

Rutland County Council

PART 2 OF THE CONSTITUTION

THE ARTICLES

For approval following CRWG review 2022

Article 1 – The Constitution

1) **Powers of the Council**

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

2) **The Constitution**

This Constitution, and all its **Parts** is the Constitution of Rutland County Council District Council.

3) **Purpose of the Constitution**

The purpose of the Constitution is to **help residents, businesses, partners, stakeholders, councillors and officers understand how the Council works and will:**

- a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b) support the active involvement of citizens in the process of local authority decision-making;
- c) help councillors represent their constituents more effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no one will review or scrutinise a decision made by a body of which they were a member;
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services to the community.

4) **Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

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

DEVELOPING ROLES FOR COUNCILLORS

1) Composition and Eligibility

a) Composition

The Council will comprise 27 members, otherwise called councillors. Councillors will be elected by the voters of each of the Council's 15 wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Electoral Commission. New Ward Boundary arrangements were introduced for the elections in 2019. All wards are represented by either one, two or three councillors.

b) Eligibility

Only registered voters of Rutland or those living, working or owning property or land there will be eligible to hold the office of councillor, provided they are not disqualified from holding office and have attained the age of 18 years by the date of their nomination.

2) Election and Terms of Councillors

Election and terms.

The regular election of councillors will be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3) Roles and Functions of all Councillors

a) Key roles. All councillors will:

- i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- v) balance different interests identified within the ward and represent the ward or electoral division as a whole;
- vi) respond to constituents' enquiries and representations, fairly and impartially;
- vii) participate in the governance and management of the Council;
- viii) be involved in decision-making;
- ix) be available to represent the Council on other bodies; and

- x) maintain the highest standards of personal conduct and ethics even if this impinges upon the ability to act as an advocate of constituents.

b) Rights and Duties

- i) 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.
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

4) Election of the Leader of the Council

- a) The term of office for the Leader of the Council will be 4 years. He **or she** will take office immediately on being appointed by the Council **by a simple majority** and will continue in office for four years unless he **or she** resigns from office or is removed from office by a simple majority of the total membership of the Council at any time.
- b) If the Council passes a resolution to remove the Leader from office, the Council will elect a new Leader at the meeting at which the Leader is removed or at a subsequent meeting.

5) Role and Function of the Leader of the Council

The primary role and responsibilities of the Leader of the Council will be:

- a) to lead the Council's overall cohesive corporate and strategic direction, budget, strategy and policy development;
- b) to preside over meetings of the Cabinet;
- c) to be the principal spokesman for the Council; and
- d) to co-ordinate and develop partnership working and community liaison.

Executive roles of the Leader are:

- i) to determine the size of the Cabinet;
- ii) to appoint between two and nine members of the Council to be the Cabinet in addition to himself;
- iii) to allocate areas of responsibility (portfolios) to the Cabinet members;
- iv) to remove Cabinet members from that office as he sees fit;
- v) to determine the scheme of delegation for the discharge of the executive functions of the Council;

- vi) to report to the Council on all appointments and changes to the Cabinet membership;
- vii) to appoint one of the Cabinet members to be his deputy, to hold office until the end of his term of office as Leader (unless the member resigns as Deputy Leader, ceases to be a councillor, or is disqualified or removed from office by the Leader);
- viii) if he sees fit, to remove the Deputy Leader from office, in which event he must then appoint another Cabinet member to that position.

If for any reason the Leader is unable to act or the office is vacant, the Deputy Leader must act in that position. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

6) **Conduct**

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

7) **Allowances**

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

Article 3 – **Members of the Public Citizens** and the Council

1) **Citizens' Public Rights**

Members of the Public Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- a) **Voting and Petitions** **Members of the public Citizens** on the electoral roll for the area have the right to vote ~~and sign a petition to request a referendum for an elected mayor form of executive arrangements.~~
- b) **Information** ~~**Members of the Public Citizens**~~ have the right to:
 - i) ~~observe attend~~ meetings of the Council, its Committees, Scrutiny Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting may therefore be held in private;
 - ii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
 - iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - iv) inspect and ask questions about the Council's accounts and make their views known to the external auditor.
- c) **Participation** **Members of the Public Citizens** have the right to participate in the Council's business by submitting petitions, deputations and questions to the Council, its Committees and Scrutiny Committees and also contribute to investigations by Scrutiny Committees.

- d) **Complaints** ~~Members of the Public Citizens~~ have the right to complain to:
- i) the Council itself under its complaints scheme;
 - ii) the Local Government Ombudsman after using the Council's own complaints scheme;
 - iii) the Monitoring Officer about a breach of the Councillor's Code of Conduct.
- 2) **Residents and Service User Citizens' Responsibilities** ~~Members of the Public Citizens~~ must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

Article 4 – The Full Council

1) Meanings

- a) **Policy Framework** The policy framework means the following plans and strategies. ~~These fall into three separate groups:~~
- i) ~~those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations proposed under Section 32 of the Local Government Act 2000 to be adopted by the Council:~~
 - ~~• Annual Library Plan;~~
 - Best Value Performance Plan;
 - Children and Young Persons Services Plan;
 - ~~• Community Care Plan;~~
 - ~~• Community Strategy;~~
 - Corporate Strategy
 - Crime and Disorder Reduction Strategy;
 - Health and Wellbeing Strategy
 - Statement of Licensing Policy
 - ~~• Early Years Development Plan;~~
 - ~~• Education Development Plan;~~
 - Local Transport Plan including the Bus Service Improvement Plan;
 - Plans and strategies ~~alterations~~ which together comprise the Development Plan;
 - Development Plan Documents
 - Youth Justice Plan.
 - ii) ~~those other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice. Chapter 2 of DETR Guidance recommends should be adopted by the Council as part of the Policy Framework:~~
 - ~~• The Council's Strategic Objectives;~~
 - ~~• Admission arrangements for its schools;~~
 - Adult Learning Plan;
 - ~~• Plan or strategy for the control of borrowing, investment or capital expenditure;~~
 - Food Law Enforcement Service Plan;
 - ~~• The plan and strategy which comprise the Housing Investment Programme;~~
 - ~~• Local Agenda 21 Strategy;~~
 - ~~• Quality Protects Management Action Plan.~~
 - ~~• Statement of Licensing Policy.~~

~~iii) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice:~~

- ~~• any plan which requires the approval of, or submission to, a Minister of the Crown or a Government Office.~~

b) **Budget** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the 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 (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 or 43 of the Housing Act 1985.~~

2) **Functions of the Full Council**

Only the Council will exercise the following functions:

- adopting and changing the Constitution other than consequential changes which may be made by the Monitoring Officer **and will be reported to the next normal meeting of the Constitution Commission.**;
- approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- 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;
- appointing the Leader;
- agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them **and appointing Chairmen** ;
- agreeing and/or amending the Terms of Reference for Scrutiny Committees, deciding on their composition and making appointments to them;
- appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- adopting an allowances scheme under Article 2, point 7);
- changing the name of the area or conferring the title of Honorary Alderman or Freeman;
- confirming the appointment of the Head of Paid Service;

- k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- m) all other matters which, by law, must be reserved to Council. (See also the schedule at the end of Part 3)

3) **Council Meetings**

There are three types of Council meeting:

- a) the annual meeting;
- b) ordinary meetings;
- c) special meetings.

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

4) **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5 – Chairing Meetings of the Council

1) **Role and Function of the Chairman of the Council**

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

- a) **First Citizen** The Chairman of the Council shall take precedence and shall be the first citizen of Rutland.
- b) **Promotion of the Council** The Chairman will promote the Council as a whole and act as a focal point for the community.
- c) **Ceremonial Matters** The Council will decide what civic and ceremonial duties the Chairman will carry out.

2) The Council will elect the Chairman annually. The Chairman will have the following responsibilities:

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- b) 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;
- c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet, who do not sit on regulatory Committees or hold appointments as Committee Chairmen, are able to

hold the Cabinet and members of the regulatory Committees and Committee Chairmen to account;

- d) to promote public involvement in the Council's activities;
- e) to be the conscience of the Council; and
- f) to attend such civic and ceremonial functions in Rutland and neighbouring authorities as the Council and he determines appropriate.

Article 6 – Overview and Scrutiny Committees

OVERVIEW AND SCRUTINY – GENERAL COMMENTS

1) **Terms of Reference**

The Council has one Strategic Overview and Scrutiny Committee. This Committee is also the Council's designated crime and disorder committee under Section 19 of the Police and Justice Act 2006 and is responsible for local authority scrutiny of health matters under the National Health Service Act 2006.

The Council will appoint the Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by Section 21 of the Local Government Act 2000 or any regulations made under Section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

NAME OF SCRUTINY COMMITTEE	AREA OF RESPONSIBILITY
Adults and Health	See Part 4 – Section 4 Procedure Rule 211
Children and Young People	See Part 4 – Section 4 Procedure Rule 211
Growth, Infrastructure and Resources	See Part 4 – Section 4 Procedure Rule 211

2) **Composition**

The arrangements with respect to the composition of the Overview and Scrutiny Committee will be as follows:

- The Committee will have a maximum of nine non-executive councillors, and in accordance with the provisions of the Local Government Housing Act 1989, will reflect the political balance of the Council.

The Chairman will be appointed at the Annual Meeting of the Council for the ensuing year. The Chairman of the Committee should be a Member of an opposition group unless resolved otherwise by Council.

- The Committee will appoint a Vice-Chairman, drawn from those councillors serving on the Committee.

- Cabinet Members will be expected to attend the Committee, and task and working groups appointed by the Committee, when invited, to contribute on matters that relate to their portfolio.
 - The Committee will have five representatives with full voting and call-in rights on education matters only; comprising one Church of England diocese representative, one Roman Catholic diocese representative and 2 parent governor representatives.
 - The Committee will be able to co-opt external representatives or appoint advisers, as it sees fit in a non-voting capacity.
- which Councillors and co-optees may not be involved in scrutinising a decision in they have been involved directly.

3) General Role

The Strategic Overview and ~~Within their terms of reference,~~ Scrutiny Committees will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) review, develop or propose policies in connection with the discharge of any of the Council's functions;
- c) make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or Area Committee in connection with the discharge of any functions;
- d) consider any matter affecting the area or its inhabitants; and
- e) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or any joint or Area Committees.
- f) discuss initiatives put forward for consideration by individual members of the Committee and any relevant 'call-for-action' in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution; and
- g) consider petitions referred to the Overview and Scrutiny Committee in accordance with provisions set out in the Petition Scheme set out in Part 5 of this Constitution.
- h) Follow up on any Recommendations or reports.

3) Specific functions

- a) **Overview and Policy development and review.**

The **Strategic Overview and** Scrutiny Committees may:

- i) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;

- ii) conduct research, 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 Cabinet and/or Committees and senior officers about their views on issues and proposals affecting Rutland subject to the approved protocols; and
- v) liaise with other external organisations operating in Rutland, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

b) Scrutiny

The **Strategic Overview and Scrutiny** Committees may:

- i) review and scrutinise the decisions made by and performance of the Cabinet 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, performance targets and/or particular service areas;
- iii) question members of the Cabinet and/or Committees and senior 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 Cabinet and/or appropriate Committee and/or 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).**
- vii) **review and scrutinise health service provision within its area, health promotion and the health and well-being of local communities under the relevant Health legislation.**
- viii) **use innovative ways to scrutinise matters of concern; the issue being investigated should be matched to the most appropriate process.**

c) Finance

The **Strategic Overview and Scrutiny** Committees may exercise overall responsibility for the finances made specifically available to them to undertake their scrutiny function.

d) Performance Management and Review

The Overview and Scrutiny Committee will make arrangements to review and scrutinise the performance of the Council in relation to its policy and budgetary objectives, performance targets and/or particular service areas.

- i) undertake performance reviews of the Council's functions as appropriate and prepare appropriate reports for the Cabinet and the Council.
- ii) monitor and review the outcomes of performance and process reviews and make further recommendations where necessary; and
- iii) consider the policy implications arising from reviews for other functions and services.
- iv) Monitor performance against and delivery of the Rutland Corporate Plan and the Future Rutland Vision

d) **Annual Report**

The **Strategic Overview and** Scrutiny Committees ~~may~~ **will** report annually to full Council on ~~its~~ **their** workings and make recommendations for future work programmes and amended working methods if appropriate.

e) **Officers**

The **Strategic Overview and** Scrutiny Committees ~~may~~ exercise overall responsibility for the work programme of the officers employed to support their work within any approved budgets.

4) **Proceedings of Scrutiny Committees**

The Strategic Overview and Scrutiny Committees will conduct ~~its~~ **their** proceedings in accordance with Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution.

~~5) **Form and Composition**~~

- ~~a) A Scrutiny Committee will consist of a Chairman, **Vice Chairman** together with the number of Members that may be appointed by the Council at its Annual Meeting and may be revised by the Council at other times.~~
- ~~b) Scrutiny Committees currently comprise of 7 Members.~~
- ~~c) The Chairman of the Council may decide whether he/she wishes to serve on Scrutiny Committee. All other Members who are not appointed to the Cabinet are expected to take an active role in the Scrutiny function.~~

Article 7 – The Cabinet

1) **Role**

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

2) **Form and Composition**

The Cabinet will consist of the Leader of the Council together with up to 9 more Members appointed by him. The Leader and the other Members will be known collectively as the Cabinet in Rutland.

3) **Leader**

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

- a) he resigns from the office; or
- b) he is no longer a councillor; or
- c) he completes the period of office in Article 2, part 4) or is removed from office by a simple majority or 50% of all Members plus 1 Member (for the current size of 27 Councillors this would be 14 Members) of the Council at any time, following a Notice of Motion to Council.

4) **Other Cabinet Members**

Other Cabinet members shall hold office until:

- a) they resign from office; or
- b) they are no longer councillors; or
- c) they are removed from office, either individually or collectively, by the Leader.

5) **Proceedings of the Cabinet**

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

6) **Responsibility for Functions**

The Leader will maintain a ~~list setting out the Scheme of Delegation in~~ Part 3 of this Constitution setting out where appropriate which individual Members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions. ~~The Leader will notify the Monitoring officer of any changes to the list of delegations within 5 working days of any change~~

~~7) **No delegation to individual Members of the Cabinet**~~

~~Individual Members of the Cabinet, including the Leader and Deputy Leader, shall not be responsible for exercising any executive functions. Executive functions can only be exercised by the Cabinet itself, a Committee of the Cabinet (minimum of three Members), officers or any other body granted delegated authority by the Cabinet.~~

Article 8 – Regulatory and other Committees

1) **Regulatory and other Committees**

The Council will appoint the Committees set out below: ~~in the left hand column of the table Responsibility for Council Functions in Part 3b of this Constitution~~ to discharge the functions described in Part 3 Sections 6 – 11 of this Constitution.

Audit and Risk Committee
Planning and Licensing Committee
Employment and Appeals Committee
Conduct Committee
Health and Wellbeing Board
Constitution Commission

Article 9 – Area Committees and Forums

1) **Area Committees**

~~The Council has resolved not to appoint Area Committees. Although the Council may appoint Area Committees, it has decided not to appoint any, as these are not considered appropriate for Rutland.~~

Article 10 – Joint Arrangements

1) **Arrangements to promote Well Being**

The Cabinet, in order to promote the economic, social or environmental well-being of Rutland, 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.

2) **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 or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- b) The Cabinet 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 Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
- d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
 - the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the

Cabinet may appoint to the joint Committee any councillor who is a member for any ward which is wholly or partly contained within the area. (The political balance requirements do not apply to such appointments).

- e) Where the appointment of a Committee is not required then the Head of Paid Service may establish such joint working as **they** ~~she~~ feels appropriate for the efficient discharge of the functions of the Authority provided always that only matters that are delegated to Officers are within the remit of such functions.
- f) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

3) **Access to Information**

- a) The Access to Information Rules in Part 4 of this Constitution apply.
- 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.

4) **Delegation to and from other Local Authorities**

- a) The Council may delegate functions to another local authority or, in certain circumstances, to the executive of another local authority.
- b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- c) Where matters to be delegated are within the remit of functions that have been delegated to Officers then the Head of Paid Service may delegate functions to another local authority or person.

5) **Contracting out**

The Council, for functions which are not executive functions, and the Cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 11 – Officers

1) **Management Structure**

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

- b) **Chief Officers** The full Council will engage persons for the post of Chief Executive and Statutory Officers. The Chief Officers Appointment Committee will engage persons for the other posts, who will be Members of the Senior Management Team (See Part 7 RCC Constitution).
- c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer** The Council will designate the following posts as shown:

POST	DESIGNATED OFFICER
Head of Paid Service	Chief Executive
Monitoring Officer	Director of Law and Governance
Chief Finance Officer (Section 151 Officer)	Strategic Director for Resources

The duties of both the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness. It is the function of the relevant officer to appoint each deputy, not the Council.

Such posts will have the functions described in Article 11 section 2) - 4) below.

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

2) **Functions of the Head of Paid Service**

- a) **Discharge of Functions by the Council** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b) **Restrictions on Functions** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

3) **Functions of the Monitoring Officer**

- a) **Maintaining the Constitution** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b) **Ensuring Lawfulness and Fairness of Decision Making** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an executive function, if he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Conduct Committee** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Conduct Committee.

- f) **Proper Officer for Access to Information** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
 - g) **Advising whether Cabinet Decisions are within the Policy Framework** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the policy framework.
 - h) **Providing Advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
 - i) **Complaints** The Monitoring Officer has the responsibility for being the Council's Corporate Complaints Officer and will be responsible for ensuring that adequate procedures are in place to record and monitor complaints.
 - j) **Restrictions on Posts** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- 4) **Functions of the Chief Finance Officer**
- a) **Ensuring Lawfulness and Financial Prudence of Decision Making** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
 - b) **Administration of Financial Affairs** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
 - c) **Duty to Act** To take action in accordance with Section 114 of the Finance Act 1988 where action is needed in his opinion. This relates to the requirement to report to all Members of the Council, in consultation with the Monitoring Officer, if there is or is likely to be unlawful expenditure or an unbalanced budget.
 - d) **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.
 - e) **Advising whether Cabinet Decisions are outside or not wholly in accordance with the Budget Framework** The Chief Finance Officer will advise whether decisions of the Cabinet are outside or not wholly in accordance with the budget framework.
 - f) **Providing Advice** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
 - g) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

5) **Duty to provide sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

6) **Conduct**

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

7) **Employment**

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

Article 12 – Decision Making

1) **Responsibility for Decision Making**

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

2) **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 considering of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

3) **Types of Decision**

- a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4, will be made by the full Council and not delegated.
- b) Key decisions.

A 'key decision' means an executive decision which is likely to:

- i) 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
- ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in Rutland;
- iii) in determining the meaning of 'significant' in paragraphs i) and ii) above regard must be paid to any guidance issued by the Secretary of State.

e) A decision taker may only make a key decision in accordance with **the requirements of the Local Government Act 2000 and its Associated Regulations and in accordance with procedural rules set out in Part 4 of this Constitution.** ~~the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.~~

4) Decision making by the Full Council

Subject to Article 12, Section 8) the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

5) Decision making by the Cabinet

Subject to Article 12, Section 8) the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

6) Decision making by Scrutiny Committees

Scrutiny Committees will follow the Scrutiny Committee Procedures Rules set out in Part 4 of this Constitution when considering any matter. Scrutiny Committees do not have any authority to take any decisions to discharge services or functions on behalf of the Council or the Cabinet. Scrutiny Committees can make recommendations on services and functions and the policy for delivering these services and functions.

7) Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 12, Section 8) other Council Committees and Sub-Committees will follow the Committee Procedures Rules set out in Part 4 of this Constitution.

8) Decision making by Council bodies acting as Tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or whether to bring criminal proceedings for an alleged offence against 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.

9. Decision-making by Council Officers

Council officers shall exercise powers delegated to them in accordance with Article 11 and Part 3 of the Constitution – Scheme of Delegations and Designations of Proper Officers and shall record, in accordance with the relevant statutory provisions and regulations, any executive decisions that they may make.

Article 13 – Finance, Contracts and Legal Matters

1) Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 9 of this Constitution.

2) **Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 10 of this Constitution.

3) **Legal Proceedings**

The Monitoring Officer ~~Deputy Director: Corporate Governance~~ is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the ~~Deputy Director: Corporate Governance~~ considers that such action is necessary to protect the Council's interests.

4) **Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the ~~Monitoring officer Deputy Director: Corporate Governance~~ or other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts entered into on behalf of the local authority in the course of the discharge of any function shall be made in writing. Such contracts must either be signed by an officer of the authority or made under the common seal of the Council attested by at least one officer authorised to do so by the Chief Executive or the ~~Monitoring officer Deputy Director: Corporate Governance~~

5) **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the ~~Monitoring officer Deputy Director: Corporate 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 ~~Monitoring Officer Deputy Director: Corporate Governance~~ should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the ~~Monitoring Officer Deputy Director: Corporate Governance~~ or some other person authorised by them and the ~~Leader or Deputy Leader of the Council~~.

Article 14 - Review and Revision of the Constitution

1) **Duty to monitor and review the Constitution**

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

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 to achieve better the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- a) observe meetings of different parts of the Member and officer structure;
- b) undertake an audit trail of a sample of decisions;

- c) record and analyse issues raised with him by Members, officers, the public and other relevant stakeholders; and
 - d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.
- 2) **Changes to the Constitution**
- a) **Approval** Changes to the constitution, other than consequential changes which may be made by the Monitoring Officer **and reported to the Constitution Commission**, will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.
 - b) **Change from a Leader and Cabinet form of executive to other arrangements** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 15 – Suspension, Interpretation and Publication of the Constitution

1) **Suspension of the Constitution**

- a) **Limit to suspension** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- b) **Procedure to suspend** A motion to suspend any rules will not be moved without notice unless at least one half of the total number of councillors 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.
- c) **Rules capable of suspension** The following Rules may be suspended in accordance with Article 15, Section 1

All procedural Rules in Part 4 of the Constitution that are not statutory core Procedural Rules.

2) **Interpretation**

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

3) **Publication**

- a) The Monitoring Officer will ensure that the Constitution is available through the Council's Web Site.
- b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices and libraries, and can be purchased by members of the local press and the public on payment of a reasonable fee.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

- 1) **Article 6 (Overview and Scrutiny Committees)** - and the Scrutiny Committee Procedure Rules;
- 2) **Article 7 (The Cabinet)** - and the Cabinet Procedure Rules;
- 3) **Article 9 (Area Committees and Forums)** - Not applicable as there are no Area Committees;
- 4) **Article 10 (Joint Arrangements)** ;
- 5) **Article 12 (Decision making)** - and the Access to Information Procedure Rules;
- 6) **Part 3 (Responsibility for Functions)**.