

# Part 2

## Articles of the Constitution

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## **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 all its appendices, is the Constitution of the Council of the District of East Northamptonshire.

#### **1.03 Purpose of the Constitution**

The purpose of the constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations;
2. help councillors to represent their constituents more effectively;
3. enable decisions to be taken efficiently and effectively, with due regard to value for money;
4. create a transparent and effective means of holding decision-makers to public account;
5. ensure that no one will review or scrutinise a decision in which they were directly involved;
6. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
7. support the active involvement of local people in the process of local authority decision-making;
8. provide a means of improving the delivery of services to the community;
9. enable the Council to design and operate an organisational and management structure which ensures that local people receive high quality services; and
10. ensure that the management arrangements of the Council reflect the nature and diversity of the district of East Northamptonshire, fairly balancing the needs of its towns and villages.

#### **1.04 Interpretation and Review of the Constitution**

Where the constitution permits the Council to choose between different courses of action, the Council will always choose the option which it thinks is closest to the purposes stated above. The (full) Council will monitor and evaluate the operation of the constitution as set out in Article 14.

All references requiring written notice shall, unless specifically noted otherwise, include written notice by email

## Article 2 – Members of the Council

### 2.01 Composition and eligibility

- (a) **Composition.** The (full) Council comprises 40 councillors. One or more councillors will be elected by the voters of each ward of the district in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district of East Northamptonshire or those living, working or owning/renting land or property in East Northamptonshire will be eligible to hold the office of councillor. Councillors must be over 18 years old.

### 2.02 Election and terms of Councillors

The ordinary election of all councillors will be held on the first Thursday in May every four years beginning in 2003, unless specified otherwise by legislation. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the next election.

### 2.03 Roles and functions of all Councillors

#### (a) Role and Purpose

All councillors, including the Chairman and the elected Leader sign a statutory declaration on accepting office. They 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. be the advocate of, and for, their communities. In doing so, if contacted as a district councillor about an issue not relating to the member's ward, members must contact the ward relevant member(s) to gain consent to take the issue further. (This excludes the leader/deputy leader of the council).
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) respond to constituents' enquiries and representations fairly and impartially;
- (v) balance different interests identified in their ward and represent the ward as a whole;
- (vi) be involved in decision-making;
- (vii) be available to represent the Council on other bodies; and

(viii) maintain the highest standards of conduct and ethics.

**(b) Key Tasks**

A councillor's key tasks are to:-

- (i) fulfil the statutory requirements of an elected councillor of a local authority and the locally determined requirements of the council itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the (full) Council;
- (ii) participate effectively as a member of any committee, board or panel to which he or she is appointed, including related responsibilities for the functions falling within a committee's terms of reference and liaison with other public bodies to promote better understanding and partnership working;
- (iii) participate, where appointed to do so, in the scrutiny or review of services, and their effectiveness in achieving the Council's strategic objectives;
- (iv) participate in the activities of an outside body to which he or she is appointed, providing two-way communication between the organisations.
- (v) participate, as appointed, in consultative processes with the community and with other organisations;
- (vi) develop and maintain a working knowledge of the organisations, services, activities and other factors that impact upon the well being and identity of East Northamptonshire
- (vii) contribute constructively to open government and democratic renewal and actively encourage local people to participate generally in the government of the area; and
- (viii) participate in the activities of any political group of which he or she is a member.

**(c) 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.

## **2.04 Conduct**

Councillors will at all times observe the Councillors’ Code of Conduct, the Code of Practice for Planning Procedures and the Protocol on Councillor /Officer Relations set out in Part 5 of this constitution, and any other code or procedure relating to the conduct of councillors as may be agreed by the full Council from time to time.

## **2.05 Allowances**

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

For the purposes of determining the payment of the Leader of the Opposition Group Special Responsibility Allowance (SRA) the “Opposition Group” shall be defined as follows:

- i) The largest minority Political Group represented on the Council by the number of elected Members within the Group will be deemed to be the “Opposition Group” and the designated Leader of that Political Group shall be paid the SRA;

Or

- ii) Where there are two or more minority Political Groups, with an equal number of elected Members in each, forming the second largest Political Groups on the Council, both shall be deemed to be the “Opposition Group” and the designated Group Leaders of those Groups shall be regarded as jointly holding the office of Leader of the Opposition Group. The payment of the SRA associated with the office of Leader of the Opposition Group shall be divided equally between the Group Leaders jointly holding that office.

## Article 3 – Citizens and The Council

### 3.01 Citizens' rights

People living and working (and in some cases studying) in East Northamptonshire 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 mayoral petitions. 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 constitution.
- (b) Other types of petitions. Those who live or work or study in the area have the right to submit petitions within the Council's published Petitions Scheme
- (c) Information. Citizens have the right to:
  - (i) attend meetings of the (full) Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) see reports and background papers, and any records of decisions made by the (full) Council and its committees, unless they are confidential or otherwise exempt; and
  - (iii) inspect the Council's accounts and make their views known to the external auditor.
- (d) Participation. Citizens have the right to address the (full) Council and meetings of its committees in accordance with the appropriate procedures for public speaking..
- (e) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints procedures;(see Council's Customer Feedback and Complaints – Policy on - [https://www.east-northamptonshire.gov.uk/downloads/file/10333/customer\\_feedback\\_and\\_complaints\\_policy\\_2017](https://www.east-northamptonshire.gov.uk/downloads/file/10333/customer_feedback_and_complaints_policy_2017))
  - (ii) the Local Government Ombudsman after using the Council's own complaints procedure; (for further details see <http://www.lgo.org.uk/make-a-complaint>) or
  - (iii) the council's Monitoring Officer about an alleged breach of the Councillor's Code of Conduct. (See [https://www.east-northamptonshire.gov.uk/info/200033/councillors\\_democracy\\_and\\_elections/1395/complaints](https://www.east-northamptonshire.gov.uk/info/200033/councillors_democracy_and_elections/1395/complaints) about councillors and Part 9 of this Constitution
  - (iv) the council's Data Protection Officer (see [https://www.east-northamptonshire.gov.uk/info/200033/councillors\\_democracy\\_and\\_elections/1395/complaints](https://www.east-northamptonshire.gov.uk/info/200033/councillors_democracy_and_elections/1395/complaints))

[northamptonshire.gov.uk/site/scripts/home\\_info.php?homepageID=326](http://northamptonshire.gov.uk/site/scripts/home_info.php?homepageID=326)  
) or the Information Commissioners Office (for further details see <https://ico.org.uk/> ) if they wish to complain about the use of their personal information.

### **3.02 Citizens' responsibilities**

Councillors and officers have an equal right to fair treatment. People must not be violent, abusive or threatening to councillors or officers and must not wilfully harm property or land owned by the Council, councillors or officers. All registered electors are encouraged to use their democratic right to vote.

## Article 4 – The Full Council

### 4.01 Functions of the full Council

Only the full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer;
- (c) agreeing and/or amending the terms of reference for Committees, deciding on their constitution and making appointments to them;
- (d) debating issues which are the subject of petitions signed by a specified number of people (as laid down in the Council's published Petitions Scheme);
- (e) approving the annual calendar of meetings;
- (f) appointing representatives to outside bodies unless the appointment has been delegated by (full) Council;
- (g) adopting an allowances scheme for councillors under Article 2.05;
- (h) changing the name of the area;
- (i) approving the appointment of the Head of Paid Service;
- (j) appointing the Leader and Deputy Leader of the Council;
- (k) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (l) deciding whether or not to delegate a function to another council or accept a delegation of function from another local authority under Article 10 of this Constitution;
- (m) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself;
- (n) the council's Pay Policy and
- (o) all other matters which, by law, must be reserved to (full) Council.

### 4.02 Meanings

**(a) Policy Framework.** The 'policy framework' means the following plans and strategies:

- (i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Local Authorities (Alternative Arrangements) (England) Regulations 2001 to be adopted by the Council and other specific legislation

- The Crime and Disorder Reduction Strategy;
- Food Safety Service Plan
- Statement of Policy – Licensing Act 2003 and Gambling Act 2005
- Local Code of Governance
- The Capital Programme
- The Asset Management Plan
- The Members' Allowances Scheme

- The Corporate Plan.
  - Local Code of Governance
  - Treasury Management Policy Statement
  - The annual Treasury Management Strategy Statement including the annual Treasury Management Indicators
  - The mid year and year end reviews of the above
  - The annual Prudential Indicators Report
- (ii) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.
- The Local Plan (excluding Neighbourhood Plans)
- (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 disposal of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### **4.03 Council meetings**

There are three types of Council meeting:

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

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

## **Article 5 – Chairing the Council**

### **5.01 Role and function of the Chairman and Vice-Chairman of the Council**

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

- (a) Ceremonial role
- (b) Chairing the full Council meeting.

### **5.02 Ceremonial Role**

The Chairman of the Council shall be regarded as the ‘First Citizen’ of the district of East Northamptonshire. The Chairman is a symbol of the Local Authority, of an open society, and a focus for civic pride. The Chairman and his/her consort will promote the Council as a whole. The Chairman wears the Chain of Office as a symbol of his/her status. The Chairman presides at East Northamptonshire Council functions and at meetings of the full Council, if present. It is customary for the entrance of the Chairman to be announced on each occasion at the Council meeting and for all councillors to stand when he/she enters as a mark of respect for the role of Chairman.

### **5.03 Chairing the Council Meeting**

The Chairman is a member of the Council elected by majority vote of the (full) Council annually and presides at (full) Council meetings. He/she will have the following responsibilities:

1. to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
2. to preside over meetings of the (full) 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 (full) Council meeting is a forum for the debate of matters of concern to the local community.
4. to promote public involvement in the Council’s activities; and
5. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

### **5.04 Mid Year Changes**

A mid-year appointment may be made to the position of Chairman or Vice-Chairman at the next appropriate (full) Council meeting if the post-holder elected at the Annual Council meeting is unable to complete the term of office for any reason.

## **Article 6 – The Council Leader**

### **6.01 The Leader of the Council**

The Leader is a councillor elected by the Council to the position of Leader. The term of office for the Leader is one year. The Leader is elected at the Annual Meeting of the Council and holds office until the next following Annual Meeting or:

- (a) s/he resigns from the office; or
- (b) s/he is no longer a Councillor; or
- (c) s/he is removed from office by resolution of the (full) Council (see 6.05)

in which case a new Leader shall be elected at the next appropriate (full) Council meeting.

### **6.02 Election of the Leader**

Nominations for the position of Leader will be made in writing to the Chief Executive of the Council no later than 7 days before the day of the Annual meeting (or next appropriate (full) Council meeting in respect of (a) to (c) in Rule 6.01). The proposer must first obtain the consent of the nominee. Nominations must be proposed and seconded. In the event that more than one eligible nomination is received a ballot of the councillors will be held at the Annual Meeting. The Chairman of the Council will preside and, in the event of a dead heat, will exercise a casting vote in accordance with Council Procedure Rule 16.2.

### **6.03 Role of the elected Leader**

The Leader of the Council will have the following roles, rights and responsibilities, in addition to those set out in Article 2.03

- (a) to be the local authority's principal public spokesman;
- (b) to give clear leadership to the Council and the community;
- (c) to report as necessary to the Council;
- (d) to be the councillor of first choice to represent the Council at Member level meetings with other local authorities and with other organisations; and
- (e) to act as the principal contact for the Chief Executive in seeking views and taking soundings at the political level across all groups.

and, subject to political balance rules,

- (f) to serve as an ex-officio member of Policy and Resources and Planning Policy Committees and their sub-committees (with voting rights)

The Leader of the Council may not be the Chairman of the Council or the Governance and Audit Committee.

#### **6.04 Deputy Leader of the Council**

The (full) Council will, at the Annual Meeting, elect a Deputy Leader to act in the notified absence of the Leader, under the same arrangements as apply to the Leader and outlined in 6.03 above. Subject to political balance rules, the Deputy Leader shall serve as an ex-officio member of Policy & Resources and Planning Policy committees and their sub-committees (with voting rights) or the Governance and Audit Committee. The post holder holds office until the next Annual Council Meeting unless that person is unable to complete the term for the reasons outlined in paragraph 6.01, in which case a new Deputy Leader shall be elected at the next appropriate meeting in accordance with the provisions in paragraph 6.02

#### **6.05 Motion to remove the Leader or Deputy Leader**

Any motion submitted to any (full) Council meeting to remove the Leader and/or Deputy Leader from office under 6.01(c) above must follow the rule for Motions on Notice outlined in part 4.1 Section 11.

If the motion is passed, it will be followed immediately by an item to appoint a new Leader of the council. If the (full) Council resolves to remove the Leader but fails to appoint a successor then an item to appoint a new Leader must be included on the next and successive (full) Council agendas until a replacement Leader has been appointed.

**There is no Article 7 at this time**

## **Article 8 – Policy, Regulatory and Other Committees**

### **8.01 Policy and Regulatory Committees**

The (full) Council will appoint the Committees set out in the left hand column of the table 'Responsibility for Council Functions' in Part 3 of this constitution to discharge the functions described in column 3 of that table. Membership of the committees will be determined in accordance with the statutory political balance requirements.

### **8.02 Governance & Audit Committees**

The (full) Council will appoint councillors to a Governance and Audit Committee, the purpose of which is to oversee and provide independent assurance on the council's arrangements in relation to audit and governance arrangements; standards of ethics and probity and systems for risk management and internal control. The committee has the power to appoint time-limited working parties and panels as necessary.

In order to preserve the independence of the Governance and Audit Committee, membership of the Governance and Audit Committee is reserved to councillors not on the Policy and Resources Committee. Members of other committees may serve on the Governance and Audit Committee.

Membership of Governance and Audit committees will be determined in accordance with the statutory political balance requirements

### **8.04 Proceedings of the Committees**

Proceedings of all Committees listed in this article shall take place in accordance with the Procedure Rules set out in Part 4 of this constitution.

## **Article 9 - The East Northamptonshire Joint Standards Complaints Committee and Independent Person (Part 2 of the ENC Constitution)**

### **9.01 Terms of Reference**

- a) This joint committee, to be known as the East Northamptonshire Joint Standards Complaints Committee, will be constituted for the discharge of the duties as provided under the Localism Act 2011 Part 1 Chapter 7. It will act, under powers delegated under section 101 of the Local Government Act 1972, to implement the arrangements agreed by East Northamptonshire (as Part 9 of the constitution) for the investigation and determination of allegations.
- b) The East Northamptonshire Joint Standards Complaints Committee will have the following roles and functions in addition to the provision of Panels for the hearing and appeal stages of a complaint or a Dispensations Panel when necessary under Part 9:
  - i) Receive a regular report from the Monitoring Officer which includes for the preceding period.
    - the number of requests for advice on the Councillors' Code of Conduct and complaints procedure
    - summary outcome of any complaints determined (with appropriate written report/summary as an appendices)
    - feedback on any 'other action' taken in respect of complaints
    - details of the dispensations granted and refused by the Monitoring Officer and Dispensations Panels
  - ii) advising East Northamptonshire Council on the adoption or revision of the Members' Code of Conduct or arrangements for the review of its procedures for handling complaints against councillors
  - iii) advising, training or arranging to train Councillors on matters relating to the Members' Code of Conduct;
  - iv) granting dispensations to Councillors from requirements relating to interests set out in the Members' Code of Conduct;
  - v) provision of an appointments panel to select an Independent Person and reserve for recommendation to (full) Council for appointment.
- c) In addition, in accordance with part 9 of this constitution the Chairman or Vice Chairman may be consulted by the Monitoring Officer when decisions are taken on:
  - Initial assessment of a complaint
  - If an Investigation Report concludes there is evidence of failure and it is proposed that other action is to be taken
  - Short listing of candidates for Independent Person

- d) **Political Balance:** As a joint committee, membership of this committee is exempt from the political proportionality requirements of section 15 of the Local Government & Housing Act 1989

## **9.02 Composition**

- a) The joint committee shall consist of 14 members of whom 7 members shall be appointed by East Northamptonshire Council (ENC) from its Members.
- b) The remaining seven members will be elected by vote, with one vote per council from the town and parish councils within the East Northamptonshire District. Up to one nomination per council will be sought in advance of the election. Nominees must be currently serving as town or parish councillors. The seven nominees with the greatest number of votes in any election will be elected to serve on the joint committee. In the case of a tie in numbers of votes cast, membership shall be decided by drawing of lots by the Monitoring Officer
- c) All members of the joint committee shall serve for no more than two consecutive terms of four years or for a shorter period of time. Such a shorter period shall end upon them ceasing to be eligible to act as a member of that committee or them ceasing to be a District or Town or Parish Councillor.
- d) The Independent Person, as required under Section 28 of the Localism Act 2011, shall be eligible to attend all meetings and panels of the joint committee. That person will not be co-opted or have voting rights, but will be able to remain for any discussions and debate when the public and press are excluded in order to discharge the advice giving role as outlined in the Act.

## **9.03 Proceedings of the Committee**

- a) The Chairman of the committee shall be elected by majority vote of those present at the first meeting of the Civic Year. If the elected Chairman is an ENC councillor then an election for the Vice Chairman shall be held from the Town and Parish councillors. If the elected Chairman is a Town or Parish councillor then an election for the Vice Chairman shall be held from the ENC councillors.
- b) A meeting of the Joint Standards Complaints Committee shall not be quorate unless at least five members (including one District Councillor, and one Town or Parish Councillor) are present for its duration
- c) The meetings and proceedings of the joint committee shall be conducted in accordance with the rules set out in Part 4 of the East Northamptonshire Council Constitution.

- d) When Hearing, Appeal or Dispensation Panels are required, the three councillors required will generally be drawn from members of this committee who serve on the same tier of council. Exceptionally, where this is not possible because of conflict of interest or other reasons such as illness, such panels will have a majority of members from the same tier. The Monitoring Officer and Deputy Monitoring Officer have delegated authority to select the members of panels on the basis of availability and experience.
- e) Each member of the joint committee shall be entitled to recover from East Northamptonshire Council any expenses he incurs in connection with the discharge of the joint committee's functions (as per the travel and expenses procedures outlined in Part 6 of the Council's Constitution). No further allowance will be payable. The expenses incurred by the joint committee shall be defrayed by East Northamptonshire Council.
- f) When serving on the joint committee, all councillors are expected to follow the Code of Conduct adopted by the East Northamptonshire Council
- g) Support for the administration of the joint committee will be provided by East Northamptonshire Council.

#### **9.04 Role of the Independent Person**

- a) The Localism Act 2011 provides that the Independent Person
  - must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
  - may be consulted by the authority in respect of a standards complaint at any other stage; and
  - may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.
- b) East Northamptonshire Council will appoint, by agreement of the majority of councillors at a (full) Council meeting, one person to carry out the duties of an Independent Person in relation to its adopted procedure for dealing with Complaints against Councillors. It will also appoint by the same process a reserve Independent Person to act if the Independent Person is unavailable to act due to illness or holiday or other circumstance (including conflict of interest in the case of appeals).
- c) The Independent Person (and reserve) will be offered, and expect to undertake, appropriate training for their role.

- d) The Independent Person (and reserve), when acting in this role, and in the role of being a member of an Independent Panel as set out in f) below, is expected to abide by the Councillors Code of Conduct outlined in the East Northamptonshire Council Constitution and will sign an undertaking to that effect on appointment.
- e) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 provides that the Independent Person (and reserve) may be invited to be a member of an Independent Panel to advise and make recommendations on the taking of disciplinary action against a Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer.

### **9.05 Appointment of the Independent Person**

- a) The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of (full) Council.
- b) The Localism Act 2011 states that a person cannot be "independent" if he/she:
  - Is, or has been within the past 5 years, a member, co-opted member or officer of the Council, OR
  - Is or has been within the past 5 years, a member, co-opted member or officer of a parish or town council of which East Northamptonshire Council is the principal authority) OR
  - Is a relative or close friend, of a person within the paragraphs above

For this purpose, "relative" means:

- (a) the candidate's spouse or civil partner;
  - (b) any person with whom the candidate is living as if they are spouses or civil partners;
  - (c) the candidate's grandparent;
  - (d) any person who is a lineal descendent of the candidate's grandparent;
  - (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
  - (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e);
  - (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person
- c) In addition this council requires that an Independent Person should:
    - not be a member of a political party
    - be resident within the District or within 10 miles of the border of the District
  - d) The Independent Person and reserve will be appointed for a maximum period of two terms of four years.
  - e) When the appointment of the Independent Person (and reserve) is required, an advertisement will be placed on the council's website and in Nene Valley News (or equivalent) outlining the role and seeking expressions of interest together with details of relevant experience,

allowing three weeks for response.

- f) A shortlist of candidates will then be prepared by the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Joint Standards Complaints Committee. Five members of the joint committee (chaired by, and with a majority of, ENC councillors) will interview the shortlisted candidates and select the chosen candidate and reserve candidate for recommendation to (full) Council for appointment.

#### **9.06 Remuneration of the Independent Person**

- a) The key activities of the Independent Person are:-
- being available for consultation by the Monitoring Officer at the following stages of a complaint-
  - initial assessment
  - after production of an Investigation Report where the Monitoring Officer is considering 'other action'.
  - Attendance by invitation at Hearing Panels in order to present their views (they will not be voting or co-opted members)
  - Being available for consultation by members against whom a complaint has been made.
- b) The Independent Person will be paid a special responsibility allowance as set out in Part 6 of the Constitution 'Members' Allowances Scheme. The reserve will also be paid a special responsibility allowance at half the rate on the Independent Person which would include:
- attendance by invitation at the quarterly meetings of the Joint Standards Complaints Committee
  - carrying out the duties of the Independent Person for up to 4 calendar weeks in any 12 months
- Duties for longer periods than 4 weeks would be paid pro-rata to the allowance for the Independent Person.
- c) Any member of an Independent Panel established under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to consider disciplinary action against the Head of Paid Service; the Monitoring Officer or the Chief Finance Officer may be remunerated up to the amount of the annual allowance paid to the Council's Independent Person appointed under section 28 (7) of the Localism Act 2011.

## **Article 10 – Joint Arrangements**

### **10.01 Arrangements to promote well being**

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

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

In addition, the Council will develop local and regional strategic partnerships to further the interests and well-being of the community and provide links and dialogue with and between all sections of the community and with other bodies and agencies operating within and beyond East Northamptonshire whose activities impact on the economic, social or environmental well-being of the area. Local and regional strategic partnerships will be determined by agreements between the partners and may implement local actions derived from council strategies.

### **10.02 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. Such arrangements may involve the appointment of a joint committee with these other local authorities
- (b) Such arrangements may involve the appointment of a joint committee with these other local authorities. Appointment of East Northamptonshire Council representatives to Joint Committees shall be made by (full) Council. Where the Terms of References of Joint Committees allow named substitutes, these may also be appointed by (full) Council on the basis of the same political proportionality as the representatives.
- (c) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegation in Part 3 of this constitution.

### **10.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this constitution apply.
- (b) If the joint committee contains councillors who are not on the Executive of any participating authority the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **10.04 Delegation to and from other local authorities**

- (a) The Council may delegate 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 the Council meeting.

## **10.05 Contracting out**

The Council 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

### 11.01 Management structure

- (a) **Chief Officers.** The (full) Council will engage persons for the following posts, who will be designated Chief Officers:

<i>POST</i>	<i>Area of Responsibility</i>
Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all Officers and leadership of the Corporate Management Team)</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>The Chief Executive is the Proper Officer of the Council for any purpose in respect of which a proper officer is designated by statute except where otherwise provided in Part 3 of this constitution.</p> <p>The Chief Executive is the Electoral Registration Officer and Returning Officer for the purposes of the Representation of the People Act 1983.</p> <p>With the Chief Officer posts to share between them the line management of the Heads of Service for:</p> <ul style="list-style-type: none"> <li>• Resources,</li> <li>• Customer and Community Services</li> <li>• Planning Services</li> <li>• Environmental Services</li> <li>• Economic and Commercial Development</li> </ul> <p>As a member of the Corporate Management Team to contribute to the corporate management of the Council.</p>
Executive Director	<p>With the Chief Executive to share between them the line management of the Heads of Service for:</p>

<ul style="list-style-type: none"> <li>• Executive Director Resources and Commercial</li> <li>• Executive Director for Growth and Infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Resources</li> <li>• Customer and Community Services</li>   <li>• Planning Services</li> <li>• Environmental Services</li> <li>• Economic and Commercial Development</li> </ul> <p>As a member of the Corporate Management Team to contribute to the corporate management of the Council.</p>
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(b) **Statutory Officers (Head of Paid Service, Monitoring Officer and Chief Financial Officer)** The Council will designate the following posts as shown:

<i>Post</i>	<i>Designation</i>
Chief Executive	Head of Paid Service
Executive Director Resources and Commercial	Chief Finance Officer
Head of Legal Services Group (External Appointment)r	Monitoring Officer

Such posts will have the functions described in Article 11.02 –11.04 below.

(c) **Structure.** The Head of Paid Service will determine and publish 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.

### 11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of the Paid Service will report to the 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. General arrangements for the appointment of officers will be the responsibility of the Head of the Paid Service in accordance with the Officer Employment Procedure Rules (part 47)
- (b) **Restrictions on functions.** The Head of the Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 11.03 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 (full) Council 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. Similarly, the Chief Finance Officer will report to (full) Council if it appears that

the Council is about to exceed the resources available, such a report will prevent the Council from entering into any further commitments until the report has been considered by the Council.

- (b) **Administration of financial affairs.** The Chief Finance Officer is responsible for the administration of the financial affairs of the Council and the maintenance of an effective internal audit function.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to members of the public and the community.

#### **11.04 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 councillors, officers and citizens.
- (b) **Ensuring lawfulness and fairness of decision making.** The Monitoring Officer, after consulting with the Head of the Paid Service and the Chief Finance Officer, will report to (full) Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Arrangements.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct by providing support to the Council and Governance and Audit Committee in relation to the effective operation of the overall framework including Codes of Conduct and to the Joint Standards Complaints Committee in relation to the handling of complaints.
- (d) **Contributing to corporate management and providing advice.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to the Council and all councillors.
- (e) **Registration of Interests.** The Monitoring Officer will establish and maintain

a Register of Interests of councillors, including those representing the Town and Parish Councils in the district.

- (f) **Management of complaints against councillors.** The Monitoring Officer will conduct the assessment, investigation, hearing and appeal of complaints that councillors may have breached the Code of Conduct in accordance with the provisions of Part 9 of this Constitution and in accordance with the delegated powers in Part 3.
- (g) **Granting of Dispensations.** The Monitoring Officer is the Proper Officer for the purposes of receiving applications for dispensations from councillors in relation to Discloseable Pecuniary Interests pursuant to section 33(1) of the Localism Act 2011
- (h) **Proper officer for access to information.** The Monitoring Officer will ensure that policy decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible and that decisions are properly and accurately recorded.
- (i) **Advising whether decisions are within the Policy and Budget Framework.** The Monitoring Officer, in consultation with the Chief Finance Officer, will advise whether decisions committees (and sub committees where delegated) are in accordance with the policy and budget framework.
- (j) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in the Monitoring Officer's and Chief Finance Officer's opinions sufficient to allow their duties to be performed. Notwithstanding this statutory duty, any such requirements will, in practice, first be considered by the Council's Corporate Management Team.

#### **11.06 Conduct**

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

#### **11.07 Employment**

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

## **11.08 Data Protection Officer (DPO)**

Under the GDPR, it is mandatory for this council to designate a DPO. In addition to facilitating compliance, DPOs act as intermediaries between relevant stakeholders (e.g. supervisory authorities, data subjects, and business units within an organisation).

It should be noted that the designation of a DPO does not take away the responsibility of the council to ensure, and to be able to demonstrate, that the processing of data is performed in accordance with its provisions. (The DPO is not personally responsible in case of non-compliance with the GDPR)

The regulations also require that the DPO must also be given sufficient autonomy and resources to carry out their tasks effectively.

## **Article 12 – Decision Making**

### **12.01 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.

### **12.02 Principles of decision making**

All decisions of the Council will be made in accordance with the following general 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) due consideration of available options
- d) respect for human rights (see below for further details);
- e) a presumption in favour of openness;
- f) clarity of aims and desired outcomes;
- g) due explanation of the reasons for the decision.

### **12.03 Types of decision**

Decisions relating to the functions listed in Article 4.01 will be made by the full Council and not delegated.

### **12.04 Decision making by (full) Council and Committees**

Subject to Article 12.05, all meetings including (full) Council will follow the Council Procedures Rules set out in Part 4 of this constitution when considering any matter.

### **12.05 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 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.

## **Article 13 – Finance, Contracts and Legal Matters**

### **13.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this constitution and will from time to time be subject to review and updating by the Chief Finance Officer (s.151 Officer) subject to any modification then being reported to the Council.

### **13.02 Contracts**

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

### **13.03 Legal proceedings**

The Chief Executive 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 Council's Legal Adviser (LGSS Legal Services) considers that such action is necessary to protect the Council's interests.

### **13.04 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 Chief Executive, the Monitoring Officer or Chief Finance Officer, Executive Director or other person authorised by the Chief Executive, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive or other person designated by him/her. 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 Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Council's Legal Adviser should be sealed, or if the total value is over £500,000. The affixing of the Common Seal will be attested by the Chief Executive, the Monitoring Officer or Chief Finance Officer, or some other person authorised by the Chief Executive

## Article 14– Review and Revision of the Constitution

### 14.01 Duty to monitor and review the constitution

The Council will from time to time monitor and review the operation of the constitution to ensure that its aims and principles are given full effect. Any Member of the Council wishing to propose a change to the constitution shall follow the rules of Procedure set out in Part 4 of this constitution.

### 14.02 Protocol for monitoring and review of constitution by Monitoring Officer

The Monitoring Officer will review this constitution annually to assess its strengths and weaknesses, 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 task the Monitoring Officer may

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

### 14.03 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by (full) Council. Changes may be proposed by the Monitoring Officer (usually after changes in legislation or the annual review, or by resolution of a committee of the Council or by a working party set up for the purpose.
- (b) **Change from alternative arrangements to a mayoral form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.
- (c) **Change from alternative arrangements to a Leader and cabinet form of Executive.** 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

### 15.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this constitution may not be suspended. Certain Rules of this constitution (see 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 in accordance with Article 15.01 will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in Article 1.
- (c) **Rules capable of suspension.** The Council Procedure Rules in Part 4 (with the exception of Rules 3.3 and 16.6) may be suspended in accordance with Article 15.01.

### 15.02 Interpretation

The ruling of the Chairman 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 (full) Council. Such interpretation will have regard to the purposes of the constitution contained in Article 1.

### 15.03 Publication

- (a) The Chief Executive will give a printed copy of this constitution to each councillor on request
- (b) The Chief Executive will ensure that copies are available for inspection on the council's website, and in paper form at council offices. Copies can be purchased by members of the local press and the public on payment of a reasonable fee.

Amended by Council - 26 April 2010 Minute 472(c), Council 1 Nov 2010 Minute 245(b), 27 April 2011 Minute 495(c), 18 July 2011 Minute 102(b) Council 29 February 2012 Minute 400(a), Council 16 July 2012 Minute 108; Council 13 January 2014 Minute 319; Council 14 July 2014 Minute 84(b); Council 13 July 2015 Minute 60, Council 23 January 2017 Minute 371; Council 17 July 2017; Council 29 January 2018 Minute 348, Council 15 October 2018 Minute 241. Council 15 April 2019 Minute 527(e); Council 22 July 2019 Minute 111; Annual Council 13 May 2020 Minute ???