

Constitution of West Lindsey District Council

Part II

Articles of the Constitution



Articles of the Constitution

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Article 1

The Constitution

Explanatory Note

This Article sets out the fundamental provisions of the Constitution. It confirms that the Local Authority will act within the law and provisions of this Constitution. It defines those documents which comprise the Constitution.

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of West Lindsey District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) support and encourage the active involvement of members of the public in the process of local authority decision-making;
- (c) provide a framework within which Councillors can represent their constituents effectively;
- (d) enable decisions to be taken efficiently, effectively and transparently;
- (e) facilitate the effective delivery of services to the West Lindsey community.

The Constitution recognises the Council's role as a Community Leader and its strategic responsibilities for community planning and value for money in the services it delivers. Its overall objective is therefore to organise all of its activities in such a way as to ensure that they demonstrably contribute to agreed community outcomes. The Council recognises the importance of facilitative leadership by working with partners in order to effectively discharge its community/place shaping role.

Implicit in the working arrangements is the recognition of the right of the community to be involved in the Council's decision making processes.

Members of the public and other stakeholders/community organisations can exercise this right through the Council’s consultation mechanisms such as the Citizens’ Panel. These arrangements are set out in more detail in the Council’s Consultation Strategy.

1.4 **Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always have regard to the purposes stated above.

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

1.5 Documents which comprise the Constitution:

- Part I – Summary and Explanation
- Part II – Articles of the Constitution
- Part III – Codes and Protocols
- Part IV – Responsibility for Functions
- Part V – Rules of Procedure
- Part VI – Members’ Allowances Scheme
- Part VII – Management Structure

Article 2

Elected Members of the Council

Explanatory Note

This Article sets out the composition of the Council, eligibility to stand for election as a Member of the Council and the form of election to be used.

The Article also contains a section on the roles and functions of members of the Council.

The Article also deals with the rights and duties of members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.

2.1 Composition and Eligibility

(a) Composition

The Council comprises 36 members, otherwise called Councillors. One or more Members will be elected by the voters of a ward in accordance with the scheme approved by the Secretary of State.

There is a distinction to be drawn between the ‘Council’, being 36 Councillors formally meeting, and the ‘Authority’, that is the officer core led by the Head of Paid Service.

(b) Eligibility

Only registered voters of the district, or those living or working here, or those who own or rent land in the area will be eligible to hold the office of Councillor.

2.2 Election and Terms of Councillors

The ordinary election of all Councillors is held on the first Thursday in May beginning in 2011 and every four years after that. The term of office of Councillors will be four years and will start on the fourth day after being elected and following the signing of the Acceptance of Office, and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of all Councillors

All Councillors will –

- (a) collectively be the ultimate policy-makers;

- (b) represent the needs and interest of the whole of the district of West Lindsey while representing their communities and bring their views into the Council's decision-making process i.e. become the advocate of, and for, their communities;
- (c) contribute to the good governance of the area and actively encourage community participation and public involvement in decision making;
- (d) effectively represent the interests of their ward and of individual constituents and act as an advocate for constituents in resolving particular concerns or grievances;
- (e) balance different interests identified within wards and represent the district as a whole;
- (f) be involved in decision making;
- (g) participate in the governance and management of the Council; and
- (h) maintain the highest standards of conduct and ethics;
- (i) Represent the Council through membership of Outside Bodies and provide feedback each year to the Annual meeting of Council.

2.4 Engagement

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to meet its desired outcomes. It achieves these aims in the following ways

- By recognising the opportunity for the public and external bodies to be involved in its business through its committee structure and consultation strategy
- By making appropriate Councillor appointments to other bodies
- By ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate

2.5 Rights and duties

Councillors will have such rights of access to such documents and information, land and buildings of the Council as required for the proper discharge of their functions and in accordance with the law. Councillors will not publicise 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. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part V of this Constitution.

2.6 Member development

Councillors will have training and development opportunities to support them in carrying out their duties and will be expected to attend those that are relevant to any role they carry out within the Council.

2.7 **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Operational Conventions set out in Part III of the Constitution.

2.8 **Allowances**

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

2.9 **Cessation of membership**

- (a) A Councillor will cease to be a member if they resign by giving notice in writing to the Head of Paid Service, or if they fail to observe the requirement to attend council meetings as prescribed by section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of section 80 of the Local Government Act 1972 or any other statutory provision.
- (b) With regard to the requirement to attend meetings, a member must attend at least one relevant meeting during a period of six months to remain qualified to hold office. A relevant meeting includes the full Council, any committee, sub-committee, joint committee or external body to which the member has been formally appointed.
- (c) If a member believes that there is an exceptional and unavoidable reason why s/he is unable to attend a relevant meeting during a period of six months or to otherwise perform their proper duties as a Councillor for part or all of the same period, the member concerned may seek a dispensation from the Council by writing to the Head of Paid Service explaining the reason for their unavoidable absence and the period to which the absence will relate. This will be reported to the Council at its next ordinary meeting. The Council will decide whether or not to grant such an exemption to the attendance requirement and will only do so in exceptional circumstances and with evidence that the absence is unavoidable. An exemption cannot be granted if a particular member's absence has already exceeded six months by the date of the Council meeting.

Article 3

The Public and the Council

Explanatory Note

This Article sets out what citizens can expect from the council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the council expects to be treated in return.

3.1 Rights of the Public

The public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part V of this Constitution.

3.2 Voting and petitions

Electors on the electoral roll for the district have the right to vote for their local Councillor(s) and sign a petition to request a referendum for an elected mayor form of constitution. For a petition to be valid to require a referendum, the number of signatories to it must equate to no less than five percent of the local government electorate of the district. Electors will have a right to vote for an elected mayor in the event of a referendum being held.

3.3 Information

The public have the right to:

- (a) attend meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (b) see committee reports and background papers, except where confidential or exempt information is likely to be disclosed, and any records of decisions made by the Council and its committees;
- (c) inspect the Council's accounts and make their views known to the external auditor; and
- (d) information pursuant to a request made in accordance with the provisions of the Freedom of Information Act 2000 and other relevant legislation.

3.4 Participation

The public can participate in the following ways:

- (a) The agenda for every ordinary meeting of the Council includes an item for questions/statements from the public. The question/statement must relate to matters which are within the powers and functions of the Council or which affect the district. Questions/statements will be dealt with on a first come first served basis and should be submitted in writing at least three clear working days before the meeting.
- (b) The Council has adopted a petition scheme under which petitions with 300 or more signatures will be debated at a council meeting.
- (c) The Council also has arrangements in place for the public to participate in meetings of Committees which consider Policy and Regulatory functions.
- (d) The Council is committed to working at a local level to support its communities and has split the District into six overall areas. These areas are:-
 - Caistor
 - Fosdyke
 - Gainsborough
 - Market Rasen
 - Trent
 - Withamsupported through the Authority's structure.
- (e) The West Lindsey Citizens Panel of about 1,000 residents provides ideas, opinions and feedback to the council on its services.

Full details of these various forms of public participation (and others that may be agreed by the Council) are available from the Council and on its website.

3.5 **Complaints**

The Public have the right to complain to:

- (a) the Council itself under its complaints scheme;
- (b) the Local Government Ombudsman, but should normally only do this after using the Council's own complaints scheme;
- (c) the Monitoring Officer about a breach of the Members' Code of Conduct.

3.6 **The Responsibilities of the Public**

A healthy democracy depends upon active citizenship. The public are encouraged to make conscientious use of their roles as both voters and members of a wider community.

Members of the public must not be violent, abusive or threatening to Councillors or officers and must not harm property owned by the Council, Councillors or officers.

Article 4

The Council

Explanatory Note

The Local Government Act 2000 gives the Council responsibility for approving the policy framework and budget. A list of the statutory and non statutory plans which fall within the policy framework appear below. The Council as a whole is responsible for delegating functions and has a role in holding committees to account.

4.1 Council Meetings

There are three types of Council meeting:

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

and they will be conducted in accordance with the Council Procedure Rules in Part V of this Constitution. These meetings may also be webcast.

4.2 Membership

All 36 members of the Council.

4.3 Role of the Full Council

To act as a forum where all Members can meet regularly, act as a focus for the Authority, discuss and debate issues of importance to the district and decide the Authority's budgetary and policy framework.

4.4 Functions of the Council

- (a) To approve and adopt the following plans and strategies which together make up the Council's budgetary and policy framework:
 - Budget¹ and Council Tax including Council tax base
 - Corporate Plan
 - Community Safety Plan (Crime and Disorder Reduction)
 - Local Plan
 - Housing Strategy Statement
 - Statements of Licensing Policy and Gambling Policy
 - Commercial Plan
 - Pay Policy Statement

¹ The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the Council Tax, controlling the Council's borrowing requirement and capital expenditure in line with CIPFA's "Prudential Code for Capital Finance in Local Authorities", and the setting of virement limits.

In addition, the Full Council will consider at its annual meeting whether any additional plans or strategies, both statutory and non-statutory, should be adopted or approved.

- (b) To adopt and change the Constitution when necessary after consideration by the Governance and Audit Committee, subject to Article 14.
- (c) At the annual meeting to appoint the Leader and Deputy Leader of the Council;
- (d) To consider a resolution to remove the Leader from office and appoint a replacement Leader;
- (e) To appoint annually the Chairman and Vice-Chairman of the Council;
- (f) To agree and/or amend the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) To appoint representatives to outside bodies;
- (h) To adopt a Members' allowances scheme under Part VI of the Constitution;
- (i) To determine any changes to the name of the district;
- (j) To confirm the appointment and the dismissal of the Head of the Paid Service;
- (k) To make, amend, revoke, re-enact or adopt bye laws and to promote or oppose the making of local legislation or personal bills;
- (l) To consider those matters referred to it from time to time by the policy committees, Challenge and Improvement committee and by other council committees;
- (m) To confer the title of Honorary Alderman or Freeman;
- (n) To exercise all local choice functions which the Council decides should be undertaken by itself rather than the policy committees;
- (o) To receive and consider reports from the Council's three statutory officers;
- (p) To permit members of the public to ask questions of the Leader and other office holders or make statements;

- (q) To consider and debate motions raised by Councillors, the process of which is set out in the Council Procedure Rules;
- (r) To consider questions raised by Councillors, the process of which is set out in the Council Procedure Rules;
- (s) To debate issues that are the subject of petitions signed by a specified number of people (as set out in the Petitions Scheme in the appendix to the Constitution)
- (t) To consider all other matters which, by law, must be reserved to Council.

Article 5

Chairing the Council

5.1 Role and function of the Chairman

The Chairman of the Council and in his/her absence, the Vice-Chairman, have the following roles and functions:

- (a) Ceremonial and civic role
- (b) Chairing the full Council meeting.

5.2 Ceremonial and civic role

The Chairman of the Council shall be regarded as the 'First Citizen' of the district of West Lindsey. The Chairman is a symbol of the local authority, of an open society, and a focus for civic pride. The Chairman and his/her consort will promote the Council as a whole. The Chairman wears the Chain of Office as a symbol of his/her status.

The Chairman presides at West Lindsey Council functions and at meetings of the full Council, if present. It is customary for the entrance of the Chairman to be announced on each occasion at the Council meeting and for all members of the Council to stand when he/she enters as a mark of respect for the Office of Chairman.

5.3 Chairing the Council Meeting

The Chairman is a member of the Council elected by majority vote of the Council annually and presides at Council meetings. He/she will have the following responsibilities:

- (a) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary, having regard to appropriate advice (see Article 15.2);
- (b) to preside over meetings of the Council in a manner which is even handed between the political parties represented on the Council and independent members so that its business can be carried out efficiently and with regard to the rights of all 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 Members who do not sit on the policy committees or hold office as chairman of a committee are able to hold the members and chairmen of the policy committees to account;

- (d) to promote public involvement in the Council's activities; and
- (e) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.4 **Appointment of Chairman and Vice-Chairman**

The Chairman and Vice-Chairman will be appointed each year at the annual meeting of the Council in accordance with the Council Procedure Rules in Part V of the Constitution.

5.5 **Role of Chairman and Vice-Chairman**

The roles of Chairman and Vice-Chairman will be carried out having due regard to the role descriptions in the appendix to this Constitution.

Article 6

Leader of the Council

6.1 The Leader of the Council

The Leader is a Councillor elected by the Council to the position of Leader. The term of office for the elected Leader is one year. The Leader is elected at the annual meeting of the Council and holds office until the next following annual meeting or:

- (a) s/he resigns from the office; or
- (b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- (c) s/he is no longer a Councillor; or
- (d) s/he is removed from office by resolution of the Council in which case a new Leader shall be elected at the next appropriate meeting.

6.2 Election of the Leader

Nominations for the position of Leader will be made in writing to the Head of Paid Service of the Council no later than seven working days before the day of the annual meeting (or next appropriate meeting in respect of (a) to (d) in paragraph 6.1). The proposer must first obtain the consent of the nominee. Nominations must be proposed and seconded. In the event that more than one eligible nomination is received a ballot of the members will be held at the annual meeting. The Chairman of the Council will preside and, in the event of an equality of votes will exercise a casting vote in accordance with Council Procedure Rule 14.2.

6.3 Role of the elected Leader

The Leader of the Council will have the following roles, rights and responsibilities, in addition to those set out in Article 2.3

- (a) to be the local authority's principal public spokesman;
- (b) to give clear leadership to the Council and the community;
- (c) to be the lead member for matters regarding the priorities and aims of the administration and its political manifesto;
- (d) to report as necessary to the Council;
- (e) to be the Councillor of first choice to represent the Council at member level meetings with other local authorities and with other organisations;
- (f) to act as the principal contact for the Executive Directors in seeking views and taking soundings at the political level across all groups;
- (g) to be Chairman of the Policy and Resources Committee unless s/he signifies that s/he does not wish to serve.

The Leader of the Council may not be the Chairman of the Council, a member of the Challenge and Improvement Committee, the Governance and Audit Committee or any sub-committee, working party, or panel set up by these committees. The Leader may be a member of but may not hold office on the Licensing and Regulatory and Planning Committees.

6.4 Deputy Leader of the Council

The Council will, at the Annual Meeting, elect a Deputy Leader to act in the notified absence of the Leader, such notice to be given in writing by the Leader to the Head of Paid Service.

6.5 Role and Function of the Leader of the Opposition

To be the key political contact for matters relating to the priorities and aims of the opposition.

6.6 Leadership roles

The roles of Leader of the Council, Deputy Leader of the Council and Leader of the Opposition will be carried out having due regard to the role descriptions in the appendix to this Constitution.

Article 7

Overview and Scrutiny

Explanatory Note

The overview and scrutiny function is a central element to this constitution. The Challenge and Improvement Committee, which carries out the scrutiny function will meet in public to discuss and make recommendations on the development of policies and hold the policy committees to account for their actions. It will also have a key role in considering other matters of local concern and ensuring that reviews are conducted robustly.

The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making an active and positive contribution to the development of policy and the discharge of the Council's functions and roles. This is best achieved by an inclusive process covering members, partners, service users and employees.

7.1 Terms of Reference

The Council will appoint a Challenge and Improvement Committee, the purpose of which is to manage and co-ordinate the overview and scrutiny process in accordance with the Overview and Scrutiny Procedure Rules set out in Part V of the constitution. The Challenge and Improvement Committee has the power to appoint time limited working parties, panels and one-day commissions as necessary.

7.2 General role

Within its terms of reference the Challenge and Improvement Committee will:

- (a) conduct reviews of policy, services or aspects of service that have either been referred by a policy committee or the Council, relate to the Forward Plan or have been chosen by the committee according to the agreed criteria for selecting such reviews;
- (b) approve and keep under review an annual overview and scrutiny work programme, including the work programme of any scrutiny panels established in accordance with the Challenge and Improvement Committee work programme;
- (c) approve the scope, timetable and method for each review by a scrutiny panel, working party or one-day commission put in place and ensure that such reviews are monitored and managed efficiently and in accordance with the Overview and Scrutiny Procedure Rules.

- (d) make reports and recommendations to the Council, the Leader, a policy committee or any other Council committee arising from the exercise of these terms of reference;
- (e) consider the Forward Plan and comment as appropriate to the decision maker on proposed decisions which relate to services within their remit (before they are taken by the appropriate policy committee);
- (f) exercise the powers of call in and scrutiny in relation to policy committee decisions made but not implemented, as set out in section 21(3) of the Local Government Act 2000 and challenge such decisions in accordance with the procedure set out in the Overview and Scrutiny Procedure Rules in Part V of this Constitution;
- (g) comment on the proposed annual service and budget plans for all council services before final approval by the Policy and Resources Committee and Council;
- (h) take an overview of the policies, forward plans and related authorities of all public bodies and agencies as they affect the Council's area or its inhabitants;
- (i) maintain under review the arrangements for the performance monitoring of council services; and
- (j) discharge the statutory functions arising under section 19 of the Police and Justice Act 2006 relating to issues of crime and disorder and to develop and implement such procedures, protocols and criteria as deemed by the Committee to be appropriate.

7.3 Policy development and review

The Challenge and Improvement Committee may:

- (a) assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues;
- (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 committees and officers about their advice on issues and proposals affecting the area; and

- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

7.4 Scrutiny

The Challenge and Improvement Committee may:

- (a) review and scrutinise the decisions made by, and performance of, committees and council officers both in relation to individual decisions and the pattern of decisions;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of committees and officers about their decisions, whether generally in comparison with service delivery plans and performance indicators over a period of time or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the committee and local people about their activities and performance; and
- (f) question and gather evidence from any person (with his/her consent).

7.5 Finance

The Challenge and Improvement Committee may exercise overall responsibility for any finances made available to it.

7.6 Annual Report

The Challenge and Improvement Committee must report annually to the Council on both its proposed work plan and its work in the preceding year, and to include an update of any operating methodology put in place.

7.7 Officers

The Challenge and Improvement Committee may require officers to attend and answer questions provided that the request is made through the Head of Paid Service or in accordance with any agreed protocol.

The Challenge and Improvement Committee will be politically balanced.

Article 8 Committees

Explanatory Note

The Council will appoint committees and sub-committees to carry out the various functions for which it is responsible. The detailed terms of reference of these committees are set out in Part IV of this Constitution, Responsibility for Functions.

8.1 Policy committees

The implementation of the Council's budget and policy framework is undertaken by the following policy committees:

- Policy and Resources
- Prosperous Communities

These committees will be responsible for all the Council's functions except those which by law must be dealt with by the Full Council, by a regulatory committee or by an overview and scrutiny committee. They will consist of no more than 15 members and be politically balanced.

8.2 Regulatory committees

Those functions specified by law as being regulatory functions will be undertaken by the Governance and Audit Committee, Licensing and Regulatory Committees and the Planning Committee. Hearings about licensing matters will be considered by the Licensing Sub-Committee for liquor licensing or gambling (Licensing Act 2003 and Gambling Act 2005) and by the Regulatory Sub-Committee for all other matters.

8.3 Overview and scrutiny committees

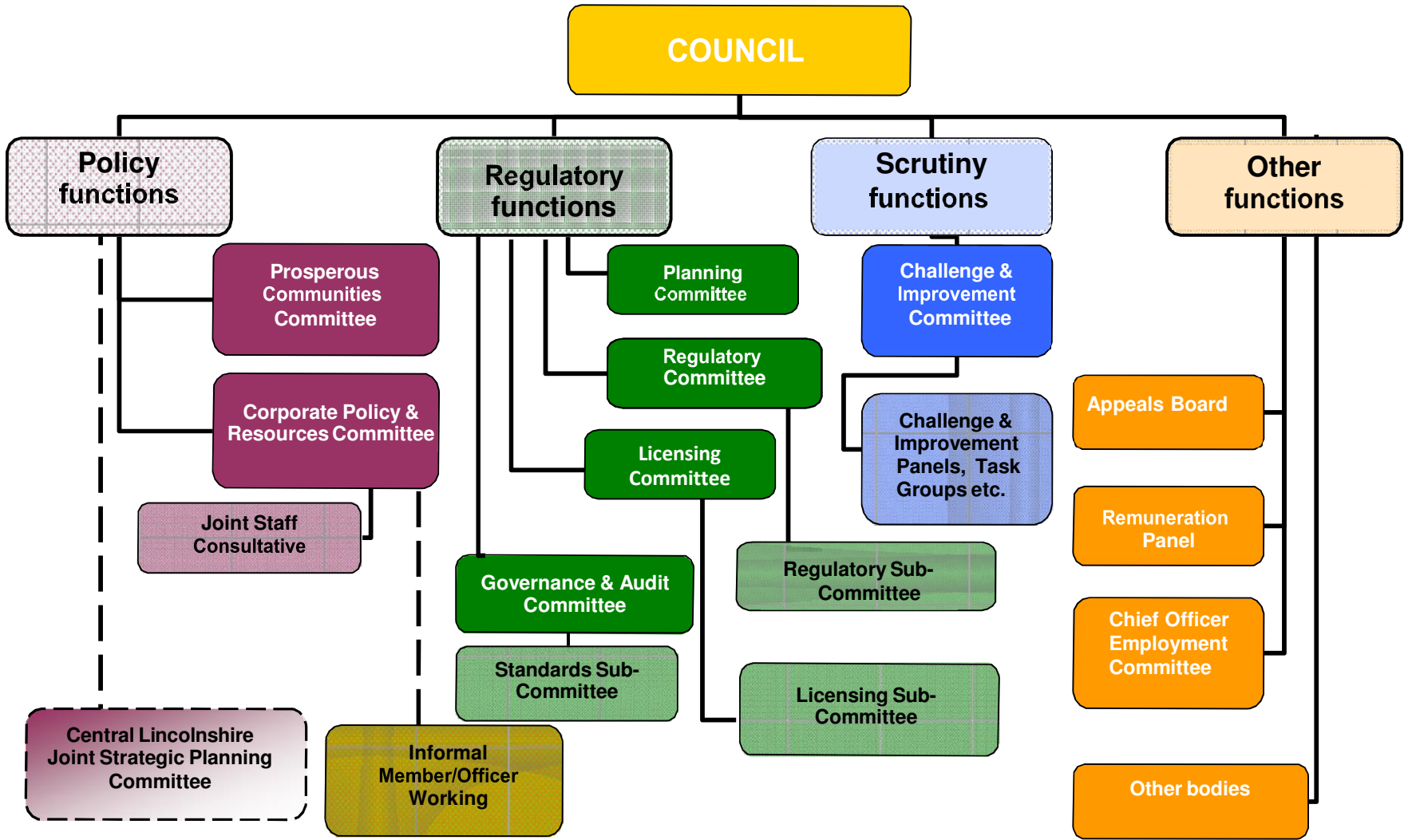
The overview and scrutiny function will be carried out by the Challenge and Improvement Committee in accordance with the arrangements in Article 7 of this Constitution.

8.4 Other committees

The Council will appoint other Committees and the other bodies set out on the chart below.

8.5 Proceedings of the committees

Proceedings of the all committees shall take place in accordance with the Council Procedure Rules set out in Part V of this Constitution insofar as they apply to committees and any specific statutory requirements.



Article 9

The Standards Sub-Committee

Explanatory Note

The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors and no longer requires a Standards Committee, however the full Council meeting on 2 July 2012 resolved to establish a sub-committee of the Governance and Audit Committee to deal with matters of standards in public life and to hear complaints regarding breaches of the Code of Conduct.

9.1 Standards Sub-Committee

The Council has established a Standards Sub-Committee.

9.2 Composition

Political Balance

Council on 3 September 2012 agreed to suspend political balance rules in terms of the Standards Sub-Committee.

(a) Membership

The Standards Sub-Committee will comprise:-

- six Councillors where the membership involves cross-party working
- three members of parish councils in the Council's area (parish members)

(b) Parish members

Parish members are not entitled to vote at meetings.

At least one parish member must be present when matters relating to town/parish councils/meetings or their members are being considered.

9.3 Role and Function

The Standards Sub-Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;

- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) to hear complaints locally regarding alleged breaches of the Code;
- (h) exercising such other functions as the Council considers appropriate; and
- (i) the exercise of (a) to (g) above in relation to the town/parish councils/ meetings and their members in the Council's area.

9.4 Quorum

A meeting of the Standards sub-committee shall not be quorate unless at least three members of that sub-committee are present for its duration.

Note: At least one parish member must be present when matters relating to town/parish councils/meetings or their members are being considered.

Article 10

Joint Arrangements

Explanatory Note

The Local Government Act 2000 and Regulations enable authorities to make use of joint arrangements with other authorities and delegate to other local authorities.

10.1 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions of any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities or local strategic partnership(s).
- (b) Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's Responsibility for Functions in Part IV of this Constitution.

10.2 Access to Information

The Access to Information Procedure Rules in Part V of this Constitution and the Local Government Act 1972 apply.

10.3 Delegation to and from other Local Authorities

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

10.4 Contracting Out

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under section 70 of the Deregulation and Contracting Out Act 1994, 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.

10.5 Arrangements to Promote Well Being

The Council, in order to promote the economic, social or environmental wellbeing of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any function of that person or body.

Article 11 Officers

This Article should be read in conjunction with the Appendices entitled Functions of the Monitoring Officer, Head of Paid Service Protocol and Chief Finance Officer Protocol.

Explanatory Note

This Article describes the structure of the senior management of the Authority and the roles of the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The use of the word “officers” means all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of “employees” to cover those engaged under short term, agency or other non employed situation.

11.1 Management Structure

(a) **General**

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

(b) **Chief Officers**

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

Executive Director of Operations, Executive Director of Resources, Executive Director of Economic & Commercial Growth.

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 officer)**

The Council will designate the following posts as shown –

Head of Paid Service
Chief Finance Officer
Monitoring Officer

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

(d) **Structure**

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part VII of this Constitution.

11.2 Functions of the Head of Paid Service

(a) Discharge of Functions by the Council

The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on Functions

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

11.3 Functions of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will make arrangements to maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by members, officers and the public.

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council if he/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.

(c) Supporting the Standards Sub-Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Sub-Committee.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers, the Standards Sub-Committee and decisions of the case tribunals.

(e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Standards Sub-Committee and make reports or recommendations in respect of them

(f) Proper Officer for Access to Information

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

A full list of the Monitoring Officer's statutory responsibilities is in the appendix to this Constitution.

11.4 Functions of the Chief Finance Officer

(a) Ensuring Lawfulness and Financial Prudence of Decision Making

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

(b) Administration of Financial Affairs

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

(c) Contributing to Corporate Management

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

(d) Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors, and will support and advise Councillors and officers in their respective roles.

(e) Giving Financial Information

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

(f) Money Laundering Reporting Officer (MLRO)

The Chief Finance Officer as the Money Laundering Reporting Officer will:

- ensure compliance with the appropriate money laundering regulations;
- take an overview of the system in place for detecting money laundering and be responsible for reporting suspicious transactions to

- the relevant authorities;
- ensure officers are trained to recognise transactions that may indicate money laundering and ensure officers are aware of the Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and the Terrorism Act 2002;
- the Deputy Money Laundering Reporting Officer, in the absence of the MLRO is authorised to undertake the above role and responsibilities.

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

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

11.6 Conduct

Officers will comply with the Protocol on Operational Conventions set out in Part III of this Constitution.

11.7 Employment

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

Article 12 Decision Making

Explanatory Note

Some decisions are for the Council to make or to delegate to committees, sub-committees and/or officers, or to joint committees, joint arrangements or other authorities. Those delegations must be recorded in the Council's Constitution, which must be kept up to date.

12.1 Responsibility for decision making

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 IV of this Constitution.

12.2 Principles of decision making

All decisions of the Council, its committees and those with delegated powers will be made in accordance with the following principles:

- (a) proportionality - the action proposed must be proportionate to the desired outcome;
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for Human Rights;
- (d) in accordance with the law;
- (e) a presumption in favour of openness;
- (f) contribute to the well-being of the area; and
- (g) clarity of aims and desired outcomes.

12.3 Decision making by Council

Subject to Article 12.6, the Council meeting will follow the Council Procedure Rules set out in Part V of this Constitution when considering any matter.

12.4 Decision making by the Challenge and Improvement Committee

The Challenge and Improvement Committee will follow the Overview and Scrutiny Procedure Rules set out in Part V of this Constitution when considering any matter.

12.5 Decision making by other committees and sub-committees established by the Council

Subject to Article 12.6, other council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part V of this Constitution as apply to them.

12.6 Decision making by council bodies acting as tribunals

The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 13

Finance, Contracts and Legal Matters

Explanatory Note

This Article refers to the Authority's Financial and Contract Procedure Rules, which are contained in Part V of this Constitution.

13.1 Financial Management

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

13.2 Contracts

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

13.3 Legal Proceedings

The Head of Paid Service is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority or in any case where he/she considers that such action is necessary to protect the Council's interests.

13.4 Authentication of Documents

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

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Executive Directors. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal will be affixed to those documents which, in the opinion of the Executive Directors, should be sealed. The affixing of the Common Seal will be attested by the Head of Paid Service, or an Executive Director following consultation with the Monitoring Officer and Chief Finance Officer, or in their absence their appointed deputies.

Article 14

Review and Revision of the Constitution

Explanatory Note

It will be important for the Council to monitor and review its Constitution and to base revisions on the available evidence. Constitutional review is a local choice activity.

14.1 Duty to monitor, review and if necessary implement changes to the Constitution

The Council will monitor and review the operation of the Constitution annually and if necessary implement any changes to ensure that the aims and principles of the Constitution are given full effect.

14.2 Change from alternative arrangements to executive arrangements

The Council must take reasonable steps to consult local electors and other interested persons in the area when drawing up proposals.

14.3 Protocol for monitoring and review of Constitution by Monitoring Officer

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

- observe meetings of different parts of the member and officer structure;
- undertake an audit trail of a sample of decisions;
- record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders;
- compare practices in this authority with those in other comparable authorities, or national examples of best practice: and
- undertake a review of each committee's effectiveness annually, the findings of which will be fed into and used to inform the annual review of the Constitution

14.4 Changes to the Constitution

Changes to the Constitution may only be made by the Full Council after prior consideration by the Governance and Audit Committee of a report by the Monitoring Officer on any proposal, with the exception of changes to the Financial and Contract Procedure Rules which are delegated to the Governance and Audit Committee between Annual Councils.

Article 15

Suspension, Interpretation and Publication of the Constitution

Explanatory Note

This Article ensures that the Articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. However, it does provide for Rules of Procedure to be suspended in certain circumstances.

15.1 Suspension of the Constitution

(a) Limit to Suspension

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

(b) Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the results to be achieved, taking into account the purposes of the Constitution set out in Article I.

15.2 Interpretation

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

15.3 Publication

- (a)** The Monitoring Officer will provide a copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b)** The Monitoring Officer will ensure that copies are available, and can be purchased by members of the local press and public on payment of a reasonable fee.
- (c)** The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1

Description of Alternative Arrangements

The following parts of this Constitution constitute the alternative arrangements:

- (a) Article 7 (Overview and Scrutiny) and the Overview and Scrutiny Procedure Rules; and
- (b) Article 8 (Committees).