

Part 2: Articles of the Constitution

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ARTICLE 1 - The Constitution

1.1 Powers of the Council

The City of Lincoln Council will exercise all of its powers and duties in accordance with the Law and this Constitution.

1.2 The Constitution

This document, and all of its appendices, is the Constitution of the City of Lincoln Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations in the City of Lincoln;
2. Support the active involvement of citizens in the process of local authority decision making;
3. Assist Councillors in meeting their representational roles and strengthening links with the community;
4. Enable decisions to be taken efficiently and effectively;
5. Create a powerful and effective means of holding decision-makers to public account;
6. Ensure that no-one will review or scrutinise a decision in which they were directly involved;
7. Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. Provide a means of improving the delivery of services to the community.

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 choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution in accordance with Article 16.

For the purposes of this constitution “working days” are defined as days on which the City of Lincoln Council’s offices are open for its normal working hours.

ARTICLE 2 - Members of the Council

2.1 Composition and Eligibility

- (a) **Composition** There are 33 members of the Council called councillors. The Council’s area is divided into 11 wards. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility** Only persons entered on the electoral register for the City of Lincoln or those living, working or owning land or premises in the City of Lincoln will be eligible to hold the office of councillor.

2.2 Election and Terms of Office of Councillors

Election by thirds An Election will be held to elect one councillor in each ward on the first Thursday of May in each year, except in those years when County Council elections are held eg 2017. Usually the term of office of a councillor elected at such an election will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 Filling of Casual Vacancies

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

2.4 Roles and Functions of all Councillors

- (a) **Key Roles**

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

- (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council;
 - (vi) maintain the highest standards of conduct and ethics; and
 - (vii) be available to represent the Council on other bodies
- (b) Rights and Duties
- (i) Councillors have such rights of access as the law allows to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions
 - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it; and
 - (iii) For these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.5 Conduct

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

2.6 Allowances

Councillors will receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

2.7 Training

(i) Councillors appointed to Planning or Licensing Committees (including sub-committees) must attend any training provided before taking part in the meetings.

ARTICLE 3 - Citizens and the Council

3.1 Citizens' Rights

Citizens' rights include those set out in this Article. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

(a) Voting and Petitions

Citizens on the electoral roll for the area have the right

- (i) to vote
- (ii) to sign a petition to request a referendum of all electors for the Council to have a Constitution with an elected Mayor.

All residents and other stakeholders can present petitions in accordance with the Council's Petition Scheme, which are relevant to any matter in respect of which the Council has powers and duties or which affect the City. The Petition Scheme is included within Part 8 of the Constitution.

(b) Information - Citizens have the right to:-

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive when key decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) find out from the Executive Work Programme what Key Decisions will be taken by the Executive and when;
- (iv) see reports and background papers and any records of decisions made by the Council and the Executive except where confidential or exempt information is likely to be disclosed; and
- (v) inspect the Council's accounts and make their views known to the external auditor.
- (vi) seek information from the Council under current disclosure rules set out in more details in the Access to Information Procedure Rules

(c) **Participation**

- (i) Citizens have the right to ask questions at meetings of the Council in accordance with Rule 11 of the Council Procedure Rules contained in Part 4 of this Constitution.
- (ii) The Council may appoint Citizens' representatives and representatives of other stakeholders to its Scrutiny Committees, and such other bodies as it considers appropriate.
- (iii) Citizens' representatives and other stakeholders who are not appointed to Scrutiny Committees may be invited to contribute to the work of those Committees.
- (iv) Citizens may make representations at Planning Committee and Licensing Sub Committee in prescribed circumstances in accordance with the relevant public speaking protocol.

(d) **Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints procedures;
- (ii) the Ombudsman in respect of any alleged mal-administration; and
- (iii) the Monitoring Officer if it is a breach of the Councillors' Code of Conduct.
- (iv) the Council's auditor on the legality of expenditure of Council finances.
- (v) the Information Commissioner in respect of suspected breaches of the Data Protection Act and the Freedom of Information Act.
- (vi) the Police in respect of any acts of suspected corruption on the part of person connected with the Council.

3.2 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening towards Councillors, Officers or any members of the public on Council land or premises and must not wilfully harm things owned by the Council, Councillors or Officers.

ARTICLE 4 - The Full Council

4.1 Meanings

- (a) **Policy Framework** The policy framework means the following plans and strategies together with any further plans and strategies which the Council expressly resolves should form part of the policy framework:
- Council Strategic Plan and delivery plan
 - Strategic Plan Annual Report
 - Lincoln Growth Strategy
 - Crime and Disorder Reduction Strategy
 - Licensing Authority Policy Statement
 - Local Development Framework
 - Workforce Development Strategy
 - Equality Objectives
- (b) **Financial Framework** The Financial Framework means the following plans and strategies:-
- Medium Term Financial Strategy
 - Capital Strategy
 - Asset Management Plan
 - Treasury Management Strategy
- The setting of the budget includes the allocation of financial resources to different services, projects, and contingency funds, calculating the council tax base, setting the council tax, setting the housing rent levels and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure, and the setting of virement limits.
- (c) **Housing Land Transfer** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purpose where approval is required under Sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Council

The following functions can only be exercised by the Council at a properly convened meeting to which all of its members have been summoned:

- (a) adopting and changing the Constitution (minor amendments to the Constitution, such as changes in officer responsibilities or job titles and mandatory legislative changes, have been delegated to the City Solicitor);
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, resolving any matter which is 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;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, (other than Committees of the Executive);
- (g) adopting or amending an allowance scheme as prescribed for in Article 2;
- (h) changing the name of the area and conferring the freedom of the borough on Citizens of the City of Lincoln;
- (i) approving the appointment or the dismissal of the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

4.3 Council Meetings

There are three types of Council meeting:-

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

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibilities for Functions

The City of Lincoln Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

ARTICLE 5 - The Mayor and Deputy Mayor

5.1 Election of Mayor and Deputy Mayor

- (i) A Mayor and a Deputy Mayor will be elected by the Council at its annual meeting.
- (ii) The Mayor and Deputy Mayor will be appointed in accordance with the list of Seniority maintained by the Democratic Services Team.

5.2 Role and Functions of the Mayor

The Mayor and in his/her absence the Deputy Mayor will act as First Citizen of the City and will chair meetings of the Council. They should at all times and regarding all matters act impartially, notwithstanding that they may be members of a political group.

(a) Ceremonial Role

The Mayor will take a leading role in all ceremonial and public affairs of the City, including:-

1. acting as host on behalf of the Council and the Citizens of Lincoln at civic functions organised by the Council, and receiving members of the Royal Family and important visitors to the City;
2. representing and promoting the City at functions held within Lincoln, the United Kingdom and abroad to which an invitation is received.

(b) Chairing the Council Meeting

The Mayor or Deputy Mayor will have the following responsibilities:-

1. to uphold and promote the purposes of the Constitution, and to interpret it when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;

3. to ensure that Council meetings are conducted in accordance with Council Procedure Rules in a manner conducive to the proper debate of matters of concern to the local community; and to ensure that the Council functions as a forum in which the Executive can be held to account;
4. to promote public involvement in the Council's activities.

ARTICLE 6 - Scrutiny Committees

6.1 Appointment and Remit

At its Annual Meeting each year the Council will appoint the four scrutiny committees listed below to review and scrutinise the discharge of the executive's functions and the effectiveness of the Council's policies.

- Performance Scrutiny Committee
- Policy Scrutiny Committee
- Community Leadership Scrutiny Committee
- Select Scrutiny Committee

6.2 Role

Scrutiny committees will carry out their duties in accordance with the terms of reference set out in Rule 1 of the Scrutiny Procedure Rules contained in Part 4 of this Constitution.

6.3 Finance

Scrutiny Committees will have responsibility for any budget made available to them for the discharge of their responsibilities.

6.4 Annual Report

Scrutiny Committees must report annually to full Council on their work and make such recommendations as they consider appropriate for future work programmes and changes in working methods.

6.5 Proceedings of Scrutiny Committees

Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 7 - The Executive

7.1 The Role of the Executive

The Leader will appoint an Executive to carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

The allocation of seats to the Executive shall be to the political group with an overall majority of seats on the Council (under the “exceptions to proportionality” provisions of section 17 of the Local Government and Housing Act 1989). However in the event of the Council being balanced and therefore no single group having the overall majority the allocation of seats on the Executive shall be proportional as required by Section 15 of the Local Government and Housing Act 1989.

7.2 Form and Composition

The Executive shall consist of up to 10 Members including the Leader. The Mayor and Deputy Mayor cannot be members of the Executive.

7.3 Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold the office for the period of his/her term of office unless:-

- (a) He/she resigns from the office; or
- (b) He/she is no longer a councillor; or
- (c) By resolution of the Council.

The Leader shall be responsible for:-

- (a) Appointing the Deputy Leader
- (b) Appointing, removing and replacing members of the Executive;
- (c) Allocating decision making powers to the Executive and individual members of the Executive.
- (d) Allocate members of his/her political group to Council committees and Outside Bodies.

7.4 Deputy Leader

The Deputy Leader will exercise all the functions of the Leader in his/her absence.

7.5 Other Executive Members

Other Executive members shall hold office from Annual meeting to Annual meeting unless:-

- (a) they resign from office; or
- (b) they are no longer councillors; or

- (c) they are removed from office, either individually or collectively, by the Leader of the Council.

7.6 Executive Portfolios

- (a) Each Member of the Executive will, in accordance with the Terms of Reference for Executive Members set out in the Schedule of Responsibilities, have special responsibility for the exercise of a portfolio of Executive's functions as agreed by the Leader.
- (b) The Leader will determine which Executive member is to be responsible for which portfolio.
- (c) Members of the Executive may not be Members of any of the Scrutiny committees detailed in Article 6.

7.7 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

7.8 Responsibility for Functions

The Council will maintain a list in Part 3 of this Constitution setting out which individual members of the Executive, committees, officers or joint arrangements are responsible for the exercise of particular Executive functions (Portfolios).

ARTICLE 8 - Regulatory and other Committees/Panels

8.1 Regulatory and other Committees

The Council will appoint the following committees to discharge the responsibilities set out in Table IA of the Tables of Responsibility for Council functions in part 3 of this Constitution :-

- Planning Committee
- Licensing Committee

8.2 Proceedings of Regulatory and other Committees

- (i) Regulatory and other Committees must conduct their proceedings in accordance with Rules 6-8, 12.3 to 12.7, 14-17 and 18-28 (but not Rule 23.1 or 26) of the Council Procedure Rules set out in Part 4 of this Constitution.
- (ii) The Planning Committee will also be subject to the City of Lincoln Council Probity in Planning: Code of Practice which is set out in Part 5 of this Constitution.

- (iii) The Licensing Committee and Licensing Sub Committee when acting in accordance with the Licensing Act 2003 and Gambling Act 2005 shall conduct the proceedings in accordance with their own hearing procedure.

8.3 Appeals Panels

The Council will appoint the following Appeals Panels to discharge the responsibilities set out in Table IA of the Tables of Responsibility for Council functions in part 3 of the Constitution:

- Personnel Appeals Panel
- Housing Appeals Panel
- Member Investigating Committee

8.4 Proceedings of Appeals Panels

Appeals Panels must conduct their proceedings having regard to Article 14.8 and in accordance with such procedures applicable to the matter under consideration as the Council shall determine.

8.5 Public Speaking at Planning Committee

Applicants and objectors to proposals for development shall be entitled to address the Committee in accordance with the Protocol for Public Speaking at Planning Committee contained in Part 5 of the Constitution.

8.6 Member Investigating and Disciplinary Committee

The Council's Member Investigating and Disciplinary Committee will meet as required in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015.

ARTICLE 9 – Audit Committee (Revised on 24 July 2018)

9.1 Audit Committee

The Council will appoint an Audit Committee.

9.2 Composition

- (a) The Audit Committee will comprise:
- seven Councillors
 - one independent member
- (b) The seven councillors of the Audit Committee should include the Chair of Performance Scrutiny Committee.

- (c) A member of the Executive may not be a member of this Committee

9.3 Statement of purpose

The Audit Committee will have the following roles and functions:

- (a) The audit committee is a key component of the City of Lincoln's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- (b) The purpose of the Audit Committee is to provide independent assurance to the Council members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the City of Lincoln's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- (c) To decide upon and authorise allowances to the Committee's Independent Member.

Governance, risk and control

- (a) To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (b) To engage with relevant committees to help support ethical values and reviewing arrangements to achieve those values as appropriate.
- (c) To appoint Lead Member to monitor and oversee Information Governance practices within the Council along with the Information Governance Board.
- (d) To monitor the effectiveness of the Authority's risk management Arrangements (development and operation).
- (e) To monitor the Council's anti-fraud and anti-corruption arrangements (including an assessment of fraud risks).
- (f) To monitor the counter-fraud strategy, actions and resources.
- (g) To monitor progress in addressing risk-related issues reported to the committee.

- (h) To maintain an overview of the Council's constitution in respect of contract procedure rules and financial procedure rules.
- (i) To review any issue referred to it by the Chief Executive, a Strategic Director, Monitoring Officer, Chief Financial Officer or any Council body as the Chair considers appropriate within the general Terms of Reference of the Committee.
- (j) To review the Authority's assurance statements, including the Annual Governance Statement prior to approval, ensuring it properly reflects the risk environment and supporting assurances (including internal audit's annual opinion on governance, risk and control).
- (k) To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- (l) To review the Council's arrangements for corporate governance, including the local Code of Corporate Governance and agreeing necessary actions to ensure compliance with best practice (the good governance framework, including the ethical framework).
- (m) To review the governance and assurance arrangements for significant partnerships or collaborations.
- (n) To consider the Council's compliance with its own and other published standards and controls.
- (o) To report and make recommendations to Executive or Council on major issues and contraventions.
- (p) To have rights of access to other Committees of the Council and to strategic functions as it deems necessary.
- (q) To receive on an annual basis a report on the Treasury Management Strategy before approval by the Executive and Full Council.
- (r) To be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

Internal audit

- (a) Receive and consider the annual report and opinion of the Internal Audit Manager including conformance with Internal Audit Standards.

- (b) Review a summary of internal audit activity including internal audit reports on the effectiveness of internal controls, seeking assurance that action has been taken where necessary on the implementation of agreed actions.
- (c) To consider summaries of specific internal audit reports as requested by the Audit committee.
- (d) To Approve (but not direct) internal audit's risk-based annual audit plan including resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those sources.
- (e) Audit Committee Chair to approve significant interim changes to the risk-based internal audit plan and resource requirements followed by report to Audit Committee.
- (f) To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- (g) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairment.
- (h) To monitor audit performance, including QAIP results and any non-conformance with PSIAS and LGAN.
- (i) To consider whether the non-conformance is significant enough that it must be included in the AGS.
- (j) Consider the annual review of effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.
- (k) To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- (l) To receive reports outlining the action taken where the Audit manager has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- (m) To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

- (n) To have the right to call any officers or Members of the Council as required to offer explanation in the management of internal controls and risks.
- (o) To approve the internal audit charter.

External audit

- (a) To consider the reports of external audit and inspection agencies, including the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- (b) To consider specific reports as agreed with the external auditor.
- (c) To advise and recommend on the effectiveness of relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- (d) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (e) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- (f) To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- (g) To commission work from internal and external audit, as required, and as resources allow.

Financial reporting

- (a) The Audit Committee, as the Committee "Charged with Governance" should consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- (b) To review the annual statement of accounts. The Committee should consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

- (c) The Committee will monitor management action in response to any issues raised by external audit.

Accountability arrangements

- (a) To report to full council on an annual basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

9.4 Proceedings of the Audit Committee

- (1) The Audit Committee must conduct its proceedings in accordance with Rules 6-8, 12.3 to 12.7, 14 -17 and 18-28 (but not Rule 23.1 or 26 of the Council Procedure Rules set out in Part 4 of this Constitution.

9.5 Quorum

The quorum for any meeting of the Audit Committee shall be three Councillors.

ARTICLE 10 – Ethics and Engagement Committee

10.1 Ethics and Engagement Committee

The Council will appoint an Ethics and Engagement Committee.

10.2 Composition

- The Ethics and Engagement Committee will comprise nine councillors appointed annually from among their number.
- The Leader of the Council shall be excluded from taking part in matters directly relating to complaints made against members of the Council, but shall be allowed to be appointed and to act as a member of the Committee in all other matters.
- The Ethics and Engagement Committee will be appointed in accordance with political proportionality rules.
- The Ethics and Engagement Committee and/or Monitoring Officer must consult the Independent Person on matters relating to the Members' Code of Conduct and dispensations.
- The Ethics and Engagement Committee can invite the Independent Person to attend Ethics and Engagement Committee meetings and meetings of the Assessment and Hearing Sub-Committees. The Committee may also invite the Independent Person to speak at the Committee's meetings but he or she will not be entitled to vote on any matters.

- The Committee shall meet at least quarterly unless otherwise agreed.
- The quorum for the Committee shall be three councillors.

10.3 Role and Function

The Ethics and Engagement Committee will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by elected and Co-opted members;
- (b) assisting Councillors in observing 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 on matters relating to the Members' Code of Conduct;
- (f) assess and hear any cases of an alleged breach of the Members' Code of Conduct
- (g) granting dispensations to members on the following grounds:-
 - (1) that so many members of the decision making body have Disclosable Pecuniary Interests (DPI's) or Personal and Pecuniary Interests in a matter that it would "impede the transaction of the business". In practice this means that the decision making body would be inquorate as a result.
 - (2) that without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - (3) that the authority considers that the dispensation is in the interests of persons living in the authority's area.
 - (4) that, without a dispensation, no member of the Executive would be able to participate on the matter, or
 - (5) that the authority considers that it is otherwise appropriate to grant a dispensation.
- (h) to decide upon and authorise allowances for Independent Person(s)
- (i) to consider matters relating to the governance of the Council and ethical conduct by councillors, and propose relevant guidance if appropriate
- (j) to monitor councillor development and offer guidance intended to improve its efficacy, value or delivery

- (k) to develop innovative and effective proposals to improve democratic engagement

10.4 Proceedings of the Ethics and Engagement Committee

- (1) The Ethics and Engagement Committee must conduct its proceedings in accordance with Rules 6-8, 12.3 to 12.7, 14 - 17 and 18-28 (but not Rule 23.1 or 26 of the Council Procedure Rules set out in Part 4 of this Constitution.
- (2) Code of Conduct Hearings must conduct their proceedings in accordance with the adopted hearing procedure.

10.5 Quorum

The quorum for any meeting of the Ethics and Engagement Committee shall be three members.

10.6 Code of Conduct Hearings

The following panels will be appointed as and when required:

The Assessment Sub-Committee which will:-

- (a) assess any alleged breach of the member code of conduct, which has been referred to them by the Monitoring Officer, in consultation with the Independent Person.

The Hearing Sub-Committee which will:-

- (a) hear any cases against an alleged breach of the Member Code of Conduct
- (b) be authorised to impose one or more of the following sanctions, if thought appropriate;
 1. reporting its findings to Council
 2. recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub – Committees of the Council
 3. recommending to the Leader of the Council that the member be removed from Executive or removed from particular portfolio responsibilities
 4. instructing the Monitoring Officer to arrange training for the member
 5. removing the member from all outside bodies to which they have been appointed

6. withdrawing facilities provided to the member by the Council, such as computer, website and/or email or internet access
7. excluding the member from Council offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committees or Sub - Committee

ARTICLE 11 - Area Committees/Forums

Role of 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.

ARTICLE 12 - Joint Arrangements

12.1 Arrangements to Promote Well Being

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

- enter into arrangements or agreements with any person or body;
- co-operate with; or facilitate or co-ordinate the activities of, any person or body; and
- exercise on behalf of that person or body any functions of that person or body.

12.2 Joint Arrangements with Other Local Authorities

(a) In order to promote the economic social or environmental well-being of its area or otherwise in the interests of the effective economic and efficient discharge of its functions

- (i) the Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities or to advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- (ii) the Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities.

12.3 Appointments to Joint Committees

- (a) Where joint arrangements involve a joint committee to discharge functions which are the sole responsibility of the Executive, a committee of the Executive, or an individual member of the Executive, that body or individual is responsible for appointing the Council's representatives on the joint committee. The political balance requirements do not apply to such appointments.
- (b) Except as set out below, the Executive, a committee of the Executive, or an individual executive member, may only appoint Executive members to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (c) The Executive may appoint members from outside the Executive to a joint committee in the following circumstances:
- where the joint committee is discharging a function in relation to five or more local authorities. In this case, the executive may appoint to the joint committee any member of the Council; or
 - where the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee. In this case, the executive may appoint to the joint committee any member of the Council; or
 - where 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 Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;

In all of these cases the political balance requirements do not apply to such appointments.

- (d) Where joint arrangements involve a joint committee to discharge a number of functions on behalf of the Council some of which are the responsibility of the Executive and some of which are the responsibility of the Council as a whole, the Council will appoint its members of the joint committee, with the agreement of the Executive Committee of the Executive or executive member (as the case may be) having responsibility for any of these functions. The political balance requirements will apply to appointments made in those circumstances.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Statement of Responsibility for Functions in Part 3 of this Constitution.

12.4 Access to Information

The Access to Information Rules in Part 4 of this Constitution apply. The following arrangements will apply:

- If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act, 1972 will apply.

12.5 Delegation to and from other Local Authorities

Delegation arrangements between the Council and other local authorities are as follows:

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

12.6 Contracting Out

The Council and the Executive, with regard to their respective functions, 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.

ARTICLE 13 - Officers of the Council

13.1 Terminology

“Officers” means all employees engaged by the Council to carry out its functions.

13.2 Management Structure

(a) General

The Council may engage such 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:-

Post	Functions and areas of responsibility
Chief Executive and Town Clerk	Head of Paid Service, having ultimate responsibility for all staff and corporate management, and departmental responsibility for legal, electoral services, democratic services, procurement, human resources (including work based learning) civic and twinning, finance, insurance, creditors/debtors, risk management, audit, commercialism, communications, business strategy and performance, strategic information provision, social policy and partnership management, business development and ICT, revenues and benefits, customer services and corporate property.
Strategic Director – Communities and Environment	Public protection, CCTV, Parks, open spaces and allotments, cleansing, grounds maintenance, waste, public conveniences, car parks, bus station, environmental protection, pollution control, food, health and safety, licensing, private sector housing, community centres, sport and leisure, crematorium and cemeteries, events culture and tourism, neighbourhood working and planning (including development management, building control and heritage).
Strategic Director – Housing and Investment	HRA/Landlord Services, housing needs, property shop, homelessness, control centre, city maintenance services, housing investment, housing strategy, safeguarding and the commissioning of Council new build.
Strategic Director – Major Developments	Western Growth Corridor, Central Lincoln Transport Hub, Public Realm Strategy, Cornhill Area Redevelopment, Lincoln Science and Innovation Park, Lincoln Smart City Group, Delivery of the Southern Bypass, Partner in the A15 improvements, delivery of new build and any other major

	developments considered appropriate by the Chief Executive and Town Clerk.
Chief Finance Officer	Individual responsibilities as listed in the management structure and detailed elsewhere in the Constitution.
City Solicitor	Individual responsibilities as listed in the management structure and detailed elsewhere in the Constitution.

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The following posts will have the designated responsibilities shown:

Post	Designation
Chief Executive and Town Clerk	Head of Paid Service
Chief Finance Officer	Chief Finance Officer (S.151)
Financial Services Manager	Deputy Chief Finance Officer
City Solicitor	Monitoring Officer
Legal and Democratic Services Manager	Deputy Monitoring Officer

(d) **Structure**

The Council will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out in Part 9 of this Constitution.

13.3 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.**

The Head of Paid Service will have overall responsibility for:-

- (i) the manner in which the discharge of the Council's functions is co-ordinated;
- (ii) the provision of professional advice to all parties in the decision making process, that is to say the Council, the Executive, Scrutiny Committee's and all other committees and sub-committees of the Council;

- (iii) ensuring that all decisions of the Council, the Executive and all Committees are implemented; and
- (iv) the management of all staff.

(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.

13.4 Functions of the Monitoring Officer

(a) Maintaining the Constitution.

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

(b) Ensuring lawfulness and fairness of decision-making.

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or Executive in relation to an Executive function as the case may be if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Ethics and Engagement Committee.

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethics and Engagement Committee.

(d) Conducting investigations.

The Monitoring Officer

- (1) will receive complaints in writing regarding allegations of failure to comply with the Code of Conduct
- (2) after consultation with the Independent Person, has the power to determine whether a complaint merits formal investigation and to arrange such investigation and to report quarterly to the Ethics and Engagement Committee on the discharge of this function

(3) will try to seek local resolution of complaints, without formal investigation wherever practicable, and have the discretion to refer decisions on investigation to the Ethics and Engagement Committee where he/she considers that it is inappropriate to take the decision, and to report quarterly to the Ethics and Engagement Committee on the discharge of this function

(4) has the power to close a code of conduct complaint if the investigation finds no evidence of failure to comply with the Code of Conduct and will report quarterly to the Ethics and Engagement Committee on the discharge of this function

(e) Register of Interests

The Monitoring Officer

- (1) shall prepare and maintain a register of members' interests and ensure that the register is available for inspection
- (2) shall inform all members of their duty to register interests

(f) Proper Officer for access to information.

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible. For the purpose of duties in respect of the Freedom of Information Act 2000 the Monitoring Officer is "The Qualified Person".

(g) Providing advice.

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and officers in consultation with the Chief Finance Officer. In the event of a difference of opinion between the Monitoring Officer and the Chief Finance Officer the advice of both officers shall be taken into account in making any relevant decisions.

(h) Dispensations

The Monitoring Officer shall have the power to grant dispensations on the following grounds:-

- (1) that so many members of the decision making body have DPI's in a matter that it would "impede the transaction of the business". In practice this means that the decision making body would be inquorate as a result; or

(2) that, without a dispensation, no member of the Executive would be able to participate on the matter.

(i) Restrictions on posts.

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

13.5 Functions of the Chief Finance Officer

(a) Ensuring lawfulness and financial prudence of decision making.

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Executive 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.

(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 financial advice.

(d) Providing advice.

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and officers in consultation with the Monitoring Officer. In the event of a difference of opinion between the Chief Finance Officer and the Monitoring Officer the advice of both Officers shall be taken into account in making any relevant decision.

(e) Giving financial information.

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

13.6 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

13.7 Conduct

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

13.8 Employment

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

ARTICLE 14 - Decision Making

14.1 Responsibility for decision making

The Council will issue and keep up-to-date in part 3 of this Constitution 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.

14.2 Principles of decision making

All decisions of the Council, whoever takes them, will be made:

- in accordance with this Constitution
- within the Council's legal powers
- having regard to all relevant considerations and only those considerations
- having regard, in particular, to the Council's main aims and core values and its strategic plan, unless the decision in question involves any alteration to them
- having concluded that the desired outcome merits the action or expenditure involved
- with clearly defined aims and outcomes
- following appropriate consultation with the public and other stakeholders
- with due regard to the professional advice of officers
- openly, unless the Constitution or the law provides otherwise
- accountably

14.3 Decision making by the Full Council

Subject to Article 14.8, the Council meeting will follow the procedure rules relating to the Council set out in Part 4 of this Constitution when considering any matter.

14.4 Decision making by the Executive

Subject to Article 14.8, the Executive will follow the procedure rules relating to the Executive set out in Part 4 of this Constitution when considering any matter.

14.5 Decision making by scrutiny committees

Scrutiny committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.6 Decision making by Regulatory or other Committees and Sub-Committees established by the Council

Subject to Article 14.8, the Council's Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution which apply to them. In addition the Planning Committee will follow the procedure laid down in the planning probity code. Where the code is silent on any matter the Council Procedure Rules will apply.

14.7 Decisions by Officers

Subject to Article 14.8 Officers making decisions must follow the Officer Code of Conduct in Part 5 and act in accordance with the Council's Financial Regulations and Contract Procedure Rules set out in Part 4 in all circumstances to which they apply.

14.8 Decision making affecting civil rights and obligations

Any person or body charged with determining the civil rights and obligations of any person on behalf of the Council will follow a proper procedure which accords with the requirements of natural justice and safeguards the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

ARTICLE 15 - Finance, Contracts and Legal Matters

15.1 Audit

The Council must provide for an independent annual audit of all Council accounts and may provide for more frequent audits as it deems necessary.

15.2 Financial Management

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

15.3 Contracts

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

15.4 Legal Proceedings

The City Solicitor 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 he/she considers that such action is necessary to protect the Council's interests.

15.5 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 City Solicitor or other persons authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given the requisite authority to some other person.

15.6 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the City Solicitor. A decision of the Council, or of any person or body authorised to make such a decision, 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 City Solicitor should be sealed. The affixing of the Common Seal will be attested by the City Solicitor or the Legal and Democratic Services Manager or some other person authorised by either of them.

ARTICLE 16 - Review and Revision of the Constitution

16.1 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.

16.2 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

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those of other authorities or national examples of best practice.

16.3 Changes to the Constitution

Changes to this Constitution may only be made by the Full Council, subject to minor changes, such as changes in job titles/responsibilities or mandatory changes in legislation, which are delegated to the City Solicitor.

16.4 Changes in the arrangements for discharging the Council's functions

Any proposal to change the arrangements for discharging the Council's functions to any other form of executive arrangements or alternative arrangements as defined in the Local Government Act 2000, Local Government Public Involvement in Health Act 2007 and the Localism Act 2011 will be dealt with in consultation with local electors and other interested parties and in accordance with the procedures laid down in that Act and all relevant subordinate legislation made and guidance issued under it.

ARTICLE 17 - Suspension, Interpretation and Publication of the Constitution

17.1 Suspension of the Constitution

- (a) Articles not to be suspended

The Articles of this Constitution may not be suspended.

(b) Rules Capable of Suspension

All Rules of the Council contained within Part 4 of the Constitution may be suspended by Full Council to the extent permitted by law.

(c) Procedure for Suspension of Rules by Council

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking into account the purposes of this Constitution set out in Article 1.

17.2 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to the 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.

17.3 Publication

(a) The Monitoring Officer shall arrange for a copy of this Constitution to be made available for each member of the City of Lincoln 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 for inspection at City Hall and can be purchased by members of the local press and the public on payment of a reasonable fee. In addition the Constitution will be made available for viewing via the Council's website.