

PART 2 – ARTICLES

ARTICLE 1– THE CONSTITUTION

1.0 Powers of the Council

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

1.2 The Constitution

1.3 This Constitution, and all its appendices, is the Constitution of South Holland District Council.

2.0 Purpose of the Constitution

2.1 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.

3.0 Interpretation and Review of the Constitution

3.1 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.

3.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

4.0 **Interpretation of Terms**

- 4.1 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.

ARTICLE 2 – MEMBERS OF THE COUNCIL

1.0 **COMPOSITION AND ELIGIBILITY**

1.1 **Composition**

- 1.1.1 The Council will comprise 37 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 Boundary Commission and approved by the Secretary of State.

1.2 **Eligibility**

- 1.2.1 Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

1.3 **Election and Terms of Councillors**

- 1.3.1 The regular election of Councillors will usually be held on the first Thursday in May every four years beginning in 2015. 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.
- 1.3.2 Following an ordinary election of district councillors, it is a requirement that all Political Group appointments are reported to the Chief Executive or the Director responsible for Democratic Services.
- 1.3.3 Following the election of a Leader, it is a requirement that, within seven days of his/her appointment, the Leader shall appoint a Cabinet and shall report the names of the Cabinet members to the Chief Executive or the Director responsible for Democratic Services.

1.4 **Roles and functions of all Councillors**

1.4.1 Key roles

All Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interests of their ward and of individual constituents;
- (d) respond to constituents' enquiries and representations, fairly and impartially;
- (e) be available to represent the Council on other bodies; and

- (f) maintain the highest standards of conduct and ethics.

1.5 **Rights and Duties**

1.5.1 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.

1.5.2 Councillors shall not disclose or make public any information which is confidential or exempt. If Councillors are unsure as to whether such information may be considered confidential or exempt they must seek the advice of the Monitoring Officer.

1.5.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules which can be found elsewhere in this Constitution.

1.6 **Conduct**

1.6.1 Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

1.7 **Allowances**

1.7.1 Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

1.0 **Introduction**

1.1 Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

2.0 **Citizens’ Rights**

2.1 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:

3.0 **Voting and petitions**

3.1 Citizens on the electoral roll for the area have the right to:

- (a) Vote;
- (b) Sign a petition to request a referendum for an elected mayor form of Constitution;
- (c) Sign any other petition they wish to support.

4.0 **Complaints**

4.1 Citizens have the right to complain to:

- (a) the Council itself under its Complaints Scheme;

- (b) The Local Government Ombudsman after using the Council's own complaints scheme; or
- (c) the Monitoring Officer about a breach of the Councillor's Code of Conduct.

5.0 **Citizens' Responsibilities**

- 5.1 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.

ARTICLE 4 – THE FULL COUNCIL

1.0 **Introduction**

- 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. The full Council must also by law take decisions on a number of specific matters.
- 1.2 The full Council provides a central forum for debate and gives the opportunity for Councillors to ask questions about the Council or matters affecting the Council.

2.0 **THE COUNCIL**

2.1 **Role**

- 2.1.1 A meeting of the Council is one which all 37 members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

3.0 **Plans and Budgets**

- 3.1 The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

4.0 **Policy Framework**

- 4.1 The Policy Framework means the following categories of plans and strategies:
- 4.2 Those required by law to be adopted by the Council comprising the following,
 - a) Licensing Authority Policy Statement (Licensing Act);
 - b) Plans or Strategies for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision (Medium Term Financial Strategy, Treasury Policy Statement and Clauses to be adopted, Treasury Management Strategy Statement Minimum Revenue Provision Policy Statement and Annual Investment Strategy)

4.3 Those Local Choice plans and strategies which the Council has chosen to adopt as part of the Policy Framework comprising the following:

- a) Corporate Plan;
- b) Gambling Act 2005 (Gambling Policy); and
- c) Asset Management Strategies.

5.0 **Budget**

5.1 Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure limits and permitted Budget transfers.

6.0 **Functions of the full Council**

6.1 The functions which are exercised by the full Council are described in Part D (Delegations to Committees) of Part 3 to this Constitution. These include functions which must be exercised only by the full Council either by law or because the Council has decided to retain decision-making power, and functions which may to some extent be exercised only by full Council

7.0 **Council Meetings**

7.1 There are four types of Council meeting:

- (a) the annual meeting;
- (b) ordinary scheduled meetings;
- (c) extraordinary meetings (called under Schedule 12 to the Local Government Act 1972); and
- (d) special meetings (called for a special and particular purpose)

and they will be conducted in accordance with the Procedural Standing Orders in Part 4 of this Constitution.

ARTICLE 5 – CHAIRING THE COUNCIL

1.0 The Chairman of the Council will be elected and the Vice-Chairman of the Council will be appointed by the Council annually. The Chairman and in his/her absence the Vice-Chairman, will have the following responsibilities:-

- 1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 1.2 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;

- 1.3 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 Cabinet are able to hold the Cabinet to account;
- 1.4 to promote public involvement in the Council's activities;
- 1.5 to be the conscience of the Council;
- 1.6 to attend or be represented at such civic and ceremonial functions as he/she determines appropriate;

ARTICLE 6 – OVERVIEW AND SCRUTINY

1.0 INTRODUCTION

- 1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies. The Overview and Scrutiny Committees may establish Task and Finish Groups to undertake a specific task within its terms of reference.
- 1.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- 1.3 In order to achieve this, the Council have appointed a Performance Monitoring Panel and Policy Development Panel which will:-
 - (g) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;
 - (h) make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
 - (i) consider any matter which affects the Council's area or its inhabitants
 - (j) exercise the right to Call-In for reconsideration of decisions made but not yet implemented by the Cabinet and Officers; and
 - (k) to review or scrutinise decisions of the Council relating to the discharge of any functions of the Merged Services organisation and/or its performance.
- 1.4 The Council or the Overview and Scrutiny Committees may from time to time establish such other committees or Task and Finish Groups as it sees fit.
- 1.5 If there is an important matter that is relevant to the Performance Monitoring Panel and the Policy Development Panel then a special Joint Scrutiny Panel meeting will be called. As Joint Scrutiny Panel meetings are held infrequently they are not included in the calendar of meetings and are arranged as required.

- 1.6 The membership of the Joint Scrutiny Panel shall consist of the members of the two separate Panels.
- 1.7 The special joint meeting shall as its first item of business elect a Chairman for the duration of that meeting.
- 1.8 The Joint Scrutiny Panel is not a decision making body, and can only make recommendations.
- 1.9 Any vote taken at the Joint Scrutiny Panel will taken as a single entity, i.e. the Panels will not vote separately. Any member who sits on both the Performance Monitoring Panel and the Policy Development Panel shall have, as a member of the Joint Scrutiny Panel, only one vote.

ARTICLE 7 – THE CABINET

1.0 INTRODUCTION

- 1.1 The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution. Many decisions will be made by the Cabinet, rather than the full Council.

2.0 Form and Composition of the Cabinet

- 2.1 The Cabinet will consist of:-
 - (a) the Leader; and
 - (b) at least two but not more than 9 Councillors appointed to the Cabinet by the Leader, but the Chairman and Vice-Chairman of the Council may not be appointed as Cabinet members.

3.0 Role of the Leader

- 3.1 The Leader will carry out all of the Council's Executive Functions
- 3.2 If the Council fails to appoint a Leader, the Executive Functions shall vest in the Chief Executive or, in the absence of the Chief Executive, each and any of the Directors until such time as the Leader is appointed.

4.0 Deputy Leader

4.1 Appointment

- 4.1.1 The Leader may designate up to two Cabinet Members as Deputy Leaders.

4.2 Duties of the Deputy Leader

- 4.2.1 The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

4.3 Removal from Office

- 4.3.1 The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

5.0 **Other Cabinet Members**

5.1 Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:-

- (a) he/she resigns from that office; or
- (b) he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate;
- (c) he/she ceases to be a Councillor.

5.2 The Leader may at any time appoint a Cabinet Member to fill any vacancies.

6.0 **Proceedings of the Cabinet**

6.1 The proceedings of the Cabinet shall take place in accordance with the Procedural Standing Orders in Part 4 of this Constitution.

7.0 **Cabinet Support Members**

7.1 Other Councillors may, from time to time, be designated by the Leader as Cabinet Support Members. Such Councillors will not be a Cabinet Member and will not participate in Executive Decision making, but may work closely with a Cabinet Member.

ARTICLE 8 – REGULATORY COMMITTEES AND OTHER COMMITTEES

1.0 **INTRODUCTION**

1.1 The Council will appoint Standing 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.

2.0 **Other Committees and Sub-Committees**

2.1 Where the Council appoints members to Standing Committees and where a committee appoints members to sub-committees or panels such appointments shall be subject to the right of a Political Group to make nominations for those appointments in accordance with rules on Political Balance.

2.2 The Council may appoint Area Committees or joint committees as it sees fit if it is satisfied that to do so will ensure improved service delivery in the context of best value and with more efficient, transparent and accountable decision making.

2.3 The Council will consult with relevant parish councils and the Chairman of relevant parish meetings when considering whether and how to establish area committees.

ARTICLE 9 – STANDARDS OF MEMBER CONDUCT

1.0 Responsibility for dealing with complaints about Councillors is delegated to the Standards Panel. (See Part 3D – Delegations to Committees).

ARTICLE 10 – ARRANGEMENTS WITH OTHER PARTNERS

1.0 **INTRODUCTION**

- 1.1 There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.
- 1.2 The Council works with a number of other authorities including joint back office functions with East Lindsey District Council and Boston Borough Council (PSPSL) and joint development plan arrangement with Boston Borough Council and Lincolnshire County Council (South East Lincolnshire Joint Strategic Planning Committee).

2.0 **Joint Arrangements**

- 2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive 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.
- 2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- 2.3 The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for a ward contained within the area. Political Balance requirements do not apply to such appointments.

3.0 **Access to Information**

- 3.1 The Access to Information Procedure Rules apply:
 - (a) If all the Members of a Joint Committee are Cabinet Members in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
 - (b) If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part V of the 1972 Act (as amended) will apply.

4.0 **Delegation to and from Other Local Authorities**

- 4.1 The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- 4.2 The Cabinet can delegate Executive Functions to another local authority or the Executive of another local authority as set out in law.
- 4.3 The decision whether or not to accept such a delegation from another local authority is reserved to the full Council.

5.0 **Contracting Out**

5.1 The Council (in respect of non-Executive Functions) and the Cabinet (in respect of Executive Functions) may contract out to another body or organisation such functions as are permitted by law:-

5.2 A Merged Service Organisation called Public Sector Partnership Services Ltd has been set up by East Lindsey District Council, South Holland District Council and Boston Borough Council to deliver initially back office support services:

- a) Human Resources;
- b) Information and Communications Technology;
- c) Financial Services;
- d) Customer Services;
- e) Revenues; and
- f) Benefits.

5.3 The Company was formally approved by South Holland District Council and East Lindsey District Council on 28 July 2010 and came into being from 1 August 2010 at which point relevant staff were transferred to it from the councils under TUPE legislation. Boston Borough Council joined on 1 April 2021.

5.4 **Governance**

5.4.1 Public Sector Partnership Services Ltd is a separate company wholly owned by the three councils each of which owns a share the notional value of which is calculated in proportion to its relative size and financial turnover and reflects the initial funding it contributed to development of the project. However, irrespective of the notional value, each council has an equal vote and the company is a 'deadlocked' organisation which means that all shareholders must agree on all issues to enable it to continue to function.

5.4.2 Because of this arrangement the Merged Services Organisation is a Local Authority Controlled company and the participating councils can hand work to it without going through a tendering exercise under the so called Teckal exemption.

5.4.3 The company has its own Board of Directors which consists of the Chief Executive of East Lindsey District Council, and a Chief Officer or Deputy Chief Officer of South Holland District Council and two Councillors from each Authority, together with two Directors appointed by Boston Borough Council. This Board will control the activities of the company and whilst servicing thereon Councillors will represent the interests of the Company.

5.4.4 Decisions relating to the Merged Services Organisation will be taken at the Cabinet (if an executive function) or the full Council (if a non-executive function) of each authority. The Articles of Association for the Company provide the regulations covering the relationships between the shareholders and the Directors of the Company. Together with the Shareholders Agreement they form the constitution of the Company.

ARTICLE 11 – OFFICERS

1.0 **MANAGEMENT STRUCTURE**

1.1 **General**

1.1.1 The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

1.2 **Chief Officers/Deputy Chief Officers**

1.2.1 The Council will engage persons for the following posts, who will be designated Chief Officers.

1.3 **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)• Principal advisor to the Council on general policy• Overall responsibility for delivering the Council's policies and programmes• Provision of professional advice to all parties in the decision-making process• To act as Head of the Paid Service (except during any period where the Council decides not to appoint a Chief Executive at which time a Head of Paid Service will be appointed separately)• Representing the Council on partnerships and external bodies (as required by statute or the Council)• Responsibility for a system of record keeping for all the Council's decisions
Director – Strategy and Resources	<ul style="list-style-type: none">• Responsible for the services shown in the current portfolio list
Director – Place & Delivery	<ul style="list-style-type: none">• Responsible for the services shown in the current portfolio list

1.4 **Statutory Officers**

1.4.1 The Council must, by law, designate one of their officers as:

- Head of Paid Service
- Monitoring Officer
- Section 151 Officer

The Glossary of Terms (Definitions Relating to Staff) states which officers are currently designated.

1.4.2 Such posts will have the functions described in 1.6 to 1.8 below.

1.5 **Structure**

1.5.1 The Head of the Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

1.6 **Functions of the Head of the Paid Service**

1.6.1 The Head of the 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

1.6.2 The Head of the Paid Service may not be the Monitoring Officer but may hold the post of S151 Officer if a qualified accountant.

1.7 **Functions of the Monitoring Officer**

1.7.1 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.

1.7.2 After consulting with the Head of the Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive Function, 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.

1.7.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Panel.

1.7.4 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 Standards Panel, for the purposes of investigation or determination of a complaint against a Member.

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

1.7.6 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.

1.7.7 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

1.7.8 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 and s5A of the 1989 Act, or seek judicial review, as he or she considers appropriate in the circumstances.

1.7.9 The Monitoring Officer cannot be the Section 151 Officer.

1.8 **Functions of the Section 151 Officer**

1.8.1 After consulting with the Head of the Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an Executive Function 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.

1.8.2 When the report is completed the Section 151 Officer shall send a copy to:

- (a) the current auditor of the Council's accounts; and,
- (b) each Member of the Council.

1.8.3 The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

1.8.4 The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

1.8.5 The Section 151 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.

1.8.6 The Section 151 Officer will provide financial information to the media, members of the public and the community.

1.9 **Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer**

1.9.1 The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

1.10 **Conduct**

1.10.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations.

1.11 **Employment**

1.11.1 The recruitment, selection and dismissal of officers will comply with Standing Orders and policies that are for the time being in force.

ARTICLE 12 - DECISION MAKING

1.0 **Responsibility for Decision Making**

1.1 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.

2.0 **Principles of Decision Making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (c) equal opportunities for all;
- (d) clarity of aims and desired outcomes;
- (e) consideration of any alternative options; and,
- (f) the giving of reasons for the decision and the proper recording of those reasons.

3.0 **Type of Decision**

3.1 Decisions reserved to full Council. Decisions relating to the functions listed in Part 3 (functions of the full Council) will be made by the full Council and will not be delegated.

3.2 Non-Executive Decisions that have been delegated by the council to committees, sub-committees or officers;

3.3 Key Decisions – significant Executive decisions made by the Executive–

3.4 Other Executive Decisions

4.0 **Decision Making**

4.1 Subject to the following Article every decision making body will follow the Procedural Standing Orders set out in Part 4 of this Constitution when considering any matter.

5.0 **Decision Making by Council Bodies Acting as Tribunals or in a quasi judicial manner**

5.1 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

1.0 **Financial Management**

1.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

2.0 **Contracts**

2.1 Every contract for the procurement of goods, services or works made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

3.0 **Legal Proceedings**

3.1 The Head of the Paid Service, the Monitoring Officer and the Senior Legal Officer, are authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where any of these officer consider such action is necessary to give effect to decisions of the Council or in any case where any of these officers consider that such action is necessary to protect the Council's interests.

3.2 In addition to any other specific delegations the Head of the Paid Service, the Monitoring Officer and the Senior Legal Officer have delegated powers to authorise officers to appear in court on the Council's behalf.

4.0 **Authentication of Documents**

4.1 For information about authentication of documents see Standing Order 50.

5.0 **Common Seal of the Council**

5.1 For information about the Council's common seal, and the sealing and execution of documents, see Standing Order no. 49.

ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

1.0 **Duty to Monitor and Review the Constitution**

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. The Section 151 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.

2.0 **Changes to the Constitution**

2.1 Subject to below, changes to the Constitution will only be approved by the full Council. The Council may if it considers necessary appoint a special committee to make recommendations for that purpose.

3.0 **Minor Changes**

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

- a) A minor variation; or
- b) Required to be made to remove any inconsistency or ambiguity; or
- c) Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

then the Monitoring Officer or the Senior Legal Officer may make such a change. Any such change made by the Monitoring Officer or the Senior Legal Officer shall come into force with immediate effect but shall (unless a minor typographical, referencing or numbering change) be referred to full Council as soon as is reasonably possible and shall continue to have effect only if full Council agree. Minor typographical, referencing and numbering changes shall not require the approval of Full Council.

- 3.2 Changes required to the Constitution, including the Log of Delegations to Officers, as a result of a report already approved by Council, including any approved review of the staffing structure, shall come into immediate effect.

4.0 **Legislative Change**

- 4.1 Any part of the Constitution, including the Log of Delegations to Officers, may be amended by the Monitoring Officer or the Senior Legal Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer or the Senior Legal Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Council meeting only where the changes constitute more than variations to statutory references.

5.0 **Change to a Mayoral Form of Executive**

- 5.1 The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

1.0 **SUSPENSION OF THE CONSTITUTION**

1.1 **Limit to Suspension**

- 1.1.1 The Articles of this Constitution may not be suspended. The Standing Orders in Part 4 of this Constitution may be suspended by the full Council, or any committee to which they relate, to the extent permitted within those Rules and the law.

1.2 **Procedure to Suspend**

- 1.2.1 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.

1.3 **Interpretation**

- 1.3.1 The ruling of the Chair 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.

1.4 **Publication**

- 1.4.1 The Monitoring Officer will make available a copy of this Constitution to each member of the Council upon delivery to her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- 1.4.2 The Monitoring Officer will ensure that this constitution is available on the council website and can be purchased on payment of a reasonable fee.