

**Part 2 - The Articles of the Constitution**

**Article 1 - The Constitution**

**1. Powers of the Authority**

1.1 The Authority 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 Boston Borough Council.

**3. Purpose of the Constitution**

3.1 The Constitution is based on the following principles:

<b>Principle</b>	<b>What it means in this Constitution</b>
Enhancing service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Accountability	Ensuring mechanisms for those responsible for decisions to be held to account for them
Transparency	Having streamlined and simplified clear decision-making and accountabilities
Community representation	Enabling Councillors to represent local communities effectively
Increasing community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Committees, Officers and Members and better corporate working on cross cutting issues

3.2 It provides a single point of reference for the operating Rules of the authority.

**4. Monitor and review of the Constitution**

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

**5. Amendment of the Constitution**

5.1 Subject to Article 15, the Constitution may only be amended by a resolution of the Council.

**6. Interpretation of the Constitution**

6.1 In this Constitution, the following words and phrases have the following meanings, unless the context dictates otherwise:

“The Authority”	means the legal entity of Boston Borough Council
“The Cabinet”	means the Leader and Cabinet Members meeting as a body
“Cabinet Member”	means the Leader or another Councillor appointed by the Leader to be a Cabinet Member
“The Chief Executive”	means the Officer appointed by Council to that post and the Head of Paid Service
“The Chief Finance Officer”	means the Officer appointed by the Council to be responsible for the proper administration of the authority’s financial affairs in accordance with section 151 of the Local Government Act 1972
“Clear Days”	means a complete period of 24 hours (including weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect
“Clear Working Days”	means a complete period of 24 hours (excluding weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect
“Directors”	means those Officers who report directly to the Chief Executive

“The Council”	means the Members of the Council meeting as a body
“Councillor”	means an elected Member of the Council
“Decision-Taker”	means the body or person, whether a Member or an Officer, who would be responsible for taking the proposed decision.
“Departure Decision”	means a decision which is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the authority’s approved Budget, and is not an Urgent Decision or a Very Urgent Decision.
“The Deputy Leader”	means the Cabinet Member notified by the Leader to the Chief Executive in writing to hold that office.
“Disciplinary Action”	means any action in relation to an Officer occasioned by misconduct which, if proved, would according to the usual practices of the authority, be recorded on the Officer’s personal file and includes any proposal for the dismissal of an Officer for any reason other than redundancy, permanent ill health or infirmity of mind or body but does not include a failure to renew a fixed term contract unless the authority has undertaken to renew such a contract
“The Executive”	means any part of the authority which is discharging Executive Functions
“Executive Function”	means any function of the authority which is to be discharged by the Executive by virtue of section 13 of the Local Government 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, or any resolution of Council

“The Forward Plan”	is the statement of proposed executive key decisions prepared by the Executive in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012 as amended
“The Head of Paid Service”	means the Officer appointed by the Council to be the authority’s Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989 and in Boston Borough Council it is the Chief Executive
“Head of Service”	means an Officer who reports directly to the Chief Executive/Head of Paid Service or is designated by them to be a Head of Service
“Urgent Decision”	means an executive decision the implementation of which, in the opinion of the Decision-Taker, cannot reasonably be deferred to allow for Call-In
“Key Decision”	means an executive decision which is likely: (1.a) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council’s Budget for the service or function to which the decision relates; or (1.b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral wards in the area of the Council

A decision maker may only make a key decision in accordance with the requirements of the Executive/Cabinet Procedure Rules set out in Chapter 3 of this Constitution

“The Leader”	means the Councillor for the time being elected by the Council to be Executive Leader
“The Leader of the Opposition”	means the Leader of the largest political group on the Council, no member of which group is a Member of the Cabinet
“The Monitoring Officer”	means the Officer designated by Council to be the authority’s Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and in Boston Borough Council it is the Head of Customer and Democratic Services/Solicitor to the Council
“Non-Executive Function”	means any function of the authority which is to be discharged by any part of the authority other than the Executive by virtue of Section 13 of the Local Government Act 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000, as amended, and any resolution of the Council.
“Officer”	means all employees engaged by the authority to carry out its functions. This covers those engaged under short term, agency, contract or other non-employed situations to carry out such functions, to the extent that the Council has included conditions to that effect in any contractual arrangements under which they are working, as well as those employed by the Council on a permanent basis
“Reporting on meetings”	is defined in the Openness of Local Government Bodies Regulations 2014 as:-  (1.b.a) Filming, photographing or making an audio recording of proceedings at a meeting;  (1.b.b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;

(1.b.c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;

“The Policy Framework”

means the high level plans and strategies to be decided by Council, as set out in Chapter 2, Article 4 Paragraph 5

“The Proper Officer”

means an Officer appointed by the Council to discharge a particular function as set out in section 270(3) of the Local Government Act 1972.

“Statutory Chief Officer”

means the Chief Executive/Head of the Paid Service, the Section 151 Officer and the Monitoring Officer.

“Urgent Decision”

means an executive decision, which, in the opinion of the decision-taker is so urgent that it cannot reasonably await the publication of the next Forward Plan before it is taken.

“Very Urgent Decision”

means an executive decision, which in the opinion of the decision-taker is so urgent that it cannot reasonably await the giving of five days’ notice to the Chair of the relevant Overview and Scrutiny Committee before it is taken

**Article 2 - Members of the Council**

**1. Composition and eligibility**

**Composition**

- 1.1 The Council comprises 30 directly elected Members, (known as “Councillors”). The area of the Council is divided into wards in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. Elections are then held on the basis of those wards.

**Eligibility**

- 1.2 Any person may stand for election and be elected as a Councillor if he/she is on the electoral register or if he/she has lived, worked or occupied property in the borough for 12 months prior to the election. There are legal Rules preventing a person from becoming or continuing as a Councillor (for instance if they are an employee of the Council or have been adjudged bankrupt, have been sentenced to a custodial sentence or have been disqualified from being a Councillor under the Local Government Act 2000).

**2. Election and terms of office of Councillors**

- 2.1 The regular election of Councillors will be held on the first Thursday in May once every four years from 2003 onwards. The terms of office for Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

**3. Filling of Casual Vacancies**

- 3.1 Casual vacancies arising between regular elections will be filled in accordance with the requirements of the Representation of People Act 1983, as may be amended or replaced. The term of office of a Councillor elected at a by-election will be determined by legislation.

**4. Roles and functions of all Councillors**

- 4.1 Councillors have five main roles. They perform one or more of the following duties (subject to the proviso that there is no overlap between them and those Members who perform Executive and Scrutiny functions):
- a) community leadership and representation
  - b) executive decision-making
  - c) policy development and review
  - d) overview and scrutiny

- e) quasi-judicial and regulatory

4.2 Taken together these roles enable Councillors to:

- a) collectively, in meetings of the Council, be the ultimate policy makers and carry out a number of strategic and corporate management functions
- b) represent the communities of their electoral ward, bring their views into the Council's decision-making process and represent the Council to those communities  
- i.e. become an advocate of, and for, their communities
- c) respond to constituents' enquiries and representations fairly and impartially, deal with individual casework and otherwise effectively represent the interests of their electoral ward and of individual constituents
- d) balance the different interests identified within the electoral ward, represent the ward as a whole and act as a point of mediation between the Council and the communities of their division
- e) be involved in decision-making in any of the five roles set out above
- f) represent the Council on other bodies
- g) adopt and maintain the highest standards of conduct

## **5. Rights and Duties**

- 5.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law, however, this may not include certain confidential or exempt information.
- 5.2 Councillors will not make public any 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.
- 5.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.



**6. Conduct**

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

**7. Allowances**

- 7.1 Councillors are entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

**Article 3 - Residents and the Council**

**1. Residents' rights**

- 1.1 Residents 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.

**2. Voting and petitions**

- 2.1 Residents on the electoral roll for the area have the right to vote and sign petitions as provided by law, for example in respect of executive arrangements.
- 2.2 Residents may also bring petitions in accordance with the Petition Scheme adopted by Council and implemented under the provisions of the Local Democracy Economic Development and Construction Act 2009.

**3. Information**

- 3.1 Residents have the right to:

- (1.a) attend meetings of the Council and its Committees except where confidential or exempt / personal information is likely to be disclosed, and the meeting is therefore held in private
- (1.b) attend meetings of the Cabinet when key decisions and other matters are being considered (except where confidential or exempt information is likely to be disclosed and part of the meeting is therefore held in private)
- (1.c) report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in The Openness of Local Government Bodies Regulations 2014 as:
- (1.c.i) Filming, photographing or making an audio recording of proceedings at a meeting;
- (1.c.ii) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
- (1.c.iii) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;

- (1.d) find out from the forward plan what key decisions will be taken by the Cabinet and when
- (1.e) see reports and background papers, and any records of decisions made by the Council and the Cabinet
- (1.f) inspect the Council's accounts and make their views known to the external auditor
- (1.g) receive information held by the Council subject to the Freedom of Information Act 2000

#### **4. Participation**

##### 4.1 Residents have the right to:

- (1.a) participate in the Council's question time and present a petition at a meeting of the Council, in accordance with Appendix A, (Annex 1) and the Council's Petition Scheme (Annex 3).
- (1.b) present a petition to a meeting of the Cabinet, in accordance with the Council's Petition Scheme.
- (1.c) present a petition to other committee meetings in accordance with the Council's Petition Scheme.
- (1.d) ask questions, present petitions and participate in and contribute to investigations by Overview and Scrutiny Committees in accordance with Appendix A (Annex 1), the Council's Petition Scheme.
- (1.e) speak on planning applications, in accordance with the Scheme of Public Participation at a Meeting of the Planning Committee contained within Part 5.
- (1.f) contact their local Councillor about any matters of concern to them

#### **5. Complaints**

##### 5.1 Residents have the right to complain to:

- (1.a) the Council itself under its complaints procedure and receive a timely response
- (1.b) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct and receive a timely response
- (1.c) the Local Government Ombudsman after using the Council's own complaints procedure.

**6. Residents' responsibilities**

- 6.1 In return for these rights, residents must observe the law in their dealings with Councillors and Officers.

## Appendix A

### PUBLIC PARTICIPATION PROCEDURE

#### 1. When Public Participation will operate

1.1 Members of the public will be able to participate at meetings of:

- (1.a) The Full Council
- (1.b) The Cabinet
- (1.c) Overview and Scrutiny Committees
- (1.d) The Licensing Committee and Licensing Sub-Committee <sup>1</sup>;
- (1.e) The Planning Committee<sup>2</sup>
- (1.f) The Audit and Governance Committee
- (1.g) Boston Town Area Committee (BTAC)

1.2 Participation at the meetings detailed at 1.1 above can be through either asking questions, making statements or presenting petitions at a designated part of the meeting. For more information about which provisions apply to particular meetings, please see the footnotes below.

1.3 At other council meetings that are open to the public but not referred to in 1.1 above, formal or informal means of public participation may be permitted at the discretion of the Chair of the Committee.

1.4 The arrangements for public participation at the meetings will be as follows:-

- (4.a) Annex 1 Procedure for Public Questions at Meetings
- (4.b) Annex 2 Procedure for Public Participation in Planning Committee Meetings

<sup>1</sup> *where a public hearing is being conducted by the Licensing Sub-Committee, public participation shall be considered only in accordance with the separate procedure applying to such hearings. Please see Part 3, Appendix C for further information.*

*<sup>2</sup> a separate public participation procedure operates where the Planning Committee is determining planning or other applications, as set out in Part 5.*

Authority of the Chairman

- 1.5 The Chairman will have the right to stop persons from speaking at any time if he/she considers any speech to be defamatory, improper or outside the responsibilities of the Council.
- 1.6 The Chairman may vary or suspend the operation of public participation in advance of or during a meeting, if he/she considers:
  - (6.a) that it is necessary to do so for the purpose of maintaining order at the meeting; or
  - (6.b) that it is convenient and conducive to the dispatch of business to do so.

## **Article 4 - The Council**

### **1. Composition**

- 1.1 The Council comprises the 30 directly elected Councillors meeting as a body (or as many of those Councillors who are in office at the time concerned).

### **2. Council Meetings**

- 2.1 All members of the Council meet together, normally in the Council Chamber, to debate and conduct business which is appropriate to the full assembly of Boston Borough Councillors. There are three types of Council meeting:-

- The Annual Meeting
- Ordinary Meetings; and
- Extraordinary Meetings

### **3. Functions of the Council**

- 3.1 The Council has the following functions:

- (a) Adopting and changing the Constitution, except in so far as this function has been delegated to the Monitoring Officer.
- (b) Approving, adopting or amending the Policy Framework which comprises the following;
  - (i) Those required by statute:
    - Performance Improvement Plan
    - Community Plan
    - Crime and Disorder Reduction Strategy
    - Local Development Framework (and associated statutory documents)
    - Food Law Enforcement Service Plan
    - Housing Investment Programme (Housing Strategy and Homelessness Strategy)
    - Licensing Policy
    - The Budget (Budgetary Framework)
    - Capital Programme (Budgetary Framework)
    - Corporate Strategy or Plan

- (ii) The other plans and strategies adopted by the Council as part of the Policy Framework:
- Asset Management Plan
  - Capital Strategy (Budgetary Framework)
  - Treasury Management Strategy and Policy (Budgetary Framework)
  - Equal Opportunities Policy
  - Human Resources Strategy
  - Corporate Governance Policies and Strategies
  - Local Area Masterplan
  - Environmental Policy
  - Risk Management Strategy and Policy
  - Procurement Strategy
  - Corporate Governance Code
  - Medium Term Financial Plan (Budgetary Framework)
- (c) Approving the Budget. The budget includes -
- The allocation of financial resources to different services and projects
  - The proposed contingency funds
  - The council tax base
  - Setting the council tax
  - Decisions relating to the control of the Council's borrowing and requirement, the control of its capital expenditure and the setting of the virement limits
- (d) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 8 of this Constitution, making decisions about the discharge of an Executive Function where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget
- (e) Appointing or removing the Leader
- (f) Appointing the Chairman and Vice Chairman of other Council Bodies. Where the Council does not appoint the Chairman and Vice



Chairman, the body itself may do so.

- (g) Agreeing and/or amending the terms of reference for Committees of Council, deciding on their composition and making appointments to them
- (h) Appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council
- (i) Conferring the title of Honorary Freeman or the Freedom of the Borough
- (j) Adopting a scheme for Members' allowances
- (k) Changing the name of the area
- (l) Confirming the appointment or dismissal of the Head of Paid Service, Section 151 Officer and Monitoring Officer
- (m) Making, amending, revoking, re-enacting or adopting bylaws, or promoting or opposing the making of local legislation or personal Bills
- (n) All local choice functions set out in Part 3 of this Constitution which the Council decide should be undertaken by itself rather than the Cabinet.
- (o) Consideration of reports from the:-
  - Cabinet
  - Overview and Scrutiny Committees
  - Regulatory Committees
  - Audit and Governance
  - Any other body constituted by the Council
- (p) All other functions which the Council lawfully decides should be undertaken by itself rather than the Leader / Cabinet and which are set out in this Article 7 of the Constitution
- (q) Deal with major matters relating to elections, including considering proposals relating to status and the variation of District Boundaries, electoral divisions, wards and polling districts
- (r) To determine matters relating to local government pensions where these are not delegated to officers, in accordance with the regulations made under the Superannuation Act 1972
- (s) All other matters which, by law, must be reserved to Council

**4. Council meetings**

- 4.1 Council meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this chapter of the Constitution. Council meetings will be Chaired by the Mayor (or Deputy Mayor where appropriate).

**5. Responsibility and delegation of functions**

- 5.1 The Council may arrange for the discharge of any of its functions by a Committee of the Council, a Sub-Committee of the Council or by an Officer, subject to certain functions such as setting the Budget and Council Tax, decisions that depart from the Budget and Policy Framework or appointing the Chief Executive which are reserved by statute exclusively to Council. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an Officer, and a Sub-Committee may delegate any of its functions to an Officer.

## **Article 5 - The Mayor and Chairing the Council**

### **1. Election**

- 1.1 The Council will elect the Mayor annually at its Annual Meeting.
- 1.2 The Mayor may choose his/her own Deputy Mayor from amongst the Members of the Council. The Deputy Mayor will be formally appointed at the annual meeting of the Council.

### **2. Mayor's Term of Office**

- 2.1 The Mayor will remain in office until:
  - (a) the election of his/her successor at the next Annual Meeting, notwithstanding that he/she may cease to be a Councillor by reason of non-re-election
  - (b) his/her ceasing to be a Councillor by virtue of being disqualified from office, or
  - (c) his/her removal from office by a resolution of Council

### **3. Mayor's Functions and Responsibilities**

- 3.1 The Mayor and in his or her absence the Deputy Mayor will have the following functions and responsibilities:
  - (a) To be non-political for the duration of the Mayoralty
  - (b) Act as the symbolic head and chief citizen of the Borough
  - (c) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
  - (d) 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
  - (e) To exercise a second and casting vote at meetings of the Council in the event of a tied vote
  - (f) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Leader / Cabinet to account

- (g) To promote public involvement in the authority's activities
  - (h) To be the conscience of the authority
  - (i) To attend such civic and ceremonial functions as the Council and he/she determines appropriate
  - (j) To decide (in the absence of the Chair of the relevant Overview and Scrutiny Committee) whether a matter is so urgent as to allow the Cabinet to take a decision in respect of it even though it is not contained in the Forward Plan and 5 clear days' notice of the decision have not been given; or that decision concerns a plan or strategy forming part of the Budget or Policy Framework and would be contrary to or, in the case of the Budget not wholly in accordance with, that framework.
  - (k) To decide if a Cabinet decision is urgent and should be exempt from the call-in process.
- 3.2 The Mayor and, in his/her absence, the Deputy Mayor will have the use of the Mayor's Parlour and motor car and the services of the Mayor's Officer for the performance of civic and ceremonial duties.
- 3.3 The Mayor and his/her Mayoress/Consort will have the right to wear the appropriate chain and badge of office when performing civic and ceremonial duties or (in the case of the Mayor) chairing the Council meeting. Similarly, the Deputy Mayor and his/her Deputy Mayoress/Consort will have the right to wear the appropriate chain and badge of office when performing civic and ceremonial duties or (in the case of the Deputy Mayor) chairing the Council meeting.
- 4. Mayoral Appointment Protocol**
- 4.1 The appointment of Mayor will be made on a seniority basis.
- 4.2 The Member who has the longest period of service, including accumulated service, and has not previously held the office of Mayor, will be offered the Mayoralty for a period of one year commencing at the Annual Meeting of the Council in May each year.
- 4.3 In cases where there is equal length of service including accumulated time, the Member with the earliest period of service will take priority for seniority purposes.
- 4.4 Where there is equal length of service, but no previous service, the order of seniority will be determined by the drawing of lots.

- 4.5 Members will be permitted to defer acceptance of the office of Mayor for a period of two years, after which time they will be placed at the bottom of the seniority list until the next full council elections.
  
- 4.6 If re-elected, the Member will be returned to their rightful place in the order of seniority for the municipal year after the election year (e.g. election year 2019, returned to order of seniority for municipal year 2020/21).

## **Article 6 - Overview and Scrutiny Committees**

### **6.1 Composition**

The Council will appoint at the Annual Meeting, a number of Overview and Scrutiny Committees. The Council can change the number of Overview and Scrutiny Committees. No Cabinet Members may be appointed to the Overview and Scrutiny Committees.

The Scrutiny Committees have no executive powers; they must make recommendations to the Cabinet or full Council if they wish action to be taken. Whilst the Council's scrutiny arrangements have been established to provide an independent process for reviewing Council decisions and policies, scrutiny should not be a confrontational or divisive process. It is intended to complement and add value to the work of the Cabinet.

### **6.2 General Role of Overview and Scrutiny Committees**

Within their terms of reference the Overview and Scrutiny Committees, which all have equal status, will:

- (a) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (b) Make reports and recommendations to the Cabinet and/or full Council and/or any Committee in connection with the discharge of any functions.
- (c) Consider any matter affecting the area of Boston or its inhabitants and make reports and recommendations.
- (d) In accordance with the procedures for Call-In, exercise the right to call-in for reconsideration decisions falling within their remit which have been made but not yet implemented by the Cabinet or on behalf of the Cabinet and undertake reviews aiming to improve the efficient and effective delivery of services to local people.

6.3 Within their terms of reference, each Overview and Scrutiny Committee has the following specific functions:

(a) **Policy Development and Review**

- To assist the Council and Cabinet in the development of its Policy Framework and Budget by analysis of policy issues facing the council for report and recommendation to the Cabinet or Council.
- To conduct research, community and other consultation in the analysis of options
- To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- To liaise with other external organisations operating in the area, whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

- To scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
- To scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- Subject to all applicable codes of conduct on Officer/Member protocols, to question members of the Cabinet, Chairmen of Committees; and appropriate officers about their decisions.
- To make reports and recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process.
- With their consent, and subject to all applicable rules of conduct, to make reports and recommendations to the Cabinet or the Council on matters which affect the Council's area and its inhabitants

(c) **Finance**

- To work within the approved budgets of the Council.

(d) **Annual Report**

- To report annually to the Council on each Committee's activities and make recommendations for future work programmes and amended working methods if appropriate.



**Article 7 - The Leader and Cabinet Executive**

**1. Role**

1.1 The Council has decided to adopt the Leader and Cabinet form of executive. Part 4 sets the rules for how the Leader and Cabinet will operate. These include arrangements for meetings, individual decision-making, and the scheme of delegation and sub-delegation of functions. The Cabinet (meaning the Leader and such other Members of the Council as the Leader may appoint) will carry out all of the Authority's functions which are not the responsibility of any other part of the Authority, whether by law or under the Constitution. The Leader may take decisions on every matter that is not assigned to anyone else by this constitution. The Leader may however, make arrangements to delegate some matters to the Cabinet, a Cabinet Committee, individual Cabinet members, or to employees.

**2. Form and composition**

2.1 The Cabinet will consist of the Leader together with such other number of Councillors as the Leader may determine (being not more than 9) appointed by the Leader. Such appointment as a Cabinet Member shall be effected by notice in writing from the Leader delivered to the Chief Executive. Only Councillors may be appointed to the Cabinet. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet. Cabinet members may not be members of an Overview and Scrutiny Committee. The Leader must appoint one Member of the Cabinet to be his/her deputy.

**3. Leader**

3.1 The Leader will be a Councillor elected for a term of 4 years (subject to (a) - (d) below) to the position of Leader by the Council and he or she shall not be the Mayor or Deputy Mayor or a member of a Scrutiny Committee.:

- (a) He/she resigns from the office; or
- (b) He/she is no longer a Councillor; except where the Leader fails to be returned as a Councillor following an election. Unless the Leader resigns, is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting; or until
- (c) He/she is removed from office by a resolution of Council.

**4. Other Executive / Cabinet Members**

4.1 Cabinet members appointed by the Leader shall hold office until:

- (a) They resign from office; or
- (b) They are no longer Councillors; or
- (c) They are removed from office by the Leader, by notification of removal made in writing by the Leader to the Chief Executive and to the Cabinet member concerned. The removal will take effect immediately after receipt of the notice by the Chief Executive.

**5. Deputy Leader**

5.1 The Leader shall appoint a Cabinet Member to be Deputy Leader, by notifying the Chief Executive in writing of such appointment.

5.2 The Leader shall delegate to the Deputy Leader power to exercise any Executive Function which is exercisable by the Leader, to be exercised by the Deputy Leader when the Leader is unable to act by reason of absence or conflict of interest.

5.3 The Deputy Leader, unless he/she resigns as Deputy Leader, is removed by the Leader or ceases to be a Member of the Council, will hold office until the end of term of office of the Leader.

5.4 If for any reason the Leader is unable to act or the office of the Leader is vacant the Deputy Leader must act in his place.

5.5 If for any reason the Leader is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in his place.

**6. Vacancies in the Executive / Cabinet**

6.1 If at any time a person shall, by virtue of this Article, cease to be a Member of the Cabinet, the responsibilities of that Member shall be carried out by the Leader / Cabinet collectively in so far as permitted by law until such time as the Leader shall have appointed a replacement or, where appropriate, re-appointed the Member concerned.

6.2 In the event of there being no Leader, Deputy Leader or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive in so far as is permitted by law.

**7. Removal from office**

- 7.1 The Leader may be removed from office by resolution of the Council, on a notice of motion by the Council.
- 7.2 In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Council.
- 7.3 Cabinet Members (including the Deputy Leader) may be removed from office and a new Member appointed, either individually or collectively upon the decision of the Leader.
- 7.4 The Leader will notify the Monitoring Officer and the Cabinet Member affected in writing of the decision. The removal of the Cabinet Member will take effect on receipt of the Leader's written notice to both the Cabinet Member and the Monitoring Officer. The Monitoring Officer will keep a record of any removal of a Cabinet Member and the Leader will report any such removal to Cabinet at the earliest opportunity.

**8. Proceedings of the Executive / Cabinet**

- 8.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4.

**9. Responsibility and delegation of functions of the Leader / Cabinet**

- 9.1 The Leader may discharge any of the functions of the Leader / Cabinet.
- 9.2 The Leader may delegate any of the functions of the Leader to the Cabinet, to a Committee of the Cabinet, to an individual Cabinet Member or to an Officer.
- 9.3 A Cabinet Committee may delegate the discharge of any of its functions to an individual Cabinet Member or to an Officer.
- 9.4 An individual Cabinet Member may delegate the discharge of any of his/her functions to an Officer.
- 9.5 The Monitoring Officer will maintain a Register of the Delegation of the Executive Functions and will record any alterations to the allocation of the responsibility for the discharge of the executive functions.

**Article 8 - Committees and Sub-Committees of Council**

**1. Committees**

1.1 The Council may appoint such Committees as it determines for the effective discharge of its functions. It has determined to appoint the following Committees, each comprising the following number of Councillors:

	<b>Name of Committee</b>	<b>Number of Members</b>	<b>Quorum</b>
(a)	Planning Committee	13 Councillors	5
(b)	Licensing, Regulatory and Appeals Committee	13 Councillors	3
(c)	Chief Officer Employment Panel	6 Councillors	3
(d)	Audit & Governance	11 Councillors + 1 co-opted non-voting	5
	Hearing Panels	5	3
(e)	Overview and Scrutiny - Environment and Performance	11 Councillors	5
(f)	Overview and Scrutiny - Corporate and Community	11 Councillors	5
(g)	International Links	5 Councillors	2
(h)	South East Lincolnshire Joint Strategic Planning Committee	3 Councillors	
(i)	Boston Town Area Committee (BTAC)	14 Councillors	6
(j)	Councillor Development Group	10 Councillors	3
(k)	Joint Chief Officer Employment Panel	4 Councillors	
(l)	Joint Appointment Appeals Committee	4 Councillors	
(m)	Joint Strategy Board	7 Councillors	

**2. Functions**

- 2.1 The terms of reference of each Committee are set out in Part 3, Responsibility of Functions of the Constitution, and each Committee has delegated authority to discharge those functions within the Budget and Policy Framework of the authority.

**3. Sub-Committees**

- 3.1 Each Committee may appoint such Sub-Committees as it considers necessary for the effective discharge of its functions and may arrange for the discharge of any of its functions by such Sub-Committee.

**4. Appointment**

- 4.1 The Council shall appoint the Members of each Committee at the Annual Meeting of Council, or at the next convenient meeting thereafter, or as and when a vacancy has arisen. Each Committee shall appoint the Members of each of its Sub-Committees at the first meeting of the Committee after the Annual Meeting of Council, or as and when a vacancy has arisen.

- 4.2 Each Member of a Committee or Sub-Committee shall remain in office until:

- (a) he/she resigns as a Member of the Committee or Sub-Committee
- (b) he/she ceases to be a Councillor; or
- (c) the Council appoints another person to act in place of the Member.

- 4.3 Where proportionality must apply the Council will allocate accordingly. Where proportionality does not apply, seats will be allocated at the discretion of the Council. Except for BTAC which is comprised of Members for all town area wards.

- 4.4 The Council may appoint persons who are not members of the authority to any Committee as co-opted Members. Any such appointment(s) shall be undertaken in accordance with the Council Procedure Rules at Part 4 of this Constitution.

**5. Proceedings**

- 5.1 Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 2 of this chapter.

## **Article 9 - Area Committees and Forums**

### **9.1 Area Committees**

The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. To date no Area Committees have been formally appointed.

### **9.2 Consultations**

The Council will consult with relevant Parish Councils and with the Boston Town Area Committee when considering whether and how to establish Area Committees.

### **9.3 Conflict of Interest**

A Councillor may not speak or vote at the Overview and Scrutiny Committee meeting (unless a dispensation to do so is given by the Monitoring Officer) if the Committee is scrutinising specific decisions or proposals in relation to the business of an Area Committee of which the Councillor is a member.

### **9.4 General Policy Reviews**

Where the Overview and Scrutiny Committees are reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

### **9.5 Area Committees - Access to Information**

Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area and committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which is which.

### **9.6 Cabinet Members on Area Committees**

A Cabinet Member may serve on an Area Committee if otherwise eligible to do so as a Councillor.

### **9.7 Area Forums**

The Borough Council may establish Area Forums to be consultative and advisory bodies to which matters may be referred by the Council, the Leader or Cabinet, Scrutiny Committees or Regulatory Committees. The Borough Council is considering whether to establish Area Forums.

**Article 10 - Joint Arrangements**

**1. Arrangements to promote well being**

1.1 The Council or the Cabinet, in order to promote the economic, social and environmental well being of its area, may:

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

**1.2 Joint Arrangements**

The Council may establish joint arrangements with one or more local authority and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee or Board with these other local authorities. The Council may, where the legislation allows, also establish other joint arrangements.

1.3 The Cabinet may establish joint arrangements with one or more local authorities or other organisations to exercise functions which are Executive functions or to advise the Cabinet. Such arrangements may involve the appointment of joint Committees or Boards with these other local authorities or bodies. The Cabinet may, where the legislation allows, also establish other joint arrangements.

1.4 Except as set out in 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.

1.5 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet if 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 of a ward which is wholly or partly contained within the area. The political balance does not apply to such appointments.

1.6 Where both executive and non-Executive Functions are delegated to a Joint Committee, appointments to the joint Committee or Board will be made by the Council.

1.7 Details of any joint arrangements including any delegations to Joint Committees or Boards shall be set out in this Constitution, if made.

**1.8 Access to Information**

If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities then the Access to Information Rules relating to the Cabinet will apply.

1.9 If the Joint Committee contains Members who are not on the Cabinet of any participating authority then the Access to Information Rules and Part VA of the Local Government Act 1972 will apply.

**1.10 Delegation to and from other local authorities**

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

1.11 The Cabinet may delegate Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.

1.12 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

**1.13 Delegation to and from other organisations**

The Council may delegate non-Executive Functions to other organisations where legislation allows.

1.14 The Cabinet may delegate Executive Functions to other organisations where legislation allows.

1.15 The decision whether or not to accept such a delegation from another organisation shall be reserved to the Council.



**Article 11 - Officers**

**1. Management structure General**

- 1.1 Full Council may engage such Officers as it considers necessary to carry out its functions, in light of advice and guidance from the Head of Paid Service
- 1.2 Appointment of officers cannot be the responsibility of the Cabinet. Appointment of officers below Head of Service level must be the responsibility of the Head of Paid Service or their nominee.
- 1.3 Where the Head of Paid Service has agreed to vary the establishment, Council has agreed that the Monitoring Officer shall be authorised to make the necessary consequential amendments to this Article.

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

- 1.4 The Council will designate the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer. Currently the following Officers set out below are designated to these posts:
  - Head of Paid Service - Chief Executive
  - Monitoring Officer - Head of Customer & Democratic Services/Solicitor to the Council
  - Chief Finance Officer - Strategic Director

**Structure**

- 1.5 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is contained at Part 7.

**2. Functions of the Chief Executive/Head of Paid Service**

- 2.1 Overall corporate management and operational responsibility (including overall management responsibility for all Officers).
- 2.2 Provision of professional advice to all parties in the decision making process.
- 2.3 Together with the Monitoring Officer responsibility for a system of record-keeping for all the Council's decisions, executive or otherwise.

- 2.4 Represents the Council on partnership and other external bodies (as required by statute or the Council).
- 2.5 In the absence of the Monitoring Officer to carry out the functions of the qualified person for the purposes of section 36 of the Freedom of Information Act 2000 (prejudice to effective conduct of public affairs).
- 2.6 To act as the Returning Officer for the Local Government Elections.
- 2.7 To act as Electoral Registration Officer.

### **3. Functions of the Monitoring Officer**

#### **Maintaining the Constitution**

- 3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

#### **Ensuring lawfulness and fairness of decision-making**

- 3.2 After consulting with the Chief Executive and Chief Finance Officer where practicable, the Monitoring Officer will report to the full Council in respect of a non-Executive Function or to the Cabinet in relation to an Executive Function if he or she considers that any proposal, decision or omission has given rise to or would give rise to unlawfulness or if any decision or omission has given rise to maladministration, under sections 5 and 5A of the Local Government and Housing Act 1989. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### **Supporting the Audit and Governance Committee**

- 3.3 The Monitoring Officer and the s.151 Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.

#### **Receiving reports**

- 3.4 The Monitoring Officer will receive and act on reports and decisions of case tribunals.

#### **Conducting investigations and taking other actions**

- 3.5 The Monitoring Officer may arrange the conduct of investigations into matters referred to him or her and shall take such other actions as the Audit and Governance Committee may direct within its terms of reference.

**Maintaining the Register of Members' Interests**

- 3.6 The Monitoring Officer shall maintain the register of Members' interests and shall report annually to the Audit and Governance Committee on the performance of this function.

**Proper Officer**

- 3.7 Act as the Proper Officer as required. References to the Proper Officer in this Constitution are defined in

**Advising whether Executive decisions are within the Budget and Policy Framework**

- 3.8 The Monitoring Officer, together with the s.151 Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

**Providing advice**

- 3.9 The Monitoring Officer and s.151 Officer will be responsible for providing advice on the scope of the powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors.

**Contributing to corporate management**

- 3.10 The Monitoring Officer and the s.151 Officer will contribute to the corporate management of the Council, in particular through the provision of legal advice and advice on probity and good administration.

**Restrictions on posts**

- 3.11 The Monitoring Officer cannot be the s.151 Officer or the Chief Executive.

**4. Functions of the Section 151 Officer (s.151)**

**Ensuring lawfulness and financial prudence of decision-making**

- 4.1 After consulting with the Chief Executive and the Monitoring Officer where practicable, the s.151 Officer will report to the full Council in respect of a non-Executive Function 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.

**Administration of financial affairs**

- 4.2 The s.151 Officer will have responsibility for the administration of the financial affairs of the Council as required by section 151 of the Local Government Act 1972 or (so far as relevant) section 112 of the Local Government Finance Act 1988, including the provision of financial information both internally and externally as required.

**Advising whether Executive decisions are within the Budget and Policy Framework**

- 4.3 The s.151 Officer will advise whether decisions of the Cabinet are in accordance with the Budget framework.

**Providing advice**

- 4.4 The s.151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

**5. Duty to provide sufficient resources to the Monitoring Officer and s.151 Officer**

- 5.1 The Council will provide the Monitoring Officer and s.151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**6. Delegation to Officers**

- 6.1 The officer scheme of delegation is set out in Part 3

**7. Conduct**

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

**8. Appointment and dismissal of staff**

- 8.1 The appointment and dismissal of staff shall be governed by the provisions of the Officer Employment Procedure Rules contained in Part 4 of this Constitution as supplemented, where appropriate, by the Council's human resources policies and procedures.

**Article 12 - Decision Making and allocation of functions between the Council and Cabinet**

**1. Responsibility for decision making**

- 1.1 Section 13 of the Local Government Act 2000 provides that all the functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation). The reservation of functions to the Council is made under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') define those functions:
- a) which must not be discharged by the Executive
  - b) which may be the responsibility of the Executive and
  - c) which may not be the sole responsibility of the Executive and
  - d) circumstances in which functions which would otherwise be functions of the Executive fall to be discharged other than by the Executive.
- 1.3 The Council therefore only has discretion to define the split of functions between the Council ("Council functions") and the Executive ("Executive functions") in respect of those which fall within categories (b) and (c) above.
- 1.4 "Council Functions" shall therefore comprise:
- a) those functions which are reserved as Council functions by the Act, or by other or subsequent legislation
  - b) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Regulations or subsequent regulations made under the Act
  - c) the adoption or approval of plans and strategies (the "Policy Framework") set out in Schedule 3 of the Regulations together with such other plans and strategies as the Council may identify from time to time for this purpose.

- 1.5 The Council may make arrangements under section 101 of the Local Government Act 1972 for the discharge of any of its functions by:
- a) a Committee
  - b) a Sub-Committee
  - c) a Joint Committee
  - d) another local authority
  - e) an Officer
- 1.6 The arrangements for the discharge of functions in relation to Committees and the Scheme of Delegation are set out in Part 3 of this Constitution.
- 1.7 Under section 15 (2) of the Local Government Act 2000, the Council may make provision that specific Executive Functions shall be allocated to, and discharged by:
- a) the Cabinet (as a body)
  - b) an individual Member of the Cabinet
  - c) a Committee of the Cabinet
  - d) an Officer

Note: The law has been amended in England so that a Cabinet Leader alone will make the initial delegations (which the Cabinet or Officers, may then develop for those functions allocated to them).

- 1.8 The Council has provided that actions in connection with Executive Functions shall be allocated to the Cabinet (except in so far as allocated to an individual Member of the Cabinet) and accordingly under section 14 (3) of the Act the Cabinet can either discharge such functions itself or delegate them to an Officer, unless the Leader has determined otherwise (in the case of a function which he has arranged to be discharged by the Cabinet, a Member of the Cabinet or a Committee of the Cabinet).

## **2. Principles of decision making**

- 2.1 All decisions of the Council will be made in accordance with the following principles:
- a) In accordance with the Council's legal powers and this Constitution

- b) With due regard to the professional advice of officers
- c) Due regard for the individuals and communities served by Boston Borough Council
- d) Following appropriate consultation
- e) Proportionality (i.e. the action must be proportionate to the desired outcome)
- f) Due consultation in line with the Council's consultation strategy as agreed from time to time and the taking of professional advice from Officers
- g) Respect for human rights
- h) A presumption in favour of openness
- i) Clarity of aims and desired outcomes (i.e. link between strategy and implementation)
- j) Financial Probity and Consistent with the Council's Budget and Policy Framework

### **3. Types of decision**

#### **Decisions reserved to full Council**

- 3.1 Decisions relating to the functions listed in Article 4 will be made by the full Council and not delegated.

#### **Key decisions**

- 3.2 A key decision means an executive decision which is likely:

- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's Budget for the service or function to which the decision relates; or
- b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

A decision maker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

In accordance with s.38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance issued by the Secretary of State.

### **Other decisions**

- 3.3 The Council has appointed a number of Committees to carry out certain prescribed functions that cannot be undertaken by the Cabinet. These Committees and their responsibilities are described in Part 3 of the Constitution.

## **4. Rules for Decision making**

- 4.1 The Council, the Cabinet (including the Cabinet, any Committee of Cabinet and individual Members of the Cabinet), the Overview and Scrutiny Committee and other Committees and Sub-Committees established by the Council will follow the Rules relating to that body set out in this Constitution when considering any matter.

## **5. Officer Decisions**

- 5.1 Subject to Rule 6.1 Officers making decisions must follow:
- The Employee Code of Conduct
  - The Council’s Financial Rules
  - The Council’s Contract Procedure Rules

## **6. Procedure for Decision making by Council bodies acting as tribunals**

- 6.1 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) - civil rights and obligations of any person will follow a proper procedure which accords in so far as is possible with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **7. Scrutiny of Decisions**

- 7.1 The Council has appointed two Overview and Scrutiny Committees to scrutinise decisions taken by the Cabinet. The responsibilities and terms of reference of these Committees are described in Part 3 of the Constitution.



**Article 13 - 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 Regulations set out in this Chapter and any guidance issued by the Chief Finance Officer.

**2. Contracts**

- 2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in this Chapter.

**3. Legal proceedings**

- 3.1 The Solicitor to the Council 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 Council or in any case where the Solicitor to the Council and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

**4. Authentication of documents**

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

**5. Common Seal of the Council**

- 5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or Cabinet, of a Committee or Sub-Committee, a Committee of Cabinet or a Cabinet Member, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Head of Legal & Democratic Services should be sealed or are required by the provisions of the Contract Procedures to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Solicitor to the Council or some other person authorised by him/her.

**5.2 Signing of Contracts**

Every contract of less than £10,000 in value or amount shall be in writing and signed by an authorised Officer.

Every contract in excess of £10,000 in value or amount but not exceeding £100,000 in value or amount shall be in writing and signed by the Chief Executive, appropriate Corporate Director or nominated person.

Every contract in excess of £100,000 in value or amount shall be in writing and signed by the Council's Chief Executive or nominated person.

## **Article 14 - Review and Revision of the Constitution**

### **14.1 Duty to Monitor and Review the Constitution**

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

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

It will be the duty of the Monitoring Officer to make such recommendations for changes as may be necessary in order to better achieve the purposes set out in Article 1. In undertaking this duty the Monitoring Officer will have regard to any legislative changes affecting the Constitution and 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; and
- Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **14.3 Changes to the Constitution**

#### **a) Approval**

Changes to the Constitution will only be approved by full Council after consideration of a report prepared by the Monitoring Officer. (This shall exclude variations to the Scheme of Delegation to authorise officers to carry out powers, duties or functions on behalf of the Council agreed by the Cabinet or by the relevant Regulatory Committee from time to time or changes which are a matter of fact or record.)

#### **b) Change from a Leader and Cabinet form of Executive to another form of executive arrangements or alternative arrangements.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and, in the event of the proposals including a mayoral form of executive, must hold a binding referendum.

**Article 15 - Suspension, Interpretation and Publication of the Constitution**

**1. Suspension of the Constitution**

- 1.1 The Articles of this Constitution may not be suspended. Other Rules and protocols may be suspended by the body to which they apply (or if no such body then by the Council) to the extent permitted within those Rules and the law.
- 1.2 A motion to suspend any Rules may not be moved without notice unless at least two thirds of the whole number of Councillors is present. The extent and duration of suspension should be proportionate to the result to be achieved.

**2. Interpretation**

- 2.1 The ruling of the Mayor 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 1. Before making a ruling the Mayor shall have regard to the advice of the Monitoring Officer.

**3. Publication**

- 3.1 The Monitoring Officer will provide an electronic copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council. Printed copies can be provided on request.
- 3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee, which must meet the cost of production.
- 3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.
- 3.4 The Monitoring Officer shall ensure that a record is kept of any changes to this Constitution which shall be re-issued in up to date form as soon as practicable after any substantial changes have been made to it.
- 3.5 The Monitoring Officer shall ensure that an up-to-date version of the Constitution is available on the Council's website.