

## PART 2

### ARTICLES OF THE CONSTITUTION

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<sup>1</sup> Amendment approved 26<sup>th</sup> July 2012



## **ARTICLE 1 – THE CONSTITUTION**

### **1. POWERS OF THE COUNCIL**

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

### **2. THE CONSTITUTION**

- 2.1 This Constitution, and all its appendices, is the Constitution of Fenland District Council.

### **3. PURPOSE OF THE CONSTITUTION**

- 3.1 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) support the Council in achieving its strategic vision for the District.
  - (d) help Councillors represent their constituents more effectively;
  - (e) enable decisions to be taken efficiently and effectively;
  - (f) create a powerful and effective means of holding decision-makers to public account;
  - (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
  - (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
  - (i) provide a means of improving the delivery of services to the community.

### **4. INTERPRETATION AND REVIEW OF THE CONSTITUTION**

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

## 5. COUNCIL MISSION, VISION AND VALUES<sup>2</sup>

Our twenty year vision for the area is a shared vision developed by the Fenland Strategic Partnership (FSP):

“A district where there is a high quality of life for all, now and in the future, which is known as a great place to live, work, learn and visit - a place to be proud of”

The FSP is made up of the following partners:

- Cambridgeshire ACRE
- Age Concern
- Business Link
- Central Association of Local Councils
- Cambridgeshire County Council
- Cambridgeshire Constabulary
- Fenland CVS
- NHS Cambridgeshire
- College of West Anglia
- Fenland District Council
- Roddons Housing Association
- Cambridgeshire Fire Authority

Our vision for the Council is to be:

“An efficient, progressive and well governed organisation which has the capacity to deliver current and future local and national priorities.”

Our mission as a Council is:

“To improve quality of life for people living in the Fenland district”

In support of our vision and mission we have developed organisational core values that underpin our approach to the work we do. Our core values are:

- Value, respect and dignity for all
- Adopt a positive one team approach
- Listen, talk and take action
- Understand, learn and improve
- Encourage, enable and effectively support
- Service excellence

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<sup>2</sup> Amendment approved 25<sup>th</sup> February 2010

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **1. COMPOSITION AND ELIGIBILITY**

#### **1.1 Composition**

The Council comprises 39 members, otherwise called councillors. One or more councillors are elected by the voters of each ward in accordance with the scheme drawn up by the Electoral Commission and approved by the Secretary of State.

#### **1.2 Eligibility**

Only registered voters of the Fenland District or those living or working here or own or rent land/property in the district are eligible to stand for the office of councillor.

### **2. ELECTION AND TERMS OF COUNCILLORS**

2.1 The regular election of all 39 councillors will be held on the first Thursday in May every four years beginning in May 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 quadrennial election.

### **3. ROLES AND FUNCTIONS OF ALL COUNCILLORS**

3.1 **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 individual constituents;
- (d) respond to constituents' enquiries and representations fairly and impartially;
- (e) participate in the governance and management of the Council;
- (f) be eligible to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

### 3.2 **Rights and Duties**

- (a) 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;
- (b) 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; and
- (c) for these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 4. **CONDUCT**

- 4.1 Councillors will at all times observe the Members’ Codes of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution as from time to time revised by the Council.

## 5. **ALLOWANCES**

- 5.1 Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution as from time to time approved<sup>3</sup> by the Council.

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<sup>3</sup> Amendment approved 25<sup>th</sup> February 2010

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 1. CITIZENS' RIGHTS

1.1 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 4 of this Constitution<sup>4</sup>

#### (a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected Mayor form of governance.

#### (b) Information

Citizens have the right to:-

- (i) attend meetings of the Council and its Cabinet, committees and panels except where confidential or exempt information is likely to be disclosed and the meeting is, therefore, held in private;
- (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers and any records of decisions made by the Council, the Cabinet, committees and panels; and
- (iv) inspect the Council's accounts when they are on deposit and make their views known to the external auditor.
- (v) Submit petitions in accordance with the Councils Petition Scheme.<sup>5</sup>

#### (c) Participation

Citizens have the right to speak at Council meetings and Cabinet meetings in accordance with the relevant rules set out in part 4 of the Constitution.<sup>6</sup>

Citizens have the right to participate in investigations by the Overview and Scrutiny Panel.

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<sup>4</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>5</sup> Amendment approved 29<sup>th</sup> July 2010

<sup>6</sup> Amendment approved 25<sup>th</sup> February 2010

(d) **Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme; and
- (iii) the Conduct Committee<sup>7</sup> about a breach of the Members' Codes of Conduct.

**2. CITIZENS' RESPONSIBILITIES**

- 2.1 Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. They must not interrupt proceedings, speak, sing or otherwise create a disturbance when attending any meeting of the Council, Cabinet or other decision-making bodies of the authority.

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<sup>7</sup> Amendment approved 26<sup>th</sup> July 2012

## ARTICLE 4 – THE FULL COUNCIL

### 1. MEANINGS

1.1 **Policy Framework** – the policy framework means the following plans and strategies:<sup>8</sup>

- <sup>9</sup>(a) Corporate Plan
- (b) Community Strategy
- (c) Crime and Disorder Reduction Strategy
- (d) Development Plan Documents (DPDs)<sup>10</sup>
- (e) The Housing Strategy<sup>11</sup>
- (f) Corporate Asset Management Plan
- (g) Cultural Strategy
- (h) Economic Development Strategy
- (i) Waste Management Plan
- (j) Budget
- (k) Medium Term Financial Strategy
- (l) Capital Strategy
- (m) Making of Neighbourhood Plans and Neighbourhood Development Orders<sup>12</sup>

1.2 **Budget** – the budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits;

1.3 **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.

### 2. FUNCTIONS OF THE FULL COUNCIL

2.1 Only the Council will exercise the following functions:-

- (a) approving and reviewing the Council's Constitution to ensure the continuous improvement of local democracy

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<sup>8</sup> Amendment approved 21<sup>st</sup> December 2006

<sup>9</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>10</sup> Amendment approved 14<sup>th</sup> December 2017

<sup>11</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>12</sup> Amendment approved 14<sup>th</sup> December 2017

as recommended by the Cabinet or Scrutiny Review Panel via Cabinet;

- (b) approving or adopting the policy framework, budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader of the Council at the first annual Council meeting following a whole Council election or at any subsequent meeting, should the serving leader cease to be Leader;<sup>13</sup>
- (e) agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them;
- (f) adopting an allowances scheme under Article 2.5;
- (g) changing the name of the area and any functions relating to electoral arrangements;
- (h) approving the appointment of and dismissing, the Chief Executive<sup>14</sup> and confirming the designation and dismissal<sup>15</sup> of Monitoring Officer and Chief Finance Officer;
- (h1) receive notification of nominated Deputy Monitoring Officer and Deputy Chief Finance Officer;<sup>16</sup>
- (i) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (j) the functions described in Article 11 (Delegation to and from other local authorities and under joint arrangements);

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<sup>13</sup> Amendment approved 16<sup>th</sup> December 2010

<sup>14</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>15</sup> Amendment approved 11<sup>th</sup> May 2017

<sup>16</sup> Amendment approved 25<sup>th</sup> February 2010

- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (l) those functions set out in Sections 5-8 of the Licensing Act 2003 including determining Licensing Policy and appointing a Licensing Committee;
- (m) to approve<sup>17</sup> payments or provide other benefits in cases of maladministration
- (m1) approval of the Council's Petitions Scheme<sup>18</sup>
- (m3) approving the Council's senior pay policy<sup>19</sup>
- (n) all other matters which, by law, must be reserved to the Council.

### 3. **COUNCIL MEETINGS**

3.1 There are three types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution<sup>20</sup>.

### 4. **RESPONSIBILITY FOR FUNCTIONS**

4.1 The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

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<sup>17</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>18</sup> Amendment approved 29<sup>th</sup> July 2010

<sup>19</sup> Amendment approved 11<sup>th</sup> May 2017

<sup>20</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021



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

### **1. ROLE AND FUNCTION OF THE CHAIRMAN**

1.1 The Chairman will be elected by the Council annually in accordance with the Council Procedure Rules in Part 4 of this Constitution. The Chairman of the Council and, in his/her absence, the Vice-Chairman of the Council will have the following roles and functions:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution fairly and impartially when necessary in Council meetings;
- (b) 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;
- (c) 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 Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the civic and ceremonial head of the Council and to attend such civic and ceremonial functions as the Council and he/she determines appropriate.



## **ARTICLE 6 – OVERVIEW AND SCRUTINY**

### **1. TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY PANEL**

1.1 The Council will appoint Overview and Scrutiny Panels, as set out in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution, to discharge the functions conferred by Section 21 of the Local Government Act 2000 as amended<sup>21</sup>.

### **2. GENERAL ROLE**

2.1 Within its terms of reference, the Overview and Scrutiny Panel will:-

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including the actions of other partner organisations within the Local Strategic Partnership<sup>22</sup>;
- (b) 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 or to assist in the formation of policy<sup>23</sup>;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right of call-in, for reconsideration, decisions made but not yet implemented by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision made by an officer.
- (e) Deal with matters referred to it by Members acting in response to their duties under the Local Government Act 2000 as amended.<sup>24</sup>

### **3. SPECIFIC FUNCTIONS**

3.1 The Overview and Scrutiny Panel will<sup>25</sup>:-

- (a) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;

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<sup>21</sup> Amendment approved 8<sup>th</sup> May 2008

<sup>22</sup> Amendment approved 8<sup>th</sup> May 2008

<sup>23</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>24</sup> Amendment approved 8<sup>th</sup> May 2008

<sup>25</sup> Amendment approved 25<sup>th</sup> February 2010

- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Cabinet and/or committee and panels and senior officers\* about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating within the area whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working,
- (f) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and panels and senior officers\* both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and make recommendations where these are identified<sup>26</sup>;
- (h) question members of the Cabinet and/or committees and panels and senior 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;
- (h1) receive petitions calling officers to account in accordance with the Councils Petition Scheme.<sup>27</sup>
- (h2) review the steps taken to respond to a petition in accordance with the Councils Petition Scheme.<sup>28</sup>
- (i) make recommendations to the Cabinet and/or appropriate committees and panels and/or Council arising from the outcome of the scrutiny process;
- (j) review and scrutinise the performance of other public bodies in the area and receive reports from them by inviting them to address an Overview and Scrutiny Panel and local people about their activities and performance; and

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<sup>26</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>27</sup> Amendment approved 29<sup>th</sup> July 2010

<sup>28</sup> Amendment approved 29<sup>th</sup> July 2010

- (k) question and gather evidence from any person (with their consent), including officers.

### **3.2 Finance**

The Overview and Scrutiny Panel may exercise overall responsibility for the finances made available to it.

### **3.3 Annual Report**

The Overview and Scrutiny Panel must report, at least annually, to the full Council on its workings and working methods.

## **4. PROCEEDINGS OF THE OVERVIEW AND SCRUTINY PANEL**

- 4.1 The Overview and Scrutiny Panel will conduct its proceedings in accordance with the Procedure Rules set out in Part 4 of this constitution<sup>29</sup>

(\*Note: for the purpose of this Article, the term “senior officer” means Chief Executive and Corporate Directors<sup>30</sup>)

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<sup>29</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>30</sup> Amendment approved 26<sup>th</sup> July 2012



## **ARTICLE 7 – THE CABINET**

### **1. THE CABINET**

- 1.1 The Cabinet will 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.

### **2. FORM AND COMPOSITION**

- 2.1 The Cabinet will consist of up to ten councillors but no fewer than two and will include the Leader of the Council acting as Chairman. The full Council will appoint the Leader at the first annual Council meeting following a whole Council election, or at any meeting if a vacancy occurs. The Leader shall determine the number of other councillors to be Cabinet members and appoint them.<sup>31</sup>
- 2.2 The Council will not subsequently alter the holder of the position of Leader unless any circumstances in paragraph 3 below apply.

### **3. LEADER**

- 3.1 The Leader, who will be Chairman of the Cabinet, will be a Councillor and will be elected to the position of Leader by the Council at the first annual meeting following a whole Council Election. The Leader will hold office until the day of the post-election annual meeting which follows his / her election as Leader unless before the date of that meeting: -
- (a) he/she resigns from the office; or
  - <sup>32</sup>(b) he/she is no longer a Councillor; or
  - (c) he/she is removed from office by resolution of the Council.

If the serving leader ceases to be Leader for one of the above reasons, the Council will elect a new Leader to serve until the day of the post-election annual meeting which follows their election as Leader.<sup>33</sup>

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<sup>31</sup> Amendment approved 16<sup>th</sup> December 2010

<sup>32</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>33</sup> Amendment approved 16<sup>th</sup> December 2010

<sup>33(i)</sup> Amendment approved 24<sup>th</sup> July 2014

#### 4. **CABINET MEMBERS** <sup>33(i)</sup>

4.1 <sup>34</sup>Cabinet members shall hold office until -

(a) they resign from the office (individually or collectively)

<sup>35</sup>(b) they are no longer Councillor(s) (individually or collectively); or

(c) they are removed from office either individually or collectively by the Leader<sup>36</sup>

4.2 Changes by the Leader to the membership of the Cabinet, including the introduction of a new Cabinet Member, will take place immediately but will be reported to Council at the next meeting.<sup>37</sup>

4.3 The Leader will nominate one member of the Cabinet as his/her deputy to assume the full powers of the Leader in any circumstances in which the Leader is unable to act. The Deputy Leader will also act as the Leader if the post of Leader is vacant.  
<sup>39 38(i)</sup>

4.4 [Deleted] <sup>38</sup>

4.5 The Deputy Leader will hold office until the end of the Leader's term of office, unless removed by the Leader or any of the reasons set out in in 4.1 (a) or (b) apply. <sup>39 38(i)</sup>

#### 5. **PROCEEDINGS OF THE CABINET**

5.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution<sup>39</sup>.

#### 6. **RESPONSIBILITY FOR FUNCTIONS**

6.1 The Leader will maintain or arrange to be maintained a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees appointed by the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

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<sup>34</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>35</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>36</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>37</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>38</sup> Amendment approved 16<sup>th</sup> December 2010

<sup>38(i)</sup> Amendment approved 24<sup>th</sup> July 2014

<sup>39</sup> Amendment approved 23<sup>rd</sup> July 2015

<sup>39</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

- 6.2 The Cabinet will publish a Forward Plan for at least four months in advance showing the timetable for preparing, consulting and submitting draft Plans for the Council for consideration and adoption. The Plan will be updated at the first meeting of the Cabinet each month.
- 6.3 The Leader will determine the scope of portfolios to reflect the corporate themes and priorities. The Leader may assign a member of the Cabinet one or more than one portfolio as he or she decides. Portfolio changes will take effect whenever the Leader decides, thus giving the flexibility needed to cover all circumstances including short-term absences<sup>40</sup>

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<sup>40</sup> Amendment approved 25<sup>th</sup> February 2010



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

### **1. REGULATORY AND OTHER COMMITTEES AND PANELS**

1.1 The Council will appoint the committees and panels set out in the left hand column of the Table 2, Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

1.2 <sup>41</sup>

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<sup>41</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021



## **ARTICLE 9 – CONDUCT COMMITTEE & HEARING PANEL<sup>42</sup>**

### **1. CONDUCT COMMITTEE**

1.1 The Council will establish a Conduct Committee, the membership of which shall as far as practicable be politically proportionate.

#### **1.2 Membership**

1.2.1 The Conduct Committee shall comprise of 5 elected Councillors all of whom will be required to undertake relevant training.

1.2.2 The Committee will appoint, at its first meeting following the annual meeting of the Council, its Chairman and Vice-Chairman for the forthcoming year.

1.2.3 The Conduct Committee shall be entitled to co-opt up to two representatives from Town or Parish Councils from within the District who may sit with the Committee and consider matters before it. They shall have the right to speak and engage with the debate of the committee however they do not have a right to vote.

1.2.4 The Council's designated Independent Person shall sit alongside the Conduct and any Hearing Panel to offer advice in a non-voting capacity. Members must take account the views of the Independent Person in reaching decisions.

1.2.5 The Conduct Committee will be considered to be quorate where 3 or more members are present and Rule 24.3 of the Council's Standing Orders will not apply to Rule 7 in this context.

#### **1.3 Role and Functions**

1.3.1 The Conduct Committee will have the following role and functions in respect of the District Council and its members and Town and Parish councils and their members:

- promoting and maintaining high standards of conduct by Members;
- assisting Members and co-opted Members to observe their authority's Codes of Conduct;
- advising the Council on the adoption or revision of a Code of Conduct;

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<sup>42</sup> Amendment to Article 9 approved 18<sup>th</sup> September 2019

- monitoring the operation of the Codes;
- advising, training or arranging to train members and co-opted members on matters relating to the Code;
- to make recommendations to the Council on the appointment of its Independent Person(s); and
- to have oversight of Parish and Town Council's Codes of Conduct and Registers of Interests and authority to hear complaints relating to town or parish councillors.

1.3.2 The Monitoring Officer, in consultation with the Chairman of the Conduct Committee and the Independent Person, may issue dispensations to any member in respect of statutory and non-statutory disclosable interests. The Conduct Committee will receive a report on such cases at the next available meeting.

1.3.3 The Chairman of the Conduct Committee will be able to attend meetings of the full Council to present reports, answer questions and respond to motions on the work of the Committee in accordance with the appropriate provisions of the Rules of Procedure.

## **2. HEARING PANEL**

2.1. Whenever necessary the Chairman or Vice-Chairman of the Conduct Committee shall appoint a Sub-Committee in consultation with the Monitoring Officer for the purpose of considering and determining conduct complaints ("Hearing Panel").<sup>43</sup>

### **2.2. Membership**

2.2.1. The Hearing Panel shall comprise three members of the Conduct Committee, including either the Chairman or Vice-Chairman all of whom must be present for the meeting to be quorate.

2.2.2. The membership of the panel shall, as far as practicable, be politically proportionate.

2.2.3. The Council's designated Independent Person or Deputy shall sit alongside the Hearing to offer advice in a non-voting capacity.

2.2.4. Where the complaint relates to a Town or Parish Councillor the co-opted representatives will also be invited to sit alongside the Hearing Panel to offer advice in a non-voting capacity.

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<sup>43</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

## **2.3. Role and Functions**

2.3.1. The Hearing Panel will have the following roles and functions in respect of members of the District, Town and Parish councils and shall perform these in accordance with Rule 9 of the Constitution:

- Hearing and determining complaints referred by the Monitoring Officer;
- Issuing appropriate sanctions when it has determined that the subject of a complaint has been found to have breached the Code of Conduct.



## **ARTICLE 10 – AREA COMMITTEES, FORUMS AND TASK GROUPS**

### **1. AREA COMMITTEES/FORUMS**

- 1.1 The Council may appoint area committees or forums as it sees fit. Such area committees or forums may be decision making if the Council is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.<sup>44</sup>
- 1.2 The Council will consult with the relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees or forums.

### **2. TASK GROUPS**

#### **2.1 ROLE**

- 2.1.1. The Council, the Cabinet, any Council body and Portfolio Holders may establish temporary Task Groups to undertake specific work within their remit. Task Groups may not be authorised to exercise the powers of the Council. Task Groups shall operate until they have completed their tasks unless they are disbanded sooner by the bodies or Portfolio Holder which established them. The main role of a Task Group is to act in an advisory capacity. It is expected that Portfolio Holders in particular may wish to establish Task Groups to act as a sounding board and to advise him/her on improving service delivery with his/her portfolio.

#### **2.2 COMPOSITION AND PROCEDURES**

- 2.2.1 Unless the Leader of each registered Political Group agrees to the contrary, Task Groups will be appointed in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 and having regard to councillors' particular interests, expertise and willingness to participate.
- 2.2.2 Task Groups shall elect their own Chairman and Vice-Chairman who shall be a councillor but not necessarily the relevant Portfolio Holder.
- 2.2.3 Task Groups meetings shall be minuted and Terms of Reference agreed at its first meeting.

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<sup>44</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

## **2.3. SERVICE REVIEW AND DEVELOPMENT**

2.3.1 When undertaking service review and development tasks, Task Groups assist the Council, Cabinet and the Portfolio Holder in the development of services (including budget allocation) by studying and discussing service issues; and to that end may

- (a) call on other councillors and senior Council officers to share their views and experience relevant to the policy under consideration;
- (b) encourage participation by members of the public, relevant outside organisations and other local authorities;
- (c) within the Council's arrangements and budget, commission or conduct enquiry research and consultation in analysing service issues and options;
- (d) liaise with external organisations to enhance collaborative working.

## **ARTICLE 11 – JOINT ARRANGEMENTS**

### **1. ARRANGEMENTS TO PROMOTE WELL-BEING**

- 1.1 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; or
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; or
  - (c) exercise on behalf of that person or body any functions of that person or body.

### **2. 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. (Such arrangements may involve the appointment of a joint committee with these other local authorities).
- 2.2 The Council may upon a proposal by the Cabinet 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.
- 2.3 Except as set out below, 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.
- 2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances –
- the joint committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral ward which is wholly or partly contained within the area;
  - the joint committee is between Cambridgeshire County Council and the Council and relates to functions of the executive of the County Council. (In such cases, the executive of the County Council may appoint to the joint committee any Councillor who is a member for an

electoral division which is wholly or partly contained within Fenland).

In both of these cases the political balance requirements will not apply to such arrangements.

- 2.5 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.

### **3. ACCESS TO INFORMATION**

- 3.1 The Access to Information Rules in Part 4 of this Constitution apply<sup>45</sup>
- 3.2 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.
- 3.3 If the joint committee contains members who are not on the Cabinet of either the County Council or the Council then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **4. DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES**

- 4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- 4.2 The Council may, upon a proposal by the Cabinet, delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- 4.3 The decision whether or not to accept a proposal by the Cabinet under paragraphs 2.2 and 4.2 of this Article or to accept such a delegation from another local authority shall be reserved to the Council.

### **5. CONTRACTING OUT**

- 5.1 The Cabinet 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.

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<sup>45</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

## ARTICLE 12 – OFFICERS

### 1. TERMINOLOGY

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

### 2. MANAGEMENT STRUCTURE

2.1 **General** – the Council may engage such officers as it considers necessary to carry out its functions.

2.2 **Chief Officers** – the Council will engage persons for the following posts, who will be designated chief officers:-

- Chief Executive<sup>46</sup>
- Chief Finance Officer<sup>47 48</sup>
- Monitoring Officer<sup>49</sup>

Each of the Corporate Directors will deputise for the Chief Executive in his/her absence on a monthly rotating basis. Members will be provided with a copy of the rota for reference<sup>50</sup>.

2.3 **Head of Paid Service, Monitoring Officer and Chief Finance Officer** – the Council will designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director <sup>51</sup>	Monitoring Officer
Corporate Director <sup>52</sup> (Finance) <sup>53</sup>	Chief Finance Officer

Such posts will have the functions described in paragraphs 3 - 5 of this Article.

The Monitoring Officer and the Chief Finance Officer may designate suitably qualified persons to deputise for them in their

<sup>46</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>47</sup> Amendment approved 25<sup>th</sup> September 2008

<sup>48</sup> Amendment approved 25<sup>th</sup> September 2008, Amendment approved 29<sup>th</sup> July 2010

<sup>49</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>50</sup> Amendment approved 11<sup>th</sup> May 2017

<sup>51</sup> Amendment made 18<sup>th</sup> September 2019

<sup>52</sup> Amendment approved 25<sup>th</sup> September 2008

<sup>53</sup> Amendment approved 26<sup>th</sup> July 2012

absence,<sup>54</sup> provided that their designation is reported to the next council meeting.<sup>55</sup>

- 2.4 **Structure** – the Head of Paid Service will determine and publicise a description of the overall staff structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### 3. **FUNCTIONS OF THE HEAD OF PAID SERVICE**

- 3.1 **Discharge of functions by the Council** - the Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of staff.
- 3.2 **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.
- 3.3 **Overall Corporate Management** - the Head of Paid Service has overall corporate management and operational responsibility (including overall management responsibility for all officers).
- 3.4 **Providing advice** - the Head of Paid Service provides professional advice to all parties in the decision making process.
- 3.5 **Record keeping** - together with the Monitoring Officer, the Head of Paid Service has responsibility for a system of record keeping of all the Council's decisions.
- 3.6 **Representing the Council** - the Head of Paid Service represents the Council on partnership and external bodies (as required by statute or the Council).

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<sup>54</sup> Amendment approved 25<sup>th</sup> September 2008

<sup>55</sup> Amendment approved 25<sup>th</sup> February 2010

#### 4. FUNCTIONS OF THE MONITORING OFFICER

- 4.1 **Maintaining the Constitution** - the Monitoring Officer will ensure that the Constitution is regularly monitored and reviewed and that an up-to-date version of the Constitution is maintained and that it is widely available for consultation by Councillors, officers and the public.
- 4.2 **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 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, or would give, rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 4.3 **Supporting the Conduct Committee**<sup>56</sup> - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Conduct Committee<sup>57</sup>.
- <sup>58</sup>4.4 **Proper Officer for Access to Information** - the Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 4.5 **Advising whether Executive Decisions are within the Budget and Policy Framework** – the Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework and (after consultation with the Chief Finance Officer) the budgetary framework.
- 4.6 **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 and staff.

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<sup>56</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>57</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>58</sup> Amendment approved 26<sup>th</sup> July 2012

- 4.7 **Restrictions on Post** - the Monitoring Officer may not be the Chief Finance Officer or the Head of Paid Service.
- 4.8 **Supporting Corporate Management** - the Monitoring Officer supports the corporate management of the authority, in particular giving professional advice to any member of staff at any time on any functions of the post.
- 4.9 **Whistleblowing** - the Monitoring Officer will receive and investigate any allegations by a member of staff of any unlawfulness and unfairness by the Council or its staff.

## 5. **FUNCTIONS OF THE CHIEF FINANCE OFFICER**

- 5.1 **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 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.
- 5.2 **Administration of Financial Affairs** – the Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 5.3 **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.
- 5.4 **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.
- 5.5 **Give Financial Information** – the Finance Officer will provide financial information to the media, councillors, members of the public and the community.

**6. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER**

6.1 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.

**7. CONDUCT**

7.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

**8. EMPLOYMENT**

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



## **ARTICLE 13 – DECISION MAKING**

### **1. RESPONSIBILITY FOR DECISION MAKING**

- 1.1 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 decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **2. 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 including the Head Of Paid Service, the Monitoring Officer and the Chief Finance Officer whenever they choose or are requested to offer such advice;
  - (c) respect for human rights;
  - (d) a presumption in favour of openness and transparency and the spirit of the Freedom of Information Act 2000;
  - (e) clarity of aims and desired outcomes;
  - (f) the consideration of alternative options; and
  - (g) an explanation of the reasons for the decision.

### **3. TYPES OF DECISION**

#### **3.1 Decisions Reserved to Full Council**

Decisions relating to the functions listed in Paragraph 2 of Article 4 will be made by the full Council and not delegated.

#### **3.2 Key Decisions**

- (a) A “key decision” means an executive decision taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer or under joint arrangements which if implemented would –
- to result in the local authority incurring expenditure which is, or the making of savings which are, in

excess of £100,000<sup>59</sup> (excluding in respect of land or property matters detailed below) either on its own or in partnership with other organisations; or ,

- require the acquisition or disposal of an interest in any land or property with a value in excess of £250,000.00; or,
- to be significant in terms of its effects on communities living or working in an area of the District comprising two or more wards.

The decision to enter into a contract or other arrangement shall not be treated as a Key Decision insofar as the purpose of the contract or arrangement is to fulfil the policy intention of a previously made Key Decision, implement an explicit policy within the approved Budget or Policy Framework, implement a capital project named in the approved capital programme or provide for the continuation of an established policy or service standard.<sup>60</sup>

- (b) In determining the meaning of “significant”, regard shall be had to any guidance for the time being issued by the Secretary of State.
- (c) The decision taker shall inform the Chief Executive and Chief Finance Officer<sup>61</sup> of all decisions (including those with a financial value below £100,000<sup>62</sup>) about which he/she has any doubt as to whether the decision may or may not be significant for the purposes of this paragraph and the Chief Executive in consultation with the Leader<sup>63</sup> may determine the decision as a key decision.
- (d) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **4. DECISION MAKING BY THE FULL COUNCIL**

- 4.1 Subject to paragraph 8 of this Article, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter<sup>64</sup>

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<sup>59</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>60</sup> Amendment approved 16<sup>th</sup> December 2010

<sup>61</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>62</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>63</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>64</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

**5. DECISION MAKING BY THE CABINET**

5.1 Subject to paragraph 8 of this Article, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter<sup>65</sup>

**6. DECISION MAKING BY THE OVERVIEW AND SCRUTINY PANEL**

6.1 The Overview and Scrutiny Panel will follow the Overview and Scrutiny Procedure Rules set out in part 4 of this Constitution when considering any matter.<sup>66</sup>

**7. DECISION MAKING BY OTHER COMMITTEES AND PANELS ESTABLISHED BY THE COUNCIL**

7.1 Subject to paragraph 8 of this Article, other Council committees and panels will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as applied to them.<sup>67</sup>

**8. DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

8.1 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.<sup>68</sup>

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<sup>65</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>66</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>67</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021

<sup>68</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021



## **ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **1. 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. CONTRACTS**

2.1 Every contract made by the Council will comply with the Code of Procurement set out in Part 4 of this Constitution.

### **3. LEGAL PROCEEDINGS**

3.1 The Monitoring Officer<sup>69</sup> is authorised to institute, defend or participate in any legal proceedings in any case whether such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

### **4. COMMON SEAL OF THE COUNCIL<sup>70</sup>**

4.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer

4.2 The Seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of the Cabinet, committee or panel to which the Council have delegated their powers in this behalf, or by a decision of a Cabinet member or an officer to which the Council, Cabinet, committee or panel similarly have delegated their powers. A decision will be a sufficient authority for sealing any document necessary to give effect to the decision.

4.3 The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The Seal shall be attested by an Officer authorised by the Monitoring Officer. A record of every document to which the Common Seal has been attached shall be made and consecutively numbered in a book to be provided for that purpose and each entry duly attested. The book shall be open for inspection by every member of the Council.

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<sup>69</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>70</sup> Amendment approved 25<sup>th</sup> September 2008



## ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

### 1. DUTY TO MONITOR AND REVIEW THE CONSTITUTION

- 1.1 The Monitoring Officer, in consultation with the Chief Executive<sup>71</sup> and Chief Finance Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.2 The Leader may from time to time request that a committee, portfolio holder or Member may review the Constitution (or part of the Constitution) and make appropriate recommendations.<sup>72</sup>

### 2. PROTOCOL FOR MONITORING AND REVIEW OF CONSTITUTION BY MONITORING OFFICER

- 2.1 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.

To establish whether this is necessary the Monitoring Officer will on a regular basis<sup>73</sup> present a report to Cabinet seeking its recommendations to full Council for changes to the Constitution.

### 3. CHANGES TO THE CONSTITUTION

- 3.1 **Approval** – changes to the Constitution will only be approved by the Council after consideration of the proposals by Cabinet and any report on behalf of an Overview and Scrutiny Panel. Changes to the Members Scheme of Allowances will only be approved after consideration and proposals from the Independent Remuneration Panel. .
- 3.2 **Change from a Leader and Cabinet form of Executive to another arrangement, or Vice-Versa** – the Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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<sup>71</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>72</sup> Amendment approved 25<sup>th</sup> February 2010

<sup>73</sup> Amendment approved 25<sup>th</sup> February 2010



## **ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **1. SUSPENSION OF THE CONSTITUTION**

- 1.1 **Limit to Suspension** - the Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- 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 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.
- 1.3 **Rules Capable of Suspension** – the following Rules may be suspended in accordance with this Article namely all the Council Procedure Rules in Part 4 of this Constitution.<sup>74</sup>

### **2. INTERPRETATION**

- 2.1 The ruling of the Chairman of the Council, after consultation with the Chief Executive or his/her nominee, as to the construction or application of this Constitution or as to any proceedings of the Council should not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **3. PUBLICATION**

- 3.1 Each member of the Council will receive a printed copy of this Constitution upon delivery of that individual's declaration of acceptance of office on the member first being elected to the Council.
- 3.2 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations including in electronic form on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- 3.3 The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.

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<sup>74</sup> Amendment approved 30<sup>th</sup> April 2020, deleted 7 May 2021



## **SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the executive arrangements:-

- (i) Article 6 (Overview and Scrutiny Panel) and the Overview and Scrutiny Procedure Rules;
- (ii) Article 7 (the Cabinet) and the Cabinet Procedure Rules;
- (iii) Article 11 (Joint Arrangements) where joint arrangements have been made and functions delegated as appropriate by the Cabinet;
- (iv) Article 13 (Decision Making) and the Access to Information Procedure Rules; and
- (v) Part 3 (Responsibility for Functions).