

## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

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## ARTICLE 1 - THE CONSTITUTION

### 1.1 Powers of the Council

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

### 1.2 The Constitution

This Constitution is the Constitution of the Bassetlaw District Council.

### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b. support the active involvement of citizens in the process of local authority decision-making;
- c. help councillors represent their constituents more effectively;
- d. enable decisions to be taken efficiently and effectively;
- e. create a powerful and effective means of holding decision-makers to public account;
- f. ensure that no one will review or scrutinise a decision in which they were directly involved;
- g. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h. provide a means of improving the delivery of services to the community.

### 1.4 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 14.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those who own property or land within the district or are working there will be eligible to hold the office of councillor.

### 2.2 Election and terms of councillors

**Election and terms.** The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2003, except that in 2005 and every fourth year after there will be no regular election. In this year County Council elections will take place. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later, apart from the Leader whose term of office will expire on the first day of the first annual meeting after the Leader's normal day of retirement as a Councillor.

### 2.3 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
- (i) collectively through Council be the ultimate policy-makers and carry out a number of strategic functions;
  - (ii) represent their communities, and bring their views into the Council's decision-making process.
  - (iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially; deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
  - (vi) be available to represent the Council on other bodies; and
  - (vii) maintain the highest standards of conduct and ethics.

(b) **Additional Responsibilities**

Some Councillors have additional responsibilities from being:

- the Leader of the Council
- Deputy Leader of the Council
- A member of the Cabinet

- The leader of a political group

(c) **Responsibilities of the Leader**

The Leader will

- Determine the size of the Cabinet
- Appoint Members of the Cabinet
- Allocate portfolio areas to Cabinet Members
- Allocate decision making power to Cabinet and individual Cabinet Members

The Leader must nominate a Deputy Leader who may exercise the same statutory functions as the Leader where the Leader is unable to act or the post of the Leader is vacant.

(d) **Rights and duties**

Non Confidential Items:

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

Confidential Items:

- (i) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (ii) All agenda reports and other documents together with all Council proceedings shall (where clearly identified and regarded as such) be treated as confidential unless and until they become non confidential in the ordinary course of the Council's business or by proper authority of the Council Committee or otherwise.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 5 of this Constitution.

**2.4 Conduct**

Councillors will at all times observe the Members' Code of Conduct, the Council's Planning Code of Conduct and the Protocol on Member/Officer Relations set out in Part 6 of this Constitution.

**2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 7 of this Constitution and fully comply with all regulatory requirements relating thereto in an open and transparent manner.

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 5 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet; except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when and how best to contact the decision maker, to make comment;
  - (iv) see any non confidential reports and background papers; any records of decisions made by the Council and the Cabinet;
  - (v) inspect the Council's accounts and make their views known to the external auditor;
  - (vi) contact their local Councillor about any matter of concern to them;
  - (vii) to exercise their rights under legislation relating to Councillor Call for Action; and
  - (viii) to request information under the Freedom of Information Act.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by scrutiny committees in accordance with the citizen involvement procedure. Citizens may also participate through Councillors Calls for Actions.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council about any aspect of the Council's service provision. It has a written complaints procedure which can be obtained from any Council office;
  - (ii) the Local Government Ombudsman after using the Council's own complaints scheme if they think the Council has not followed its procedures properly;

### 3.2 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully damage property owned by the council, councillors or officers. There should be mutual respect between citizens, Councillors and Officers.

## ARTICLE 4 – THE COUNCIL MEETING

### 4.1 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Corporate Plan;
- Community Safety Strategy;
- Plans and strategies which together comprise the Local Development Framework;
- Medium Term Financial Plan, Capital Investment Strategy, Treasury Management Policy and Strategy;
- Property Asset Management Plan;
- Contaminated Land Strategy;
- Enforcement Policies;
- Anti-Bribery Strategy and policies;
- Food Safety and Health & Safety Service Plans;
- Homelessness Strategy;
- Anti Poverty Strategy;
- HR Strategy and Workforce Development Plan;
- The Area Housing Strategy
- Annual Pay Policy
- The items referred to in part 3 of this Constitution which may only be determined by the Council.

Other overarching corporate strategies may become part of the policy framework in the future as the need arises.

(b) **Budget and Performance Planning.** 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 related council tax and benefit related support schemes; decisions relating to the control of the Council's borrowing requirement; and, the control of its capital expenditure and the setting of virement limits.

### 4.2 Functions of the full Council

Only the Council will make certain decisions. These are set out in Part 3 of the Constitution

### 4.3 Council meetings

There are three types of Council meeting:

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

- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 5 of this Constitution.

#### 4.4 **Responsibility for functions**

The Council will maintain the information in Part 3 and 4 of this Constitution regarding responsibility for functions carried out by or on behalf of the Council.

## **ARTICLE 5 – CHAIRING THE COUNCIL**

### 5.1 **Definition**

The Constitution is neutral as to gender. The term “Chair” is used in relation to Section 3 Local Government Act 1972 where the role is referred to as “Chairman”

### 5.2 **Role and function of the Chair.**

The Chair of Council and in his absence, the Vice-Chair of the Council will have the following roles and functions:

#### **(a) Ceremonial Role**

The role of the Chair of the Council is a symbol of the Authority, a symbol of an open society and an expression of social cohesion.

#### **(b) Chairing the Council Meeting**

The Chair of the Council will be elected by the Council annually. The Chair of the Council will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) to 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 interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (iv) to promote public involvement in the Council’s activities;
- (v) to attend such civic and ceremonial functions as the Council and he determines appropriate.

#### **(c) Adjudication**

- (i) to adjudicate between the Cabinet and Overview and Scrutiny Committee on whether an issue is one so urgent it should not go through Overview and Scrutiny Committee.

## ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

### CO-ORDINATING OVERVIEW AND SCRUTINY – OVERVIEW AND SCRUTINY COMMITTEE

#### 6.1 Terms of reference

The Council will appoint the Overview and Scrutiny Committee as a stand alone committee to discharge the functions conferred by Section 21(3) of the Local Government Act 2000 to exercise the right to call in for reconsideration, decisions made but not yet implemented by the Cabinet. The Overview & Scrutiny Committee will also co-ordinate the work of the Audit and Governance Committee, the Health & Public Services Sub-Committee and the Standards Sub-Committee.

Any member not on Cabinet may be appointed to the scrutiny sub-committees. All scrutiny committees and sub-committees must be politically balanced.

#### 6.2 Scrutiny Committee

The Council will appoint a scrutiny committee set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Scrutiny Committee	Scope
Audit & Governance Committee	<p>To fulfil statutory Audit functions in respect of the Council’s financial and non-financial operations.</p> <p>To consider all aspects of the Council’s Risk Management arrangements</p> <p>To consider aspects of the Council’s arrangements for Member Code of Conduct</p>

#### 6.3 General role

Within their terms of reference, scrutiny committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants;



#### 6.4 **Specific functions**

- (a) **Policy development and review.** Scrutiny committees may:
- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
  - ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - iv) question members of the Cabinet and/or committees and chief officers about their views on issues and proposals affecting the area; and
  - v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Scrutiny committees may:
- i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees, cabinet members and council officers exercising individual decision making powers, in relation to individual and cabinet decisions.
  - ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas including those of partner organisations delivering services on the Council's behalf;
  - iii) question members of the Cabinet and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
  - v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance; and
  - vi) question and gather evidence from any person (with their consent).

#### 6.5 **Proceedings of scrutiny committees**

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 5 of this Constitution.

## **ARTICLE 7 – THE LEADER AND CABINET**

### **LEADER WITH THE CABINET**

#### **7.1 Role**

The Leader and Cabinet will carry out all of the local authority's executive functions.

#### **7.2 Form and composition**

The Cabinet will consist of the Cabinet leader, together with at least 2 but not more than 9 councillors, appointed to the Cabinet by the Leader. It may need not be politically balanced.

#### **7.3 Leader**

The Leader and Deputy Leader will be councillors elected to such a position by the Council. They will hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) they are no longer a councillor; or
- (d) they die; or
- (e) they are disqualified from holding office; or
- (f) the expiry of a 4 year term or until the ordinary term of officer expires if earlier but extended beyond the fourth day after the local elections to run up to the day of the first annual meeting after the Leader's normal day of retirement as a Councillor unless removed from office earlier by resolution of the Council.

#### **7.4 The Leader will**

- Determine the size of Cabinet
- Appoint Members of the Cabinet
- Allocate portfolio areas to Cabinet Members
- Allocate decision making power to Cabinet and individual Cabinet Members
- Remove and replace Cabinet Members

#### **The Leader may**

- Appoint Assistant Cabinet Members assigned to an existing portfolio but who may not themselves be members of the Executive.
- Assistant Cabinet Members may neither deputise nor act as substitutes for Cabinet Members.
- Assistant Cabinet Members may be invited to attend Cabinet to speak on matters relevant to their portfolio but may not vote.
- Assistant Cabinet Members may not be appointed to either the Overview & Scrutiny or Audit and Governance Committees

### 7.5 **Deputy Leader**

The Leader will appoint a Deputy Leader who may exercise the same statutory functions as the Leader where the Leader is unable to act or the post of the Leader is vacant.

### 7.6 **Other Cabinet members**

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Chair nor Vice-Chair of the Council may be appointed to the Cabinet and members of the Cabinet (including the leader) may not be members of a scrutiny committee.

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they die; or
- (e) they are disqualified from holding office; or
- (f) the next Annual Meeting of the Council, unless they are removed from office, either individually or collectively, by resolution of the Council prior to the next Annual Meeting.

The Cabinet and its members can and should consult with whoever they think appropriate. The Cabinet may invite anybody it considers appropriate to attend its meetings and to speak but not vote.

7.7 The appointment or replacement by the Leader of the Deputy Leader and other Members of the Cabinet shall only take effect on notification in writing of such appointment, removal or replacement being received by the Chief Executive and Head of Paid Service or Proper Officer for this purpose.

7.8 The Cabinet can and should consult with whoever they think appropriate. The Cabinet may invite anybody it considers appropriate to attend its meetings and to speak but not vote.

7.9 The Cabinet appoint a Committee or Sub-Committee, including the appointment of its Chair, which may discharge executive functions.

## **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES**

### **Regulatory and other committees**

The Council will appoint the committees set out in the Responsibility for Council Functions in Part 3 of this Constitution to discharge certain decision making functions of the Council.

In addition a number of other bodies referred to in Part 3 will be appointed to provide advice on a range of difference matters.

## **ARTICLE 9 – THE STANDARDS SUB-COMMITTEE**

### **9.1 Standards sub-committee**

The Audit and Governance Committee may appoint a sub-committee to conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.

### **9.2 Composition**

The Standards sub-committee will comprise of a minimum of 3 and a maximum of 6 members. It must be politically balanced. At least 1 member must be a member of the Audit & Governance Committee who will act as Chair and any member appointed to the sub-committee must have completed relevant training.

## **ARTICLE 10 - JOINT ARRANGEMENTS**

### **10.1 Arrangements to promote well being**

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

### **10.2 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinet to exercise functions which are not Cabinet functions in any of the participating authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, in such circumstances the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (c) The Cabinet may appoint members to a joint committee from outside the Cabinet.

The political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations showing responsibility for functions in Part 3 of this Constitution.

### 10.3 Access to information

- (a) The Access to Information Rules in Part 5 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 10.4 Delegation to and from other local authorities

- (a) The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### 10.5 Contracting out

The Council for functions which are not Cabinet functions and the Cabinet for Cabinet functions may contract out to another body or organisation functions which may be exercised by an officer and which 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.

## ARTICLE 11 – OFFICERS

### TERMINOLOGY

The use of the word "officers" means all employees and staff engaged by the council to carry out its functions including those engaged under short term, agency or other non employed situations.

#### 11.1 Management structure

Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below Director level must be the responsibility of the Head of Paid Service or his/her nominee.

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Directors.** The Appointments Panel will appoint persons for the following posts, who will be designated chief officers and refer to full Council.
- (c) **Chief Executive.** The full Council appoints.

<b>Post Executive</b>
Chief Executive (and Head of Paid Service)
Director of Corporate Resources (Section 151 Officer)
Director of Regeneration and Neighbourhoods

- (d) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Council Solicitor	Monitoring Officer
Director of Corporate Resources	Chief Financial Officer

Such posts will have the functions described in Article 11.2–11.4 below.

- (e) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 4 of this Constitution.

## 11.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to 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 Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 11.3 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 members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if they considers that any proposal, decision or omission would give rise to unlawfulness or if any 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 corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

(d) **Supporting the Ethical Standards**

(i) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct and ensure compliance with all statutory and regulatory provisions relating to members Code of Conduct.

(e) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible and will act as proper officer under the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

(f) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework as set out in this Constitution.

(g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, 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.

(h) **Restrictions on posts.** The Monitoring Officer cannot be the Director of Corporate Resources (Section 151 Officer) or the Head of Paid Service.

11.4 **Functions of the Chief Financial Officer (Director of Corporate Resources (Section 151 Officer))**

a) The Council has adopted the January 2003 CIPFA Statement on the Role of the Finance Director in Local Government.

b) The key roles are:

- maintaining strong financial management underpinned by effective financial controls
- contributing to corporate management and leadership
- supporting and advising democratically elected representatives
- supporting and advising officers in their operational roles
- leading and managing an effective and responsive financial service

11.5 **Duty to provide sufficient resources to the Monitoring Officer and Director of Corporate Resources (Section 151 Officer)**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in the statutory officer's opinion sufficient to allow their duties to be performed.

11.6 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 6 of this Constitution.

11.7 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 5 of this Constitution.

## **ARTICLE 12 – DECISION MAKING**

12.1 The Council will issue and keep up to date a record of what part of the Council or Individual has responsibility for particular types of decision or decisions relating to particular areas or functions. This record is set out in Parts 3 and 4 of this Constitution.

### **12.2 Principles of decision making**

Decisions will be made having regard to the following:-

- (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 the impact on equality issues;
- (d) a presumption in favour of openness and transparency;
- (e) clarity of aims and desired outcomes; and
- (f) explaining what options are available and giving reasons for the decisions taken.

### **12.3 Types of decision**

(a) Decisions reserved to full Council are set out in Part 3 of this Constitution.

For the purposes of these Articles only:

- (b) Key decisions.
  - (i) A “key decision” shall be regarded as an executive decision which is likely:-
    - (a) to result in the local authority incurring expenditure in excess of £250,000 (Two hundred and fifty thousand pounds); or
    - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Rules set out in Part 5 of this Constitution.

### **12.4 Decision making by the Council**

Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 5 of this Constitution when considering any matter.



**12.5 Decision making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Cabinet Procedures Rules set out in Part 5 of this Constitution when considering any matter.

**12.6 Decision making by scrutiny committees**

Scrutiny committees will follow the Scrutiny Procedures Rules set out in Part 5 of this Constitution when considering any matter.

**12.7 Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 5 of this Constitution as apply to them.

**12.8 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) 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.

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

**13.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 5 of this Constitution.

**13.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 5 of this Constitution.

**13.3 Legal proceedings**

The Director of Corporate Resources or his/her nominee is authorised to institute, settle, 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 the Solicitor to the Council considers that such action is necessary to protect the Council's interests or the public interest.

**13.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Corporate Resources/Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### 13.5 Common Seal of the Council

The Common Seal of the Council will be delegated to the Director of Corporate Resources and will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed and will be affixed to those contracts referred to in the Council's Contract Procedure Rules which require the affixing of the Common Seal. The affixing of the Common Seal will be attested by the Solicitor to the Council or some other person authorised by the Solicitor to the Council.

## ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

### 14.1 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and report to Council.

#### **Protocol for monitoring and review of constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 14.2 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by Council following a report by the Monitoring Officer and a review by Audit and Governance Committee.
- (b) **Change from a Leader and Cabinet form of Cabinet to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **15.1 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 full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** All Rules of Procedure except those designed to fulfil a statutory requirement may be suspended in accordance with Article 15.1:

### **15.2 Interpretation**

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

### **15.3 Publication**

The Monitoring Officer shall:

- (a) give a printed copy or supply an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be accessed via the Council's website.
- (c) cause the Constitution to be readily available on the Council's electronic website for inspection.