

PART 2

ARTICLES OF THE CONSTITUTION

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1. 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, and all its appendices, is the Constitution of the Borough Council of Oadby and Wigston.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- 1.3.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 1.3.2 support the active involvement of citizens in the process of local authority decision-making;
- 1.3.3 help Councillors represent their constituents more effectively;
- 1.3.4 enable decisions to be taken efficiently and effectively;
- 1.3.5 create a powerful and effective means of holding decision-makers to public account;
- 1.3.6 ensure that no one will review or scrutinise a decision in which they were directly involved;
- 1.3.7 ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- 1.3.8 provide a means of improving the delivery of services to the community; and
- 1.3.9 stimulate a strategically-led organisation with appropriate delegation of power, effective performance management and the effective use of resources.

1.4 Interpretation and Review of the Constitution

- 1.4.1 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.
- 1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

1.5 Interpretation of Terms

Throughout this Constitution, references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

1.6 The Council's Corporate Priorities (2015 - 2019)

1.6.1 Protect the Borough

The Council will resist any attempt by either the City or County Councils to impose their control over the Borough.

1.6.2 Maintain Front Line Services

The Council is committed to free shoppers' car parking and weekly collection of waste and recycling. No change would ever be made without consultation.

1.6.3 Offering Choice when Possible

The Council will offer choice when possible.

1.6.4 Save Money through Service Redesign

The Council will look at all our services and redesign those that can be improved and cheaper to run.

1.6.5 Involve Residents and Partners

The Council is committed to continue with the town forums and to develop other community engagements systems. The Council will work with and continue to support partners.

1.6.6 Economic Development

The Council recognises the need to develop both housing and the town centres. This will be done with the maximum of public involvement and at minimum cost to the green spaces in the Borough.

1.6.7 Greening the Borough

The Council will continue to invest in and encourage activities which result in a greener Borough including prioritising the protection of trees.

1.6.8 Improving the Health of Residents

The Council wants to ensure residents live a full and healthy life.

1.6.9 **Value for Money**

The Council will always accept any council tax freeze grant offered by the Government. The Council will endeavour to freeze council tax, but if it is raised, it will never rise more than by inflation.

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2. ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and Eligibility

2.1.1 Composition

The Council will comprise 26 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 and, or, the Electoral Commission.

2.1.2 Eligibility

The qualifications for election to and the holding of the office of Councillor will be those as prescribed under Section 79 of the Local Government Act 1972.

2.2 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of all Councillors

2.3.1 Key Roles

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interest of their ward and of individual constituents;
- (iv) respond to constituent's enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

2.4 Rights and Duties

- 2.4.1 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.
- 2.4.2 Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making 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.
- 2.4.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.5 Political Groups

- 2.5.1 The Members of an authority are to be treated as divided into different political groups when there is at least one properly constituted political group in existence.
- 2.5.2 A political group shall be treated as constituted when there is delivered to the Chief Executive a Notice in writing which is signed by two or more Members of the authority who wish to be treated as a political group and that Notice states
- (i) That the Members of the authority who have signed it wish to be treated as a political group;
 - (ii) The name of the group; and
 - (iii) The name of the member of the group who is to act as its leader.
- 2.5.3 Under Section 15 of the Local Government and Housing Act 1989, the Council has a duty to review the allocation of seats on committees to the political groups in the Council at the Annual General Meeting or as soon as possible thereafter.
- 2.5.4 The allocation of seats on the Council and its Committees is made in proportion to the seats on the Council held by each political group. The duty to allocate seats on a proportional basis does not apply to all committees and working groups of, or outside bodies facilitated by, the Council.
- 2.5.5 Councillors who are not members of a political group are allocated seats by the Council. Councillors elected as Independents may, if they wish, form an independent group that, for the purposes of the 1989 Act, shall be treated as a political group.

2.6 Cessation of Membership

- 2.6.1 A Councillor will cease to be a Member if they:

- (i) Resign by giving notice in writing to the Chief Executive; or
- (ii) If they fail to observe the requirements to attend Council meetings as prescribed by Section 85 of the Local Government Act 1972; or
- (iii) If they are disqualified from holding office by virtue of Section 80 of the Local Government Act 1972 or any other statutory provision.

2.7 Conduct

Councillors will at all times observe the Members' Code of Conduct, the Planning Code of Conduct, the Licensing Code of Conduct and the Protocol on Member/Officer Relations as set out in Part 5 of this Constitution.

2.8 Allowances and Expenses

Councillors will be entitled to receive allowances and expenses in accordance with the Members' Allowances Scheme as set out in Part 6 of this Constitution as amended from time-to-time.

2.9 Office Holders

These are summarised below and are set out in more detail in Part 6 of this Constitution.

2.9.1 The Mayor and Deputy Mayor

- (i) The Mayor and Deputy Mayor are elected each year at the Annual General Council meeting. Neither shall be eligible for re-election as Mayor or Deputy Mayor respectively for a third consecutive year.
- (ii) The Mayor chairs the Council's meetings.
- (iii) The Mayor is the First Citizen of the Borough and is the Council's civic and ceremonial head.
- (iv) The Mayor may nominate a Mayoress or Consort and a Chaplain or some other faith representative.
- (v) The Deputy Mayor may nominate a Deputy Mayoress or Consort.
- (vi) The Deputy Mayor may, if for any reason the Mayor is unable to act or the Office of Mayor is vacant, discharge all functions that the Mayor as such might discharge.

2.9.2 The Leader of the Council

- (i) The Council will appoint a Leader each year at the Annual General Council meeting. The Leader who will provide clear leadership to the community.
- (ii) The Leader may present a regular report or statement to the Council on which questions or comments from other Councillors or members of the public will be taken in accordance with Part 4 of the Constitution.
- (iii) The Leader will hold office until:-
 - (a) He resigns from Office; or
 - (b) He ceases to be a Member in accordance with Article 2.6 above; or
 - (c) H is removed from Office by resolution of the Council or Annual General Meeting of the Council next following his or her appointment.

2.9.3 **Deputy Leader of the Council**

The Council may if it considers it appropriate to do so appoint a Deputy Leader. The Deputy Leader where such an appointment is made will hold Office on the terms listed at Article 2.9.3 above in respect of the Leader when the Leader is absent.

2.9.4 **Leaders of the Opposition**

The Council recognises other Opposition Group Leaders. The appointment of Opposition Groups Leaders are noted at the Annual General Meeting of the Council.

3. ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

Citizens have the following rights. Their right to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.

3.1.1 Voting and Petitions

Citizens on the electoral role for the area have the right to:

- (i) Vote if they are registered to do so;
- (ii) Sign a petition to request a referendum for an Elected Mayor form of Constitution; and
- (iii) Sign and present any other petition they wish to support.

3.1.2 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) see agendas, reports and background papers, and any records of decisions made by the Council except where confidential or exempt information is likely to be disclosed;
- (iii) inspect the Council's accounts and make their views known to the external auditor;
- (iv) obtain a copy of this Constitution;
- (v) ask questions at Council and Committee meetings on matters relevant to the agenda; and
- (vi) speak at meetings of the Development Control Committee and Licensing and Regulatory Committee (or its Sub-Committees) in favour of or against planning or licensing applications, subject to the procedures laid down by those bodies.
- (vii) such other information as may be entitled to by law.

3.1.3 Complaint

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) The Local Government and Social Care Ombudsman after using the Council's own complaints scheme; or
- (iii) The Policy, Finance and Development Committee via the Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.1.4. **Citizens' Responsibilities**

- (i) Citizens must not harass or be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.
- (ii) When attending meeting, citizens must not behave improperly, offensively or interrupt the business of the meeting. If they do they, will be removed and excluded from the meeting.

4. ARTICLE 4 - THE FULL COUNCIL

4.1 Introduction

4.1.1 The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework which are listed below at Article 4.3. The Full Council must also by law take decisions on a number of specific matters.

4.1.2 The full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Council.

4.2 The Full Council

4.2.1 Role

A meeting of the Full Council is one which all 26 Members are entitled to attend and to speak and vote. The Full Council is responsible for the Budget and Policy Framework of the Council. It will carry out some functions itself but others will be delegated to Committees or named Officers.

4.3 Policy Framework and Budget

4.3.1 The Council has responsibility for the Policy Framework and Budget.

4.3.2 Meanings

(i) Policy Framework

The Policy Framework means the following plans and strategies and such others as the Council shall determine to be included in the policy framework.

(ii) Budget

The Policy Finance and Development Committee recommend to the Council the proposals for the budget each year. 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 Council house rents and decisions relating to, the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of budget virement limits.

(iii) **Housing Land Transfer**

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

4.4 Functions of the Full Council

Only the Full Council will exercise the following functions:

- 4.4.1 Adopting and amending the Constitution;
- 4.4.2 Approving or adopting the Policy Framework, the Budget and Council Tax;
- 4.4.3 Approving any application to the Secretary of State in respect of any Housing Land Transfer;
- 4.4.4 Agreeing and/or amending the terms of reference for Committees and Working Parties and deciding on their composition and making appointments to them;
- 4.4.5 Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- 4.4.6 Adopting an allowances scheme under Article 2.8 and all other matters which, by law, must be reserved to the decision of the Council as a whole;
- 4.4.7 Changing the name of the area; conferring the title of Honorary Alderman or Freemen of the Borough;
- 4.4.8 Confirming the appointment of the Chief Executive and their dismissal;
- 4.4.9 The appointments to the designations of "Head of Paid Service" or "Monitoring Officer" or "Chief Financial Officer" and their dismissal.
- 4.4.10 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- 4.4.11 Electing the Mayor and Deputy Mayor of the Council;
- 4.4.12 Receiving and adopting reports of committees, working groups and outside bodies as appropriate.
- 4.4.13 Any matter which is not in accordance with the Policy Framework; and

4.4.14 All other matters which, by law, must be reserved to Council.

4.5 Full Council Meetings

4.5.1 There are three types of Full Council meeting:

- (i) the annual general meeting (AGM);
- (ii) ordinary meetings; and
- (iii) extraordinary meetings.

4.5.2 Full Council meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.6 Responsibility for Functions

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

5. ARTICLE 5 - CHAIRING THE COUNCIL

5.1 The Mayor and Deputy Mayor of the Council will be elected by the Council annually.

5.2 The Mayor and in his absence the Deputy Mayor, will have the following responsibilities:-

- 5.2.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.2.2 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;
- 5.2.3 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 Executive are able to hold the Executive to account;
- 5.2.4 to promote public involvement in the Council's activities;
- 5.2.5 to be the conscience of the Council; and
- 5.2.6 to attend or be represented at such civic and ceremonial functions as the Council and he determines appropriate.

6. ARTICLE 6 - COMMITTEES AND WORKING GROUPS APPOINTED BY THE COUNCIL

6.1 Committees

6.1.1 The Council may delegate some of its functions to appointed committees.

6.1.2 The Council will appoint the Committees set out in Part 3 of this Constitution to discharge the functions specified.

6.2 Working Groups

6.2.1 Whilst the Council will operate predominantly through a committee system, it may from time to time create Working Groups with Terms of Reference, the purposes of which neither lend themselves to the formality of the committee structure or the time-limited task related nature of Task Groups.

6.2.2 Working Groups will be non-decision making groups acting in an advisory capacity to decision-making bodies of the Council.

6.2.3 The current Working Groups are set out in Part 3 together with their Terms of Reference.

7. ARTICLE 7 - OUTSIDE BODIES DIRECTLY FACILITATED BY THE COUNCIL

7.1 Outside Bodies

7.1.1 In order to give members of the public, other organisations and stakeholders an opportunity to exchange views and ideas that may influence the Council's policies and its decision making-process, or jointly-undertake work to achieve common strategic objectives, to the Council will directly facilitate a number outside bodies as follows:

(i) Residents' Forums for each of the town centres within the Borough being:

(a) Oadby,

(b) Wigston; and

(c) South Wigston

and whose purpose, key aims and finances are set out in Article 7.2 below;

(ii) Health and Wellbeing Board;

(iii) Community Engagement Forum;

(iv) Children and Young Peoples' Forum;

(v) Community Safety Partnership;

(vi) Senior Citizens Forum.

7.1.2 Outside Bodies facilitated by the Council will be non-decision making bodies acting in an advisory capacity to decision-making bodies of the Council.

7.1.3 Each Outside Body will operate in accordance with its own Terms of Reference.

7.2 General Role of the Residents' Forums

The Residents' Forums will undertake the role as set out below.

7.2.1 Purpose

(i) The Residents' Forums facilitate and enable a constructive relationship between the Council and the residents of the Borough. They provide an opportunity for the Council to consult the public on its policy decisions, service planning and Council consultations on areas of work that have the potential to impact on residents.

- (ii) The Residents' Forums ensure that issues important to residents are brought to the attention of the Council and vice versa, always acknowledging that a diversity of views may exist and always promoting better community cohesion.

7.2.2 Key Aims

- (i) To provide a space for residents to come together and receive updates on current agendas and influence Council policy and decision-makers.
- (ii) To provide residents with the opportunity to meet and inform elected- Members about issues of concern.
- (iii) To ensure consultation and engagement on the Council's policies and provide constructive challenge and give feedback on the Council's performance.
- (iv) To advise and comment on grant applications submitted to the Forums for their specific consideration before final submission to the Policy, Finance and Development Committee.
- (v) To act as a key channel for distributing information, engaging with the community and answering questions.

7.2.3 Finances

- (i) The Policy, Finance and Development Committee will have budgets delegated to it by Full Council to enable local groups, organisations and individuals to apply to their local Forum for funding of projects that seek to improve the quality of life for people who live or work in the Borough.
- (ii) Residents' Forums may make recommendations to the Policy, Finance and Development Committee about the benefits of such grants: however the final approval for the awarding of the grants is a decision to be taken by the Policy, Finance and Development Committee.

8. ARTICLE 8 - JOINT ARRANGEMENTS AND PARTNERSHIPS

8.1 Arrangements to Promote Well Being

8.1.1 The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (i) Enter into arrangements or agreements with any person or body;
- (ii) Co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (iii) Exercise on behalf of that person or body any functions of that person or body.

8.2 Joint Arrangements

8.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

8.2.2 Except as set out below, the Council may only appoint Councillors to a joint committee and those Councillors shall where possible reflect the political composition of the local authority as a whole.

8.2.3 Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of delegations in Part 3 of this Constitution.

8.3 Delegation To and From Other Local Authorities

The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.

8.4 Contracting Out

8.4.1 The Council 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. These are Ministerial Orders allowing local authorities to contract out specific functions.

8.4.2 Those made so far deal with Tax Billing, Collection and Enforcement, Investment Functions, Allocation of Housing and Homelessness and certain County Council functions, or under contracting arrangements where the contractor acts as the

Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

8.5 Joint Committees the Council Participates In

The Council is party to a Joint Committee Agreement set up under the Traffic Management Act 2004 for the adjudication of parking appeals.

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9. ARTICLE 9 - REGULATORY AND OTHER COMMITTEES

9.1 Introduction

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the Full Council.

9.2 Standing Committees

The Standing Committees are listed below and full details of their functions can be found in Part 3 of this Constitution:

9.2.1 Development Control Committee; and

9.2.2 Licensing and Regulatory Committee.

9.3 Other Committees and Sub-Committee

9.3.1 The Council will appoint such other committees as it considers appropriate to exercise any of its functions.

9.3.2 Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.

9.3.3 The Council in the case of Standing Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the Members to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

10. ARTICLE 10 - MEMBER CONDUCT

10.1 Introduction

The Policy Finance and Development Committee will be responsible for promoting and maintaining high standards of conduct by Councillors.

10.2 The Composition of the Policy, Finance and Development Committee

10.2.1 The Policy, Finance and Development Committee will consist of 14 Members.

10.2.2 The Council will appoint Members of the Policy, Finance and Development Committee at its Annual General Meeting.

10.3 The Role and Function of the Policy Finance and Development Committee

10.3.1 The Policy Finance and Development Committee will have the following roles and functions as regards Member Conduct:-

- (i) promoting and maintaining high standards of conduct by Councillors;
- (ii) assisting the Councillors to observe the Code of Conduct;
- (iii) advising the Council on the adoption or revision of the Code of Conduct;
- (iv) monitoring the operation of the Code of Conduct;
- (v) advising, training or arranging to train Councillors and Independent Members on matters relating to the Code of Conduct;
- (vi) granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Code of Conduct so far as not delegated to the Monitoring Officer;
- (vii) the assessment, investigation and determination of allegations of misconduct on the part of a Councillor;
- (viii) dealing with any alleged breach by a Councillor of a Council Protocol, in accordance with the procedures approved by the Policy, Finance and Development Committee;
- (ix) overview of the Officers' Code of Conduct;
- (x) overview of the protocol on member/officer relations;
- (xi) overview of the Council's confidential reporting codes; and
- (xii) overview of complaints handling and ombudsman investigations.

11. ARTICLE 11 - OFFICERS

11.1 General

The Council may engage such staff and referred to as Officers as it considers necessary to carry out its functions.

11.2 Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers. The Head of Paid Service shall have responsibility and power to amend the functions and areas of responsibility of the Chief Officers as s/he considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant HR policies.

Post Functions and Areas of Responsibility

Post	Duties
Chief Executive	<ul style="list-style-type: none">• Overall corporate management and operational responsibility (including overall management and responsibility for all officers and relationships with Councillors)• Business Transformation• Reputation Management• Provision of professional advice to all parties in the decision-making process• Together with the Monitoring Officer responsibility for a system of record keeping for all the Council's decisions and maintaining the Constitution• Representing the Council on partnership and external bodies (as required by statute or the Council)• To act as Head of Paid Service.

11.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

Designation	Post
Head of Paid Service	Chief Executive

Monitoring Officer	Head of Law and Governance
Chief Finance Officer	Director of Finance and Transformation

Such posts will have the functions described in to 12.2 below.

11.4 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.

11.5 Functions of the Head of Paid Service

11.5.1 Discharge of Functions by the Council

The Head of Paid Service will keep under review 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.

11.5.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

11.6 Functions of the Monitoring Officer

11.6.1 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.

11.6.2 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, if he or she 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.

11.6.3 Supporting the Policy Finance and Development Committee in respect of the Code of Conduct

- (i) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Policy, Finance and Development.
- (ii) Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Policy finance and Development, for the purposes of investigation or determination of a complaint against a Member.
- (iii) The Monitoring Officer will maintain the Register of Interests for Councillors and the Register of Gifts and Hospitality.

11.6.4 Conducting Investigations

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Policy Finance and Development Committee and make reports or recommendations in respect of them to the Policy Finance and Development Committee.

11.6.5 Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

11.6.6 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. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as he or she considers appropriate in the circumstances.

11.6.7 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer.

11.7 Functions of the Chief Finance Officer

11.7.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers 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.

When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

11.7.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

11.7.3 Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

11.7.4 Providing Advice

The Chief Finance 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,

11.7.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, Members of the public and the community.

11.7.6 Restrictions on Posts

The Chief Finance Officer cannot be the Monitoring Officer.

11.8 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

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

11.9 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 4 of this Constitution.

11.10 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

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12. ARTICLE 12 - DECISION MAKING

12.1 Responsibility for Decision-Making

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

12.2 Principles of Decision-Making

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

- 12.2.1 proportionality in that the action must be proportionate to the desired outcome;
- 12.2.2 due consultation and the taking of professional advice from Officers;
- 12.2.3 respect for human rights;
- 12.2.4 a presumption in favour of openness;
- 12.2.5 clarity of aims and desired outcomes;
- 12.2.6 consideration of any alternative options; and
- 12.2.7 the giving of reasons for the decision and the proper recording of those reasons.

12.3 Decision Making by the Full Council

Subject to Article 12.5, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.4 Decision Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 12.5, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

12.5 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.

13. 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 Procedure Rules set out in Part 4 of this Constitution.

13.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

13.3 Legal Proceedings

13.3.1 The Head of Law and Governance is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Law and Governance considers that such action is necessary to protect the Council's interests.

13.3.2 The Head of Law and Governance has delegated powers to authorise officers to appear in court on the Council's behalf.

13.4 Authentication of Documents

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

13.4.2 Any contract with a value exceeding £50,000, entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by the Head of Law and Governance if they exceed £50,000 in value.

13.4.3 In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- (i) The Chief Executive;
- (ii) The Head of Law and Governance;

- (iii) Any Chief Officer of the Council concerned with the matter to which the document relates; and
- (iv) Any Officer authorised in writing by the Chief Officer or by the Head of Law and Governance.

13.5 Common Seal of the Council

13.5.1 Common Seal of the Council

- (i) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Law and Governance.
- (ii) A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

13.5.2 Sealing and Execution of Documents

- (i) The common seal of the Council shall be affixed to a document only on the authority of:
 - (a) a resolution of the Council;
 - (b) resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
 - (c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.
- (ii) The affixing of the Common Seal shall be attested by the Mayor, the Deputy Mayor and, or, in exceptional circumstances, the Head of Law and Governance.

13.5.3 Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by and consecutively numbered in a book to be provided for the purpose.

14. ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

14.1 Duty to Monitor and Review the Constitution

- 14.1.1 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.
- 14.1.2 The Chief Finance Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Part 4 for the next available Council meeting for noting.

14.2 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

- 14.2.1 Observe meetings of different parts of the Member and officer structure;
- 14.2.2 Undertake an audit trail of a sample of decisions;
- 14.2.3 Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- 14.2.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

14.3 Changes to the Constitution

14.3.1 Approval

- (i) Subject to 14.3.2 below, changes to the Constitution will only be approved by the full Council.
- (ii) Where the table of Chief Officers in Article 11 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

14.3.2 Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (i) A minor variation; or
- (ii) Required to be made to remove any inconsistency or ambiguity or to reflect a change in fact or law; or
- (iii) Required to be made so as to put into effect any decision of the Council or its committees or the Executive,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect.

14.3.3 **Legislative Change**

- (i) Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision.
- (ii) Such amendments shall take effect when the Monitoring Officer so decides or the legislation where relevant so provides. Such changes shall be reported to the next Council meeting.

15. ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 Suspension of the Constitution

15.1.1 Limit to Suspension

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the Full Council and Committees to the extent permitted within those Rules and the law.

15.1.2 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 is 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.

15.1.3 Rules Capable of Suspension

All of the Council Procedure Rules set out in Part 4, except Rule 16.6 (right to require individual vote to be recorded and recorded vote for budget setting) and Rule 22 (suspension), may be suspended in accordance with this Article but in every case only upon a request of two thirds of the Councillors present and voting.

15.2 Interpretation

The ruling of the Mayor of the Council (or other person presiding) 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

15.3.1 The Monitoring will give a printed copy of this Constitution to each Member of the Council upon delivery to him of that individual's declaration of acceptance of office on the member first being elected to the Council.

15.3.2 The Head of Law and Governance will ensure that copies are available for inspection at Council Offices and other appropriate locations and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.

15.3.3 The Head of Law and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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