

# Constitution Review Statutory Compliance Checklist

This compliance checklist sets out the statutory requirements for what must appear (somewhere) in a local authority constitution. It is a useful check to identify any missing areas and also a quick reference point for finding statutory information in the document. It will need to be updated if the format of the Constitution is changed.

## STATUTORY REQUIREMENTS

### 1 THE LOCAL GOVERNMENT ACT 2000 (CONSTITUTIONS) (ENGLAND) DIRECTION 2000

The Secretary of State for the Environment, Transport and the Regions, in the exercise of his powers under sections 37(1)(a) [now s.9P] and 48(7) [now s.9R] of the Local Government Act 2000 (c.22) (the Act) and all other powers enabling him in that behalf, hereby directs all local authorities in England to which Part II of the Act applies as follows:

#### Miscellaneous and interpretation

In the direction:

"constitution" has the meaning given by section 37(1) [now 9P] of the Act,

"overview and scrutiny committee" ...in the case of a local authority which is operating executive arrangements has the meaning given by section 21(1) [now.s.9F(1)] of the Act

In complying with this direction a local authority must have regard to any guidance issued for the time being by the Secretary of State under section 38 [now s.9Q] of the Act.

#### The Constitution.

The constitution prepared and kept up to date in accordance with section 37(1) [now s.9P] of the Act by a local authority which is operating executive arrangements or, as the case may be, alternative arrangements must include:

	Requirement of Direction	Council's Constitution	Comment
1	a summary and explanation of the purpose and content of the constitution;	Part 1, Summary and Explanation Part 2, Article 1	
2	a description of the composition of the Council, the scheme of ordinary elections for members of the council and their terms of office;	Part 1 Part 2 – Article 2	Article 2 needs updating – it's on the list of outstanding updates.
3	a description of the principal roles and functions of the members of the council under executive arrangements or, as the case may be, alternative arrangements including the rights and duties of those members;	Part 1 Part 2 – Articles 2 & 7 Part 3 – Matters reserved for Executive decision Part 3 – Matters delegated to individual Executive Members Part 4 – Executive Procedure rules Appendix 1 Executive Job Description	
4	the scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 (c.42);	Part 7	

5	<p>a description of the rights and responsibilities of inhabitants of the authority's area including:</p> <ul style="list-style-type: none"> <li>i. their rights to vote in elections for the return of members of the authority;</li> <li>ii. their rights to access to information about the authority's activities;</li> <li>iii. their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority; and</li> <li>iv. their rights of access to meetings of the executive and committees of the executive,</li> </ul>	<p>Part 2 – Article 3</p> <p>Part 4 – Procedure Rules, Council, Executive and Committee meetings</p> <p>Part 4 Procedure Rules - Access to Information</p>	
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	Requirement of Direction	Council's Constitution	Comment
6	<p>a description of the roles of the authority itself under executive arrangements (or, as the case may be, alternative arrangements) including:</p> <p>i. the functions which may be exercised only by the authority itself or which may to some extent be exercised only by the authority itself (including, in the case of a local authority operating executive arrangements any plans and strategies which are subject to approval or adoption by the authority itself by virtue of regulation 5 of, and paragraph 1 of Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853)); and</p> <p>ii. any rules governing the conduct and proceedings of meetings of the authority itself whether specified in the authority's standing orders or otherwise;</p>	<p>Part 1  Part 2 – Articles 2, 4 , 7 , 8 &amp; 13  Part 3 – Executive functions  Part 3 – Functions to be exercised by the Council itself  Part 4 – Executive, Council and Scrutiny Procedure rules  Part 4 – Budget and Policy Framework  Appendix 2 – Executive and Non-Executive Functions</p> <p>Part 2 – Article 4  Part 4 – Procedure Rules for Council, the Executive and committees.</p>	<p>Article 4, 4.1 (c) reference to Housing Land Transfer requirements for a resolution of Council under the 1993 Act have been repealed – remove??.</p>
7	<p>a description of the roles and functions of the chairman of the council (including a chairman entitled to the style of mayor);</p>	<p>Part 2 – Article 5  Part 4 – Council Procedure Rules</p>	
8	<p>a description of the functions of the local authority executive which, for the time being, are exercisable by individual members of the local authority executive stating as respects each function, the name of the member by whom it is exercisable</p>	<p>Part 2 – Articles 7 &amp; 13  Part 3 – Matters reserved for Executive decision  Part 3 – Matters delegated to individual Executive Members  Part 4 – Executive Procedure Rules</p>	

	Requirement of Direction	Council's Constitution	Comment
9	a description of the functions of the local authority executive which, for the time being, are exercisable by the executive collectively or a committee of the executive, stating as respects each function, the membership of the body by which it is exercisable;	Part 2 – Articles 7 & 13 Part 3 – Matters reserved for Executive decision Part 4 – Executive Procedure Rules Part 5 – Executive Terms of Reference Part 6 – Procurement Rules and Financial Regulations	
10	a description of those powers of the executive which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;	Part 2 - Articles 12 & 13 Part 3– Officer Delegations Part 4 - Budget and Policy Framework Procedure Rules and Access to Information Part 6 – Procurement Rules and Financial Regulations	
11	a description of the arrangements for the operation of overview and scrutiny committees including i. the terms of reference and membership of those committees and any rules governing the exercise of their functions; and ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise'	Part 1 Part 2 – Article 6 Part 4 – Scrutiny Procedure rules and Access to Information Procedure Rules Part 5 Terms of Reference	
12	in the case of a local authority which is operating executive arrangements, a description of the roles of the executive, committees of the executive and members of the executive including: i. the roles, functions, rights, responsibilities and duties of members of the executive; ii. in the case of a local authority which is operating executive arrangements which include a leader and cabinet form of executive, any rules governing the election of the executive leader; iii. any rules governing the appointment of members of	Part 2 – Articles 7 & 13 Part 3 – Matters reserved for Executive decision & Matters reserved for Voluntary and Community Sector Committee Part 4 – Executive Procedure Rules Part 5 – Executive Terms of Reference, Voluntary and Community Sector Committee Terms of Reference	Correction to Article 7.07 – vote of no confidence in the Leader – gives the threshold as 36 (75%) of members needing to vote. Figure needs updating to 38.

	<p>the executive;</p> <p>iv. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of the executive;</p> <p>v. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive;</p> <p>vi. any provisions in the local authority's executive arrangements with respect to the appointment of committees of the executive; and</p> <p>vii. N/A (Mayor and Council Manager option – now repealed)</p>	<p>Part 6 – Procurement Rules and Financial Regulations</p> <p>Appendix 1 Executive Job Description</p> <p>Appendix 2 – Executive and Non-Executive Functions</p>	
13	N/A (Mayor and Council Manager option – now repealed)	N/A	
14	<p>a description of the roles of any committees or sub-committees appointed by the authority in accordance with section 101 of the Local Government Act 1972 (c.70) including:</p> <p>i. the membership, terms of reference and functions of such committees or sub-committees; and</p> <p>ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees whether specified in the authority's standing orders or otherwise,</p>	<p>Part 1</p> <p>Part 2 – Articles 6, 9, 11</p> <p>Part 3 - Responsibility for functions</p> <p>Part 4 – Council, Scrutiny and Committee Procedure Rules</p> <p>Part 4 – Access to Information Procedure Rules</p> <p>Part 5 – Terms of Reference</p>	
15	<p>a description of those powers of the council which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;</p>	<p>Part 2 - Articles 12 &amp; 13</p> <p>Part 3 – Officer Delegations &amp; Functions to be exercised by the Council itself</p> <p>Part 4 - Budget and Policy Framework Procedure Rules and Access to Information</p> <p>Part 6 – Procurement Rules and Financial Regulations</p> <p>Appendix 3 – Additional delegations</p>	

	Requirement of Direction	Council's Constitution	Comment
16	<p>a description of the roles of the local authority's Standards Committee and any parish council sub- committee of the Standards Committee appointed in accordance with sections 53 or 55 of the Act including:</p> <p>i. the membership, terms of reference and functions of that committee or sub-committee; and</p> <p>ii. any rules governing the conduct and proceedings of meetings of that committee or sub-committee whether specified in the authority's standing orders or otherwise;</p>	<p>Articles 8 &amp; 9</p> <p>Part 4 – Committee Procedure Rules</p> <p>Part 5 – Terms of Reference</p> <p>Part 6 – Members' Code of Conduct</p> <p>Part 6 – Protocol on Member /Officer Relations</p>	
17	<p>a description of the roles of any area committees appointed by the authority to exercise functions in accordance with regulations 16A of the Local Government (Committees and Political Groups) Regulations 1990 (SI 1990/1553) or, as the case may be, section 18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000/2851) including:</p> <p>i. the membership, terms of reference and functions of such committees; and</p>	N/A	FYI Article 10 describes Ward Partnerships. These have no official decision making function and are community engagement vehicles only.
	<p>ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise</p>	N/A	
18	<p>a description of any joint arrangements made with any other local authorities under section 101(5) of the Local Government Act 1972 including:</p> <p>i. the terms of those arrangements;</p> <p>ii. the membership, terms of reference and functions of any joint committees established under those arrangements; and</p> <p>iii. any rules governing the conduct and proceedings of meetings of those joint committees whether specified in the authority's standing orders or otherwise</p>	<p>Part 2 – Article 11– Joint Arrangements</p> <p>Part 3 – Responsibility for functions</p> <p>Part 4 – Procedure Rules</p> <p>Part 5 – Terms of Reference</p>	

19	a description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with section 101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 – [now 2012 Regulations];	Part 2 – Article 11 – Joint Arrangements Part 3 – Responsibility for functions Part 4 – Procedure Rules	
20	a description of the roles of officers of the local authority including: i. the management structure for officers of the authority; ii. any arrangements made under section 101 of the Local Government Act 1972 or, as the case may be, section 14, 15 or 16 [now 9E, 9A & 9B] of the Act for the discharge of functions by officers of the authority; iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer; iv. the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Act; any rules governing the recruitment, appointment, dismissal and disciplinary action for officers of the authority; vi. any protocol established by the authority in respect of relationships between members of the authority and v. officers of the authority;	Part 1 Part 2 - Article 12 – Officers Part 2 - Article 13 – Decision-making Part 2 - Article 14 – Finance, Contracts and Legal matters Part 3– Responsibility for functions Part 4 – Officer Employment Procedure Rules Part 5 – Personnel Sub Committee Terms of Reference Part 6– Protocol on Member/Officer Relations, Procurement Rules and Financial Regulations Part 8- Management Structure Appendix 3 – Additional delegations to officers Appendix 4 – Proper Officers	Code of conduct for local government employees is not in the Constitution  Updates to job titles following the senior officer restructure on 1 February and a new structure chart at Part 8.
21	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority, committees and sub-committees of the authority, joint committees established with any other local authority, the executive and committees of the executive	Part 1 Part 2 – Article 3 Part 4 – Access to Information Procedure Rules Part 4 – Executive Procedure Rules	
22	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities.	Part 1 Part 2 – Article 3 Part 4 – Access to Information Procedure Rules Part 4 – Committee and Council Procedure Rules	



23	<p>a register stating</p> <p>i. the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and</p> <p>ii. the name of every member of each committee of the local authority's executive for the time being.</p>		<p><b>This is not in the Constitution.</b> Information about councillors is on the democracy website: <a href="#">Islington Council - Councillors</a></p> <p>Membership of the Executive and VCS Committee are here: <a href="#">Islington Council - Executive</a> and <a href="#">Islington Council - VCS</a></p>
24	<p>a description of the rules and procedures for the management of its financial, contractual and legal affairs including:</p> <p>i. procedures for auditing of the local authority;</p>	<p>Part 2 – Articles 8 &amp; 14</p> <p>Part 5 – Terms of Reference</p> <p>Part 6 – Financial Regulations</p>	<p>Audit Committee Terms of Reference review to be finalised</p>
	<p>ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise;</p> <p>iii. rules, regulations and procedures in respect of contracts and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and</p> <p>iv. rules and procedures in respect of legal proceedings brought by and against the local authority</p>	<p>Part 2 – Article 14</p> <p>Part 3 – Responsibility for functions</p> <p>Part 4 - Budget and Policy Framework Procedure Rules</p> <p>Part 6 – Financial Regulations and Procurement Rules</p> <p>Appendix 3 – Additional delegations to officers</p>	
25	<p>a description of the register of interests of members and co-opted members of the authority required under section 81 of the Act [now s29 Localism Act 2011], together with the procedures for publicising, maintaining and updating that register.</p>	<p>Part 6 – Code of Conduct for members</p>	
26	<p>a description of the rules and procedures for review and revision of the authority's constitution and executive arrangements or, as the case may be, alternative arrangements</p>	<p>Part 2 – Articles 1 &amp; 15</p> <p>Part 3 – functions to be exercised by the Council itself</p>	<p>Article 15 needs to be reviewed re. proper officer</p>

## 2 OTHER LEGISLATIVE REQUIREMENTS

2.1 In addition to the requirements under the Direction, there are a number of other legislative requirements specifying content of local authority constitutions:

	Legislative Requirements	Council's Constitution	Comment
1	<p>The Openness of Local Government Bodies Regulations 2014 (SI 2014/2095):</p> <p>where a member of the public is entitled to attend a meeting of the Council, or of any of its Committees or Sub-Committees, Cabinet or a Committee of Cabinet, that person may also "report on the meeting", by which it means –</p> <p>2.1.1 Filming, photographing or making an audio recording of the meeting;</p> <p>2.1.2 Relaying that video or audio recording to enable others not present at the meeting to see or hear it at the same time as the meeting; and</p> <p>2.1.3 Reporting or providing oral or written commentary on the meeting, so that others not present at the meeting may hear it at the same time as the meeting. However, authorities are given a discretion not to allow a person to make an oral report or commentary if he/she is actually present at the meeting (presumably to avoid disruption of the meeting).</p> <p>The Regulations place a duty on the authority to afford reasonable facilities for the person to so record and report the meeting.</p>	<p>Part 4 Access to Information Procedure Rules</p> <p>Part 4 Access to Information Procedure Rules</p> <p>Part 4 Access to Information Procedure Rules</p> <p>Part 4 Access to Information Procedure Rules</p>	

2	<p>Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089:</p> <ul style="list-style-type: none"> <li>Regulation 9 of the 2012 regulations introduced the need for 28 days' clear notice for the subject matter of executive and key decisions to appear on the authority's website and be available for public inspection at the local authority's office.</li> <li>Regulation 10(1) allows, that if it is impracticable for the Council to give the required 28 days' notice, the decision may still be made if the Chairman of the Scrutiny Committee has been given notice in writing of the matter about which the decision is to be made, a copy of the notice is made available for inspection by the public and is published on the Council's website, and at least 5 clear days have elapsed following the day on which the notice is made available for inspection by the public. Exceptions and special urgency provisions allow shorter notice with the agreement of the Chair of Scrutiny/Mayor or Deputy</li> </ul>	<p>Appendix 6 Article 3 - Decision Making Part 3 – Responsibility for functions Part 4 Procedure Rules, Budget and Policy Framework Procedure Rules and Access to Information</p>	<p>That the rule is 28 days is a bit buried in the Appendix</p> <p>Correction to Part 4, Paragraph 68: Monitoring Arrangements, to delete 'or both' at the end of the paragraph</p>
3	<p>Local Audit Panel arrangements required by the Local Audit and Accountability Act 2014:</p> <ul style="list-style-type: none"> <li>The Audit Commission wound up in March 2015 and any references to the Audit Commission should be removed.</li> <li>Public Sector Audit Appointments Limited (PSAA) took responsibility for making auditor appointments and setting audit fees from 2017.</li> <li>Local authorities must appoint an auditor for 2017/18 by December 2016 in accordance with Part 3 of the 2014 Act (and Schedule 3).</li> <li>Section 9 of the Act requires the Council to have an auditor panel to advise the authority on a) the maintenance of an independent relationship with the appointed local auditor, b) the selection and appointment of a local auditor, c) any proposal to enter into an agreement limiting the liability of its auditor(s) – unless the Council joined PSAA.</li> <li>The advice of an auditor panel must be published</li> </ul>		<p>There are two references to the Audit Commission in the Financial Regs</p> <p>The section on Audit Requirements pg 258 needs updating</p>
4	<p>The Accounts and Audit Regulations 2015 requirements:</p> <ul style="list-style-type: none"> <li>The responsible financial officer must certify the presentation of</li> </ul>	<p>Part 6 – Financial regulations Part 5 Audit Committee Terms of Reference</p>	<p>This all needs checking in detail, although there are references, they may not be correct.</p>

	<p>the accounts</p> <ul style="list-style-type: none"> <li>• The annual accounts (including the governance statement) must be published with the audit opinion and certificate, and before that must have been approved by members, by no later than 31<sup>st</sup> July.</li> <li>• The responsible financial officer must re-certify the presentation of the annual accounts before member approval is given.</li> <li>• The responsible financial officer must ensure that the period for the exercise of public rights includes the first 10 working days of July for reporting on financial years 2015/16 and 2016/17.</li> <li>• Public rights (which will include rights of objection, inspection and questioning of the external auditor) may only be exercised within a 30 day period. During this period all relevant documents must be available for public inspection.</li> <li>• Documents relating to the published statement of accounts must remain available for public access for a period of not less than 5 years.</li> </ul> <p>A narrative statement must be prepared to support the statement of accounts.</p>	<p>Part 6 Financial Regulations – Audit Committee, Chief Finance Officer and Annual Statement of the Accounts sections Article 3 Part 6 Local Code of Corporate Governance</p>	<p>The Local Code of Corporate Governance needs updating.</p>
5	<p>The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015</p> <ul style="list-style-type: none"> <li>• requires the any allegation of misconduct against senior officers with statutory responsibilities (Head of Paid Service, Monitoring Officer and s151 Officer) to be considered by an independent panel where a recommendation to Council is likely to be made to Council for dismissal.</li> <li>• the panel is to be an advisory committee of the authority</li> <li>• requires certain specific standing orders to be added to the Council's constitution.</li> </ul> <p>The CE and CO Terms and Conditions of Service have been updated in 2016 and 2017</p>	<p>Part 4 – Officer Employment Procedure Rules Part 5 Terms of Reference</p>	<p>The CE Handbook has been updated in 2022 and the relevant content needs to be reviewed.</p>

	Legislative Requirements	Council's Constitution	Comment
6	Political Assistant Standing Orders required by section 9 Local Government and Housing Act 1989.	Part 4 – Officer Employment Procedure Rules	.
7	Statutory Guidance on the constitution of the Licensing Committee and sub-committees under s.182 Licensing Act 2003, with appropriate decisions delegated to Officers and appeals.	Part 1 Part 2 - Articles 8 & 12 Part 3 – Responsibility for functions, inc Section 8 Officer delegations Part 4 - Committee Procedure Rules Part 5 – Terms of Reference Appendix 2 – Executive and Non-Executive functions Appendix 3 – Additional Delegations to Officers	

8	Public Service Pensions Act 2014  Review of the Pension Committee arrangements Including membership, quorum, terms of reference and obligations on members  Review of Pension Board membership and terms of reference		
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9	<p>Senior Officer employment matters</p> <p>Review of chief officer appointment and disciplinary arrangements to ensure compliance with national terms and conditions.</p>		
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	<b>Other Constitution updates outstanding:</b>		
	Health and Wellbeing Board Terms of Reference		The TOR does not currently reflect the governance change from Clinical Commissioning Groups to Integrated Care Boards