

PART 2 - ARTICLES

CONSTITUTION OF THE BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

Article 1 — The Constitution

Purpose of the Constitution

- 1.01 The purpose of the Constitution is to regulate how the Borough Council operates. In particular:
- (a) to enable the Council to provide clear leadership to the Borough in partnership with local people and organisations;
 - (b) to encourage the active involvement of local people in the processes of local government decision-making;
 - (c) to help councillors represent local people more effectively;
 - (d) to create effective means for decision-makers to be held to account publicly;
 - (e) to ensure that no one directly involved in making a decision will then scrutinise how that decision was reached;
 - (f) to ensure those responsible for making decisions are clearly identifiable by local people and will explain the reasons for those decisions; and
 - (g) to provide a means of improving the quality of services provided to the community.

Powers of the Council

- 1.02 The powers and duties of the Council must all be exercised in accordance with relevant law (which is sometimes summarised in context for convenience) and the additional rules in this Constitution.
- 1.03 The Constitution of the Borough Council of King's Lynn and West Norfolk consists of the main Articles in this document and all its appendices (called Parts 1 to 5).

Choosing Options within the Constitution

- 1.04 Where the Constitution allows the Council to choose between different courses of action, it will always be the duty of the Council to choose that option which it considers best serves the purposes listed above.

Article 2 — Members of the Council

Composition and Eligibility

- 2.01 The Council consists of 55 members, called Councillors. They are elected by the voters in areas which are created as Borough Wards in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State and which is reviewed periodically.

- 2.02 To be eligible to qualify for elections and holding of office as a member of a local authority, Part V (79) of the Local Government Act 1972 must be adhered to and applies for the period to which they were elected, unless a disqualification applies.

Election Time and Term of Office

- 2.03 The regular election of councillors will ordinarily be held on the first Thursday in May every four years.

Roles and Functions of Councillors

- 2.04 The main functions of councillors are:
- (a) together to decide on the most important policies and carry out major local government functions;
 - (b) to work for the good government of the Borough and actively encourage local people and organisations to be involved in decision making;
 - (c) to represent effectively the interests of their wards and of individual people;
 - (d) to deal fairly with the people they represent;
 - (e) to take part in the management of the Council's operations; and
 - (f) to maintain the highest standards in the conduct of Council business

Rights and Duties of Councillors

- 2.05 Subject to legal safeguards, councillors have rights of access to documents, information, land and buildings held by the Council so far as is necessary to perform their functions properly.
- (a) Except with the permission of the Council, councillors must not give out information which is given to them in confidence to anyone not entitled to have it.
 - (b) Confidential information is defined in the Access to Information Rules in Part 4 of this Constitution and is limited by law.
- 2.06 At all times, councillors must obey the Borough Council of King's Lynn and West Norfolk code of conduct and a code of councillor-officer relations which are set out in Part 5 of this Constitution.
- 2.07 Councillors are entitled only to those financial allowances set out in a scheme in Part 6 of this Constitution. The scheme must be reviewed by the Council at least annually. The published advice of an independent panel must be considered by the Council in deciding this scheme.

Article 3 — Citizens and the Council

Citizens' Rights

- 3.01 Citizens have the following rights.
- (a) Voting and petitions.

Citizens on the electoral register for the Borough have the right to vote and to sign a petition, including one to require a referendum to be held on having a Mayor, elected directly by local citizens, who would have the executive powers as defined in this Constitution.

(b) Information.

Citizens have rights to information which are explained in more detail in the Access to Information Rules in Part 4 of this Constitution. They may:

- (i) attend meetings of the Council and its committees/panels/boards except when information is likely to be disclosed which it is lawful and desirable for the Council to treat as confidential;
- (ii) attend meetings of the Cabinet when key decisions are being considered;
- (iii) find out what key decisions will be taken by the Cabinet and when;
- (iv) see reports which are presented to the Council and the Cabinet (and the background papers) and records of decisions made; and
- (v) inspect the Council's financial accounts and make their views known to the external auditor.

(c) Participation.

Citizens have the right to participate in the Council's processes in a range of ways set out in the relevant parts of the Council's Rules of Procedure in Part 4 of this Constitution.

(d) Complaints.

Citizens have the right to complain:

- (i) through the Council's Corporate Complaints process
- (ii) to the local government 'ombudsman', if not satisfied after using the Council's own complaints procedure; and
- (iii) to the Council's Monitoring Officer about any breach of the Borough Council of King's Lynn and West Norfolk's Code of Conduct.

Article 4— The Council

Functions of the Council

4.01 The Council itself will normally perform the following functions and only exceptionally and when it is lawful, will it delegate them to any committee or officer

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Council's policy framework and the budget
- (c) subject to the urgency procedure in Part 4 of this Constitution, making decisions about any matter which has been delegated to others and which the decision maker is intending

to make in a way which would be contrary to the policy framework or not wholly in accordance with the budget;

- (d) election of Mayor and Deputy Mayor
- (e) deciding who shall be the Leader of the Council (for up to a four year period) ;
- (f) deciding and amending the terms of reference for Council's main committees, their composition and appointing their members;
- (g) appointing councillors to other Council bodies and ensuring that such bodies are politically balanced as required by law;
- (h) appointing representatives to outside bodies except in cases where this function has been delegated by the Council;
- (i) adopting and reviewing a members' allowances scheme under Article 2;
- (j) changing the name of the area;
- (k) conferring the title of honorary alderman or the freedom of the borough;
- (l) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local or personal Bills in Parliament;
- (m) all the functions set out in Part 3 of this Constitution which by choice the Council has decided should be performed by itself rather than by the Cabinet; and
- (n) any other matters which, by law, must be decided by the Council.

Definitions

(i) ***Policy framework***

The Policy Framework comprises of the following policies, plans and strategies:-

- Corporate Strategy
- Constitution
- Capital Strategy
- Capital Programme
- Treasury Management Strategy
- Medium Term Financial Strategy
- Risk Management Policy
- Local Plan, Neighbourhood Plans and other Development Plan Documents
- Asset Management Strategy
- Health and Safety Policies
- Fees and Charges Policy
- Licensing Policies
- Gambling Policy
- Pay Policy

(ii) ***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 limits on flexibility within the expenditure allocations (virement).

Council Meetings

4.02 There are four types of Council meeting:

- (a) Annual Meeting (usually held in May)
- (b) Ordinary Meetings (6 each year)
- (c) Extraordinary Meetings (whenever called)
- (d) Budget Meeting (usually in February)

and they must be conducted in accordance with the Council's Rules of Procedure set out in Part 4 of this Constitution.

Responsibility for functions

4.03 Part 3 of this Constitution sets out the responsibilities for the Council's functions which are not reserved for the Council itself to perform and not delegated to the Cabinet to perform.

4.04 Subject to Article 13.04, the Council shall follow the Rules of Procedure set out in Part 4 of this Constitution.

Article 5— The Mayor and the Chairing of the Council

5.01 The Mayor and the Deputy Mayor will be elected by the Council at its annual meeting. The Mayor or, if unavailable, the Deputy Mayor, will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to chair 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 people of the Borough;
- (c) to help to make Council meetings a forum for the debate of matters of concern to the people of the Borough and for members who are not in the Cabinet to be able to hold Cabinet members to account;
- (d) to promote public involvement in the public life of the Borough;
- (e) As the 'first citizen' of the Borough, the Mayor is accorded ceremonial precedence over everyone in the Borough (unless we have a member of the Royal Family visiting) and is seen as a symbol of authority, depicted by the robe, chains of office, sword and the mace. The Mayor attends functions throughout the Borough and, by taking the Council's message and themes into the community, greatly assists the Council's social, community and economic aims.

Article 6 - Scrutiny and Overview Committees

Structure of the scrutiny and overview function

6.01 The Council's Scrutiny and Overview responsibility is fulfilled through the combined functionality of the Policy Review and Development Panels

- (a) The Corporate Performance Panel shall scrutinise and may directly challenge the Cabinet and delegated decision-makers.

- (b) The Policy Review and Development Panels shall work both i.) reactively to review existing policy and its delivery and ii.) proactively to develop revised or new policy and review the forward Decisions. iii.) Scrutinise Decisions taken after 30 days have lapsed.
- (c) The Panels may have any matter included for discussion on the agenda of a relevant Scrutiny and Overview Body.
- (d) Other non-executive members (i.e. those not sitting on a Policy Review and Development Panel) may put any matter for discussion forward for inclusion on a relevant Scrutiny and Overview agenda. In such instances, inclusion of the matter is at the discretion of the relevant Scrutiny and Overview body's Chair and Vice-Chair, in consultation with the relevant officers, save where the matter relates to crime and disorder under section 19 of the Police and Justice Act 2006 in which case it will be included onto the next Agenda. The decision, on whether to approve inclusion or not, then being reported under Chair's Correspondence at the body's next meeting. The following factors would be influential in arriving at such a decision:
 - i.) the appropriateness of the item to the relevant Panel's/ Committee's remit;
 - ii.) any similar items that may already be on work programmes/ schedules;
 - iii.) existing workloads and priorities (these would not preclude the item from consideration but may affect the scheduling of such consideration.
- (e) The Opposition may place 1 item onto any Panel agenda where it will be discussed.

6.02 Subject to Article 13.04, scrutiny and overview bodies shall follow the Rules of Procedure set out in Part 4 of this Constitution relating to overview and scrutiny.

Role of the Policy Review and Development Panels

- 6.03 The Council will appoint Policy Review and Development Panels (complying with the rules about political proportionality under sections 15-17 of the Local Government and Housing Act, 1989) and describe what they will do and how they will do it in accordance with the terms of reference in its Rules of Procedure.
- 6.04 Policy review and development work should, where possible, be carried out through the relevant Policy Review and Development Panels as part of the Scrutiny and Overview function within the Council.
- 6.05 Policy Review and Development Panels are the principal vehicle for assisting the Council and the Cabinet in the review and development of policy (including budget policy). To this end they may:
 - (a) call on other councillors and senior Council officers to share their views and experience relevant to the policy under consideration;
 - (b) encourage participation by members of the public, relevant outside organisations and other local authorities; and
 - (c) within the Council's arrangements and budget, commission or conduct inquiry, research and consultation in analysing policy issues and options.
 - (d) liaise with external organisations to enhance collaborative working

6.06 In addition the Corporate Performance Panel shall:

within 30 days of the decision scrutinise decisions, and recommendations to Council made by members on the delegated authority of the Council or in implementation of policy by the Cabinet provided that there shall be one opportunity only to close in respect of any decision or group of decisions; (NB after 30 days of a decision being made, any requisite review becomes the responsibility of the relevant Policy Review and Development Panel)

- (a) consider subject to Standing Order 12.6 all 'called in' decisions and recommendations to Council and decide whether to refer the outcome to Council or the Cabinet within 30 days.
- (b) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any of their functions.
- (c) report annually to the full Council on the work that they have completed during the preceding 12 months.
- (d) be directly accountable to, and subject to the direction of, the full Council

6.07 With respect to the matters they choose to examine within their individual remits, the Policy Review and Development Panels will generally:

- (a) consider matters affecting the Borough or local people;
- (b) review the performance of the Council specifically in relation to its policy objectives, performance targets or particular services.
- (c) post implementation reviews of major projects and significant policy changes and the introduction of new policies.
- (d) monitor the medium term Financial Plan
- (e) assist in advancing the development of effective policy for promoting or improving the economic, social and environmental wellbeing of the people and communities of King's Lynn and West Norfolk;
- (f) question members of the Cabinet and senior officers about their decisions and performance, whether generally in comparison with Directorate plans and targets over time, or in relation to particular decisions, initiatives or projects;
- (g) review the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant Policy Review and Development Panel about their activities and performance;
- (h) question and gather evidence from any other willing person.
- (i) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any of their functions.
- (j) to discharge crime and disorder scrutiny functions to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions under Section 19 of the Police and Justice Act 2006

and associated regulations, including reviewing Community Safety Partnership strategies, holding at least one dedicated meeting per year, and noting the role of the Norfolk Police and Crime Panel in overseeing the Police and Crime Commissioner for Norfolk, and to liaise as appropriate.

Article 7 - The Cabinet

Role

7.01 The Council's executive body shall be known as the Cabinet and shall carry out all functions which are not the responsibility of any other part of the Council or are prohibited from being an Executive function at law.

Composition

7.02 One Member of the Council shall be elected by the Full Council as its executive Leader and the Chair of Cabinet.

7.03 The Cabinet shall consist of not more than ten members including its Chair who is Leader of the Council.

7.04 The Leader appoints a Deputy Leader and up to eight other Cabinet Members.

7.05 The Mayor and Deputy Mayor of the Council cannot be appointed to the Cabinet. In addition, no Member of the Cabinet can be a Member of the Policy Review and Development Panels or the Audit Committee.

7.06 A Leader will be elected for a four year term at the Annual Meeting immediately following the ordinary election of Members.

7.07 Where there is a vacancy in the office of Leader, a new Leader can be elected by the Full Council at any Full Council Meeting.

7.08 After election the Leader shall hold office until:

- (a) They resign from the office (which shall be reported to the next Full Council Meeting);
- (b) They become disqualified from being a Member (which shall be reported to the next Full Council Meeting);
- (c) They are removed from office by resolution of the Full Council; or
- (d) Immediately preceding the Annual Meeting following the next ordinary election of Members.

7.09 If the Council removes a Leader from office by resolution, it must elect a new Leader at the same Full Council Meeting or a subsequent Full Council Meeting.

7.10 The Deputy Leader shall deputise for the Leader and carry out the functions delegated to the Leader in periods of their incapacity or absence.

7.11 The Deputy Leader shall hold office for a period of four years from the date of appointment by the Leader or until:

- (a) They resign from office;
- (b) They cease to be a Member;
- (c) They are removed from office by the Leader

7.12 Other Cabinet Members shall hold office until:

- (a) They resign from office;
- (b) They cease to be a Member;
- (c) They are removed from office by the Leader

Proceedings of the Cabinet

- 7.13 Subject to Article 13.04, the proceedings of the Cabinet shall be conducted in accordance with the Rules of Procedure set out in Part 4 of this Constitution relating to executive functions.

Responsibility for functions

- 7.14 Part 3 of this Constitution includes who will be responsible for each of the Council's executive functions known as the Scheme of Delegation , which may be performed by the Cabinet as a whole, a cabinet committee, a Cabinet Member, Council officers or a combination of any of these.
- 7.15 Other Cabinet Members shall be appointed by the Leader and shall hold office until removed from office by the Leader, until resignation or until the Cabinet Member ceases to be a Member, which ever shall be the sooner. Cabinet Members each hold a Portfolio as set out in Part 3 of the Constitution and this sets out the functions delegated to each portfolio holder and the limitations on that delegation.
- 7.16 The Leader may appoint Deputy Cabinet members, the role and responsibilities of which are set out below:

Purpose

To assist and work with the designated Cabinet Member with their responsibility for allocated portfolios.

Duties and Responsibilities

1. To assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
2. To assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
3. Where appropriate and where permissible under the Council's Constitution to represent the designated Cabinet Member at meetings or visits.
4. The role of Deputy Cabinet Member does not allow any use of Cabinet Members delegated powers or responsibilities.

Article 8 —Other Boards and Committees of the Council

Regulatory and other Boards

- 8.01 The Council will appoint the following Committee and Boards to perform the functions set out in Part 3 of this Constitution as being their responsibility. They will operate with the remits and terms of reference and subject to the relevant Rules of Procedure set out in Part 4 of this Constitution.

- (a) Standards Committee

- (b) Planning Committee
- (c) Licensing and Appeals Board
- (d) Licensing Committee
- (d) Appointments Board
- (e) Audit Committee

Article 9 - Task Groups

Task Groups

9.01 The Council, the Cabinet and any Council body may establish temporary Task Groups to undertake specific work within the remit of the body which establishes them and to report to that body. Policy Review and Development Panels may establish joint Task Groups. Task Groups may not be authorised to exercise the powers of the Council. Task Groups shall operate until they have completed their tasks unless they are disbanded sooner by the Bodies which established them.

Composition

9.02 Unless the Leader of each registered Political Group agrees to the contrary, Task Groups will be appointed in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 and having regard to Councillors' particular interests, expertise and willingness to participate.

9.03 For the purpose of making appointments nominations will be made to the Chief Executive by Political Group Leaders

9.04 Informal Working Groups (Scrutiny and Overview Function)

Instead of introducing an additional formal body to the process, through setting up a Task Group (with its accompanying demands on time and valuable resources), Policy Review and Development Panels may find it expeditious to carry out basic research (evidence gathering and preliminary analysis) through the use of what are termed Informal Working Groups:

- (a) these Working Groups are not formal Council Bodies but are simply subsets of a Policy Review and Development Panel (including other invitees as the Panel sees fit) which will work quickly and informally, within tight terms of reference defined by their respective Panel, to effect evidence gathering and preliminary analysis. The responsible Panel will then formally consider these findings and develop them (with further research as necessary) into a full report and recommendations.
- (b) The use of Informal Working Groups should simply be seen as a semi-structured means of quickly moving review-type work forward. They present Policy Review and Development Panels with an opportunity to: [i] make the most of Councillors interests and experience; [ii] draw in other interested/experienced Councillors; and, [iii] invite in external experts or possibly other members of the public with a direct stake or experience in the subject matter. Members and those outside of the authority may be more inclined to be involved in an apparently less bureaucratic approach.

Article 10 - Area Committees and Forums

The Council has a King's Lynn Area Committee which is made up of King's Lynn Councillors. It acts as an Area Committee and considers matters relating specifically to King's Lynn.

Article 11 — Joint Arrangements

Arrangements to promote Well Being

- 11.01 In order to promote the economic, social or environmental well being of the Borough, and if it considers that to do so will serve the purposes of the Constitution in Article 1, the Council may:
- (a) make 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 such a person or body any of their functions.

Joint Arrangements

- 11.02 Details of any joint arrangements, including any delegations of the Council's powers to joint committees or joint executive functions, will be included in the Council's scheme of delegation in Part 3 of this Constitution.
- 11.03 Decisions whether or not to make joint arrangements shall be reserved to the Council or the Cabinet in respect of Joint Executive Functions.

Access to Information

- 11.04 (a) The Public Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a joint committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

Article 12 — Council Employees

Staffing Structure

- 12.01 The Council may engage such employees as it considers necessary to carry out its functions.
- 12.02 In Part 4 of this Constitution, the Council will designate the posts held by certain of its employees (a) as chief officers and (b) three separate posts which will be held by 3 separate individuals as including the following roles which are required by Statute:
- (a) Head of the Paid Service.
 - (b) Chief Finance Officer.
 - (c) Monitoring Officer.
- 12.03 Such posts will have the functions described in Articles 12.05 — 12.06 below and will have authority to designate appropriate fellow employees as their deputies to undertake their duties if they are not available to perform them.

12.04 The Head of the Paid Service will publish a description of the overall staffing structure of the Council showing the management structure and the deployment of employees. This is set out at Part 7 of this Constitution.

Functions of the Statutory Posts

12.05 The officer designated as the Head of the Paid Service will report to the Council on how the performance of the Council's functions is co-ordinated, the numbers and grades of employee required for this, and how they are organised.

12.06 The officer designated as the Monitoring Officer will have the duties of:

- (a) maintaining an up to date authoritative edition of the Constitution;
- (b) after consulting with the Head of the Paid Service and Chief Finance Officer, reporting to the Council (or to the Cabinet in relation to an executive function, or to another Board in relation to functions delegated to it) if they consider that any proposal, decision or omission would give rise to unlawfulness or has given rise to maladministration. (Such a report will have the effect of stopping the proposal or decision being implemented until this report has been considered.);
- (c) contributing to the promotion and maintenance of high standards of conduct;
- (d) conducting investigations including into complaints made about Borough and Parish Councillors and making reports or recommendations in respect of them if necessary to the Standards Committee;
- (e) ensuring that executive decisions, together with the reasons for those decisions and relevant background papers, are made publicly available as soon as possible;
- (f) advising whether decisions of the Cabinet are in accordance with the budget and policy framework; and
- (g) providing advice to all councillors on the scopes of powers and authorities to take decisions, and on maladministration, financial impropriety, probity and budget and policy framework issues.

12.07 The officer designated as Chief Finance Officer will have the following duties.

- (a) after consulting with the Head of the Paid Service and the Monitoring Officer, reporting to the Council (or to the Cabinet in relation to an executive function) 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 shortfall in income, or if the Council is about to enter an item of account unlawfully.
- (b) responsibility for the administration of the financial affairs of the Council.
- (c) contributing to the corporate management of the Council, in particular through the provision of professional financial advice;
- (d) providing advice and support to all councillors and officers in their respective roles on the scopes of powers and authorities to take decisions, and on maladministration, financial impropriety, probity, budget and policy framework issues; and
- (e) providing financial information to members of the public and other Stakeholders.

12.08 The Council will provide the Monitoring Officer and Chief Finance Officer with such ancillary officers, accommodation and other resources as those statutory officers consider are sufficient to allow their duties to be performed.

Conduct of Employees and Councillors

12.09 Officers and Councillors shall comply with the Protocol on Relations between Officers and Members set out in Part 5 of this Constitution and the Officers' Code of Conduct.

Employment

12.10 The recruitment, promotion and dismissal of officers shall comply with the Officer Employment Rules set out in Standing Orders 20 to 24 as set out in Part 4 of this Constitution.

Article 13 - Decision making

Responsibility for decision making

13.01 Part 3 of this Constitution sets out who is responsible under the current arrangements for taking decisions in relation to each of the Council's functions. **Principles of Decision Making**

13.02 All decisions on behalf of the Council shall be made in accordance with the following principles.

- (a) Any action or omission that is authorised by the Council must be intended to have an effect proportionate to the desired effect.
- (b) Decisions should not be made on behalf of the Council without seeking, receiving and having regard to the professional advice of officers.
- (c) Respect must be had for the human rights of all persons involved.
- (d) There should be a presumption in favour of making decisions publicly.
- (e) Whenever practicable, and in any event whenever it is required by law, the Council will seek to consult those having a particular interest in it before making a decision.

Process of Decision Making

13.03 Decisions relating to the functions listed in Article 4.01 shall be made by the Council and not delegated.

13.04 The Council, councillors and officers, when acting as a tribunal or in any quasi-judicial capacity or deciding or considering the civil rights and obligations or the criminal responsibility of any person, shall (rather than simply giving advice) follow a process which respects the requirements of natural justice and fair trial in accordance with Article 6 of the European Convention on Human Rights.

13.05 Subject to Article 13.04, all persons taking part in decision making on behalf of the Council shall comply with the relevant provisions of Part 4 and of any other relevant parts of this Constitution.

13.06 "Key decisions" are defined as those which are likely:

- (a) to result in the Council incurring expenditure which is significant or the making of savings which are significant - having regard to the Council's budget for the service or function to which the decision relates; or

- (b) to be significant in terms of their effects on people living or working in an area comprising two or more wards in the Borough.

Significant under (a) above is defined within this Borough as £500,000+ and significant under (b) above is detailed as one third or more of the resident population of a ward.

Article 14 - Financial and Legal Rules

- 14.01 The Council's financial business shall be regulated by the rules set out in Part 5 of this Constitution.
- 14.02 Every contract made by the Council and all procurements negotiated for the Council shall comply with the rules set out in Part 6 of this Constitution.
- 14.03 Unless any law authorises or requires otherwise, the Legal Services Manager shall be authorised to
- (a) 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 he/she considers that such action is necessary to protect the Council's interests;
 - (b) to authenticate by signing any document which is necessary for any legal procedure or proceedings on behalf of the Council;
 - (c) to keep custody of the Common Seal of the Council.
 - (d) to provide evidence of the sealing of any document with the Common Seal of the Borough.
- 14.04 A decision of the Council, the Cabinet or any duly authorised representative, shall be sufficient authority for sealing any document necessary to give effect to that decision.

Article 15 - Review and Revision of the Constitution

Duty to Review the Constitution

- 15.01 The Council shall review the operation of this Constitution to ensure that the purposes and principles of the Constitution are given full effect. Such a review may be initiated by the Council at any time but shall be initiated at least once during the period between regular elections to the Council. In the absence of a resolution so to do by the third anniversary of a regular election, a review shall be deemed to have been initiated on the authority of this Article.
- 15.02 A review may be comprehensive or take the form of a programme dealing separately with particular Articles or Parts. In the latter case, the default provision in Article 15.01 will apply to any Article or Part not reviewed further to a resolution of the Council during the previous three years. Alongside or as part of this process the Monitoring Officer may make recommendations to Council on ways of improving the constitution and in so doing may:-

- Observe different meetings of the council
- Undertake audit trails of decisions
- Respond to issues raised with him/her by members, officers or others
- Compare best practice from other authorities and similar bodies

Duty to Monitor the Constitution

- 15.03 The Council's designated Monitoring Officer, will offer advice to the Council on
- (a) establishing means of monitoring the operation of the Constitution, which will provide evidence when it is required of its success in giving full effect to its purposes and principles, and
 - (b) the process to be followed when reviewing is undertaken. In formulating this advice, the Monitoring Officer shall take into consideration the guidance published by the relevant government department.

Changes to the Constitution

- 15.04 **General** Changes to the Constitution may be made only by the Council after consideration by the Cabinet. The Monitoring Officer may unilaterally approve drafting changes to the Constitution where they correct obvious errors, to take into account changes in legislation or better give effect to the clear intention of the Constitution.
- 15.05 **Change of form of Executive** The Council will consult local people before determining whether to change to either an elected mayor and cabinet or an elected mayor and council manager.

Article 16 - Interpretation and Publication of the Constitution

Suspension of the Constitution

- 16.01 **Limit to suspension** The Articles of this Constitution may not be suspended. Provisions within the appended Parts may be suspended to the extent, and in the manner, permitted within each Part. Where a rule reflects the law, suspension of the rule will not affect the force of the law.
- 16.02 **Procedure to suspend** A motion to suspend any rules in any Part may not be moved without notice unless at least one half of the whole number of councillor members of the body in question is present. The extent and duration of suspension must be proportionate to the intended result which must take into account the purpose of the Constitution set out in Article 1.

Interpretation of the Constitution

- 16.03 The ruling of the chair of any formal meeting as to the meaning or effect of this Constitution, or any proceedings of the Council or any part of the Council, shall not be challenged during that meeting. Chairs making rulings must have regard to the purpose of this Constitution set out in Article 1.

Publication

- 16.04 The officer designated as Head of the Paid Service shall:
- (a) Provide a copy of this Constitution to each councillor on receiving that person's declaration of acceptance of office on being elected to the Council.
 - (b) Ensure that it is available for inspection at Council offices, local public libraries and can be purchased by members of the public on payment of a reasonable set fee which shall not exceed the additional cost of making (and if applicable sending) a copy.

- (c) Ensure that the current edition of a summary of this Constitution adopted by the Council is made widely available in the Borough via the Council's Web site.

Definition of Executive Arrangements

16.05 The following elements of this Constitution constitute the “executive arrangements” for legal purposes, together with the arrangements in Part 3 for assigning responsibility for Council functions and the rules in Part 4 which are relevant to each.

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|-----|------------|----------------------------|
| (a) | Article 6 | Scrutiny and Overview |
| (b) | Article 7 | The Cabinet |
| (c) | Article 9 | Task Groups |
| (d) | Article 10 | Area Committees and Forums |
| (e) | Article 11 | Joint Arrangements |
| (f) | Article 13 | Decision Making |

Article 17 – Outside Bodies

17.01 An Outside Body means any organisation, association, company, trust, partnership, joint committee, charity, or other legal entity, whether incorporated or unincorporated, to which the Council appoints or nominates one or more Members or officers to serve in the designated capacity.

17.02 This includes (but is not limited to):

- Statutory partnerships or joint authorities
- Charitable or voluntary sector organisations
- Wholly or jointly owned companies
- Trust boards, management committees, and advisory bodies
- Public sector organisations and cross-agency boards.

17.03 Appointees may serve in various capacities including as a member of the Outside Body, a director of a board, a trustee, an observer, monitoring role or advisory role, depending on the legal nature of the body.

17.04 The Council may appoint or nominate Members or officers to Outside Bodies where it is considered to further the Council's strategic objectives, in compliance with a statutory requirement or to foster collaboration.

17.05 Appointments shall be made by Cabinet to executive function Outside Bodies, by the relevant Policy Review & Development Pael for scrutiny based Outside Bodies and the remainder by Full Council. Appointments and nominations to executive and scrutiny based Outside Bodies shall be deemed to be delegated to those respective functions by Full Council.

17.06 Where the Council makes a nomination, formal appointments by the Outside Body must still be made with due regard to the nature and legal status of the Outside Body, where relevant.

17.07 The Council shall maintain and publish on its website a register of all current Outside Body appointments.

Article 18 – Wholly Owned Companies

Establishment

18.01 The Council may establish companies which are wholly-owned by the Council (hereafter “Council Companies”). Council Companies are separate legal entities, governed by their own boards and subject to company law.

18.02 Any company established by the Council in which the Council exercises the majority control – whether limited by shares or limited by guarantee – shall be considered a Council Company.

18.03 The Council shall have a Shareholder Function in respect of each of the Council Companies.

18.04 Where a company is limited by guarantee, and the Council is the sole member or has effective control, the Council shall be treated as the ‘Shareholder’ for the purposes of this Constitution. This terminology is used for consistency and ease of reference and does not affect the underlying legal structure of the company.

Shareholder Function

18.05 The Shareholder Function is an executive function.

18.06 The Shareholder Function will be exercised via a sub-committee of Cabinet known as the Shareholder Committee, with terms of reference approved by Cabinet, with officer delegation set out in the Scheme of Delegation.