.

4.0 Delegation to and from other local authorities

- (a) The council may arrange for the discharge of its functions to another local authority; and
- (b) The decision whether or not to accept a delegation from another local authority shall be reserved to the full council meeting.

5.0 Contracting out

- (a) The council may contract out to another body or organisation any functions which may be exercised by an officer. Such functions may be contracted out where they are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision making.

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ARTICLE 10 – AREA COMMITTEES

NOT USED

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ARTICLE 11 – OFFICERS

1.0 TERMINOLOGY

In this article, use of the word “officers” means all employees and staff engaged by the council to carry out its functions and includes those engaged under short-term, agency or other non-employed situations.

2.0 MANAGEMENT STRUCTURE

- (a) **General** – without prejudice to Sections 111, 112 and 113 of the Local Government Act 1972, the council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Executive and Directors** – the council appoints persons for the following posts who will together form the corporate management team:

Post	Responsibilities
Chief Executive	<ul style="list-style-type: none"> • Overall corporate management and strategic responsibility (including overall management responsibility for all officers) • Represents the council on partnership and external bodies (as required by statute or the council) • Provides direction for the Organisational Excellence Directorate as set out in part 7 of this constitution • Acts as Returning Officer and Electoral Registration Officer
Director of Growth	<ul style="list-style-type: none"> • Provides direction for the Growth Directorate as set out in part 7 of this constitution
Director of Environment and Communities	<ul style="list-style-type: none"> • Provides direction for the Environment and Communities Directorate as set out in part 7 of this constitution

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer** - the council has, for the time being, designated the following posts with the functions described below:

Post	Designation
Chief Executive	Head of Paid Service

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Group Head of Law & Governance	Monitoring Officer
Group Head of Finance	Chief Financial Officer and Section 151 Officer

- (d) **Structure** – the Head of Paid Service will determine and publicise a description of the overall directorate structure of the council showing the management structure and deployment of officers. This is set out in part 7 of this constitution.

3.0 FUNCTIONS OF THE HEAD OF PAID SERVICE

- (a) **Discharge of functions by the council** – the Head of Paid Service will report to the 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 Chief Financial Officer or Monitoring Officer.

4.0 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 councillors, officers and the public.
- (b) **Ensuring lawfulness and fairness of decision making** – after consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the council if they consider that any proposal, 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) **Contributing to the corporate management team** – the Monitoring Officer will contribute to the corporate management of the council.
- (d) **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.
- (e) **Conducting investigations** – the Monitoring Officer will consider allegations of misconduct by councillors in accordance with the council’s adopted Local Assessment Procedure.

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- (f) **Advising whether decisions are within the budget and policy framework** – the Monitoring Officer and/or the Chief Financial Officer will advise whether decisions are in accordance with the budget and policy framework.
- (g) **Providing advice** – the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity, and budget and policy framework issues to all councillors; and will support and advise councillors and officers in their respective roles.
- (h) **Restrictions on posts** – the Monitoring Officer may not be the Chief Financial Officer or the Head of Paid Service.

5.0 FUNCTIONS OF THE CHIEF FINANCIAL OFFICER

- (a) **Ensuring lawfulness and fairness of decision making** – after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer, will report to the council and to the council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** – the Chief Financial Officer will have responsibility for the administration of the financial affairs of the council.
- (c) **Contributing to the corporate management team** – the Chief Financial Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- (d) **Providing advice** – the Chief Financial Officer will provide advice on the scope of powers and authority to take financial decisions, financial maladministration, financial impropriety, probity, and budget and policy framework issues to all councillors; and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information** – the Chief Financial Officer will provide financial information to the media, members of the public and the community.
- (f) **Restrictions on posts** – the Chief Financial Officer may not be the Monitoring Officer or the Head of Paid Service.

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6.0 DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

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

7.0 CONDUCT

Officers will comply with the Protocol on Member/Officer Relations set out in part 8 of this constitution.

8.0 EMPLOYMENT

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in part 6 of this constitution.

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ARTICLE 12 – DECISION MAKING

1.0 RESPONSIBILITY FOR DECISION MAKING

The council will issue and keep up to date a record of what part of the council or which officer has responsibility for particular types of decisions or decisions relating to particular areas or functions. The record is set out in parts 3 and 4 of this constitution.

2.0 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 and equality of opportunity;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) the rule of law.

3.0 TYPES OF DECISION

- (a) **Decisions reserved to full council** – decisions relating to the functions of the council as set out in part 3 of this constitution will be made by the full council and will not be delegated.
- (b) **Decisions made by committees appointed by the full council** – authority to make such decisions is delegated by the council as set out in part 3 of this constitution, in accordance with Section 101 of the Local Government Act 1972, as amended.
- (c) **Decisions made by sub-committees appointed either by the full council or a committee** – authority to make such decisions is set out in part 3 of this constitution.
- (d) **Decisions made by officers** – authority to make such decisions is set out in part 4 of this constitution.

4.0 DECISION MAKING BY THE FULL COUNCIL

Subject to the general principles contained in this article, the full council meeting will follow the Council Procedure Rules set out in part 5 of this constitution when considering any matter.

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5.0 DECISION MAKING BY COMMITTEES ESTABLISHED BY THE COUNCIL

Subject to the general principles contained in this article, council committees will follow the Committee Procedure Rules set out in part 5 of this constitution as they apply to them.

6.0 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

The council, a committee or an officer acting as a tribunal; in a quasi-judicial manner; or determining or considering the civil rights and obligations, or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

7.0 ACCESS TO INFORMATION

The Access to Information Procedure Rules set out in part 6 of this constitution will apply to decisions taken under this article.

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ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS

1.0 FINANCIAL MANAGEMENT

The management of the council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in part 6 of this constitution.

2.0 CONTRACTS

Every contract made by the council will comply with the Purchasing, Procurement, Contracts and Disposals Rules set out in part 6 of this constitution.

3.0 LEGAL PROCEEDINGS

The Group Head of Law & Governance or their nominated representative is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where they consider that such action is necessary to protect the council's interests and in particular, to ensure that all procedural and evidential requirements are carried out in connection therewith.

4.0 COMMON SEAL OF THE COUNCIL

The common seal of the council shall be kept in a safe place in the custody of the Group Head of Law & Governance or their nominated representative.

The seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the full council or committee or sub-committee to which the full council have delegated their powers in this behalf; or by a decision of an officer with delegated powers.

The Group Head of Law & Governance or their nominated representatives shall attest every document which is being sealed and any entry of the sealing of every document to which the common seal has been attached shall be made and consecutively numbered in a record provided for that purpose and each entry duly attested. The record shall be open for inspection by every member of the council.

5.0 AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS

Where any document will be a necessary step in legal proceedings on behalf of the council, it shall be signed by the Group Head of Law & Governance or their nominated representative unless any enactment otherwise requires or authorises, or the full council gives the necessary

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authority to some other person for the purpose of such proceedings.

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ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

1.0 DUTY TO MONITOR AND REVIEW THE CONSTITUTION

The Constitution Working Party will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. Subject to paragraph 2.0 below amendments to the constitution will only be made on the recommendation of the Constitution Working Party

2.0 CHANGES TO THE CONSTITUTION

The full council has delegated authority to:

~~(i)~~ the Monitoring Officer to make consequential changes as a result of the modification or re-enactment of legislation or express changes consequential to an agreed decision of full council;

~~(+)(ii)~~ the Monitoring Officer, in written consultation with the Chair of the Constitution Working Party and distributed to members at least 3 working days before the relevant full council meeting, to propose that for any other reason the proposed change be put direct to full council for consideration and decision;

and

~~(+)(iii)~~ the Monitoring Officer, in consultation with the Chair of the Constitution Working Party to make consequential amendments to any names, job titles and reporting lines within the constitution and other constitutional documents resulting from reorganisation or changes in structure/position, and any typographical errors.

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ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION
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1.0 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 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 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 council procedure rules may be suspended in accordance with this article.

2.0 INTERPRETATION

The ruling of the Chair of the Council as to the interpretation or application of this constitution, or as to any proceedings of the full council, shall not be challenged at any meeting of the full council. Such interpretation will have regard to the purposes of this constitution set out in Article 1.

3.0 PUBLICATION

Copies of this constitution will be available:

- to each member of the council electronically on their election, with any revisions provided at the earliest opportunity;
- for inspection at council offices;
- to view online at <http://www.arun.gov.uk/constitution>
- for purchase by members of the local press and the public on payment of a reasonable fee; and
- to town and parish councils electronically at their request.