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This section was approved by Council on 19/09/13

Part Two – Articles of the Constitution

Introduction

This document is part two of Leicester City Council's core Constitution. This part of the Constitution is divided into 16 Articles and sets set out the basic rules governing the Council's business including the roles and responsibilities of people and bodies within the Council.

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

The Constitution, including all its various parts, is the Constitution of Leicester City Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- Providing a means of improving the delivery of services to the community.
- Enable the Council to provide clear, democratic leadership to the community in partnership with citizens, businesses, voluntary and other organisations.
- Support the active involvement of citizens in the process of local authority decision making.
- Help Councillors represent their constituents more effectively.
- Enable decisions to be taken efficiently, effectively and transparently.
- Create a powerful and effective means of holding decision makers to public account.
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Ensure that no-one will review or scrutinise a decision in which they were directly involved.

1.04 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, as set out in Article 15.

Article 2 – Members of the Council

2.01. Composition and Eligibility

(a) Composition

The Council will comprise a directly elected City Mayor and 54 Councillors. The City Mayor will be elected by the voters of the whole City and the Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission. Two or three Councillors will be elected for each ward. The City Mayor is classed as a Member of the Council as explained in Article 5.02. The term “Members of the Council” includes the City Mayor and all Councillors.

(b) Eligibility

Eligibility is determined by legislation and only registered voters of the city of Leicester or those living and working there will be eligible to be elected to the office of City Mayor or Councillor.

2.02. Election and Terms of Councillors

Election arrangements and terms of office are determined by legislation and the Electoral Commission. Currently, the regular election of the City Mayor and Councillors will be held on the first Thursday in May every four years beginning in 2011. The terms of office of the City Mayor and 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.

2.03. Roles and Functions of the City Mayor and all Councillors

(a) Key Roles

City Mayor:-

- (i) The City Mayor is responsible for all executive decisions except where these are reserved to Full Council as a result of legislative requirements or local choice; and
- (ii) Represents the whole City and all communities who live and work in the City, and will bring their views into the decision-making process by encouraging active citizen engagement and involvement;

The City Mayor and All Councillors:-

- (i) are collectively the ultimate policy-makers and carry out a number of strategic and corporate functions;
- (ii) contribute to the good governance of the City, by representing their communities and bringing their views into the Council’s decision-

making process and encouraging community participation and citizen involvement;

- (iii) represent the whole community, with a special responsibility for Councillors to represent the interests of their ward and its individual constituents, whether or not they voted for them.
- (iv) participate in the governance and management of the Council;
- (v) are available to represent the Council on other bodies; and,
- (vi) will maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) The City Mayor and Councillors will have such rights of access to such documents, information, land and buildings of the Council as are reasonably necessary for the proper discharge of their functions and in accordance with the law.
- (ii) The City Mayor and 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. (For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.)

2.04 Conduct

- a) The City Mayor and Councillors will at all times observe the Members’ Code of Conduct and the Political Conventions on Member/Officer Relations as set out in Part 5 of this Constitution
- b) Members and co-opted members who have a Disclosable Pecuniary Interest (DPI) or a ‘prejudicial’ Other Disclosable Interest (ODI) must declare that interest (unless it already appears in that Member’s the Register of Interests) and withdraw from the meeting room, including from the public gallery, during the whole of the consideration of any item of business (including the voting) in which he/she has a DPI or prejudicial ODI, except where permitted to remain as a result of the grant of a valid dispensation.
- c) Where a Member or Co-opted member is involved in matters which can be determined by a single member without a meeting (for example where an Individual Executive Decision can be made, or where a member has delegated powers to decide a Ward matter) they too must adhere to the rules requiring disclosure, registration and cessation from further involvement in that matter where they have a DPI or “prejudicial ODI. They must not take any steps, or any further steps, in relation to that matter except for the purpose of enabling the matter to be dealt with otherwise than by themselves. Equally,

they must not attend any meeting at which that matter falls to be further discussed.

2.05 Allowances

The City Mayor and Councillors will be entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

Article 3 – Citizens and the Council

3.01 Citizens' Rights

Leicester citizens have a number of rights. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints. The Access to Information Rules in Part 4 of this Constitution explain in more detail about rights to information and to participate.

- (a) **Voting.** Citizens on the electoral register for the area have a right to vote and they also have a right to petition to request a referendum on the form of governance arrangements.
- (b) **Information.** Citizens have the right to:-
 - (i) attend meetings of the Council and its committees, and public meetings of the Executive, except when confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan what key decisions will be taken, who they will be taken by and when;
 - (iii) see reports, background papers, and records of decisions made by the Council, the City Mayor, the Executive and Committees except where they contain confidential or exempt information.
 - (iv) inspect the Council's accounts during a period each year specified by law, and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to submit petitions to the Council or a Scrutiny Committee/Commission and to participate in the question time at both Full Council and in the work of Scrutiny Committees/Commissions. In addition there are opportunities for citizens to ask questions of the Executive at public meetings of the Executive and through other less formal mechanisms.
- (d) **Complaints.** Citizens have the right to complain to:-
 - (i) the Council itself under its complaints/compliments scheme;
 - (ii) the Ombudsman preferably after giving the Council the opportunity to deal with the matter;
 - (iii) the Council's Standards Committee about a breach of the Councillors' Code of Conduct.

3.02 Citizens' Responsibilities

In return for their rights, the Council expects that citizens will conduct themselves in a reasonable way when dealing with Council officers, the City Mayor and Councillors, and when using Council facilities. They are asked to:

- i. Have regard to the rules and procedures which Council staff must follow.
- ii. Recognise that the Council has obligations to all its citizens and has to strike a balance between them.
- ii. Behave with due courtesy, tolerance and respect.

Article 4 – The Full Council

4.01 Introduction

The Full Council is a formal meeting of all Councillors and the City Mayor. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework. The Full Council must also by law take decisions on a number of other specific matters.

The Full Council provides a central forum for debate. There are three types of Full Council meetings:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

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

4.02 Functions of the Full Council

The following functions are the responsibility of Full Council:

- (a) adopting and changing the Constitution, and any corporate rules, Protocols and the Council's Political Conventions which form part of the Constitution;
- (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) where the Executive is proposing to make a decision which would be contrary to the policy framework or not in accordance with the budget, subject to the urgency procedure, that matter is reserved to Council;
- (d) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- (e) adopting an allowance scheme under Article 2;
- (f) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;
- (g) confirming the appointment of the Head of Paid Service;
- (h) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills;

- (i) agreeing to accept delegation of any function from another local authority;
- (j) establishment of formal twinning links;
- (k) all local choice functions, as set out in Part 3 of the Constitution: which the Council decides should be undertaken by itself rather than the City Mayor; although Full Council will be able to delegate such functions to a Committee or officer. Delegations are shown in Part 3 of this Constitution;
- (l) appointing representatives to outside bodies, unless the appointment is an executive function, or has been delegated by Full Council as shown in Part 3 of this Constitution;
- (m) substantial Council decisions relating to the preparation and maintenance of the electoral register and the conduct of local elections; and
- (n) all other matters, in addition to the above, which, by law, or as a matter of local choice, must be reserved to Full Council.

And such other Council functions as the Council decides to reserve to itself, either to comply to the law or as a matter of local choice.

4.03 Definitions

(a) Policy Framework

The Policy Framework means those plans and strategies which are reserved to Full Council by law or which the Council decides from time to time to reserve to itself as a matter of local choice. Currently these are:

- (i) reserved to Full Council as required by law:
 - Corporate Plan (Best Value Performance Plan)
 - Library Strategy (Annual Library Plan)
 - Leicester Children and Young People's Plan (Children's Services Plan)
 - Community Strategy (Sustainable Community Strategy)
 - Early Years Development Plan
 - Education Development Plan
 - Local Transport Plan
 - Plans and strategies which together comprise the Development plan
 - Youth Justice Plan
 - Community Safety Partnership Plan (Crime and Disorder Reduction Strategy)
 - Community Care Plan
 - Annual Performance Plan
 - Treasury strategy, insofar as it includes plans to control the Council's borrowing

Note: Terms in brackets above refer to the name of the plan/strategy in legislation

(ii) reserved to Full Council as a matter of local choice:

- Health Inequalities Improvement Plan
- Corporate Equalities Strategy
- Food Law Enforcement Service Plan
- Environmental Strategy (e.g. EMAS, Local Agenda 21).
- Housing Strategy (including Council housing rents, establishment of renewal areas, housing investment plan, Housing Improvement Programme).
- Local Cultural Strategy
- Leicester Regeneration Strategy
- Waste Management Strategy

Council can, from time to time, add or change the above list of plans and strategies reserved to Full Council so as to comply with the law or as a matter of local choice where discretion is available.

(b) **Budget.**

The budget means the Council's Revenue and Capital programme, including the setting of Council Tax and rent levels for housing tenants

(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 purposes where approval is required under sections 32 and 43 of the Housing Act 1985.

Article 5 – The City Mayor and the Executive

5.01 The roles and responsibilities of the City Mayor

The City Mayor is responsible for all of the Council's executive functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The City Mayor will also:

- i. Recommend to Full Council the Policy Framework and Council Budget for approval and any subsequent amendments;
- ii. Make all executive decisions within and in furtherance of the agreed Policy Framework and Budget;
- iii. Recommend to Full Council the making of bye-laws; and
- iv. Grant any approval under Section 85 of the Local Government Act 1972 which enables the authority to approve a member's absence from a meeting for the Authority for a period in excess of 6 consecutive months for appropriate reasons. This responsibility is delegated to the Monitoring Officer to perform in consultation with the Council.

In exercising this role the City Mayor will:

- i. In accordance with the Local Government Act 2000, appoint between two and nine serving Councillors, one of whom must be appointed as the Deputy City Mayor with the others known as Assistant City Mayors, to the Executive including:
 - o Appointing to and removing from the Deputy City Mayor position; and
 - o Appointing to and removing from the position of Assistant City Mayor.
- ii. Inform Full Council and the Monitoring Officer of appointments to Deputy City Mayor and Assistant City Mayor posts
- iii. Indicate the areas of responsibility undertaken by the Deputy and Assistant City Mayors and make this information publically available via job descriptions which are published on the City Mayor's Internet pages. These areas of responsibility may be varied by the City Mayor from time to time.
- iv. Determine the scheme of delegation for the functions of the Deputy City Mayor and Assistant City Mayors, known as the 'City Mayor's Scheme of Delegation' and maintain a written record of delegations to be publically available through the City Mayor's Internet pages.
- v. Inform the Monitoring Officer of changes to the City Mayor's Scheme of Delegations.
- vi. Create and publish the City Mayor's Forward Plan of Key Decisions.

vii. Schedule and Chair meetings of the Executive.

5.02 Election of a City Mayor

The City Mayor will be a person elected to that position by the electors of the City in the Mayoral Election. In the event that a serving Councillor of the Council is elected as City Mayor, a vacancy shall be declared in that person's council seat and a by-election shall be held (if required) in accordance with the relevant legislation.

The term of office of the City Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

The City Mayor is a Member of the Council and is to be treated as a Member of the Council or a Councillor for the purposes of such laws as are specified by the Secretary of State in regulations and orders. Currently the principal provisions that relate are:

- i. schemes for basic, attendance and special responsibility allowances for local authority members
- ii. the Local Authorities (Members' Interests) Regulations
- iii. Local Authorities (Indemnities for Members and Officers) c Regulations
- iv. Code of Conduct

5.03 Appointment of Deputy City Mayor and Assistant City Mayors

The Deputy City Mayor and Assistant City Mayors will be Councillors appointed to that position by the City Mayor.

The City Mayor may replace Assistant City Mayors and the Deputy City Mayor at any time but otherwise the Deputy City Mayor shall remain in post for the duration of the City Mayor's term of office unless:

- a) s/he resigns from office;
- b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- c) s/he is no longer a Councillor.

The Deputy City Mayor shall have authority to exercise the City Mayor's powers only in the event that the City Mayor is unable to act at any time. If at any time the City Mayor is unable to act or if the office of City Mayor is vacant, the Deputy City Mayor shall act in his or her place.

5.04 Casual vacancies in the City Mayor and Executive roles

The City Mayor may appoint a Councillor to fill any position or vacancy which may arise in the Executive from time to time.

The provisions of Paragraph 1(8) of Schedule 1 of the Local Government Act 2000 shall apply if for any reason the City Mayor is unable to act in the office of City Mayor, or the office of City Mayor is vacant AND the Deputy City Mayor is unable to act or of the office of the Deputy City Mayor is vacant. In this event the Executive collectively must act in the City Mayor's place or must arrange for a member of the Executive to act in his/her place.

The provision of Article 47 of the Local Authorities (Executive and Alternative Arrangements) Modification of Enactments Order 2001 apply where the City Mayor, Deputy City Mayor or Assistant City Mayors is to be considered unable to act if he/she is either suspended from office or is unfit to act on health grounds. The provisions of Regulations 7 to 9 of the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) make provision for the filling of a casual vacancy in the office of City Mayor.

5.05 Responsibility for functions

As described above the City Mayor will maintain and publish job descriptions on his/her internet page which describe, the portfolio of key responsibilities for the Deputy City Mayor and Assistant City Mayors. In addition the City Mayor will publish on his/her internet page his/her Scheme of Delegations in relation to the Deputy and Assistant City Mayor positions. The City Mayor may provide for discharge of executive functions by:

- (i) The City Mayor
- (ii) Deputy City Mayor
- (iii) Assistant City Mayor
- (iv) Through collective meetings of the Executive including Sub Committees
- (v) An officer of the Council
- (vi) An Area Committee
- (vii) Joint Arrangements; or
- (viii) Another Authority.

Matters not reserved (ie as defined in the City Mayor's Scheme of delegation) are delegated to the appropriate Director.

Unless the City Mayor decides otherwise, the Deputy City Mayor and individual Assistant City Mayors, when exercising delegated functions, may arrange for the discharge of any of those functions under (iv), (v), (vi) and (vii) above.

The City Mayor may place limitations on delegations under (ii), (iii), (v) and (vi).

Where executive functions have been delegated, this does not prevent them from being discharged by the person or body who delegated them.

Any decision which is a responsibility of the City Mayor can be taken as an individual decision taking into account the following:

- i. Any such decision can be taken in private although there are additional regulations in relation to notice for 'Key decisions' (a definition of 'Key Decisions' can be found in Article 6, and the relevant procedure can be found in Rule 13 of Part 4B of this Constitution).
- ii. Regulations and guidance from Government require that decisions should be taken on the basis of due consultation and professional advice from officers. The accepted approach is via a written report.
- iii. If the issue is not a 'Key decision' the decision notice and report should be published as soon as practicable after the decision is made.
- iv. If the decision is a 'Key decision' the report must be published 5 clear days before the decision is made and the decision notice as soon as practicable after the decision is made.
- v. There will be a link from the City Mayor's Internet page to individual decision documents.
- vi. All decisions are subject to call-in unless defined as urgent.

5.06 Proceedings of the Executive

Proceedings of the Executive will take place in accordance with the City Mayor & Executive Procedure Rules set out in Part 4 of this constitution.

Article 6 – Key Decisions

Key Decisions are those which meet criteria laid down in legislation and the Council's criteria. Key Decisions will be recorded on the City Mayor's Plan of Key Decisions. Details regarding the procedure for Key Decisions are given in the Access to Information Procedure Rules in the supporting documents to this Constitution.

The Council's definition of Key Decision is an Executive decision which is likely:

- 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
- to be significant in terms of its effects on communities living or working in two or more wards in the City.

Expenditure or savings will be regarded as significant if:

- (a) In the case of additional recurrent revenue expenditure, it is not included in the approved revenue budget, and would cost in excess of £0.5m p.a.;
- (b) In the case of reductions in recurrent revenue expenditure, the provision is not included in the approved revenue budget, and savings of over £0.5m p.a. would be achieved;
- (c) In the case of one off or capital expenditure, spending of over £1m is to be committed on a scheme except where:
 - (i) The scheme has been specifically approved by Council; or
 - (ii) The scheme is not a city council sponsored scheme, is not to take place within the City boundary (unless sponsored wholly by another public body) and constitutes city council expenditure solely by virtue of the council receiving and disbursing external grant (including accountable body arrangements).

In deciding whether a decision is significant the City Mayor will take into account

- Whether the decision may incur a significant social, economic or environmental risk
- The likely extent of the impact of the decision both within and outside of the City
- The extent to which the decision is likely to result in substantial public interest
- The existence of significant communities of interest that cannot be defined spatially in determining whether a decision is key.

A decision taken as part of a response to a declared emergency shall not be a key decision.

Article 7 – The Lord Mayor and other Civic/Ceremonial roles

7.01 Role and Function of the Lord Mayor

The Lord Mayor and, in his/her absence, the Deputy Lord Mayor or High Bailiff performs the following key roles:

Ceremonial Role

The Lord Mayor has the civic and ceremonial role of being Leicester's 'First Citizen', and acts as a symbol of authority, a symbol of an open society and provides an expression of social cohesion. The Lord Mayor's responsibilities are:

- To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.
- To chair 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.
- To ensure that the Council Meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive are able to hold the Executive to account.
- To promote public involvement in the Council's activities.
- To attend civic and ceremonial functions for the Council.

Chairing the Council Meeting

Meetings of the Council will be chaired by the Lord Mayor, or in her/his absence, the Deputy Lord Mayor (or in the absence of the Deputy Lord Mayor as well, the High Bailiff). Should all three be absent the Council will elect a chair for the Meeting.

7.02 Appointment of the Lord Mayor

The Lord Mayor, Deputy Lord Mayor and High Bailiff will be elected at each Annual Meeting of the Council for a term of office expiring with the election of the next office holder. Casual vacancies arising during any year may be filled by election at a Council meeting.

7.03 Honorary Aldermen

The City Council may confer the title of Honorary Alderman on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council but who are not then Councillors of the Council.

Such a decision must be made by a resolution passed by not less than two thirds of the members voting thereon at a special meeting of the Council. The title can only

be conferred upon past members of the Council who are not councillors at the date of that meeting.

An Honorary Alderman may attend and take part in such civil ceremonies as the Council may from time to time decide, but shall not, as such, have the right:

- To attend meetings of the Council or a Committee of the Council other than in the manner of a citizen of Leicester, or
- To receive any allowance or other payment under the Members Allowances Scheme.

Those appointed as Honorary Aldermen are invited to major civic events and other events where the Honorary Aldermen's personal knowledge and interests would add value to the occasion.

The following criteria were approved by Full Council at its meeting on 24 November 2011 in relation to the appointment of Honorary Aldermen:

- The title of Honorary Alderman should be awarded to a Councillor at the end of their front-line political career (i.e. they should not seek public office after being awarded the title if they should do so they should forgo the title).
- It should be awarded after significant service (for the avoidance of doubt this should be a minimum of 8 years as a Councillor); and
- The Councillor should not have previously held the position of Lord Mayor as former holders of this office are already recognised by the Council and the title of Honorary Alderman is to recognise those who have contributed but not have attained the title of Lord Mayor.

Article 8 – Scrutiny Committees

8.01 Appointment of Scrutiny Committees

The Council will appoint Overview and Scrutiny Committees (Scrutiny Committees) in accordance with the requirements of legislation, currently Section 21 of the Local Government Act 2000.

In Leicester the current arrangements are that Council has appointed 8 Scrutiny Committees. These are referred to as:

- Overview Select Committee (OSC)
- Scrutiny Commissions (currently 7) which concentrate on key areas of the Council's work.

At each Annual Meeting the Council will review and determine the number, membership and Terms of Reference of its Scrutiny Committees. The Council may decide to vary these from time to time.

The City Mayor, Deputy City Mayor and Assistant City Mayors may not be members of Scrutiny Committees or Sub-Committees of Scrutiny Committees.

The full current terms of reference of the Council's Scrutiny Committees are detailed in Part 3 of the Constitution.

8.02 Role

Scrutiny Committees hold the Executive and Partners to account by reviewing and scrutinising policy and practices. In particular Scrutiny Committees may:-

- i. review and scrutinise the decisions made by and performance of the City Mayor, Executive, Committees and Council officers both in relation to individual decisions and over time.
- ii. develop policy, generate ideas, review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- iii. question the City Mayor, members of the Executive, committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- iv. make recommendations to the City Mayor, the Executive, committees and the Council arising from the outcome of the scrutiny process.
- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and

- vi. question and gather evidence from any person (with their consent).
- (a) **Finance.** Scrutiny Committees may exercise overall responsibility for the finances made available to them.
- (b) **Annual report.** Scrutiny Committees may report annually to Full Council on their work and make recommendations for future work programmes and amended working methods if appropriate.
- (c) **Work programme.** Scrutiny Committees shall design and be responsible for their annual work programme, subject to endorsement thereof by Overview Select Committee (OSC).

8.03 Proceedings of Scrutiny Committees

- (a) Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of the Constitution.
- (b) Any Scrutiny Committee member is able to place a matter relevant to the Scrutiny Committee's functions on its agenda for discussion, in accordance with the Scrutiny Rules.
- (c) A Scrutiny Committee does not have executive powers and may not discharge any functions of the Council other than its overview and scrutiny role set out above.

Article 9 – Regulatory and other committees

9.01 Regulatory and other committees

The Council will, at its Annual Meeting, review and determine the Regulatory and Other Committees it considers necessary, together with their Terms of Reference. The Council may amend these from time to time. The current Terms of Reference of these committees are detailed in Part 3 of the Constitution. These Regulatory and other committees are not Scrutiny Committees within the terms of the law. They undertake various decision-making and other functions on behalf of Council, rather than undertaking scrutiny of the Executive.

Article 10 – The Standards Committee

10.01 Standards Committee

The Council will establish a Standards Committee. Sub-Committees (the Standards Advisory Board and various Hearing subcommittees) are to be created as and when required.

10.02 Role and Function

The Standards Committee will be responsible for promoting and maintaining high standards of conduct by Councillors and co-opted members and officers. It will have roles and functions as set out in Part 3 of this Constitution.

10.03 Composition

Membership

Membership will be determined by the Council each year at the Annual Meeting.

This may be varied by the Council from time to time. It will be composed of:

- Four Councillors; and,
- Five persons who are not Councillors or officers of the Council (Independent Members), who shall be appointed for any period as decided on by the Council.

Quorum

The quorum of the Standards Committee, and its associated Standards Advisory Board, shall be in accordance with the detailed provisions set out in Part 3 of the Constitution

10.04 Independent Members

Independent members will be co-opted non-voting members of the Standards Committee, and will have full voting rights when they sit on the Standards Advisory Board. .

10.05 Chairing the Committee.

The Standards Committee will be chaired by an Elected Member. The Standards Advisory Board will be chaired by an Independent Member

Article 11 – Ward Community Meetings

The Council may appoint area committees or area forums as it sees fit.

11.01 Ward Community Meetings (Area Forums)

Ward Community Meetings will not have decision making powers. Guidance on Ward Community Meeting objectives will be shown in Part 3 of this Constitution.

11.02 Access to information

Ward Community Meetings will comply with the access to information rules in Part 4 of this Constitution.

11.03 Executive members

A member of the Executive may serve on a Ward Community Meeting if otherwise eligible to do so as a Councillor.

11.04 Rules of Procedure

Rules of Procedure may be set by the Council for Ward Community Meetings.

Article 12 – Joint Arrangements

12.01 Arrangements to promote well being

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

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

12.02 Joint arrangements

- a. The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions, in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The City Mayor may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the City Mayor may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- d. The City Mayor may appoint non-executive members to a joint committee where the joint committee has functions for only part of the area of the Council, and that area is smaller than two fifths of the authority by area of population. In such cases the City Mayor may appoint to the joint committee any Councillor who is a member of a Ward which is wholly or partly contained within the area. Political balance requirements do not apply to such appointments.
- e. The City Mayor may also appoint non-executive members to a joint committee discharging executive functions in relation to five or more local authorities, or in circumstances where the executive function is required by statute to be discharged by a joint committee.
- f. Details of any joint arrangements including any delegations to joint committees will be listed on the Council's Internet page.

12.03 Access to information

- a. The Access to Information Rules in Part 4 of this Constitution apply to joint committees.
- b. 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.
- c. 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.

12.04 Delegation to and from other local authorities

- a. The Council may delegate non-executive functions to another local authority or, within legal constraints, the executive of another local authority.
- b. The City Mayor may delegate executive functions to another local authority or the Executive of another local authority where the law permits.
- c. The decision whether or not to accept such delegation from another local authority shall be reserved to the Council.

12.05 Contracting out

The Council and City Mayor 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, subsequent enabling legislation 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

13.01 Management structure

- a. **Officers:** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The current respective functions and areas of responsibility of its most senior officers are shown in Parts 3 and 7 of this Constitution.
- b. **Head of Paid Service, Monitoring Officer and Director of Finance.** These roles are currently:-

STATUTORY ROLE	POST
Head of the Paid Service (Section 4(1) of the Local Government and Housing Act, 1989)	Chief Operating Officer
Monitoring Officer (Section 5(1) of the Local Government and Housing Act, 1989)	City Barrister and Head of Standards
Director of Finance (Section 151 of the Local Government Act, 1972)	Director of Finance

Such posts will have the functions described in Article 13.02-13.04 below.

The Council may, subject to legal constraints, designate other officers to perform the above statutory roles.

As required by law, Full Council must approve the designation of the Head of Paid Service, in accordance with the Council's Officer Employment Procedure Rules and all other legal requirements.

Further to Section 101 of the Local Government Act, 1972, Council has delegated to its Employees Committee the function of designating the Monitoring Officer and appointing a Director of Finance, in accord with the Council's Officer Employment Procedure Rules and all other legal requirements.

- c. **Structure.** The Head of the Paid Service will determine and publicise a description of the overall management structure of the Council and deployment of officers. This is will be set out on the Council's website.

13.02 Functions of the Head of Paid Service

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

- b. **Restrictions on functions.** The Head of the Paid service may not be the Monitoring Officer, but may hold the post of Director of Finance if a qualified accountant.

13.03 Functions of the Monitoring Officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Director of Finance, the Monitoring Officer will report to the Full Council or to the City Mayor in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer will also give a ruling in cases where a Councillor queries their 'need to know' in relation to a request for information.
- b. **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Council's Standards Committee.
- c. **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of any case tribunals.
- d. **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- e. **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions are in accordance with the budget and policy framework.
- f. **Providing advice.** The Monitoring Officer will provide advice on the scope and powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all councillors.
- g. **Proper Officer for access to information.** The Director of Delivery, Communications and Political Governance 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.
- h. **Restrictions on functions.** The Monitoring Officer cannot be the Director of Finance or the Head of the Paid Service.

13.04 Functions of the Director of Finance

- a. **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council or to the City Mayor 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 of if the Council is about to enter an item of account unlawfully.

- b. **Administration of financial affairs.** The Director of Finance will have responsibility for the administration of the financial affairs of the Council.
- c. **Contributing to corporate management.** The Director of Finance will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The Director of Finance will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The Director of Finance will provide financial information to the media, members of the public and the community.

13.05 Duty to provide sufficient resources to the Monitoring Officer and Director of Finance

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

13.06 Functions of the Director of Delivery, Communications and Political Governance

- a. **Maintaining the Constitution.** The Director of Delivery, Communications and Political Governance will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.

13.07 Proper Officer appointments

Section 270(3), Local Government Act, 1972.

The Council is required by law to designate an officer as the Proper Officer to carry out other duties in addition to the above statutory roles. It may vary these from time to time within legal constraints. Its current designations are:

- (i) **The Director of Finance** is the Proper Officer for the acceptance of payment of all money due from an officer under Section 115(2) of the Local Government Act 1972.
- (ii) **The Head of Regulatory Services**, Chief Executives Department, Leicestershire County Council is the Proper Officer for the purposes for the 38 purposes of the the "Chief Inspector of Weights and Measures" under the Weights and Measures Act 1985.

(iii) **Monitoring Officer:**

In addition to being the Council's Monitoring Officer in accord with Section 5 of the Local Government and Housing Act, 1989, the City Barrister and Head of Standards shall perform the following Proper Officer functions:

<u>Statute</u>	<u>Function</u>
Local Government Act 1972	
S83(1) to (3)	The taking and acceptance of declaration of acceptance of office from Councillors.
S84	The acceptance of registration of office of Councillors.
S96(1) and (2)	The acceptance of general notice of prejudicial interest of Councillor.
100B(2)	Circulation of reports and agendas.
S100B(7)(c)	Supply of papers to the press
S100D(5)(a)	Identification of background papers.
S100F(2)	Identification of exempt information not available for members.
Schedule 12, para 4(2)(b)	The issue of the summons to the Council meetings.
The Local Election (Principal Areas) Rules 1986, rules 46-48	Receipt of documents from Returning Officer after election and safe custody of same.
Representation of the people Act 1983, Part II	Receipt and publication of names and addresses of election agents; receipt and custody of returns and declarations of election expenses from candidates and their agents.
S225(1)	The receipt of documents for deposit.
Registration Service Act 1953	Appointed for the purpose of the Act within powers detailed in the Leicestershire Registration Scheme 1997.
Local Government Act 1972	

S229(5)	Giving a certificate in relation to a photographic copy of a document.
S234(1)	The authentication of documents.
S238	The giving of a certificate in relation to evidence of bye-laws.

And be the Authority's Proper Officer for all other statutory functions not specified above.

In the absence of the Monitoring Officer, the Deputy Monitoring Officer shall deputise and perform the Monitoring Officer's functions.

13.08 Conduct

Officers will comply with the Officers' Code of Conduct and the Political Conventions set out in Part 5 of this Constitution.

13.09 Employment

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

Article 14 – Decision-making

14.01 Responsibility for decision making

The Council will determine and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas of functions. This record is referred to as the City Mayor's Scheme of Delegation, and the current record is shown in detail on the City Mayor's Internet page.

14.02 Principles of decision making

All decisions of the Council and the City Mayor (or where delegated) will be made in accordance with the following principles:

- a. proportionality (i.e. the action must be proportionate to the desired outcome).
- b. reasonableness (i.e. decisions must be properly reasoned to take into account all relevant matters and ignore all irrelevant factors).
- c. due consultation and the taking of professional advice from officers.
- d. respect for human rights.
- e. a presumption in favour of openness
- f. clarity of aims and desired outcomes
- g. clarity of options considered and the reasons for a decision.

14.03 Types of decisions

- a. **Council:** Full Council has reserved certain matters to itself for decision making either because of legal requirements or as a matter of local choice. Decision making on matters other than those reserved to Council as a matter of law can be taken by the City Mayor. Matters not reserved are delegated.
- b. **City Mayor:** the City Mayor is responsible for all executive decisions but can delegate decision making to the Deputy City Mayor or Assistant City Mayors or to a Committee or Officer. As in the case of Council, matters not reserved are delegated (ie as defined in the City Mayor's Scheme of delegation or to the appropriate Director)..
- c. **Officers:** In practice, unless reserved by the City Mayor, day to day Council decisions are made by officers on his behalf. In practice the Head of Paid Service and Directors can make arrangements for the discharge of responsibilities delegated to them by other persons on their behalf.
- d. **Key decisions:** A Decision maker, whether it is the City Mayor, Deputy City Mayor, Assistant City Mayors, the Executive, a committee or an officer, may only make a Key Decision in accordance with the requirements of the City Mayor & Executive Procedure Rules set out in Part 4D of this Constitution.

The definition of Key Decision will be as determined by the Council from time to time, having regard to the law and relevant guidance. The current definition of Key Decision is set out at Article 6

Key Decisions will normally feature in the Plan of Key Decisions which is described in the Access to Information Procedure Rules in Part 4B of this Constitution.

14.04 Decision making procedure rules

The Council, City Mayor, the Executive, Scrutiny and other committees must follow the relevant set of procedure rules as set out in Part 4 of this Constitution when considering any matter. Scrutiny Committees cannot make executive decisions.

14.05 Decision making by Council bodies acting as tribunals

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

14.06 Record of decisions

All decisions of the Council and its committees and sub-committees, the City Mayor and Executive Councillors exercising delegated powers, and any officers exercising delegated powers will be recorded in accordance with Part 4B – Access to Information Procedure Rules.

Article 15 – Finance, Contracts and Legal Matters

15.01 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.

15.02 Contracts

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

15.03 Legal proceedings

The Monitoring Officer, the Principal Solicitors within the Legal Division and other such persons as Council or the Monitoring Officer may nominate, are authorised to institute, prosecute, defend, participate in or settle any proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the authorised officers consider that such action is necessary to protect the Council's interests.

The Monitoring Officer can authorise any officer to appear on behalf of the Council in legal proceedings in accordance with Section 223 of the Local Government Act 1972.

15.04 Authentication of documents in legal proceedings

Where a document is necessary in any legal procedure and proceedings on behalf of the Council, it will be signed by the Monitoring Officer, the Principal Solicitor Social Care & Safeguarding, the Principal Solicitor Commercial & Contracts, the Principal Solicitor Employment, Education & Litigation, the Principal Solicitor Regulatory, and the Principal Solicitor Capital unless any enactment otherwise authorises, or requires, or the Council has given the requisite authority to some other person.

15.05 Authority to sign contracts and other documents

The Head of Paid Service, the Monitoring Officer, the Head of Law (Social Care & Safeguarding), the Head of Law (Commercial, Property & Regulatory) and the Head of Law (Employment, Education & Litigation) and such other persons as the Council, City Mayor or the Monitoring Officer may nominate, are authorised to sign the following on behalf of the Council:

- a. any contract/ agreement under seal; and
- b. any contract/ agreement not under seal;
- c. any document necessary to give effect to a decision of the Council or any part of it.

Strategic or Divisional Directors or such other officers as Directors may nominate, are authorised to sign small contracts/ agreements as defined in the Contract Procedure Rules where the contract/ agreement is on a Council Order Form or is in

a standard form which has been endorsed as approved by the City Barrister and Head of Standards or other authorised officer for use in such circumstances.

15.06 Executive function contracts

Any large contract/ agreement, above the lower threshold for Large Contracts (as specified in Contract Procedure Rules,) entered into on behalf of the local authority in the course of the discharge of an executive function, shall be made in writing. Such contracts must either be signed by at least 2 officers of the authority or made under the common seal of the Council attested by at least one officer.

15.07 Changes to arrangements

The Council can change the authorisations in this article to meet the needs of future organisational needs.

Article 16 – Review and revision of the Constitution

16.01 Duty to monitor and review the Constitution

The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Council will perform this role with support of such officers and Councillor working parties as the Council considers necessary.

16.02 Changes to the Constitution

- a. **Approval.** Changes to the Constitution will only be approved by the Full Council, save that the Monitoring Officer shall be empowered to make minor and consequential amendments to it from time to time, after consultation with the Elected Mayor, for the purposes of ensuring its lawfulness and consistency.
- b. **Changing the form of the Executive.** Before drawing up a proposal for a different form of the Executive, the Council must follow any process defined in Statute and take reasonable steps to consult with local electors and other interested parties in Leicester.
- c. **Other changes.** Before the Council draws up proposals for different Executive arrangements which have previously been subject to consultation, and which involve any changes other than a change in the form of executive, the Council must follow any process defined in Statute and consult local electors, and other interested parties. Consultation will be proportionate in scale, scope and extent to the scale of the proposed changes to executive arrangements.

Article 17 – Suspension, Interpretation and Publication

17.01 Suspension of the Constitution

- a. **Limit to suspension.** The Articles of this Constitution may not be suspended. Any of the Rules of Procedure set out in Part 4 of this Constitution may be suspended, where the law permits, by the Full Council or by the body to which they apply, to the extent permitted within those Rules.
- b. **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors on the Council or other body as the case may be are present. The extent and duration of the suspension must be specified and will be proportionate to the *result* to be achieved, taking account of the purposes of the Constitution set out in Article 1.

17.02 Interpretation

The ruling of the Lord Mayor or chair of the meeting, as to any proceedings of the Council or other body to which it applies, shall not be challenged at any meeting of the Council, the Executive or Committee. Such ruling will have regard to the purposes of this Constitution contained in Article 1.

17.03 Publication

- a. The Monitoring Officer will ensure that a copy of this Constitution is given to the City Mayor and each Councillor upon delivery to him/her of that individual's declaration of acceptance of office on first being elected to the Council.
- b. 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.
- c. The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.