

## **PART 4**

### **The Articles**

The basic rules governing the Council's business.

## PART 4 – ARTICLES

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## **Article 1**

### **1 THE CONSTITUTION**

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

#### **1.1 The Constitution**

This Constitution, and all its appendices, is the Constitution of Northumberland County Council.

#### **1.2 Purpose of the Constitution**

The purpose of the Constitution is to:

- 1.2.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses, and other organisations
- 1.2.2 support the active involvement of citizens in the process of local council decision-making
- 1.2.3 help Members represent their constituents more effectively
- 1.2.4 enable decisions to be taken efficiently and effectively
- 1.2.5 create a powerful and effective means of holding decision-makers to public account
- 1.2.6 ensure that no one will review or scrutinise a decision in which they were directly involved
- 1.2.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions, and
- 1.2.8 provide a means of improving the delivery of services to the community.

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in [Article 15](#).

## **Article 2**

### **2 MEMBERS OF THE COUNCIL**

#### **2.1 Composition**

The Council will comprise 67 Members, otherwise called Members. One Member will be elected by the voters of each Electoral Division in accordance with a scheme drawn up by the Boundary Commission except in the case of the Alnwick Division, which has two Members.

#### **2.2 Eligibility**

Only registered voters of the county or those living or working there will be eligible to hold the office of Member.

#### **2.3 Election and terms of Members**

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

#### **2.4 Roles and functions of all Members**

##### 2.4.1 Key roles

All members will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions
- (b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities
- (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
- (d) balance different interests identified within the Electoral Division and represent the Electoral Division as a whole
- (e) be involved in decision-making
- (f) be available to represent the Council on other bodies, and
- (g) maintain the highest standards of conduct and ethics.

##### 2.4.2 Rights and duties:

- (a) Members will only 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.
- (b) Members 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 Member or officer entitled to know it. Failure to do so may be construed as a breach of the [Code of Conduct](#).
- (c) For these purposes, “confidential” and “exempt” information are defined in [Access to Information Procedure Rules](#) in [Part 9](#) of this Constitution.

## **2.5 Conduct**

Members will at all times observe the [Members Code of Conduct](#) and the [Protocol on Member/Officer Relations](#) set out in [Part 7](#) of this Constitution.

## **2.6 Allowances**

Members will be entitled to receive allowances in accordance with the [Members' Allowances Scheme](#) set out in [Part 12](#) of this Constitution.

## **2.7 Member Details**

Details of all elected Members of Northumberland County Council are available on the council's website at [Northumberland County Council](#)

## **Article 3**

### **3 LOCAL RESIDENTS AND THE PUBLIC**

#### **3.1 Local Residents and the Public - Rights under the Constitution**

Members of the public, particularly those who live or work in the area, have the following rights:

(NB their rights to information and to participate are explained in more detail in the [Access to Information Procedure Rules](#) in [Part 9](#) of this Constitution):

##### **3.1.1 Voting and petitions**

Local residents 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.

##### **3.1.2 Information**

The right to:

- (a) attend meetings of the [Council](#) and its [committees](#), with reasonable adjustments being made to allow participation, except those parts of meetings where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private
- (b) attend meetings of the [Cabinet](#) when key decisions are being considered
- (c) find out from the forward plan what key decisions will be taken by the Cabinet and when
- (d) see reports and background papers, and any records of decisions made by the Council, Cabinet and Committees provided that they have not been classed as exempt under the [Access to Information Procedure Rules](#)
- (e) inspect the Council's accounts and make their views known to the external auditor
- (f) contact their local councillor about any matters of concern to them
- (g) obtain information held by the Council using the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

- (h) obtain any personal information held about them by the Council, in accordance with relevant data protection legislation
- (i) record and film public meetings of the Council, cabinet or committees provided this is not undertaken in a disruptive manner ([Council Procedure Rules](#))

### 3.1.3 **Participation**

The right to:

- (a) contribute to investigations by [Overview and Scrutiny Committees](#) (in accordance with the procedures agreed by the Council or the Committees – see [Overview and Scrutiny Procedure Rules](#))
- (b) Ask Questions in accordance with the Council Procedure Rules

### 3.1.4 **Complaints**

The right to complain to:

- (a) the Council under the complaints procedure about the standard of service, action, or lack of action
- (b) the Ombudsman after using the Council's own complaints scheme
- (c) the Council's [Standards Committee](#) about a breach of the [Code of Conduct for Elected](#) Members.

### 3.1.5 **Petitions**

The right to petition the Council in accordance with the [Petition Protocol procedure](#).

## 3.2 **Responsibilities**

Members of the public must not be violent, abusive, or threatening to Members or officers and must not wilfully harm things owned by the Council, Members, or officers. Where appropriate the Council has the right to refuse to engage with offending individuals.

## **Article 4**

### **4 THE FULL COUNCIL**

#### **4.1 Introduction**

Meetings of the full Council involve all 67 Members and take place in accordance with the dates and frequency set out in the diary of meetings as agreed by full Council. An annual meeting will be held in May each year when the election of the Chair of the County Council and the appointments of the Deputy Chair of the County Council and Members to the various committees of the Council are made.

While the majority of the work of the Council is delegated to the Cabinet and these committees and also to officers, full Council remains directly responsible for the functions listed at 4.02 below.

#### **4.2 Meanings**

Budget and Policy Framework

##### **4.2.1 Policy Framework**

The plans or strategies forming the Council's Policy Framework are set out as matters reserved to full Council at [Part 5](#).

The plans or strategies forming the Council's Policy Framework are those that:

- (a) are referred to in Regulation 4 or Schedule 3 Local Authorities (Functions and Responsibilities) (England) Regulations 2000; or
- (b) that the authority has determined that the decision whether the plan or strategy should be adopted or approved should be taken by them,

which are listed in [Part 5](#) (Matters reserved to full Council)

##### **4.2.2 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, the policy on fees and charges, investments and the setting of virement limits.

#### **4.3 Functions of the Full Council**

Only the Council will exercise the following functions:

- 4.3.1 adopting and changing the Constitution;
- 4.3.2 approving or adopting the policy framework and the budget;
- 4.3.3 subject to the urgency procedure contained in the [Access to Information Procedure Rules](#) in [Part 9](#), 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.
- 4.3.4 electing the Leader;
- 4.3.5 agreeing and/or amending the terms of reference for committees, deciding on their composition, and making appointments to them; appointing the Chair and Vice Chair of all committees of council.
- 4.3.6 appointing representatives to outside bodies unless the appointment is an executive function, has been delegated by the Council or otherwise.
- 4.3.7 adopting a [Members' Allowances Scheme](#)
- 4.3.8 confirming the appointment of the Head of Paid Service and designation of the Monitoring Officer and s.151 officer;
- 4.3.9 changing the name of the area, conferring the title of honorary alderman or alderwoman;
- 4.3.10 all local choice functions set out in [Part 5](#) of this Constitution which the Council decides should not be undertaken by the Cabinet
- 4.3.11 all other matters which, by law, must be reserved to Council

#### **4.4 Council meetings**

There are three types of Council meeting:

- 4.4.1 the annual meeting
- 4.4.2 ordinary meetings
- 4.4.3 extraordinary meetings

and they will be conducted in accordance with the [Council Procedure Rules](#) in [Part 9](#) of this Constitution.

## **Article 5**

### **5 CHAIRING THE COUNCIL**

#### **5.1 Role and function of the Chair**

The Chair of the Council will be elected, and the Deputy-Chair will be appointed, by the Council annually. The Chair and in their absence the Deputy-Chair, will have the following responsibilities:

- 5.1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.1.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- 5.1.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
- 5.1.4 to promote public involvement in the Council's activities;
- 5.1.5 to be the conscience of the Council;
- 5.1.6 to attend or be represented at such civic and ceremonial functions as the Council and they determine appropriate; and
- 5.1.7 to determine any matter referred under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules and to be consulted on any matter in relation to which consultation with the Chair of the Council is considered required under this Constitution.

#### **5.2 Prohibition on membership of the Cabinet**

Neither the Chair nor the Deputy- Chair may be a Member of the [Cabinet](#).

## **Article 6**

### **6 THE CABINET**

#### **6.1 Role**

6.1.1 The Cabinet will exercise all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution, and subject (in the case of executive functions only) to the Leader determining to make the decision personally or that it should be undertaken by an individual Cabinet Member, by an officer, by a committee of cabinet or under joint arrangements.

6.1.2 Executive decision making (aside from those executive functions delegated to Officers and Committees of the Cabinet) shall be exercised by the Cabinet as a whole. No executive functions are currently delegated by the Leader to individual Executive Members.

#### **6.2 Form**

6.2.1 The Cabinet will consist of the Leader together with at least two but not more than nine Members appointed to the Cabinet by the Leader.

6.2.2 No substitution arrangements will apply to the Cabinet, and neither the Chair nor Deputy Chair of the Council may be appointed to the Cabinet.

#### **6.3 Leader**

6.3.1 The Council has decided that the Leader will be a Member elected to the position of Leader by the Council until the following the four-yearly elections. The Leader will remain in position until the Annual Council meeting following the next four yearly elections, or until:

- (a) they resign from office;
- (b) they become ineligible to be a Member of the Council, either for a specific period or indefinitely;
- (c) they cease to be a councillor;
- (d) they are removed from office by a resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.

(N.B. if the Leader is not elected or does not stand for re-election, they will remain in office during the period between the election and the Annual Council meeting when a new Leader will be elected.)

- 6.3.2 In the event of there being a vacancy in the office of Leader:
- (a) If this is in consequence of being removed by resolution of Council, a new Leader may be elected at the same meeting; or
  - (b) Council shall elect a new Leader at its next ordinary meeting, or at an extraordinary meeting called for the purpose of electing a new Leader

#### **6.4 Other Cabinet Members**

- 6.4.1 Other Cabinet Members will be Members appointed to the position by the Leader from time to time. They shall hold office until any of the events listed in (a) – (c) above apply to them or to the Leader, or until the Leader brings their term of office to an end.

#### **6.5 Deputy Leader**

- 6.5.1 The Leader shall appoint one Member of the Cabinet to be Deputy Leader who shall exercise the functions of the Leader in their absence. If the Deputy Leader is unable to act or the office is vacant, then the Cabinet must act in the Leader's place or must arrange for a Member of the Cabinet to act in their place, until a decision is made by the Council to appoint a new Leader.
- 6.5.2 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed them comes to an end, or until:
- (a) They resign from the office;
  - (b) They cease to be a Cabinet Member
  - (c) They are removed from office by the Leader.

## **Article 7**

### **7 OVERVIEW AND SCRUTINY COMMITTEES**

#### **7.1 Terms of Reference**

The Council will appoint one or more Overview and Scrutiny Committees to discharge the functions conferred by the Local Government Act 2000

**NB** Full Terms of Reference for each Overview and Scrutiny Committee are set out in [Part 6](#) of this Constitution

In considering membership of such committees, due regard should be paid to the potential contribution of community stakeholders outside the Council.

The Committees shall be entitled to co-opt non-members as non-voting co-optees as necessary for a particular matter that is subject to scrutiny.

#### **7.2 General**

Within their terms of reference, the Overview and Scrutiny Committees, and their sub-committees, will:

- 7.2.1 Review and/or scrutinise decisions made (and proposed), or actions taken in connection with the discharge of any of the Council's functions;
- 7.2.2 Make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or Local Area Committee in connection with the discharge of any functions;
- 7.2.3 Consider any matter affecting the area or its inhabitants; and
- 7.2.4 Exercise the right to call-in, for reconsideration, (through the Chair's Group) decisions made but not yet implemented by the Cabinet and/or any policy or Local Area Committee.

#### **7.3 Specific functions**

Within their terms of reference, Overview and Scrutiny Committees, and their sub-committees, may:

- 7.3.1 Assist the Council and the Cabinet in the development of the Council's [Budget and Policy Framework](#)
- 7.3.2 Review and scrutinise the decisions made by and performance of the [Cabinet](#) and/or Local Area Committee and Council officers both in relation to individual decisions and over time

- 7.3.3 Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- 7.3.4 Question Members of the Cabinet and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives, or projects
- 7.3.5 Make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process
- 7.3.6 Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance
- 7.3.7 Report and make recommendations to the Council or Cabinet on matters which affect the Council's area or the inhabitants of the area, and
- 7.3.8 Question and gather evidence from any person (with their consent).

#### **7.4 Overview and Scrutiny Budget**

Overview and Scrutiny Committees have overall responsibility for spending the budget made available to them.

#### **7.5 Annual Report**

Overview and Scrutiny Committees must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **7.6 Proceedings**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the [Overview and Scrutiny Rules](#) as set out in [Part 13](#) of this Constitution.

## **Article 8**

### **8 REGULATORY AND OTHER COMMITTEES**

- 8.1** The Council will appoint those committees set out in [Part 3](#) to discharge its regulatory and other functions. Members should normally only participate in the decision making processes of such committees after receiving appropriate training in the functions of that committee.
- 8.2** These committees are known as ordinary committees of the Council. They are subject to the requirement for political proportionality of political groups across all of their seats and, subject to the requirement for their to be a majority within the committee if there is a majority political group on the Council, proportionality so far as is practicable within the committee.
- 8.3** These committees are responsible for the exercise of those functions reserved to the Council as non-executive functions under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and that the Council has delegated to these committees. Council or a committee may further delegate these responsibilities to a sub-committee or an officer.
- 8.4** The committees will include those responsible for:
- 8.4.1 standards matters concerning the Authority's arrangements in respect of an allegation that a Member has failed to comply with the Code of Conduct and other duties under the Localism Act 2011;
  - 8.4.2 audit matters on behalf of the Authority;
  - 8.4.3 planning (development control) matters; and
  - 8.4.4 regulatory (non-Licensing Act 2003) matters

## **Article 9**

### **9 STATUTORY COMMITTEES**

**9.1** The Council is required to establish committees and bodies other than ordinary committees of the Council. These committees and bodies have a particular purpose established in legislation and do not necessarily operate according to the normal standing orders and rules that other bodies of the Council must adhere to.

#### **9.2 Licensing Committee**

The Licensing Committee is established as the administrative committee acting under statutory delegation pursuant to the Licensing Act 2003. It is responsible for making policy and individual decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005. The Committee is required to establish Licensing Panels to make individual determinations in accordance with the procedures laid down in Regulations.

#### **9.3 Health and Wellbeing Board**

A Health and Well Being Board is required to be established as an ordinary committee of the Council but amended, pursuant to 194 of the Health and Social Care Act 2012 (Establishment of Health and Wellbeing Boards) and The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

As a result, the voting members of the Board must as a minimum consist of:

- 9.3.1 at least one councillor of the local authority;
- 9.3.2 the director of adult social services for the local authority;
- 9.3.3 the director of children's services for the local authority;
- 9.3.4 the director of public health for the local authority;
- 9.3.5 a representative of the Local Healthwatch organisation for the area of the local authority;
- 9.3.6 a representative of each relevant clinical commissioning group; and
- 9.3.7 such other persons, or representatives of such other persons, as the local authority thinks appropriate.

The political requirements set out in sections 15, 16 and Schedule 1 of the Local Government and Housing Act 1989 do not apply to the membership of the Board.

The Council may choose to remove the voting rights of officers of the Council on the Board.

Guidance has been provided to assist the Council further. It is normally the case that the Board will be chaired by a councillor and that would be a Member with a relevant executive portfolio.

## **Article 10**

### **10 AREA COMMITTEES**

#### **10.1 Local Area Committees**

The Council may appoint Local Area Committee as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent, and accountable decision making.

The Council will consult with relevant parish/ town councils, the chairs of relevant parish meetings and other relevant persons/organisations when considering whether and how to establish local area committee.

#### **10.2 Form, composition, and function**

10.2.1 The Council will appoint the five Local Area Committee's. They are North Northumberland, Tynedale, Castle Morpeth, Ashington and Blyth, and Cramlington, Bedlington and Seaton Valley. Their terms of reference are set out at [Part 5, section 6](#) of the Constitution and their membership consists of all Members whose divisions lie in each area.

10.2.2 Delegations. The Council and the Cabinet will include details of any delegations to Local Area Committee's in Finance and Contract Procedure Rules at [Part 10](#) of this Constitution, including the functions delegated, showing which are the responsibility of the Cabinet and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.2.3 Local Area Committee's may appoint sub-committees or working groups which will be provided with administrative support at the discretion of the Head of Paid Service.

#### **10.3 Conflicts of interest – membership of Local Area Committee's and Overview and Scrutiny Committees**

##### **10.3.1 Conflict of interest**

If an [Overview and Scrutiny Committee](#) is scrutinising specific decisions or proposals in relation to the business of the Local Area Committee of which the Member concerned is a Member, then the Member may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the [Standards Committee](#).

##### **10.3.2 General policy reviews**

Where the [Overview and Scrutiny Committee](#) is reviewing policy generally, the Member must declare their interest before the relevant agenda item is reached, but need not withdraw.

#### **10.4 Local Area Committee's – access to information**

Local Area Committee's will comply with the Access to Information Rules at [Part 9](#) and Finance and Contract Procedure Rules at **Part 10** of this Constitution. Agendas and notices for meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet, will state clearly which items are which.

#### **10.5 Cabinet Members on Local Area Committee's**

A Member of the Cabinet may serve on a Local Area Committee if otherwise eligible to do so as a Member.

The relevant Cabinet Member may be invited to attend a meeting of a Local Area Committee depending upon the subject matter in question.

## **Article 11**

### **11 JOINT ARRANGEMENTS**

#### **11.1 Arrangements to promote well being**

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

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

#### **11.2 Joint arrangements**

- 11.2.1 The [Council](#) may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 11.2.2 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.
- 11.2.3 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 Council as a whole.
- 11.2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances:
  - (a) the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the council by area or population. In such cases, the Cabinet may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area.

The political balance requirements do not apply to such appointments.

- 11.2.5 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in [Part 5](#) of this Constitution.

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

- 11.3.1 The Council may delegate non-executive functions to another council or, in certain circumstances, the Executive of another local council.
- 11.3.2 The Cabinet may delegate executive functions to another council or the Executive of another council in certain circumstances.
- 11.3.3 The decision whether or not to accept such a delegation from another local council shall be reserved to the Council meeting.

## **Article 12**

### **12 OFFICERS**

#### **12.1 Structure**

##### **12.1.1 General**

The Council may engage such employees as it considers necessary to carry out its functions.

##### **12.1.2 Chief Office**

Chief Officers are the Council's most senior staff, to whom responsibility for functions are delegated and includes certain statutory functions. This is defined by section 43(2) of the Localism Act 2011, as meaning:

- (a) the statutory chief officers, being:
  - (i) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
  - (ii) the Monitoring Officer designated under section 5(1) of the Local Government and Housing Act 1989;
  - (iii) the officer (also known as the Chief Finance Officer) having responsibility, for the purposes of section 151 of the Local Government Act 1972, for the administration of the authority's financial affairs;
  - (iv) the director of children's services appointed under section 18 of the Children Act 2004;
  - (v) the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970; and
  - (vi) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;
  - (vii) the chief fire officer in respect of the Fire and Rescue Services Act 2004;
- (b) a non-statutory chief officer mentioned in section 2(7) of the 1989 Act; and
- (c) a deputy chief officer mentioned in section 2(8) of the 1989 Act.

##### **12.1.3 The Head of Paid Service, Monitoring Officer and section 151 (chief financial)**

The Council will designate the following posts as shown:

<b>Substantive post</b>	<b>Designations</b>
Chief Executive	Head of Paid Service
Director of Law and Governance	Monitoring Officer
Executive Director of Transformation and Resources	S.151 Officer

#### 12.1.4 **Structure**

The Head of Paid Service will publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This can be found [here](#).

### **12.2 Functions of the Head of Paid Service**

12.2.1 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.

### **12.3 Functions of the Monitoring Officer**

12.3.1 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 inspection by Members, officers and the public.

12.3.2 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 any relevant committee, if he or she considers that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.

12.3.3 Supporting the authority's duty to promote and maintain high standards of conduct - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee with responsibility for standards. The Monitoring Officer will establish and maintain the Register of Members Interests and ensure it is kept up to date and made publicly available.

12.3.4 Receiving reports – The Monitoring Officer will receive and act on reports made by the Local Government and Social Care Ombudsman

- 12.3.5 Conducting Investigations - The Monitoring Officer will conduct, or arrange to have conducted, investigations in relation to allegations that Member or co-opted Member of the authority has failed to comply with the Members Code of Conduct and in relation to public interest disclosures (whistleblowing) complaints in accordance with the authority's adopted procedures, policies and protocols.
- 12.3.6 Proper Officer for Access to Information - The Monitoring Officer will ensure that the decisions of Council and its committees, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 12.3.7 Contributing to corporate management - The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional administrative and legal advice.
- 12.3.8 Providing advice - The Monitoring Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.
- 12.3.9 Personal duty - The duties of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 shall be performed by them personally or, where they are unable to act owing to absence or illness, personally by such Member of his or her staff as have for the time being been nominated by the Monitoring Officer as his or her deputy for the purposes of this legislation.
- 12.3.10 Restrictions on functions - The Monitoring Officer may not hold the post of Head of Paid Service nor the post of section 151 (chief financial) Officer.
- 12.3.11 Monitoring Officer Protocol- Set out at [Part 7 section 7](#) of this Constitution is a protocol which explains the role and function of the Monitoring Officer and the arrangements established for ensuring the role is effectively carried out.

## **12.4 Functions of the Section 151 Officer**

- 12.4.1 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 they consider 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.

- 12.4.2 Administration of financial affairs. The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council in accordance with the Finance and Contract Procedure Rules.
- 12.4.3 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.
- 12.4.4 Providing advice. The Chief Finance Officer jointly with the Monitoring Officer will provide advice on the scope of powers of Council to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members, and will support and advise Members and officers in their respective roles.
- 12.4.5 Give financial information. The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.

## **12.5 Duty to provide sufficient resources to the Monitoring Officer and section 151 (chief finance) officer**

The Council will provide the Monitoring Officer and section 151 officer with such officers, accommodation and other resources as are, in that officer's opinion, sufficient to allow their duties to be performed.

## **12.6 Conduct**

Officers will comply with the [Officers' Code of Conduct](#) and the [Protocol on Member/Officer Relations](#) set out in [Part 7](#) of this Constitution.

## **12.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in [Part 9, section 6](#) of this Constitution.

## **Article 13**

### **13 DECISION MAKING**

#### **13.1 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.

#### **13.2 Principles of decision making**

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

- 13.2.1 proportionality (i.e. the action must be proportionate to the desired outcome)
- 13.2.2 due and appropriate consultation and the taking of professional advice from officers
- 13.2.3 respect for human rights
- 13.2.4 a presumption in favour of openness
- 13.2.5 clarity of aims and desired outcomes.

#### **13.3 Types of decision**

##### 13.3.1 Decisions reserved to [full Council](#)

Decisions relating to the functions listed in Finance and Contract Procedure Rules at **Part 10** will be made by the full Council and not delegated.

##### 13.3.2 Key decisions

- (a) A key decision means an executive decision which is likely:
  - (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (ii) to be significant in terms of effects on communities living or working in an area comprising two or more electoral divisions within the area of the Council.
- (b) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules and [Access to Information Procedure Rules](#) set out in Finance and Contract Procedure Rules at [Part 9](#) of this Constitution.

### 13.3.3 Criteria for local key decisions

- (a) milestone' decisions, the timing of which will be known well in advance of the decision being taken. Examples include plans and strategies outside the Budget and Policy Framework, value for money and Auditors' reviews.
- (b) substantive commitments within the Corporate Plan and Service Plans which involve a material change in policy and/or significant service development.
- (c) In such cases a key decision will be defined as a significant amount if it equates to more than £500,000 revenue or more than £2 million capital.
- (d) where the meaning of 'significant' is subject to any guidance to be issued by the Secretary of State and, in the absence of any such guidance, is to be interpreted as a decision which, in the view of the Leader, will have a significant effect on a significant number of people.
- (e) operational decisions within the financial limits of the delegation scheme but which in the view of the relevant Cabinet Member may involve a material change of policy, are politically sensitive or may have a significant impact on a local community or reputation of the Council.

### **13.4 Decision making by the Full Council**

Subject to 13.7 below, the Council meeting will follow the [Council Procedure Rules](#) set out in [Part 9](#) of this Constitution when considering any matter.

### **13.5 Decision making by the Cabinet**

Subject to 13.7 below, the Cabinet will follow the [Cabinet Procedure Rules](#) set out in [Part 9, section 4](#) of this Constitution when considering any matter.

### **13.6 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the [Overview and Scrutiny Procedure Rules](#) set out in [Part 9](#) of this Constitution when considering any matter.

### **13.7 Decision making by other committees and sub-committees established by the Council**

Subject to 13.7 below, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in [Part 9, section 1](#) of this Constitution as apply to them.

### **13.8 Decision making by Council bodies acting as tribunals**

The Council, a Member 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](#) at [Part 8](#).

All Members and Officers will comply with the legislative requirements on access to information, decision making and recording having due regard to the criminal penalties for failure in certain circumstances.

## **Article 14**

### **14 FINANCE, CONTRACTS AND LEGAL MATTERS**

#### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Finance and Contract Procedure Rules at **Part 10** and any guidance made under those Rules.

#### **14.2 Contracts**

Every contract made by the Council will comply with the Finance and Contract Procedure Rules at **Part 10** and any guidance made under those Rules.

#### **14.3 Legal proceedings**

The Director of Law and Governance or equivalent is authorised to institute, defend or participate in any administrative action and/or legal proceedings and to sign any document in any case where such action will facilitate the carrying out of decisions of the Council, or in any case where the Director of Law and Governance or equivalent considers that such action is necessary to protect the Council's interests, or to further or achieve the objectives of the Council, and such powers may be exercised by any officer authorised by the Director of Law and Governance or equivalent under their own name. For the sake of clarity, the Director of Law and Governance or equivalent may settle or otherwise compromise any such administrative action or legal proceedings if they have been commenced or there are reasonable grounds for believing such actions or proceedings may be contemplated.

#### **14.4 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Law and Governance or equivalent. 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 may be affixed either physically or by electronic means. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically. The Common Seal will be affixed to those documents which in the opinion of the Director of Law and Governance or equivalent should be sealed. The affixing of the Common Seal will be attested by the Director of Law and Governance or equivalent or some other officer authorised by the Director of Law and Governance and will be entered into a book provided for the purpose and signed by the person who attested the seal.

## **Article 15**

### **15 REVIEW AND REVISION OF THE CONSTITUTION**

#### **15.1 Duty to monitor and review the constitution**

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

#### **15.2 Protocol for monitoring and review of constitution by Monitoring Officer**

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 better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer or an officer nominated by the Monitoring Officer may:

- 15.2.1 observe meetings of different parts of the Member and officer structure
- 15.2.2 undertake an audit trail of a sample of decisions
- 15.2.3 record and analyse issues raised by Members, officers, the public and other relevant stakeholders, and
- 15.2.4 compare practices in this Council with those in other comparable authorities, or national examples of best practice.

#### **15.3 Changes to the Constitution**

Changes to the constitution will only be approved by the full Council after consideration of a written report from the Monitoring Officer in consultation with the Head of the Paid Service, the Section 151 Officer

## **Article 16**

### **16 SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

#### **16.1 Suspension of the Constitution**

##### 16.1.1 Limit to suspension

The Sections 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.

##### 16.1.2 Procedure to suspend

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members is 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](#).

The [Council Procedure Rules](#) at [Part 9](#) deal with the suspension of the rules relating to Council and Committee meetings.

#### **16.2 Interpretation**

The ruling of the Chair 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](#).

#### **16.3 Publication**

16.3.1 The Head of Paid Service will send an electronic link of this Constitution to each Member of the Council upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council. A printed copy can be made available to those Members who require it.

16.3.2 The Head of Paid Service will ensure that the Constitution is available online and copies are available for inspection at council offices, libraries, and other appropriate locations, and can be purchased by the public on payment of a reasonable fee.

16.3.3 The Head of Paid Service will ensure that the summary of the Constitution is available online and is updated as necessary.

## **Article 17**

### **17 THE DECLARATION OF HUMAN RIGHTS**

Northumberland County Council has decided that the Universal Declaration of Human Rights should be adopted by the Council and included within its constitution.

The Universal Declaration of Human Rights adopted and proclaimed by the United Nations General Assembly on 10 December 1948 can be found [here](#).

## **Article 18**

### **18 NORTHUMBERLAND COUNTY FIRE AND RESCUE AUTHORITY**

#### **18.1 Fire and Rescue Authority**

The County Council is the designated Fire and Rescue Authority for the County of Northumberland with the primary responsibility to make Northumberland a safer place to live and work through Prevention, Protection and Response.

All 67 Members are Members of the Fire and Rescue Authority with overall responsibility for the resilience of the service, including the setting of the annual budget within the Council's Medium Term Financial Plan and approving the Community Risk Management Plan (CRMP) 2022-2026 (which is the Council's Integrated Risk Management Plan) as part of [the Council's Policy Framework in Article 4](#).

#### **18.2 Cabinet Member for Community Services**

The Cabinet Member for Community Services is the lead Member and is delegated to act as the Fire Authority Chair with specific responsibility for Fire and Rescue within the remit of their Cabinet portfolio.

The Cabinet Members responsibilities include:

- 18.2.1 To provide assurance on behalf of the Fire Authority on the performance of Northumberland Fire and Rescue Service
- 18.2.2 To receive reports from the Chief Fire Officer on the development and delivery of NFRS strategy, budgets, and policy
- 18.2.3 To develop expertise and knowledge in their portfolio area
- 18.2.4 To be the Council's lead spokesperson for their portfolio
- 18.2.5 To attend the Communities and Place Overview and Scrutiny Committee as requested, to discuss decisions taken and to assist the scrutiny and policy development process
- 18.2.6 To respond to questions relating to their portfolio arising at Council, Cabinet and Committee meetings

#### **18.3 Communities and Place Overview and Scrutiny Committee**

The Communities and Place Overview and Scrutiny Committee has responsibility for scrutinising the Fire and Rescue function and acting as a critical friend.

The Chief Fire Officer reports into the Committee providing key performance information to ensure Members can hold the Portfolio holder to account and

ensuring all statutory responsibilities placed on the service are discharged and performance against agreed targets and objectives are met.

#### **18.4 The Statutory Framework**

The Fire and Rescue Services Act 2004 sets out those core functions which all Fire Authorities must make provision for, including:

- 18.4.1 Promoting Fire safety
- 18.4.2 Extinguishing fires and protecting life and property when fires do occur including:
  - (a) the provision of resources necessary to meet normal requirements
  - (b) appropriate training for firefighters
  - (c) ensuring 999 calls for assistance can be dealt with effectively
  - (d) minimising damage to property arising from firefighting operations
- 18.4.3 Rescuing people involved in road traffic collisions
- 18.4.4 Rescuing and protecting people in the event of other emergencies

The 2004 Act also introduced the Fire and Rescue National Framework which Fire Authorities must have regard to when carrying out their functions.

The five national priorities set out in the Framework require Fire Authorities to:

- 18.4.5 Make appropriate provision for fire prevention and protection activities
- 18.4.6 Identify and assess the foreseeable range of fire and rescue related risks which their areas face
- 18.4.7 Collaborate with emergency services and other local and national partners to increase efficiency and effectiveness
- 18.4.8 Be accountable to communities for their service
- 18.4.9 Develop and maintain a workforce which is professional, resilient, skilled flexible and diverse

These national priorities are addressed through three main mechanisms:

- 18.4.10 Integrated Risk Management Planning (currently the Community Risk Management Plan (CRMP) 2022-2026)
- 18.4.11 An Annual Statement of Assurance
- 18.4.12 Effective Financial Planning

Under the Crime and Disorder Act 1998 Fire Authorities are required to collaborate with other responsible authorities (police, probation, clinical commissioning groups and local authorities) to reduce crime and disorder in their area and are designated as Category 1 responders under the Civil Contingencies Act 2004 with a duty to work with other organisations to plan for major emergencies.

A list of other relevant legislation is available in the Community Risk Management Plan (CRMP) 2022-2026

## **18.5 The Chief Fire Officer and Operational Arrangements**

The Chief Officer is the Fire Authority's principal adviser on the discharge of the Northumberland's Fire and Rescue Services (NFRS) functions and is accountable to the Fire Authority. The Chief Fire Officer's role is to provide operational leadership to NFRS, and ensure that the strategic aims and objectives of the fire authority are met, its functions are delivered and performance targets met through effective and properly controlled executive action.

The Chief Fire Officer's role and responsibilities are set out in [Part 5, section 7](#) under the Delegation Scheme to Officers.

## **18.6 Firefighters' Pension Scheme for Northumberland Fire and Rescue Service Local Pension Board**

In accordance with section 5 of the Public Service Pensions Act 2013, a local Pension Board assists the County Council in its capacity as the Fire and Rescue Authority in the governance and administration of the Firefighters Pension Scheme (FPS).

Under regulation 4A (1) of the Firefighters Pension Scheme (England) Regulations 2014 the role of the Board is to assist the County Council as Scheme Manager:

- 18.6.1 To secure compliance with the Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the FPS by the Pensions Regulator
- 18.6.2 To ensure the effective and efficient governance and administration of the FPS

The Membership of the Board is constituted as follows:

- 18.6.3 Two elected Members as employer representatives
- 18.6.4 Two scheme Member representatives
- 18.6.5 An Independent Member (optional appointment)

The FPS Scheme Manager function, as set out and defined in the Public Service Pensions Act 2013, is the responsibility of the FRA, namely the County Council. The Council has delegated to the section 151 Officer the exercise of the Scheme Manager function for the Firefighters' Pension Scheme in consultation with the Chief Fire Officer.

**NB.** The FPS Local Pension Board is not a local authority committee. Detailed guidance on recruitment, terms of office and working arrangements are set out in the FPS Local Pension Board Terms of Reference (held separately from this Constitution)

## **18.7 Disputes Panel**

Disputes Panel (Fire and Rescue Service)

The Panel hears and determines disputes in accordance with provisions in the Scheme of Conditions of Service of Local Authority Fire Brigades ([fbu.org.uk](http://fbu.org.uk))