

Part 2 – Articles of the Constitution

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

This Constitution, and any appendices, is the Constitution of the London Borough of Tower Hamlets.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Mayor and the Council to provide clear and accountable leadership to the community in partnership with citizens, businesses and other organisations;
- ~~2.~~ ensure that the roles and responsibilities of the executive, non-executive, scrutiny and officer functions are clearly defined and documented, with clear delegation arrangements;
- ~~23.~~ provide a means of improving the delivery of services to the community;
- ~~34.~~ support the active involvement of citizens, businesses and other organisations in the process of local authority decision-making;
- ~~45.~~ help the Mayor and Councillors represent their constituents more effectively;
- ~~56.~~ enable ~~decisions to be taken efficiently and effectively~~effective and transparent decisions to be taken;
- ~~67.~~ create a powerful and effective means of holding decision-makers to public account;
- ~~78.~~ ensure that no one will review or scrutinise a decision in which they were directly involved;
- ~~89.~~ ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;

- | 10. maintain the highest standards of conduct of Members and officers of the authority; and
- | ~~10~~11. provide a comprehensive document explaining how the Council operates, who is responsible for taking decisions and how they will be taken.

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1.04 Interpretation and Review of the Constitution

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

Composition. The Council will comprise a directly elected Mayor and ~~45 Councillors~~ **51 Councillors** (45 Councillors ~~from 2014~~). The Mayor will be elected by the voters of the whole borough; and the Councillors will be elected by the voters of each ward, in accordance with a scheme drawn up by the Local Government Boundary Commission for England.

The term 'Member of the Council' (or simply 'Member') as used throughout this Constitution includes both the Mayor and the Councillors.

Eligibility. Only registered voters of the borough or those living or working here in accordance with the relevant legislation will be eligible to stand for election for the office of Mayor or Councillor.

2.02 Election and Terms of the Mayor and Councillors

The regular elections of Mayor and Councillors will be held every four years, normally on the first Thursday in May. The term of office of the Mayor and Councillors will be four years and 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 all Councillors

All Councillors will:-

1. Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
2. Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
3. Effectively represent the interests of their ward and of individual constituents;
4. Respond to constituents' enquiries and representations, fairly and impartially;
5. Participate in the governance and management of the Council;
6. Be available to represent the Council on other bodies; and
7. Maintain the highest standards of conduct and ethics.

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2.04 Rights and Duties

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

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.

For these purposes “confidential” and “exempt” are defined in the Access to Information Procedure Rules in Part 4 of the Constitution.

2.05 Cessation of Membership

A Councillor will cease to be a Member if they resign by giving notice in writing, or if they fail to observe the requirement to attend Council meetings as prescribed by section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of section 80 of the Local Government Act 1972 or any other statutory provision.

With regard to the requirement to attend meetings, a Councillor must attend at least one relevant meeting during a period of six (6) months to remain qualified to hold office. A relevant meeting includes ~~the full Council, the Cabinet, any Committee, Sub Committee, joint Committee or external body to which the Councillor has been formally appointed, or a meeting of the Councillor’s relevant Local Area Partnership (LAP) Steering Group, whether or not the Councillor concerned has been appointed to their relevant Steering Group.~~

If a Councillor believes that there is an exceptional and unavoidable reason why s/he is unable to attend a relevant meeting during a period of six (6) months or to otherwise perform their proper duties as a Councillor for part or all of the same period, the Councillor concerned may seek a dispensation from the Council by writing to the Chief Executive explaining the reason for their unavoidable absence and the period to which the absence will relate. This will be reported to the Council at its next ordinary meeting. The Council will decide whether or not to grant such an exemption to the attendance requirement and will only do so in exceptional circumstances and with evidence that the absence is unavoidable. An exemption cannot be granted if a particular Councillor’s absence has already exceeded six months.

2.06 Conduct

The Mayor and Councillors will at all times observe the Code of Conduct for Members, Member/Officer Protocol, the Licensing and Planning Codes of Conduct and all other Codes and Protocols set out in Part 5 of this Constitution or otherwise agreed by the Council from time to time.

2.07 Allowances

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

Article 3 - Citizens and the Council

3.01 Citizens' Rights

Citizens have various rights as set out below. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.

Voting and Petitions. Citizens on the electoral register have the right to vote at elections. All citizens (that is people living, working or studying in the borough) have the right to present personally or to request a Councillor to present a petition on their behalf to ~~the~~Council, the Cabinet, Scrutiny, Regulatory or other Committees/ Sub Committees or Panels, subject to the detailed provisions laid down in procedures adopted by those bodies.

Information. All citizens have the right to:

- (i) attend formal 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 Cabinet where 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) attend meetings of the King George's Field Charity Board and the Grants Determination Sub-Committee except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iiiiv) find out what key decisions will be taken by the Mayor, Executive, the Health and Wellbeing Board, the King George's Field Charity Board, the Grants Determination Sub-Committee, or appropriate Member, or officer and when;
- (iv) see reports and background papers and any records of decisions made by the Council and the Mayor, the Executive or appropriate Member;
- (vi) speak at Development or Licensing Committees/ Sub-Committees in favour or against planning or licensing applications, subject to the detailed provisions laid down in procedures adopted by those bodies; and
- (vii) inspect the Council's accounts when available for examination and make their views known to the external auditor.

Participation. All citizens have the right to participate in ~~the Council's question time~~Council meetings and contribute to investigations by Scrutiny Panels. The

process for public participation is set out in the Council Procedure Rules and the Overview and Scrutiny Procedure Rules contained in Part 4 of the Constitution at sections 4.1 and 4.5.

Complaints. All citizens have the right to complain to:

- (i) the authority itself under its complaints scheme or any other applicable statutory complaints scheme;
- (ii) the Local Government Ombudsman and Housing Ombudsman after using the Council's own complaints scheme; and
- (iii) the Council's Monitoring Officer about a breach of the Code of Conduct for Members, or to raise a public interest concern if they have evidence which they think shows malpractice, wrongdoing, illegality or risk in the Council and which is not appropriate for consideration under another Council procedure.

3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully damage things owned by the Council, Councillors or officers.

When attending meetings of ~~the~~ Council, Committees/ Sub-Committees/ Panels or the Cabinet, citizens must not behave improperly, offensively or interrupt the business of the meeting as such action will result in their being removed and excluded from the meeting.

Article 4 - ~~The Full Council~~

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies required to be approved by ~~the Council~~. Table A shows ~~(Note: those plans and strategies marked *that are required by statute to be included in the policy framework):~~

<u>Annual Library Plan</u>	<u>Section 1(2) Public Libraries and Museums Act 1964</u>
Crime and Disorder Reduction Strategy*	Sections 5 & 6 Crime & Disorder Act 1998
Development Plan Documents*	Section 20 Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011
Licensing Authority Policy Statement*	Section 349 Gambling Act 2005
<u>Local Transport Plan</u>	<u>Section 108(3) Transport Act 2000</u>
Plans and Alterations which together comprise the Development Plan*	Section 27 Town and Country Planning Act 1990
<u>Youth Justice Plan</u>	<u>Section 40 Crime & Disorder Act 1998</u>
Sustainable Community Strategy*	Section 4 Local Government Act 2000
The Council's Housing Strategy	{Discretionary strategy}
The Council's Environmental Strategy	{Discretionary strategy}
The Council's Employment Strategy	{Discretionary strategy}
The Council's Enterprise Strategy	{Discretionary strategy}
The Council's Waste Strategy	{Discretionary strategy}
The Council's Open Space Strategy	{Discretionary strategy}

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, (including the recommended Council tax base), setting the council tax and decisions relating to the control of the Council's borrowing requirement, 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 or a programme 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 for which a levy would be payable to the Secretary of State under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of ~~the Full~~ Council

Only ~~the full~~ Council will exercise the following functions:

- (a) adopting and changing the Constitution (except where the power to make any change is delegated to either the General Purposes Committee or the Monitoring Officer as set out in this Constitution);
- (b) approving or adopting the policy framework and the budget ~~or any application to the Secretary of State in respect of any housing land transfer~~;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- ~~(d)~~ agreeing and/or amending the terms of reference for Committees/Sub-Committees/ Panels, deciding on their composition and making appointments to them, subject to any delegations to the General Purposes Committee and/or officers as set out in this Constitution;
- ~~(e)~~ appointing representatives to those external bodies that do not fall to the Mayor to appoint to, unless the function has been delegated by the Council or this Constitution;
- ~~(f)~~ adopting an allowances scheme for the Mayor and Councillors;
- ~~(g)~~ the determination of matters relating to Community Governance Reviews as set out in the Local Government and Public Involvement in Health Act 2007, unless the matter has been delegated by the Council or this Constitution.
- (h) changing the name of the area, conferring the title of honorary alderman or conferring the freedom of the borough;

- (i) confirming the appointment of the Head of the Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) adoption and amendment of the authority's Code of Conduct for Members and other Codes and Protocols comprising the ethical framework;
- (l) adopting the Council's Pay Policy Statement each year as required by the Localism Act 2011; and agreeing any in-year changes to the Pay Policy Statement.
- (m) arranging for the discharge of any other functions of the authority which are not executive functions;
- (n) subject to any matters delegated to Committees/ Sub-Committees/ Panels or officers, determining 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;
- (o) accepting the delegation of a power or function from another local authority; and
- (p) all other matters which, by law, must be reserved to Council.

4.03 Council Meetings

There are four types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) the budget meeting(s), and
- (d) extra-ordinary meetings.

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

The Mayor and all Councillors may attend meetings of ~~the~~ Council and may participate as set out in the Council Procedure Rules.

4.04 Responsibility for Functions

~~The~~ Council will maintain the tables in Part 3.1 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Article 5 – The Speaker of the Council

5.01 The Role and Function of the Speaker of the Council

Following the introduction of the directly elected Mayoral system in Tower Hamlets on 21st October 2010, the position of Speaker of the Council has been established to perform the duties previously carried out by the post of ‘civic mayor’.

The Council has decided, in agreeing its Executive Arrangements, that the Speaker of the Council will be the first citizen of the ~~borough~~ Borough and will perform the majority of civic and ceremonial duties for the ~~borough~~ Borough. The Mayor will perform those functions as the Council’s representative where they relate to the promotion of, or business of, the Council. Any future change to these arrangements will be a matter for the Council to determine.

The Speaker of the Council may not be a member of the Executive.

The Speaker of the Council ~~and the Deputy Speaker~~ will be elected by ~~the~~ Council annually and ~~the Speaker~~ will have the following roles and functions:

1. to uphold and promote the purposes of the Constitution and having sought appropriate ~~officer~~ advice ~~from the Monitoring Officer~~, to interpret the Constitution 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 ~~the~~ Council ~~meeting~~ is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet can hold the Mayor and Cabinet Members to account in public;
4. to promote public involvement in the Council’s activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and s/he determines appropriate.

The Deputy Speaker of the Council will deputise for the Speaker of the Council whenever the Speaker of the Council is unavailable or unable to act.

The order of precedence for civic events shall be as follows, with the Borough’s First Citizen representing the Council at Civic Ceremonial functions in the Borough including:

Visits of the Royal Family and dignitaries;
Civic receptions, luncheons and dinners;
Funeral or memorial services;
Religious services; and
Prize givings.

And events outside the Borough including:

Those of the Lord Mayor of London ~~'s events;~~
Invitations from other First Citizens to their Borough; and
Those of the London Mayor's' Association ~~Events~~

This does not preclude the attendance and involvement of the Mayor and/or other Councillors.

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Article 6 - Overview and Scrutiny Committee and Scrutiny Panels

6.01 Terms of Reference

~~The~~ Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by ~~section 21 of the Local Government Act 2000 or regulations made under section 32 of that Act; by sections 119 to 128 of the Local Government and Public Involvement in Health Act 2007; and by the Police and Justice Act 2006 as the Council's Crime and Disorder Committee~~ sections 9F to 9FI of the Local Government Act 2000; section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or any functions which may be conferred on it by virtue of regulations under section 244(2ZE) of the National Health Service Act 2006 (local authority scrutiny of health matters).

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~~The~~ Council will appoint a Member to serve as the Chair of the Overview and Scrutiny Committee.

The Committee will appoint a standing Sub-Committee to discharge the Council's functions under the National Health Service Act 2006 to be known as the Health Scrutiny Panel; it will also appoint such other Sub-Committees or Scrutiny Panels as the Committee considers appropriate from time to time to carry out individual reviews under the Overview and Scrutiny work programme. The Overview and Scrutiny Committee will appoint a Member as Chair of the Health Scrutiny Panel, who shall also be the Lead Scrutiny Member for Adults, Health and Wellbeing.

Each Committee, Sub-Committee or Panel may appoint a Vice-Chair from amongst its Members.

6.02 General Role

Within its terms of reference, the Overview and Scrutiny Committee shall:

- (i) Review ~~and/~~ or scrutinise decisions made, or other actions taken in connection with the discharge of any ~~of the Council's~~ functions which are the responsibility of the Executive.
- (ii) Advise the Mayor, DCLG Commissioners or the Executive of key issues/questions arising in relation to reports due to be considered by the Mayor, DCLG Commissioners or the Executive.
- (iii) Make reports and/ or recommendations to ~~the full~~ Council and/or the Mayor, DCLG Commissioners or the Executive in connection with the discharge of any functions which are the responsibility of the Executive.
- (iv) Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive.

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~~(iii)~~(v) Make reports or recommendations to Council and/or the Mayor or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive.

~~(iv)~~(vi) Make reports or recommendations to Council and/or the Mayor or the Executive on matters ~~Consider any matter~~ affecting the Council's area or its inhabitants.

~~(v)~~(vii) Exercise the right to call in for reconsideration decisions made but not yet implemented ~~by the Executive DCLG Commissioners.~~

~~(vi)~~(viii) Refer any report it receives with implications for ethical standards to the Standards Advisory Committee for its consideration.

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6.03 Specific Functions

(a) **Policy Development and Review.** The Overview and Scrutiny Committee will:

- (i) Assist the Council and the Executive in the development of its budget and policy framework by in depth analysis of policy issues.
- (ii) Conduct research, consultation with the community and other consultation in the analysis of policy issues and possible options.
- (iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (iv) Question members of the Executive and/or Committees and chief officers about their views on issues and proposals affecting the area.
- (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny.** The Overview and Scrutiny Committee and the Scrutiny Panels may:

- (i) Review and scrutinise decisions made by the Executive and the performance of the Executive and/or Committees and Council officers both in relation to individual decisions and over time.
- (ii) Review and scrutinise the performance of the Council in relation to its policy objectives and performance targets and/or particular service areas.
- (iii) Question the Mayor, members of the Executive and/or Committees and chief officers about their decisions and performance whether

generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.

- (iv) Make recommendations to the Mayor/Executive, appropriate Committees and/or Council, and DCLG Commissioners 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 relevant scrutiny body and local people about their activities and performance.
- (vi) Question and gather evidence from any person.

(c) **Pre-Scrutiny.** The Overview and Scrutiny Committee may consider a matter prior to its consideration and make comments in connection with the issue so that such comments can be taken into account by the decision maker when making the decision on the matter.

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(d) ~~(c)~~ **Finance.** The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it.

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(e) **Petitions.** The Overview and Scrutiny Committee will consider requests for reviews on petitions as set out in paragraph 19 of the Council's Procedure Rules as set out in Part 4.1 of the Constitution.

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(ed) **Annual Report.** The Overview and Scrutiny Committee must report annually to ~~full~~ Council on its work.

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6.04 Allocation of Responsibilities

The Overview and Scrutiny Committee will have a strategic and co-ordinating role over the Council's scrutiny function and also consider executive decisions 'called-in' as detailed in Part 4 of this constitution.

The Overview and Scrutiny Committee will select from among its Councillor Members ~~six~~ Lead Scrutiny Members, one for each of the following ~~service areas~~ portfolios:

~~Communities, Localities and Culture~~

Children's ~~Services~~

Governance

Health, Adults and Community

Place

Resources

~~Development and Renewal~~

~~Chief Executives~~
~~Adults, Health and Wellbeing~~

The Health Scrutiny Panel shall have responsibility for scrutiny of the local health service, in accordance with the provisions of the National Health Service Act 2006. This will be a standing Sub-Committee and will meet at least four times a year.

It shall:

- a) review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;
- b) respond to consultation exercises undertaken by an NHS body; and
- c) question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of services.

The Scrutiny Lead Member for ~~Adults, Health and Wellbeing~~ Health, Adults and Community shall be appointed as a Member and Chair of the Health Scrutiny Panel.

Other Scrutiny Panels may be established by the Overview and Scrutiny Committee in line with its work programme and will consider specific reviews, their terms of reference to be set by the Committee.

6.05 Reports

The Overview and Scrutiny Committee will report to ~~full~~ Council, Cabinet or the Mayor or appropriate Cabinet member and make recommendations, as appropriate. All reports and/or recommendations of Scrutiny Panels shall first be considered by the Overview and Scrutiny Committee before being reported to ~~full~~ Council, Cabinet, the Mayor or the appropriate Cabinet member, as appropriate.

6.06 Proceedings of Scrutiny Panels

The Overview and Scrutiny Committee and its Scrutiny Panels will generally meet in public and will conduct their proceedings in accordance with the Procedure Rules in Part 4 of this Constitution.

Article 7 - The Mayor and the Executive

7.01 The Role of the Executive

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

7.02 Form and Composition

The Executive will consist of the Mayor and between two and nine Councillors appointed by the Mayor, called Cabinet Members. One of the Cabinet Members will be appointed by the Mayor as the Statutory Deputy Mayor. When the Mayor and Cabinet Members meet together in Committee this is known as a meeting of the Cabinet.

The King George's Field Charity Board and the Grants Determination Sub-Committee ~~is-are~~ also ~~a-Committee-of-the~~ Executive Bodies having and which has executive decision making powers.

7.03 Mayor and Statutory Deputy Mayor

The Mayor

The Mayor will exercise strategic political leadership by developing and communicating clearly to citizens, businesses and service users the authority's purpose and vision and its intended policy outcomes. In developing strategic policy the Mayor will work closely with the Chief Executive and have regard to advice tendered.

The Mayor will be a person elected to that position by the electors of the borough in the Mayoral election. In the event that a serving Councillor of the London Borough of Tower Hamlets is elected as 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 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 Statutory Deputy Mayor

The Statutory Deputy Mayor will be a Councillor appointed to that position by the Mayor from among the Cabinet members.

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

- a) s/he resigns from office; or
- b) s/he is no longer a Councillor

The Statutory Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time.

7.04 Other Executive Members

The Mayor shall appoint between two (2) and nine (9) Councillors to be members of the Executive (Cabinet Members) alongside the Mayor him/herself. All of the Cabinet Members must be serving Councillors of the authority. The Mayor may allocate to each Cabinet Member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 7.05 below).

The Mayor must appoint one of the Cabinet Members as the Statutory Deputy Mayor.

The Mayor may replace or remove a Cabinet Member, and/or may vary or delete their portfolio responsibilities, at any time.

Executive Members shall hold office until:

- (a) They are removed or replaced by the Mayor;
- (b) They resign from office; or
- (c) They are no longer a Councillor.

In the case of a vacancy arising in any post of Cabinet Member the Mayor may appoint a Councillor to the vacant post at his/her discretion.

7.05 Cabinet Responsibilities

The Executive Members will have portfolios as set out in the Executive Scheme of Delegation at Part 4.4 of this Constitution.

The portfolios may be subject to change from time to time at the discretion of the Mayor and will be updated by the Monitoring Officer as soon as reasonably practicable when so advised by the Mayor.

7.06 Proceedings of the Cabinet

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

7.07 Responsibility for Functions

The Monitoring Officer will maintain a list as part of this Constitution, setting out which individual Cabinet Members or Committees of the Executive, officers or joint arrangements (see Article 11) are responsible for the exercise of particular executive functions.

Article 8 – Regulatory and other Committees

8.01 Appointment of Regulatory and Other Committees

| ~~The~~ Council will appoint the Committees set out in Part 3 to discharge the functions described in the “Responsibility for Functions” tables in Part 3.

| ~~The~~ Council will appoint a Member to serve as Chair of each Committee that it appoints under this Article. If the Council does not, the Committee may appoint a Chair from amongst the Members appointed to the Committee by the Council.

Each Committee may appoint a Vice-Chair from amongst its Members.

Article 9 - The Standards Advisory Committee and the Code of Conduct for Members

9.01 -Code of Conduct

In accordance with the requirements of the Localism Act 2011 the Council has adopted a Code of Conduct for Members together with arrangements for dealing with any complaint of a breach of the Code including the appointment of an Independent Person. The Code of Conduct and the arrangements for dealing with any complaint of a breach of the Code are set out at Part 5.1 of this Constitution.

9.02 Standards Advisory Committee: Constitution

~~The~~ Council at its Annual Meeting will establish a Standards Advisory Committee using its powers under section 102(4) of the Local Government Act 1972.

The Standards Advisory Committee shall have the power to create sub-committees in order to discharge its advisory role.

9.03 Composition

The Standards Advisory Committee shall be comprised of Members of the Council (not including the Mayor or more than one Cabinet Member), appointed by the Council in accordance with the requirements of political proportionality; and up to seven persons who are not Members or officers of the Council or any other relevant authority (i.e. Co-opted members).

The Co-opted member(s) will be entitled to vote at meetings under the provisions of section 13-(4)-(e) of the Local Government and Housing Act 1989. The Standards Advisory Committee shall be chaired by a Co-opted member.

The Committee shall establish Hearings and other Sub-Committees in accordance with its terms of reference.

9.04 Appointment of Co-~~Opted~~-opted Members

A person may not be appointed as a Co-opted member of the Standards Advisory Committee or one of its sub-committees unless the appointment is approved by ~~Full~~ Council. The term of appointment shall be for four years unless otherwise determined by ~~Full~~ Council or the Co-optee does not continue to fulfil any required conditions as may be determined by the Authority from time to time. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

9.05 Roles and Functions

The Standards Advisory Committee has the following roles:

1. To recommend to the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the Monitoring Officer or an investigator appointed by the Monitoring Officer; and where a complaint has been subject to such investigation, to recommend whether or not the complaint should proceed to hearing. Where the Monitoring Officer considers that a complaint should not be subject to investigation or should not proceed to hearing, s/he shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee which shall make the final decision on the matter. The Investigation and Disciplinary Sub-Committee shall have the same Membership and quorum of the Standards Advisory Committee;
2. To receive regular quarterly reports from the Monitoring Officer on the numbers of complaints of the Code received, the decisions taken by the Monitoring Officer (in consultation with the Independent Person) on such complaints and investigation outcomes where the investigation determines there was no evidence of a failure to comply with the code or where the investigation outcome recommends a local resolution;
3. To convene a Hearings Sub-Committee of three Members of the Standards Advisory Committee comprising two of the co-opted members and one Councillor to consider any matter where the investigation finds evidence of a failure to comply with the Code and a local resolution is not possible or appropriate;
4. To make such recommendations to Council in respect of the matter as the Hearings Sub-Committee considers appropriate as a result of any matter referred including;
 - Reporting its findings to Council for information;
 - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) removal from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Mayor removal from the Executive, or from particular Portfolio responsibilities;
 - Recommending the Monitoring Officer arrange training for the member;
 - Recommending removal from outside appointments to which he/she has been appointed or nominated;
 - Recommending withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;

- Recommending excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive Committee and Sub-Committee meetings;
 - Recommending the Member to contact the Council via specified point(s) of contact;
5. To convene a Hearings (Appeal) Sub-Committee of at least three different Members of the Standards Advisory Committee (comprising two of the co-opted members and one Councillor) to consider any appeal against a finding of, or sanction recommended by, the Hearings Sub-Committee;
 6. To receive reports on compliance with any recommendation(s) made for sanctions to be applied in respect of any member;
 7. Promoting and maintaining high standards of conduct by the Mayor, Members of the Council, co-opted members including church and parent governor representatives and where the Committee considers that there may be issues of concern recommending that the Monitoring Officer considers and reports on the issues raised;
 8. Assisting the Mayor, Members of the Council, co-opted members including church and other faiths and parent governor representatives to observe the Council's Code of Conduct for Members;
 9. Advising ~~the~~ Council on the adoption or revision of the Code of Conduct for Members;
 10. Monitoring the operation of the Code of Conduct for Members;
 11. Advising, training or arranging to train the Mayor, Members of the Council and co-opted members including church and other faiths and parent governor representatives on matters relating to the Code of Conduct for Members;
 12. To act as an advisory body in respect of any matters referred to the Standards Committee by the Local Strategic Partnership (LSP) or Community Forums in respect of probity issues arising out of the codes and protocols applicable to relevant members of the LSP and Community Forums as set out in the Community Forum handbook and as may be amended from time to time;
 13. To advise on allegations of Member breaches of the Protocols set out in the constitution as may be referred to the Committee by the Monitoring Officer and to make recommendations with regard to such allegations as maybe so referred;
 14. Advising on local protocols for both Officer and Member governance;

15. To monitor and review Member and Officer Procedures for registering interests and declaring gifts and hospitality;
16. To receive periodic reports on the Council's Ethical Governance arrangements, on whistle blowing arrangements and complaints; and
17. As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.

9.06 Validity of proceedings

A meeting of the Standards Advisory Committee or one of its sub-committees shall only be quorate where at least three members of the Committee or sub-committee are present for its duration and such quorum must include at least one councillor and at least one co-opted member.

Part VA of the Local Government Act 1972 applies in relation to meetings of the Standards Advisory Committee or its sub-committees as it applies to meetings of the Council.

9.07 Hearings Sub-Committee and Hearings (Appeal) Sub-Committee

Any Hearings Sub-Committee or Hearings (Appeal) Sub-Committee shall comprise a minimum of three Members of the Standards Advisory Committee at least two of whom shall be co-opted members.

The Hearings Sub-Committee shall consider complaints referred to it that the Mayor, an elected or co-opted Member of the Council may have failed to comply with the Council's Code of Conduct for Members or local protocol where the complaint has been subject to an investigation arranged by the Monitoring Officer and shall make recommendations accordingly. The Hearings Sub Committee shall decide at the outset of the meeting whether it is in the public interest that the Hearing is held in a public or private session in accordance with relevant statutory guidance as advised by the Monitoring Officer.

The membership of the Hearings (Appeal) Sub-Committee shall not include any member who served on the Hearings Sub-Committee that considered the same complaint.

The Independent Person, or if that person is unable to act a reserve Independent Person, shall have the right to attend all meetings of the Hearings Sub-Committee or Hearings (Appeal) Sub-Committee as an observer but may not vote or participate in the decision making.

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9.08 Attendance Requirements

In the event that any Member of the Committee does not attend three or more consecutive meetings of the Committee, the Committee may draw the attention of the Council to such non-attendance and may recommend that the member concerned be replaced on the Committee.

The Committee shall not do so without first giving the absent Member an opportunity to make representations (which may be made in writing) as to their non-attendance and any matters they wish the Committee to take into account.

9.09 Procedures

The Committee shall agree a set of procedures to enable it to discharge the arrangements under its Terms of Reference.

9.10 Confidentiality

The Committee and any of its Sub-Committees may meet in private in accordance with the relevant legislation as advised by the Monitoring Officer. Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential.

Article 10 - Local Strategic Partnership

10.01 General Arrangements

The Tower Hamlets Strategic Partnership brings together all of the key stakeholders in the borough – residents, the Mayor and Council, Police, the health service, other public services, voluntary and community groups, faith communities and businesses – with the aim of working together to improve the quality of life of people who live and work in the borough. The Council provides support for the administration of the Partnership but the Partnership is independent of the local authority.

The Partnership delivers its vision through the Council's Community Plan, which aims to make Tower Hamlets:

- (a) A Great Place to Live - a place where people live in quality affordable housing, located in clean and safe neighbourhoods served by well-connected and easy to access services and community facilities.
- (b) A Fair and Prosperous Community - a place where everyone, regardless of their background and circumstances, has the aspiration and opportunity to achieve their full potential ~~through education and vibrant local enterprise.~~
- (c) A Safe and Cohesive Community - a safer place where people feel safer, get on better together and difference is not seen as threat but core strength of the borough.
- (d) A Healthy and Supportive Community - a place where people are supported to live healthier, more independent lives and the risk of harm and neglect to vulnerable children and adults is reduced.
- (e) One Tower Hamlets - a place where everyone feels they have an equal stake and status. We are committed to reducing inequalities, supporting cohesion and providing strong community leadership.

In order to deliver its vision, the Partnership will review and establish arrangements to support its operation including executive support, development and delivery of initiatives, engagement with stakeholders as well as performance management.

10.02 Composition and Functions

- (a) ~~The Partnership Executive Board acts as a governing body of the Partnership, setting the strategic direction for local delivery informed by the Community Plan. The Executive monitors and manages performance of the five Community Plan Delivery Groups (CPDGs). The Board also considers reports from the Mayor's Assemblies.~~

~~(b) The **Community Plan Delivery Groups (CPDGs)** are the thematic strategic groups responsible for the delivery of the Community Plan's objectives. CPDGs bring together key stakeholder representatives to focus on joined-up service planning and delivery of partnership priorities.~~

~~There are five Community Plan Delivery Groups:~~

- ~~● Great Place to Live~~
- ~~● Employment and Enterprise Board~~
- ~~● Safe and Cohesive Board (Community Safety Partnership)~~
- ~~● Health and Wellbeing Board~~
- ~~● Children and Families Partnership~~

~~(c) The **Mayor's Assemblies** provide a mechanism for residents to engage with the Mayor, the Cabinet and service providers. The Assemblies are chaired by the Mayor and are open public meetings. They are also a means for the Mayor to engage with the borough's diverse communities – particularly those which are 'hard to reach' and are less likely to engage in regular, formalised structures.~~

~~(d) **Local Community Ward Forums** will provide opportunities for residents to more directly shape local services by helping to set priorities and holding services to account for delivery at a ward level. These Forums will be supported by the Mayor's Community Champion Coordinators and provide a local space where people from the area can come together.~~

Article 11 - Joint Arrangements

11.01 Arrangements to Promote Well-Being.

The Council or the Executive in order to promote or improve the economic, social or environmental well-being of the whole or any part of the borough, 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.

11.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of a joint Committee with these other local authorities and/ or their Executives.
- (b) The Mayor or Executive may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities and/ or their Executives.
- (c) The Mayor or Executive may only appoint Executive Members to a joint Committee ~~and those Members need not reflect the political composition of the authority as a whole.~~ except where:
 - (i) the joint committee is discharging a function in relation to five or more relevant authorities; or
 - (ii) the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee,
every person appointed to the joint committee by the Executive may be a member of the Executive or of the Council.
- (d) The political balance requirements do not apply to the appointments in (c) above.

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11.03 Current Joint Committees~~London Councils~~

~~Pursuant to Section section 101 of the Local Government Act 1972 and Section section 20-9EB of the Local Government Act 2000 the Council ~~has established joint arrangements with the other thirty two London Borough Councils and is a member of the following joint committees which shall have delegated authority to discharge the functions of the Council in relation to the matters shown below is a member of a number of joint committees under the umbrella of London Councils (formerly known as the Association of London Government or the ALG). These are-~~~~

- ~~• London Councils' Committee (known as the Leaders' Committee)~~
- ~~• London Councils' Grants Committee~~
- ~~• London Council's Pensions CIV Sectoral Joint Committee~~
- ~~• London Councils' Transport and Environment Committee~~

~~Additionally, the Council is also a member of the following joint committees:~~

- ~~• Inner North East London Joint Health Overview and Scrutiny Committee~~
- ~~• Joint Committee of the Six Growth Boroughs~~
- ~~• London Housing Consortium~~

~~These Joint Committees shall have delegated authority to discharge the functions of the Council as per the terms of reference for these joint committees as set out in Part 3 of this Constitution.~~

- ~~• London Councils Leaders' Committee — undertaking research, information and policy development of London authorities; policy development and administering the functions specified below; research, advice and policy development relating to London local authorities in their role as employers; functions calculated to facilitate or conducive or incidental to the foregoing; such other duties as may from time to time be delegated by the member authorities.~~
- ~~• London Councils Transport and Environment Committee — administering functions under The Greater London (Restriction of Goods Vehicles) Traffic Order 1985, The Road Traffic Act 1991, The Greater London Authority Act 1999, The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002, The London Local Authorities and Transport for London Act 2003, The London Local Authorities Act 2004, The London Local Authorities Act 2007 in respect of transportation and ancillary functions.~~
- ~~• London Councils Grants Committee — administering functions under a scheme established under section 48 Local Government Act 1985 in~~

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~~respect of the administration of grants to voluntary associations on behalf of the participating boroughs.~~

~~11.04 London Housing Consortium~~

~~The Executive has agreed that the Council shall be a member of the London Housing Consortium, which will be operated as a joint committee pursuant to section 101(5) of the Local Government Act 1972.~~

~~The London Housing Consortium is governed by a Board of Elected Members which comprises one voting Councillor representative from the each of the local authority members. The aims of the London Housing Consortium are:~~

- ~~* To provide specialist technical and procurement services related to building programmes undertaken by LHC constituent authorities and other public sector bodies.~~
- ~~* To establish, develop and manage framework agreements for the procurement of building components and services for the use and benefit of all constituent authorities and other public sector bodies.~~

~~11.05 Joint Committee of the London 2012 Olympic and Paralympic Host Boroughs~~

~~The Executive has agreed the establishment of the Joint Committee of the London 2012 Olympic and Paralympic Host Boroughs to act as a joint committee of the London Boroughs of Greenwich, Hackney, Newham, Tower Hamlets, Waltham Forest and Barking and Dagenham (the six boroughs) for joint collaboration in relation to the Olympic and Paralympic Games in 2012.~~

~~The terms of reference of the Joint Committee of the London 2012 Olympic and Paralympic Host Boroughs are to discharge on behalf of the six boroughs the executive functions listed below in so far as they relate to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games:-~~

- ~~1) Management and expenditure of the annual budget as defined by the Inter Authority Agreement made between the six boroughs.~~
- ~~2) Management and expenditure of external funding and all other financial resources allocated to the joint committee, including any funding allocated to the joint committee by any or all of the six boroughs in addition to the annual budget;~~
- ~~3) Approval of an annual business plan;~~
- ~~4) Development, negotiation and agreement of any Strategic Regeneration Framework and Multi Area Agreement(s);~~

~~5) Development, negotiation and implementation of joint regeneration policies and programmes;~~

~~6) Development, negotiation and agreement of a joint approach to post-Olympic legacy, including promotion of the six boroughs as a sub-region;~~

~~7) Development, negotiation and implementation of joint legacy strategies;~~

~~8) Development, negotiation and implementation of joint arrangements in relation to bidding for, accepting and distributing external funding;~~

~~9) Development, negotiation and implementation of joint publicity and a joint communications strategy;~~

~~10) Development, negotiation and implementation of joint cultural event programmes and policies;~~

~~11) Development, negotiation and implementation of joint economic development and employment programmes and policies;~~

~~12) Development, negotiation and provision and implementation of joint building control policies and procedures for the Olympic Park, and Olympic venues in the six host boroughs;~~

~~13) Development, negotiation, provision and implementation of joint environmental health policies and procedures in relation to the Olympic Park and Olympic venues in the six host boroughs, including food safety and standards, health and safety enforcement, pest and pollution control and public health;~~

~~14) Development, negotiation, provision and implementation of joint parking, highways and traffic management policies and procedures;~~

~~15) Development, negotiation and implementation of joint policies for tourism and the business travel economy;~~

~~16) Development, negotiation and implementation of joint policies to maximise educational opportunities;~~

~~17) Development, negotiation and implementation of joint sports development policies;~~

~~18) Development, negotiation, provision and implementation of street naming/ numbering and street scene enforcement policies and procedures for the Olympic Park and Olympic venues in the six host boroughs.~~

~~11.06 Inner North East London Standing Joint Overview and Scrutiny Committee~~

~~Pursuant to the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 the Council has agreed the establishment of an Inner North East London Standing Joint Overview and Scrutiny Committee, comprising the London Boroughs of Tower Hamlets, Newham, Hackney and the City of London to consider those health matters where a substantial variation or development to health services covers more than one local authority area.~~

~~The terms of reference of the Inner North East London Standing Joint Overview and Scrutiny Committee are:-~~

- ~~1. To consider and respond to any health matter which:
 - ~~• Impacts on two or more participating authorities or on the sub region as a whole, and for which a response has been requested by NHS organisations under Section 244 of the NHS Act 2006, and~~
 - ~~• All 4 participating authorities agree to consider as an INEL JOSC~~~~
- ~~2. To constitute and meet as a Committee as and when participant boroughs agree to do so subject to the statutory public meeting notice period.~~

~~The Council on 21st September 2011 agreed Procedure Rules to govern the proceedings of the Inner North East London Standing Joint Overview and Scrutiny Committee.~~

~~Tower Hamlets shall appoint three Members to serve on the Joint Overview and Scrutiny Committee and the Overview and Scrutiny Committee has delegated authority to make those appointments from amongst the members of the Overview and Scrutiny Committee and the Health Scrutiny Panel in accordance with the required political proportionality on behalf of the Council.~~

11.07-04 Access to Information

- (a) Access to information rules are contained in the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) If all the members of any 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 the access to information rules in Part V of the Local Government Act 1972 will apply.

11.08-05 Delegation to and from Other Local Authorities

- (a) The Council or the Mayor or Executive may delegate their powers and functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The decision whether or not to accept such a delegation from another local authority shall be ~~reserved to full Council~~ for Council or the Mayor or Executive as appropriate depending upon whether or not the powers or functions are the responsibility of the Executive.

11.09-06 Contracting Out

The Mayor or Executive 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, providing there is no delegation of the Council's discretionary decision making.

Article 12 - Officers

12.01 Appointments

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts who will be designated chief officers.

Chief Executive

~~Children's Corporate Director, Communities Localities and Culture~~

~~Corporate Director, Development and Renewal~~

~~Corporate Director, Communities Localities and Culture~~

~~Corporate Director, Education, Social Care and Wellbeing~~ Director of Law,

Probity and Governance

~~Corporate Director, Resources~~

~~Director of Law, Probity and Governance~~

Corporate Director, Children's

Corporate Director, Governance

Corporate Director, Health, Adults and Community

Corporate Director, Place

Corporate Director, Resources

The above posts may be subject to change from time to time in which case this Constitution will be updated as soon as reasonably practicable to reflect any change in the designated chief officers.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council has designated the following posts as shown:

Chief Executive

Head of Paid Service

~~[Note: The Council has appointed the Corporate Director, Communities, Localities and Culture to act as the Head of Paid Service until 31st October 2014.]~~

Corporate Director, Resources

Chief Finance Officer

~~Corporate Director, of Law, Probity and Governance~~

Monitoring Officer

Such posts will have the functions described in Articles 12.02 – 12.04 below.

- (d) **The Management Structure.** The Head of the Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

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12.02 Functions of the Head of the Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report, as required, on ~~the manner in which~~how ~~the discharge of~~ the Council's functions ~~is-are~~ co-ordinated and discharged; the number and grade of officers required for the discharge of those functions; and the organisation of the officer structure.
- (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.

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12.03 Functions of the Monitoring Officer

- (a) **Maintaining and monitoring 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 (see Article 15 for more detail on this function).
- (b) **-Ensuring lawfulness and fairness of decision making.** ~~After consulting with the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function, if s/he~~ If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness; or if any decision or omission has given rise to maladministration, s/he will, after consulting with the Head of the Paid Service and Chief Finance Officer report in writing to the Mayor in relation to an executive function or to Council in relation to a non-executive function. Such a report will have the effect of immediately stopping the proposal or decision being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

As soon as practicable after ~~either the~~ Council or the Mayor and/or the Executive has considered the Monitoring Officer's report, it shall prepare and publish a report that will include:

- (i) what action it has taken in response to the report;
- (ii) what action it proposes to take in response to the report and when it proposes to take that action;
- (iii) the reasons for taking that action, or the reasons for not taking any action.

- (c) **Supporting the Standards Advisory Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of ethical conduct through the provision of support to the Standards Advisory Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and have regard to recommendations from the Standards Advisory Committee and/or decisions of Case Tribunals regarding Member conduct.
- (e) **Conducting investigations.** Where an investigation is required in accordance with the agreed arrangements for dealing with an alleged breach of the Code of Conduct by a Member, the Monitoring Officer will conduct or arrange for that investigation to be carried out and make reports or recommendations in respect of them to the Standards Advisory Committee or its sub-committee as appropriate.
- (f) **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (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 the Mayor and all Councillors.
- (h) **Restrictions on post.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 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 in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function, and to the Council's external auditor if s/he/it the Chief Finance Officer~~ considers that any proposal, decision or course of action which will/would involve the Council 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 then after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report in writing to the Mayor in relation to an executive function or to Council in relation to a non-executive function, and to the Council's external auditor. Such a report will have the effect of immediately stopping the proposal or decision being implemented until such time as the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

As soon as practicable after ~~either the~~ Council or the Mayor and/or the Executive has considered the Chief Finance Officer's report, it shall prepare and publish a report that will include:

- (i) what action it has taken in response to the report;
 - (ii) what action it proposes to take in response to the report and when it proposes to take that action;
 - (iii) the reasons for taking that action, or the reasons for not taking any action.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the proper 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, financial impropriety, probity (and budget and policy framework issues) to the Mayor and all Councillors and will support and advise the Mayor and Councillors and officers in their respective roles.
- (e) **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 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 duties to be performed.

12.06 Functions of the Chief Executive

- (a) **Overriding Responsibility.** The Chief Executive is an employee of the Council as a whole and his/ her overriding responsibility is to the Council and not to the Mayor, any party political group, or other grouping of Members. His/ her political neutrality must be respected at all times. The Chief Executive is the Council's statutory Head of Paid Service.

- (b) **Working with the Mayor.** The Chief Executive works closely with the Mayor to assist in the development of the Mayor's strategic policy and to ensure that such is then put into practice and, in that regard, to provide:
- (i) **Strategic direction.** The Chief Executive will ensure that the Mayor and Council's priorities and goals can be implemented in a timely, efficient and innovative way through focused strategies, projects and programmes.
 - (ii) **Policy advice.** The Chief Executive will act as the principal policy adviser to the Mayor and Members and will secure the best professional advice on all relevant matters in respect of the Council's functions and services.
 - (iii) **Partnerships (internal).** The Chief Executive will develop a professional partnership with the Mayor and Members to ensure that the Council's vision, goals and core values are made reality and to provide a clear sense of direction, optimism and purpose and marshal the resources of the whole organisation to this end.
 - (iv) **Partnerships (external).** The Chief Executive will assist the Mayor in partnership working by taking the lead in developing effective partnerships at management level with other public agencies, private companies and local community organisations to achieve better public services and improved results for local people.
- (c) **Emergency or Extreme Urgency**
- (i) The Chief Executive may exercise any executive function in cases of emergency or extreme urgency whether or not reserved to the Mayor and following the exercise of such power the Chief Executive will provide a written report to the Mayor setting out the decision taken and the reason for it including the reasons for emergency or extreme urgency.
 - (ii) The Chief Executive may exercise any non-executive function in cases of emergency or extreme urgency whether or not reserved to the Council and following the exercise of such power the Chief Executive will provide a written report to the Council setting out the decision taken and the reasons for it including the reasons for emergency or extreme urgency.
- (d) **Ensuring overall correctness of decision making.** If the Chief Executive considers that any proposal, decision or omission ~~would give rise to~~ raises a significant concern on his/her behalf ~~and which goes beyond either;~~ then s/he will report in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function. Such a report will have

the effect of immediately stopping the proposal or decision being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

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~~(i) — (unlawfulness or if any decision or omission has given rise to maladministration (the responsibility of the Monitoring Officer); or
(ii) — 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 (the responsibility of the Chief Finance Officer);
then the Chief Executive will report in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function and such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.~~

As soon as practicable after either the Council or the Mayor and/or the Executive has considered the Chief Executive's report, it shall prepare and publish a report that will include;

- (i) what action it has taken in response to the report;
- (ii) what action it proposes to take in response to the report and when it proposes to take that action;
- (iii) the reasons for taking that action, or the reason for not taking any action;

The exercise of this function needs to be considered in conjunction with Part 2, Articles 12.03(b) (Function of the Monitoring Officer to ensure lawfulness and fairness of decision making and 12.04(a) (Function of the Chief Finance Officer to ensure lawfulness and financial prudence of decision-making).

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12.07 Conduct

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

Article 13 – Decision-Making

13.01 Responsibility for Decision-Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of Decision-Making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) take account of all relevant matters;
- (g) discount irrelevant matters; and
- (f) explaining what options were considered and giving the reasons for the decision.

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13.03 Types of Decision

- (a) **Decisions reserved to ~~full~~ Council.**

Decisions relating to the functions listed in Article 4.02 will be made by ~~the full~~ Council and not delegated with the exception of Part 2, Article 4.02(a) where the power to make certain changes to the Constitution is delegated to the General Purposes Committee and the Monitoring Officer.

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- (b) **Key decisions**

- (i) A “key decision” is an executive decision which is likely

- a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or
- b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority~~in the borough.~~

In determining the meaning of “significant” for the purposes of paragraph (a) above regard must be had to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000.

(ii) A decision taker, when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of the Constitution.

~~(iii) The Council has not adopted a financial threshold for key decisions. However, the criteria that the Mayor, Councillors and officers will have regard to in determining what amounts to a key decision include the following:~~

- ~~• 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 borough.~~
- ~~• Whether the decision is likely to be a matter of political controversy.~~
- ~~• The extent to which the decision is likely to result in substantial public interest.~~

13.04 Decision-Making by ~~the Full~~ Council

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision-Making by the Executive

Subject to Article 13.08, the Mayor and Executive will follow the decision-making procedures set out in Part 4 of this Constitution when considering any matter.

13.06 Decision-Making by the Overview and Scrutiny Committee and Scrutiny Panels

The Overview and Scrutiny Committee and the Scrutiny Panels will follow the Overview and Scrutiny Procedure Rules and relevant parts of the Council Procedure Rules set out in Part 4 of this Constitution which apply to them when considering any matter.

13.07 Decision-Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 13.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision-Making by Council Bodies Acting as Tribunals

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

13.09 Decision-Making by DCLG Commissioners

- (a) The DCLG Commissioners shall when making decisions in respect of Non-Executive Functions ~~will~~ follow those parts of the Council Procedure Rules set out in Part 4.1 of the Constitution as apply ~~to~~ them as if they were a committee of the Council EXCEPT Rule 8 (Quorum – not applicable as Direction permits Commissioners to act jointly or severally).
- (b) The DCLG Commissioners shall when making decisions in respect of Executive functions ~~will~~ follow the Executive Procedure Rules set out in Part 4.4 of the Constitution EXCEPT Rule 1.7 (Quorum – not applicable as Direction permits Commissioners to act jointly or severally).
- (c) Minutes shall be taken when the Commissioners exercise these powers and such Minutes and a record of the Decisions made by the Commissioners shall be published.

Article 14 – Finance, Contracts and Legal Matters

14.01 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.

14.02 Contracts

Every contract made by the Council shall be in writing and will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

14.03 Legal Proceedings

The Corporate Director, ~~of Law, Probity and~~ Governance is authorised to institute, defend, settle 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 s/he considers such action is necessary to protect the Council's interests. S/he may designate nominated officers to carry out this function on her/his behalf.

14.04 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 Corporate Director, ~~of Law, Probity and~~ Governance or some other person authorised by her/him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Contracts with a value exceeding £250,000 must either be signed by at least two officers of the authority or under the common seal of the Council attested by at least one officer.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Director, ~~of Law, Probity and~~ Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Corporate Director, ~~of Law, Probity and~~ Governance should be sealed. The affixing of the Common Seal will be attested by the Corporate Director, ~~of Law, Probity and~~ Governance or some other person authorised by her/him.

Article 15 - Review and Revision of the Constitution

15.01 ~~Duty to Monitoring~~ and ~~Reviewing~~ the Constitution

- (a) The Monitoring Officer will monitor and review the operation of the Constitution and may make recommendations to ensure that the aims and principles of the Constitution are given full effect.
- (b) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this role the Monitoring Officer may:
- (1i) Observe meetings of different parts of the Member and officer structure.
 - (2ii) Undertake an audit trail of a sample of decisions.
 - (3iii) Record and analyse issues raised with her/him by Members, officers, the public and other relevant stakeholders.
 - (4iv) Compare practices in this authority with those in other comparable authorities or national examples of best practice.
- (c) The Monitoring Officer may revise the Constitution to reflect decisions taken by the Council or changes in legislation or to correct matters of fact

15.02 Changes to the Constitution

(a) Approval.

~~Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer. However non-material changes may be approved by the General Purposes Committee on the recommendation of the Monitoring Officer.~~

- (i) The Monitoring Officer can approve all changes to the Constitution that reflect decisions taken by the Council or changes in legislation or to correct matters of fact;
- (ii) The Monitoring Officer can recommend to General Purposes Committee for approval non-material changes to the Constitution; and
- (iii) All other changes can only be approved by Council.

(b) Change of Executive Arrangements.

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The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change to its Executive Arrangements.

Article 16 - Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

Limit to Suspension. The Articles of this Constitution may not be suspended. Rules specified below may be suspended by bodies indicated to the extent permitted within those Rules and the law.

Procedure to Suspend. A motion to suspend any Rules will not be moved without notice unless at least ~~one~~ half ($\frac{1}{2}$) of the voting members of the meeting in question are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Rules Capable of Suspension. The following Rules may be suspended in accordance with Article 16.01:

- (i) Council Procedure Rules (Council as well as Cabinet and all other Committees and Sub-committees to which Rule 5.2 of the Council Procedure Rules applies)
- (ii) Budget and Policy Framework Procedure Rules (Council)
- (iii) Overview and Scrutiny Procedure Rules (Overview and Scrutiny Committee)

16.02 Interpretation

The ruling of the Speaker of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretations will have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Member of the authority upon delivery to her/him of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Monitoring Officer will ensure (1) that the Constitution is published on the Council's website and that copies are available for inspection at Council offices, libraries and other appropriate locations; and (2) can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure the Constitution is made widely available within the area and is updated as necessary.

Schedule 1 Description of Executive Arrangements

The form of the Council's Executive Arrangements is a 'Mayor and Cabinet' model as defined in section 9C of the Local Government Act 2000 (as amended).

The following parts of the Constitution, insofar as they relate to executive functions, constitute the Executive Arrangements:

Article 6 (Overview and Scrutiny Committee and Scrutiny Panels) and Part 4.5 (Overview and Scrutiny Procedure Rules).

Article 7 (The Mayor and the Executive) and Part 4.4 (Executive Procedure Rules).

Article 11 (Joint Arrangements).

Article 13 (Decision-Making) and Part 4.2 (Access to Information Procedure Rules).

Part 3 (Responsibility for Functions).