

Part 2

Articles of the Constitution

Article 1 – The Constitution

1. Powers of the Council

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

2. Purpose of the Constitution

2.1 The purpose of the Constitution is to:

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

3. Interpretation and review of the Constitution

3.1 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.

3.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

Article 2 – Members of the Council

1. Composition and eligibility

- 1.1 The Council comprises 42 members, otherwise called councillors. Two councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
- 1.2 Only registered voters of the Borough, those living or working there or those who own land in the Borough will be eligible to hold the office of councillor.

2. Election and terms of councillors

- 2.1 The regular election of councillors will be held on the first Thursday in May every four years. The next full election is in May 2019. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3. Roles and functions of all councillors

- 3.1 All councillors will:
 - collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions
 - represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities
 - deal with individual casework and act as advocates for constituents in resolving particular concerns or grievances
 - balance different interests identified within the ward and represent the ward as a whole
 - be involved in decision-making
 - be available to represent the Council on other bodies
 - maintain the highest standards of conduct and ethics
 - receive training and development to assist them in their role in accordance with the Member Development Plan.

4. Rights and duties

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

5. Conduct

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

6. Allowances

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

Article 3 – Citizens and the Council

1. Voting and petitions

- 1.1 **Petition for an elected mayor:** If citizens are on the electoral roll for the area they have the right to sign a petition to request a referendum for an elected mayor form of Constitution and to vote in any such election.
- 1.2 **Ordinary petition:** These are petitions which would normally require at least 50 signatures and would usually be for a local issue. However, if the petition organiser could demonstrate that in relation to a particularly local issue of concern, that it was simply not possible to obtain 50 relevant signatures, the Petitions Officer has the discretion to validate a petition with a lower number of signatures.
- 1.3 **Petitions for debate:** For a petition to be reported to and debated at a meeting of full Council, it must contain at least 1,500 valid signatures.

2. Information

2.1 Citizens have the right to:

- attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private
- attend meetings of the Executive when key decisions are being considered
- find out from the Forward Plan what key decisions will be taken by the Executive and when
- see reports and background papers, and records of decisions
- inspect the Council's accounts and make their views known to the external auditor.

3. Complaints

3.1 Citizens have the right to complain to:

- the Council itself under its complaints scheme
- the Ombudsman after using the Council's own complaints scheme
- the Council's Monitoring Officer about a breach of the Code of Conduct for Members.

4. Citizens' responsibilities

- 4.1 Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

Article 4 – The full Council

1. Functions of the full Council

1.1 The Council will exercise the functions described in Section 1 of Part 3 of the Constitution.

2. Council meetings

2.1 There are four types of Council meeting:

- the annual meeting
- ordinary meetings
- the budget meeting
- extraordinary meetings.

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

3. Council Briefing Meetings

3.1 Council briefing meetings will usually take place monthly. They will consider issues identified in the Council Procedure Rules in Part 4 of this Constitution.

Article 5 – The Mayor

1. Role and function of the Mayor

- 1.1 The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor and Deputy Mayor can also undertake the roles of Chairman and Vice Chairman of the Council. The Council may also appoint a separate Vice Chairman of the Council, as well as the Deputy Mayor.
- 1.2 If the Council does appoint a separate Vice Chairman then the Deputy Mayor will undertake the ceremonial role and the Vice Chairman, the chairing the Council meeting role, in the absence of the Mayor.

2. Ceremonial role

- 2.1 The Mayor will undertake the civic and ceremonial duties of the Council in accordance with the guidance offered in the Council's Civic Handbook. The Deputy Mayor will support and deputise for the Mayor in this role.

3. Chairing the Council meeting role

- 3.1 The Mayor (or in his/her absence the Deputy Mayor or the Vice Chairman if the Council has appointed one) will have the following responsibilities:
 - to uphold and promote the purposes of the Constitution
 - to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
 - 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
 - to promote public involvement in the Council's activities.

Article 6 – Overview and scrutiny committees

1. Duties and terms of reference

- 1.1 The Council has appointed scrutiny committees to undertake the overview and scrutiny function conferred by Section 21 of the Local Government Act 2000 and the Health Scrutiny functions. The scrutiny committees also deal with “call ins”, in accordance with the Council’s approved procedure. Their duties and terms of reference are set out in Part 3 of this Constitution.

2. Proceedings of overview and scrutiny committees

- 2.1 The scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Executive

1. Role

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

2. Form and composition

- 2.1 The Executive will consist of the Executive Leader together with not more than nine councillors appointed to the Executive by the Leader. The Councillors appointed by the Leader comprise the 'Cabinet'.

3. Leader

- 3.1 The Leader will be a councillor elected by the Council at the first annual Council meeting following the elections. The Leader will hold the office for a term of four years, or for the balance of his/ her term of office as a councillor if shorter, unless:
- he/she resigns from the office
 - he/she ceases to be a councillor
 - he/she is removed from office by resolution of the Council.

4. Deputy Leader

- 4.1 The Leader may appoint a Deputy Leader who will be a councillor and will have all the powers of the Leader in his/her absence. The Deputy Leader will hold office for the duration of their term of office as a councillor, unless:
- he/she resigns from the office
 - he/she ceases to be a councillor
 - he/she is removed from office by the Leader who must give written notice of any removal to the Head of Democratic Governance. The removal will take effect two working days after receipt of the notice by the Head of Democratic Governance.

5. Other Executive Members

- 5.1 Other Executive Members shall hold office until:
- they resign from office
 - they are no longer councillors
 - they are removed from office by the Leader who must give written notice of any removal to the Head of Democratic Governance. The removal will take effect two working days after receipt of the notice by the Head of Democratic Governance.

6. Cabinet Assistants

- 6.1 Cabinet Assistants may be appointed by the Leader and will serve as a 'flexible resource' supporting Cabinet Members. The number of Cabinet Assistants and their areas of responsibility (if any) are to be the subject of recommendation by Cabinet Members.

7. Proceedings of the Executive

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

8. Responsibility for functions

8.1 The Council has not made provision for the allocation of Executive functions. Accordingly, the Leader may discharge any of those functions and may arrange for the discharge of any of those functions by:

- the Executive
- another member of the Executive
- a committee of the Executive
- an officer of the authority.

8.2 Details of the arrangements made by the Leader are to be found in Section 5 of Part 3 of this Constitution.

Article 8 – Regulatory and other committees

1. Regulatory and other committees

- 1.1 The Council has appointed the committees specified in Section 2 of Part 3 of this Constitution to discharge the regulatory functions described in relation to each of those committees.

2. Licensing Committee and Panels

- 2.1 Under the Licensing Act 2003 and the Gambling Act 2005, the Licensing Committee has agreed that Licensing Panels comprising of three members drawn from the membership of that Committee, be constituted by the Head of Democratic Governance to undertake hearings in accordance with the Licensing Act 2003 and the Gambling Act 2005, consequent regulations and specified requirements of the Licensing Committee.
- 2.2 The Head of Democratic Governance shall determine the makeup of the panels (not necessarily to be politically balanced) with members as far as practically possible serving in rotation.
- 2.3 Each Panel shall select a Chairman at the beginning of each meeting.
- 2.4 An equal maximum amount of time is set by each Panel at the beginning of each different hearing, for a party to address the Panel, give any further information or call any witnesses for the hearing.

Article 9 – The Standards Committee

1. All members have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council has therefore established a Standards Committee with specific regard to probity and high standards of ethical conduct.
2. The Standards Committee works closely with the Council's Monitoring Officer in promoting high standards of conduct amongst its members. The Committee also has a role in determining complaints that have been referred to it by the Monitoring Officer where local resolution is not deemed appropriate as well as advising the Council on the adoption, revision and operation of codes or protocols relating to member conduct.

Article 10 – Audit Committee

1. The Audit Committee is a key component of Blackpool Council’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of the Audit Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Article 11 - The Health and Wellbeing Board

- 1.1 The Authority must in exercising any functions, have regard to its:
 - joint strategic needs assessment and
 - joint health and wellbeing strategy.
- 1.2 The Council will appoint a Health and Wellbeing Board as set out in Part 3 of this Constitution to discharge the functions described.
- 1.3 By law, the minimum membership of the Health and Wellbeing Board must include:
 - At least one councillor nominated by the leader;
 - A representative from each local Clinical Commissioning Group;
 - The Director of Public Health;
 - The Director of Children's Services;
 - The Director of Adult Social Services; and
 - A representative of the local healthwatch organisation.
- 1.4 Membership may also include such other persons or representatives of such other persons as the local authority or the Health and Wellbeing Board thinks appropriate.
- 1.5 All members on the Health and Wellbeing Board shall be able to vote, unless full Council direct otherwise.

Article 12 - Joint arrangements

1. Arrangements to promote well being

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

- enter into arrangements or agreements with any person
- co-operate with, or facilitate or co-ordinate the activities of any person
- exercise on behalf of that person any functions of that person
- provide staff, goods, services or accommodation to any person.

2. Joint arrangements

2.1 The Council may establish joint arrangements with one or more local authorities and/or their Executives. Such arrangements will be subject to approval by the Council and will be in accordance with relevant statutory provisions.

Article 13 - Officers

1. Management structure

1.1 The authority's senior management structure is described in Part 7 of the Constitution.

2. Statutory roles

- Head of Paid Service: Chief Executive (Neil Jack)
- Monitoring Officer: Director of Governance and Partnerships (Mark Towers)
- Statutory Finance Officer: Director of Resources (Steve Thompson)
- Director of Children's Services: Interim Director of Children's Services (Gani Martins)
- Director of Adult Services: Director of Adult Services (Karen Smith)
- Director of Public Health: Director of Public Health (Dr Arif Rajpura)

3. Functions of the officer appointed as the Head of Paid Service

3.1 **Discharge of functions by the Council.** The Head of Paid Service will, as appropriate, report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of officers required for the discharge of functions and the organisation, appointment and proper management of staff.

3.2 **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Statutory Finance Officer if a qualified accountant.

4. Functions of the officer appointed as the Monitoring Officer

4.1 **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 consultation by members, staff and the public.

4.2 **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Statutory Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

4.3 **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

4.4 **Receiving allegations of misconduct.** The Monitoring Officer will receive and consider any allegations of member misconduct.

- 4.5 **Conducting investigations.** Where he/she considers it appropriate, the Monitoring Officer will arrange for investigations to be conducted into matters of misconduct and decide on the appropriate course of action to be taken.
- 4.6 **Proper Officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 4.7 **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- 4.8 **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise councillors and officers in their respective roles.
- 4.9 **Restrictions on posts.** The Monitoring Officer cannot be the Statutory Finance Officer, the Head of Paid Service or the Statutory Scrutiny Officer.

5. Functions of the officer appointed as the Statutory Finance Officer

- 5.1 **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Statutory Finance Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 5.2 **Administration of financial affairs.** The Statutory Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 5.3 **Contributing to corporate management.** The Statutory Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 5.4 **Providing advice.** The Statutory Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- 5.5 **Giving financial information.** The Statutory Finance Officer will provide financial information to the media, members of the public and the community.

6. Duty to provide sufficient resources to the Monitoring Officer and Statutory Finance Officer

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

7. Functions of the officer appointed as the Director of Children's Services

7.1 The Director of Children's Services is appointed for the purpose of the Council's functions referred to in Section 18 of the Children Act 2004 as follows:

- Education services – the Council's functions in its capacity as a local education authority, except those excluded under Section 18(3) of the Children Act 2004 (namely functions relating to further education, higher education and adult education)
- Social Services – the Council's social services functions within the meaning of the Local Authorities Social Services Act 1970, as they relate to children and young people leaving care;
- Health Services – any health related functions exercised on behalf of an NHS body under Section 31 of the Health Act 1999, so far as they relate to children
- Inter-agency co-operation – the Council's functions in its capacity as a children's services authority under Part 2 of the Children Act 2004
- Children Act 1989 – functions conferred under Sections 23C to 24D (and not falling under sub-article (ii) above).

7.2 The officer has statutory advisory rights in relation to the employment of staff in schools.

8. Functions of the officer appointed as the Director of Adult Social Services

8.1 Section 6(1) of the Local Authorities Social Services Act 1970 requires the Council to appoint an officer known as the Director of Adult Social Services, for the purposes of their adult social services functions.

8.2 The Council is required to secure the provision of adequate staff for assisting him/ her in the exercise of their functions.

8.3 The functions for which the officer is responsible are those contained in Schedule 1 to the Local Authorities Social Services Act 1970 other than those functions for which the Director of Children's Services is responsible under Section 18 of the Children Act 2004.

9. Functions of the officer appointed as the Director of Public Health

9.1 Duties set out in the Health and Social Care 2012 which includes:

- Health improvement duties
- The exercise of any public health functions of the Secretary of State which the Secretary of State requires the local authority to exercise by regulations under section 6C of the NHS Act
- Any public health activity undertaken by the local authority under arrangements with the Secretary of State
- Local authority functions in relation to planning for, and responding to, emergencies that present a risk to public health
- The local authority role in co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders
- Other public health functions that the Secretary of State may specify in regulations (e.g. functions in relation to making representations about the grant of a license to use premises for the supply of alcohol).

10. Conduct

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

11. Employment

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

Article 14 – Decision making

1. Responsibility for decision making

- 1.1 The Council will issue and keep up to date a record of who 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.

2. Principles of decision making

- 2.1 All decisions of the authority will be made in accordance with the following principles:

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

3. Rules of decision making

- 3.1 Decisions will be made in accordance with any relevant Procedure Rules set out in Part 4 of this Constitution and, as appropriate, in accordance with the rules of natural justice.

Article 15 - Finance, contracts and legal matters

1. Financial management

- 1.1 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.

2. Contracts

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

3. Authentication of documents

- 3.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

4. Common Seal of the Council

- 4.1 The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal. A decision made by or on behalf of the Council 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 Head of Legal, should be sealed. The affixing of the Common Seal will be attested by the Head of Legal or some other person authorised by him/her.

Article 16 - Review and revision of the Constitution

1. Duty to monitor and review the constitution

1.1 The Monitoring Officer will monitor and review the operation of the Constitution with a view to the aims and principles of the Constitution being given full effect.

2. Protocol for monitoring and review of constitution by Monitoring Officer

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

- observe meetings of different parts of the member and officer structure
- undertake audit trails of sample decisions
- record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders
- compare practices in this authority with those in other comparable authorities, or national examples of best practice.

3. Changes to the Constitution

3.1 The Monitoring Officer may amend the Constitution to reflect changes in legislation or decisions made from time to time by or on behalf of the authority. Other changes to the Constitution will be approved by the full Council, after consideration of the proposals by the Executive.

Article 17 - Suspension, interpretation and publication of the Constitution

1. Suspension of the Constitution

1.1 **Limit to suspension.** The Articles of this Constitution may not be suspended.

1.2 **Procedure to suspend.** A motion to suspend any Part 4 Procedure Rules 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.

2. Interpretation

2.1 The ruling of the Mayor 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 the Constitution contained in Article 1.

3. Publication

3.1 The Head of Democratic Governance will:

- give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council
- ensure that copies are available for inspection at the Council's main offices and for purchase by members of the press and public on payment of a reasonable fee
- ensure that a summary of the Constitution is made publicly available and is updated as necessary.