

## Section 1 - Purpose, definition, interpretation and amendment of the constitution

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### **1 Purpose of the Constitution**

The purpose of the Constitution is to:

- 1.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses, statutory partners and other organisations;
- 1.2 support the active involvement of citizens in the process of local authority decision making;
- 1.3 help Councillors represent their constituents more effectively;
- 1.4 enable decisions to be taken efficiently and effectively;
- 1.5 create a powerful and effective means of holding decision makers to public account;
- 1.6 ensure that no one will take part in or scrutinise a decision on a matter in which they are directly involved;
- 1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

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1.8 provide a means of improving the delivery of services to the community.

## 2 Definitions in the Constitution

2.1 Within the Constitution the following words and phrases have the meaning set out below:

“Budget”	The overall revenue and capital budget approved by Full Council;
“Chief Officer”	Any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who: <ul style="list-style-type: none"><li>• reports directly to the Head of Paid Service in respect of all or most of his/her duties; or</li><li>• the Head of Paid Service is directly responsible for;</li></ul>
“Councillor”	a person elected to the Council to represent an area (called a ward) within Gedling Borough Council;
“Day”	a “day” or “days” means a council working day, and does not include the day on which the notice was given or the day of the meeting to which the notice refers
“Executive”	the Cabinet, Sub-Committee of Cabinet, or a Member of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Committee is an Executive Function.

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	(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.
“Forward Plan”	the Forward Plan is a document which lists all of the key decisions that the Council and the Cabinet intend to take. This does not prevent urgent or unforeseen matters being considered;
“Full Council”	the body where all Councillors act to exercise functions of the Council;
“Head of Paid Service”	an Officer who must be appointed by law to carry out certain functions. See Section 10 for more details. The Officer will usually have other duties and a different job title. See Section 10 for which Officer is the Head of Paid Service;
“Local Choice Functions”	there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;
“Member”	either a Councillor or a person chosen by the Council to serve on one of its Committees or Sub-Committees (called “a Co-Opted Member”);
“Monitoring Officer”	an Officer who must be appointed under S.5 of the Local Government and Housing Act 1989 by law to carry out certain functions. See Section 10 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a committee or an officer;
“Planning Application”	any of the following: <ul style="list-style-type: none"><li>• application for planning permission (including renewal);</li><li>• application for approval of reserved matters;</li><li>• application for listed building consent;</li></ul>

- application relating to trees;
- proposal to serve an urgent works notice or acquire a listed building in need of repair;
- application for conservation area consent;
- application for advertisement consent;
- application to vary or remove conditions on a planning condition;

“Policy Framework” See Section 4 paragraph 2;

“Section 151 Officer” an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;

“Service” one of the services provided by the Council;

### 3 Interpretation of the Constitution

- 3.1 The Constitution has been drafted in a structured way so as to aid clear understanding.
- 3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.
- 3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

### 4 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Section 151 Officer shall be responsible for keeping under review the Financial Rules set out in Section 25 of the Constitution.

### 5 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 5.1 observe meetings of different parts of the Member and Officer structure;
- 5.2 undertake an audit trail of a sample of decisions;

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- 5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

## 6 Changes to the Constitution

### 6.1 Approval

Subject to paragraphs 6.2 and 6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet, in relation to Executive Functions.

### 6.2 Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- a) a minor variation; or
- b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet including amending delegations to officers; or
- d) required to be made so as to reflect any changes in job titles or structural changes

the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

### 6.3 Legislative Change

The Monitoring Officer has the authority to amend the constitution where such amendment is made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

## 7 Suspension of the Constitution

### 7.1 Limit to Suspension

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

### 7.2 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 councillors is present. The extent and duration of

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suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

### **8 Publication**

- 8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.
- 8.2 The Monitoring Officer will provide a link to a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 6.