



**North
Herts**
Council

CONSTITUTION

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NORTH HERTFORDSHIRE DISTRICT COUNCIL CONSTITUTION

PART A

SECTION 1

1. Introduction

1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute Council activities.
- 1.1.3. You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Overview and Scrutiny Committee, Standards Committee and Regulatory Committees. Section 12 provides information on the management and officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Sections 4,5,6,7,8,9 10, and 1414 say which Council bodies, and which members and officers, have authority to make which decisions.
- 1.1.4. At Sections 4.8 and 6 we have set out the procedural rules that apply to the different Council bodies. You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5. Sections 17 and 18 have the Codes of Conduct and Protocols which officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6. The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

1.2. How the Council Operates

- 1.2.1 The Council is comprised of forty-nine Councillors each elected for a four-year period. Elections are held in three out of four years with a third of the seats contested in each year. Each Councillor is democratically accountable to the residents of their electoral ward as well as all of those who live in the District of North Hertfordshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them. Councillors who do not attend at least one Council or Committee meeting in a six month period cease to be a Councillor, unless their absence is approved by Full Council within that period.
- 1.2.2 All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Monitoring Officer is responsible for training and advising on the Code of Conduct. The Standards Committee (Section 7) also plays an important role in promoting and maintaining high standards of conduct.
- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the Budget each year. The Council appoints the Leader of the Council. The Leader then decides the size and membership of the Cabinet (within parameters set by legislation), the role of individual Members of the Cabinet and

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arrangements for the exercise and delegation of Executive Functions (for definition see paragraph 2.2 below).

- 1.2.4 In addition to Council and Cabinet there are a number of other committees, whose terms of reference are set out in the Constitution. These committees do different things, for example make decisions on some planning or licensing applications, or scrutinise work being undertaken. There are also five Area Forums which promote close working with our communities. For details as to how the committees operate please look at the section in the Constitution for that committee. These committees have Members from different political parties sitting on them, usually in proportion to their party's overall share of the Council's 49 seats (with the exception of Area Forums as they are informal and sub Committee).
- 1.2.5 As well as formal committee meetings, which have legal and constitutional requirements as to how they operate, the Council will also occasionally use Working Parties. A Working Party has no legal or constitutional requirements, for example they do not require a published agenda, reports or minutes. Generally these meetings are private, informal and have no decision making powers. Working Parties consider issues in detail and then report back to Council (or another committee) with findings and recommendations. They are often used in the early stages of policy formulation. A Working Party can be formed at any time to deal with a particular issue and will be disbanded after that issue is resolved. The Group Leaders of each political party choose which of their Members will sit on the Working Party.
- 1.2.6 On larger projects the Council uses an approach based on the PRINCE2 (an acronym for projects in controlled environments, version 2) model of project management, in which the Lead Officer (called the project executive) is the decision maker. This model includes Project Boards whose role is to provide the Lead Officer with the support and input necessary for the project to proceed and to overcome any problems. The Managing Director appoints the Lead Officer for the Project Board, and the Lead Officer will liaise with relevant Senior Officers and the Leader of Council on the Officer/ Member appointment to the Board (respectively). Membership will take into account the number of Members/ Officers, the risk and/or profile of the project and the skills and experience that will benefit the project (this list is non exhaustive). It may include external support. Membership usually includes appropriate Cabinet members. A Member shall Chair the Board. As an internal consultation and advisory meeting with no decision making powers, meetings are private and do not require a published agenda, reports or minutes.

If you need any further help, please visit our website <http://www.north-herts.gov.uk/>

The Council Offices are located at Gernon Road, Letchworth Garden City, SG6 3JF. Telephone number 01462 474000.

Whilst the Constitution is very long, we hope that you will find it easy to use. We have tried to make it as easy to follow as is possible with such a long and complex legal document.

SECTION 2

2. Purpose, Definition Interpretation and Amendment of the Constitution

2.1 Purpose of the Constitution

The purpose of the Constitution is to:

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

2.2 Definitions in the Constitution

2.2.1 The Constitution of the Council is this document (Sections 1 to 20).

2.2.2 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 (Section 16.2);
“Chair of the Council”	means the Member elected at Annual Council to chair its meetings. See section 4.5.4.
“Cabinet Panel”	This is a group of members that has ² been established by Cabinet as an investigatory and advisory body to Cabinet, Executive Members or relevant Service Directors on a subject area that falls within their terms of reference. For the avoidance of doubt the Panel will not duplicate the work of Overview and Scrutiny Committee.
“Chief Officer”	As defined under section 12.8.1(c) ³
“Councillor”	a person elected to the Council to represent an area (called an electoral ward) within North Hertfordshire District Council;
“Deputy Chief Officer”	As defined under the Local Government & Housing Act 1989 and relevant Regulations

² NB may be established by Council, but usually Cabinet.

³ To include all Directors irrespective of whether they directly report to the Head of Paid Service on the basis that they are directly accountable to the Head of Paid Service as per Regulation 2(7)(b) of the Local Authorities (Standing Orders) Regulations 1989

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

“Executive”	the Cabinet or a Member or Members 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”	<p>Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. In general terms the provision of services, how the Council spends its budget, the Council’s procedures and management are Executive Functions.</p> <p>Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>The regulatory functions, for example, planning licensing and building control, are not Executive Functions;</p>
“Forward Plan”	In this constitution the Notice of Key Decision and a Notice of Private Meeting of the Cabinet published by the Council over a four-month period (including decisions to be made by the Cabinet, individual Cabinet members or delegated officers).
“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 12.2 for more details. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Head of Paid Service. Any reference to Chief Executive in legislation or Council Policy and Procedure documents is deemed to be a reference to the holder of this position
“Independent Person”	the person(s) appointed by Full Council to fulfil the requirements of section 28 of the Localism Act 2011 in respect of complaints about Members
“Key Decision”	<p>as defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012, means an executive decision which is likely:-</p> <ul style="list-style-type: none"> (a) 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 (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District;

	a Member of Cabinet responsible for chairing Cabinet.
“Leader”	See section 5.3.
“Legislation or Legislative”	reference to legislation or legislative means any Act, Regulation, order, instrument or rule and/ or statutory guidance under such provisions, however expressed;
“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”	a Councillor;
“Monitoring Officer”	an officer who must be appointed by law to carry out certain functions. See Section 12.3 for a description of those functions. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Monitoring Officer;
“Non-Executive Functions”	all functions of the Council which are not Executive Functions;
“Neighbourhood plans and orders”	Neighbourhood Plans, Neighbourhood Development Plans/ Orders, Community Right to Build Orders, Designation of Neighbourhood Area, Neighbourhood Forum or Business Area, including related referenda, Independent Examination (‘IE’) and incidental matters, or any other descriptions amending or replacing the same.”
“Policy Framework”	See Section 4.2;
“Executive Member”	a Member of Cabinet with particular responsibilities determined by the Leader
“Proper Officer”	means an officer to whom a duty/ role or decision-making power is delegated, as set out at Section 14.5 – 14.6 unless otherwise described;
“Section 151 Officer”	an officer who must be appointed by law to carry out certain functions. Also known as Chief Finance Officer. See Section 12.4 for a description of those functions. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Section 151 Officer;
“Service”	one of the services provided by the Council, for example Waste collection, Council Tax collection, Leisure;
“SIAS”	means the Shared Internal Audit Service appointed by the Chief Finance Officer to undertake the Internal Audit function for the Council
“Statutory Officer”	the Head of Paid Service, the Section 151 Officer or the Monitoring Officer
	A Councillor representing an individual or group within a ward (or at the request of another Councillor in a single

“Ward Advocate” Member ward to so so) on an issue, application, concern. This should be subject to the Code of Conduct rules on interests and not being involved in any subsequent decision making on the matter.

2.3 Interpretation of the Constitution

2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.

2.3.2 During meetings, the ruling of the person chairing or presiding at the meeting either to the interpretation or application of the Constitution or as to any proceedings of the Council (or part of it) shall be final and not challenged.

2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

2.4 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 Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in Section 19 of the Constitution and shall make any necessary amendments and revisions as are required from time to time as defined in paragraph 2.6 of the Constitution. The Constitution will be reviewed on an annual basis with a substantive review every 3 years.

2.5 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:

2.5.1 Observe meetings of different parts of the Member and officer structure;

2.5.2 Undertake an audit trail of a sample of decisions;

2.5.3 Record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders; and

2.5.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

The Monitoring Officer must consult with Group Leaders and other Members as appropriate if proposing changes to the Constitution.

2.6 Changes to the Constitution including the Financial Regulations

2.6.1 Approval

Subject to paragraph 2.6.2 below, changes to the Constitution are for Full Council to decide after consideration of the proposal by the Monitoring Officer or on recommendation of the Cabinet.

2.6.2 Minor Changes

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

a) a minor variation; or

- b) required to be made to remove any inconsistency, ambiguity or typographical error; or
- c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet; or
- d) requested only for practical purposes, in order to ensure the proper administration of the Council,

the Monitoring Officer or the Chief Finance Officer may make such a change.

2.6.3 Any change made under paragraph 2.6.2(d) shall come into force with immediate effect but shall be referred to Full Council as soon as is reasonably possible and shall continue to have effect only if Full Council agree.

2.6.4 Changes made under paragraph 2.6.2 must be notified to all Members.

2.6.5 Changes to Mayoral Form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

2.6.6 Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be 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.

2.7 Suspension of the Constitution

2.7.1 Limit to Suspension

The Rules of this Constitution may not be suspended. Any of the Rules, with the exception of those contained in Sections (f), 4.8.16(h) and (b) may be suspended to the extent permitted within these Rules and the law.

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

2.8 Publication

2.8.1 The Proper Officer will ensure that copies of this Constitution are available for inspection at Council offices.

2.8.2 The Proper Officer will if requested, give a printed copy of this Constitution to Members of the Council upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council.

2.8.3 The Constitution will be published on the Council's website.

SECTION 3

3. Getting Information and Getting Involved

3.1 Getting Information

3.1.1 Information Available to Members of the Public

(a) When meetings of the member bodies will take place

A programme of meetings is available by contacting the Council direct, logging on to the Council's website or looking at the Council's notice board outside the Council Offices.

(b) Forward Plan

Find out from the Forward Plan what Key Decisions will be taken by the Cabinet or Council and what issues the Overview and Scrutiny Committee will be considering and when these matters will be discussed.

(c) Information available prior to a meeting

At least five clear working days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection as detailed in Section 15.

(d) Information available at a meeting

Details of information available at a meeting are set out under Section 15.

(e) Information available after a meeting

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

(f) Council's Accounts

During a 30-working day period that usually includes 1-14 June, any 'interested' person can inspect the Council's accounts and accounting records. Local electors may also inspect various reports issued by the auditors and ask questions of the auditor about the accounting records. Local electors can also make objections to the auditor where they believe that an item in the accounts is unlawful, or they think that a public interest report should be made. The National Audit Office has produced a guide that further explains the public's rights in relation to the inspection of accounts.

Information which is confidential, or exempt will not be disclosed to members of the public at any time.

3.1.2 Information Available to Members of the Council

- (a) Members can see any information, which is available to a member of the public.
- (b) In addition a member may see any information, which they reasonably requires in order to fulfil his or her role as a member of the Council, but a member will not make public information which is confidential or exempt (as defined in Section 15) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or other party entitled to know it.

3.1.3 Members of the Overview and Scrutiny Committee

- (a) A member of the Overview and Scrutiny Committee may also see any document containing material relating to:
 - (i) any business transaction of the Cabinet; or
 - (ii) any decision taken by an individual member of the Cabinet; or
 - (iii) any decision taken by an officer of the Council in accordance with executive arrangements;

and which is within the terms of reference of the Scrutiny Committee of which they are a member.

- (b) The Overview and Scrutiny Committee member is not entitled to:-
 - (i) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is relevant to any review contained in the Overview and Scrutiny Committee's programme of work; or
 - (ii) the advice of a political adviser.

NB No member is entitled to see any information relating to a matter in which they have a Disclosable Pecuniary Interest.

3.1.4 Information Available to Officers

The Monitoring Officer and S151 Officer may see any papers or records held by any part of the Council or its officers. Other officers may see any information held by the Council provided:

- (a) they need to see the information to do their job; and
- (b) that information is processed lawfully in accordance with the Data Protection Act 1998.

3.2 Getting Involved

3.2.1 Members of the Public

Members of the Public can get involved in the following ways:

- (a) Voting for Councillors

If they are over 18 years and registered as a local elector with the Council.

- (b) Suggesting Items of Business for Meetings

A member of the public may suggest a matter be included in an agenda by:

- (i) asking the Chair of any body to add an item to the agenda; and/or
- (ii) attending a meeting of the body and suggesting under public participation that it looks at an issue.

- (c) Taking Part in Meetings

- (i) Members of the public can speak at any meeting which is open to the public. The rules on when you may speak and for how long are contained in Section 4.8.9.
- (ii) The Council operates openly and transparently and recognises that citizens may wish to utilise social media during meetings (including recording meetings). This engagement is welcomed provided that Council business is not disrupted or disturbed. Examples of disruptive behaviour can include:-
 - moving to areas outside the areas designated for the public without the consent of the Chair;
 - excessive noise in recording or setting up or re-siting equipment during the debate/discussion;
 - intrusive lighting and use of flash photography; and
 - asking for people to repeat statements for the purposes of recording.
 - Where the meeting is held partly or wholly through remote means, conduct or use of electronic methods or imagery to disrupt the meeting.
- (iii) You can also ask Questions at meetings of Full Council, Cabinet, Committees and Sub-Committees (Section 4.8.10).

(d) Exclusion from Meetings

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed (see Section 4 & Section 15 for the meaning of those terms and further explanation).

(e) Making Comments/Complaints

A member of the public may comment or complain about Council services by:

- (i) contacting their local councillor;
- (ii) contacting the member of the Cabinet responsible for the service;
- (iii) contacting the officer responsible for delivering the service or their manager;
- (iv) using the Council's complaints procedure.

Comments or complaints can be made about an officer or member by:

Officer	Contacting the officer or the officer's manager
Members	If there has been a breach of the protocols a complaint may be lodged with the Monitoring Officer

(f) Engage with Overview and Scrutiny Committee

All members of the public who live or work in the area of North Hertfordshire District Council may bring to the attention of the Overview and Scrutiny Committee their views on any matter under consideration by the Committee. The Overview and Scrutiny Committee must give consideration to any views brought to its attention by a member of the public.

3.3 Getting Involved

Members can get involved by:

3.3.1 Suggesting Items of Business for the Agenda

As a member of the Council, you have the same rights as members of the public. In addition to these rights, you also have the following rights:

- (a) Member bodies in Column A can request that member bodies in Column B consider or reconsider and issue.

Column A	Column B
Cabinet	Council Overview and Scrutiny Committee
Council	Cabinet Overview and Scrutiny Committee
Overview and Scrutiny Committee;	Cabinet and Full Council
Finance, Audit and Risk Committee	Cabinet or Council – subject to matters reserved to Full Council (or call-in to Overview & Scrutiny subject to call-in rules/ procedure)
Standards Committee	Council Cabinet

- (b) Any member can submit a Notice of Motion to Council in accordance with the rules set out in Section 4.8.12.

3.3.2 Participating in Meetings

- (a) Members of the Council are entitled to attend any formal meetings of the Council, its committees or sub-committees or the Cabinet.
- (b) Members of the Council may speak at any meeting which they are entitled to attend. When a member may speak and for how long depends upon the rules applying to that meeting (Section 4.8).

3.3.3 Executive Meetings

Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided:-

- (a) the Executive Function has been delegated to them by the Leader of the Council; and
- (b) the decision to exercise the Executive Function is not a Key Decision.

3.3.4 Comments and Complaints

- (a) Members may comment on any aspect of Council business by:

- (i) talking to officers;
 - (ii) talking to the Leader or member of the Cabinet;
 - (iii) talking to the Chair of the Overview and Scrutiny Committee.
- (b) If a member wishes to complaint about:

An Officer	The procedure set out in the Member/Officer Protocol may be used (Section18)
A Member	The procedure set out in Section 17 may be followed

3.4 Adverse Weather

- 3.4.1 If prior to a meeting of any Committee adverse weather conditions are expected which will affect the ability of those attending the meeting (public, Councillors or Officers) to travel safely, it shall be the responsibility of the Chair of the Committee, in consultation with the most senior Officer attending the Committee to determine whether to postpone the meeting or where legally necessary to request that a delegated decision / decisions are made under urgency provisions. The Proper Officer shall be responsible for advising the public, Councillors and Officers of the postponement and setting a new date to re-convene the meeting where applicable.
- 3.4.2 If during a meeting of any Committee adverse weather conditions occur which will affect the ability of those attending the meeting (public, Councillors or Officers) to travel safely, it shall be the responsibility of the Chair of the Committee, in consultation with the most senior Officer present to determine whether to cease the meeting. The Proper Officer shall be responsible for setting a new date to re-convene the meeting in order to conclude the original agenda as soon as possible.

APPENDIX 1 TO SECTION 3

NORTH HERTFORDSHIRE DISTRICT COUNCIL PETITION SCHEME

1. Who may submit a petition?

- 1.1 Any member of the public who is a registered local government elector or resident of North Hertfordshire or owns a business in the area (“an *applicable person”) may present, to a meeting of full Council, Cabinet or an Area Forum, a petition relating to a matter with which the Council is concerned.

2. What are the requirements for submitting a petition?

- 2.1 Subject to 2.3 below a petition must be written and submitted on paper to: The Democratic Services Manager, Council Offices, Gernon Road, Letchworth, SG6 3JF. If presentation to a specific meeting is intended, notification must be given in writing at least 5 working days before the relevant meeting of the full Council, Cabinet or Area Forums.

- 2.2 A petition must include:

- a clear, concise statement, repeated on each page, covering the subject of the petition and what action you want the Council to take;
- the name, address, post code (business if applicable) and signature of at least 120 applicable persons (as defined above*) supporting the petition;
- the name, address and contact details of the petition organiser (who should be an applicable person).

If the above information is not evident when the petition is submitted, the Proper Officer may reject the petition outright, or seek further information before deciding whether to do so.

- 2.3 The Council will accept electronic petitions provided they comply with the requirements of paragraph 2.2 above and are created on recognised online petition websites which require a form of verification by the person signing the petition. Such petitions must be printed and submitted to The Democratic Services Manager.

3. What will the Council do when it receives a petition?

- 3.1 The Democratic Services Manager will acknowledge receipt and decide what to do with the petition. If a petition does not follow the requirements set out above, or is considered not to be relevant, the Democratic Services Manager may decide not to do anything further with it. In that case, they will write to the petition organiser to explain the reasons.

- 3.2 Action, on receipt of a petition, may include:

- Undertaking research or an investigation into the issue;
- Meeting or discussing the issue with the petition organiser;
- Consulting local Partners or stakeholders;
- considering the petition at a full Council/Cabinet/Committee/ Sub-Committee/ Area Forums meeting;
- referring to officers for consideration and report to a Full Council/Cabinet/Committee / Sub-Committee/ Area Forums meeting;
- referring the petition to another agency;
- writing to the petition organiser setting out the Council views about the request in the petition.

4. Why may a petition not be acceptable?

- 4.1 If the petition applies to a matter where there is an existing right of appeal or other procedures apply (e.g. an individual planning application), we will advise the petition organiser of the procedure to be followed.
- 4.2 In general, other, existing, procedures apply to:
- Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;
 - Any matter relating to an alcohol, gambling or sex establishment licensing decision;
 - Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - any petition considered to be vexatious, abusive, libellous, offensive, in breach of the Council's statutory duties in respect of equality, diversity and inclusion or otherwise inappropriate.
- 4.3 Petitions disclosing matters that are personal, or confidential.
- 4.4 Petitions which are a duplicate of, or very similar to, a petition submitted in the past 12 months
- 4.5 Petitions that do not otherwise follow the requirements of the Petitions Scheme.

5. If a Committee / Forum is to consider the petition am I able to speak at the meeting?

- 5.1 The petition organiser or their representative may then address the Council, Cabinet or Area Forums meeting, for no more than five minutes on the subject of the petition but shall not have the right to speak further.
- 5.2 **Please note** - No more than 2 petitions may be presented per meeting, and petitions on the same subject may be amalgamated.

SECTION 4

4. Full Council

4.1 Introduction

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and the Council's share of the Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

4.2 The Policy Framework

4.2.1 The Policy Framework means the following plans and strategies required by law to be adopted by the Council, or which the Council has chosen to adopt:

- (a) the Constitution;
- (b) Annual Report [note the Council does not currently produce such a report];
- (c) Community Safety Plan;
- (d) Development Plan documents;
- (e) Licensing Policy statements under Licensing Act 2003 and Gambling Act 2005;
- (f) Priorities/ Objectives for the District.

4.2.2 Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

4.3 The 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 decision relating to the control of the Council's borrowing requirement, the control of its capital expenditure. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 16 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet).

4.4 Functions of the Full Council

4.4.1 Only the Full Council will exercise the following functions:

- (a) approving or adopting the Policy Framework;
- (b) approving or adopting the budget;
- (c) Considering a referendum on Council Tax increases and associated matters;
- (d) making decisions about any matter in the discharge of an executive function 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;
- (e) electing the Chair and electing a Vice-Chair of the Council;
- (f) electing the Leader;

- (g) appointing committees of the Council and agreeing and/or amending the terms of reference of any committees or other bodies appointed by the Full Council deciding on their composition and making appointments to them;
- (h) nominating District Councillors to outside bodies unless the nomination is an executive function;
- (i) considering recommendations from the Independent Remuneration Panel and adopting an allowances scheme or assessing, revoking or replacing the whole or part of any such scheme;
- (j) the offer of appointment or notice of dismissal to the Head of Paid Service, Chief Finance Officer or Monitoring Officer, prior to such action being taken (and in respect of dismissal, having taken into account any advice, views or recommendations, conclusions of any investigation from the Panel and representations of the Officer concerned);
- (k) making arrangements for the proper administration of financial affairs (section 151 Local Government Act 1972);
- (l) appointing an Electoral Registration Officer;
- (m) appointing a Returning or Acting Returning Officer (to act in connection with Parliamentary, District, County, Police Commissioner, European elections and referenda);
- (n) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (o) receiving reports from the Head of Paid Service on the senior management structures of the organisation;
- (p) agreeing procedure rules, standing orders and financial regulations;
- (q) agree proposals for the compulsory polling districts, polling places and polling stations reviews, district boundaries, electoral wards and the number of District Councillors⁴;
- (r) agreeing an Annual Schedule of meetings;
- (s) adopting and amending the Authority's Code of Conduct for members and other codes and protocols comprising the ethical framework;
- (t) arranging for the discharge of any other functions of the Authority which are not executive functions;
- (u) to authorise the disposal (by sale or lease) of land or buildings where the sale price, premium or initial annual rent (after the expiry of any rent free period) exceeds £2,500,000;
- (v) to authorise the acquisition of land or buildings where the purchase price, premium or initial annual rent (after the expiry of any rent free period) exceeds £2,500,000;
- (w) to make, amend or withdraw Compulsory purchase orders;
- (x) approving and revising the Petition Scheme;

⁴ Amended Full Council 10.2.22

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- (y) to consider or receive presentations from members of the public, community groups and outside bodies on matters relating to the District;
- (z) approving the Council Tax Reduction Scheme;
- (aa) agreeing any award which would exceed the financial limits set out in the Council's Pay Policy Statement;
- (bb) to recognise exceptional contributions to the community by groups or individuals;
- (cc) approving the treasury management strategy;
- (dd) to determine those financial matters reserved to Council by the Financial Regulations.
- (ee) to receive Annual reports from the Overview & Scrutiny, Finance, Audit and Risk and Standards Committees.
- (ff) to consider and approve town twinning and other partnerships with local authority bodies overseas, for areas within the District.

4.5 Membership

4.5.1 All members of the Council shall be members of Full Council.

4.5.2 Substitution is not possible at meetings of the Council.

4.5.3 Chairing the Council

- (a) The Councillor elected annually by the Council to chair its meetings will be called the "Chair".
- (b) The Chair will cease to be Chair if they resign, are dismissed by a vote of Full Council, cease to be a member of the Council, or are unable to act as a member of the Council.

4.5.4 Roles and Function of the Chair

The Chair of the Council and in their absence, the Vice-Chair will have the following roles and functions:-

(a) Ceremonial Role

The Chair of the Council:

- (i) is the civic leader of the District of North Hertfordshire;
- (ii) promotes the interests and reputation of the Council and North Hertfordshire as a whole and acts as an ambassador for both; and
- (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

(b) Responsibilities of the Chair

- (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;

- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;
- (iii) 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 Cabinet are able to hold the Cabinet and/or Committee Chair to account;
- (iv) to encourage public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and they determine are appropriate.

4.5.5 Role of Councillors

Information of the role of Councillors within the Council can be found on the Council's and on the Local Government Association's websites.

4.6 Council Meetings

There are three types of Council meeting:-

- 4.6.1 the annual meeting;
- 4.6.2 ordinary meetings; and
- 4.6.3 extraordinary meetings.

4.7 Rules of Procedure and Debate

The Standing Orders contained in Section 4.8 below will apply to meetings of the Full Council.

4.8 Rules for Conducting Meetings ("Standing Orders")

4.8.1 Annual Meeting of the Council

- (a) Timing and business

In a year when there is an ordinary day of election of councillors, the annual meeting will take place between 8 and 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chair or Vice-Chair of the Council is not present;
- (ii) elect the Chair of the Council;
- (iii) elect the Vice-Chair of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chair and/or the Head of Paid Service;

- (vi) elect the Leader of the Council at the first annual meeting following a whole Council election for a four-year term⁵;
 - (vii) note the number of Members to be appointed to the Cabinet and the appointment those Members;
 - (viii) appoint the Overview and Scrutiny Committee, Finance, Audit and Risk Committee, Standards Committee, Licensing and Regulation Committee, Planning Control Committee, Council Tax Setting Committee and Employment Committee and such other Committees, Sub-Committees, Panels and Community Forums as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 14 of this Constitution);
 - (ix) appoint the Chair and Vice-Chair of Committees subject to any requirements of this Constitution concerning who may be appointed to such positions. Community Forums will appoint their own Chair and Vice Chair. In the event that a Chair and Vice Chair cannot be appointed at the first meeting of a Community Forum or at the next available meeting, such appointment shall be made at the subsequent ordinary Council meeting.
 - (x) agree the Scheme of Delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Section 14 of this Constitution);
 - (xi) approve a programme of ordinary meetings of the Council for the year; and
 - (xii) consider any business set out in the notice convening the meeting.
- (b) **Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

- (i) decide which Committees and Sub-Committees to establish for the civic year;
- (ii) decide the size and terms of reference for those Committees and Sub-Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each Committee and outside body;
- (v) make appointments to those Committees and nominations to outside bodies except where nomination to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

4.8.2 Ordinary Meetings

There will be six ordinary meetings each year. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Meetings will not be cancelled by the Chair without consulting all Group Leaders in advance. The order of business at ordinary meetings will be as follows:

- (a) select a person to preside if the Chair and Vice-Chair are not present;

⁵ Subject to resignation, retirement, passing of a motion of no confidence, long term absence – i.e. in excess of 6 months; or no longer being a District Councillor through other events, such as '6 month rule', or abolition of ward; in all such cases, the subsequent election of a Leader can take place during any other Full Council meeting and will be for the remaining coterminous election cycle.

- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chair, Leader, members of the Cabinet or the Head of Paid Service;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (f) consider motions from Members;
- (g) deal with questions from Members;
- (h) deal with any business of the last Council meeting;
- (i) receive and debate reports from the Cabinet and the Council's Committees and Chair of the Community Forums and receive questions and answers on any of those reports. For this purpose, the agenda for each meeting of the Council will include a standing item under which such reports can be presented, subject to compliance with the provisions of the Access to Information Rules regarding notice;
- (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations; and
- (k) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee and Finance, Audit and Risk Committee;

4.8.3 **Extraordinary Meetings**

(a) Calling Extraordinary Meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Monitoring Officer;
- (iv) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

(b) Business

At an extraordinary meeting of the Council the only business to be transacted will be that included within the summons to attend the meeting.

4.8.4 **Appointment of Substitute Members of Committees, Sub-Committees and Panels**

- (a) As well as allocating seats on Committees, Sub-Committees and Panels the Council will allocate seats in the same manner for substitute Members.

- (b) For Committees or Sub-Committees listed at 4.8.4(d) below and Panels, but not the Cabinet, the Council will appoint a proportionate number of substitutes in respect of each political group as that group holds ordinary seats on that Committee, Sub-Committee or Panel. The number of substitutes shall be a minimum of two substitutes per group and a maximum of 50% of the total of each group's full committee or Panel membership rounded up to the nearest whole number.
- (c) The Democratic Services Manager ("the Proper Officer") may change substitutes on Committees, Sub-Committees or Panels for a meeting at the request and in consultation with the relevant Group Leader providing:
 - (i) any Member substituting must have undertaken any pre-Committee compulsory training before such a request is made to act as the substitute; and
 - (ii) the request is sent via email to the Proper Officer at least 7 clear working days before the meeting.
 - (iii) The appointment as substitute is for a particular meeting and shall then cease.
- (d) The Committees for which substitutes are permitted are; Employment Committee, Planning Control Committee, Overview and Scrutiny Committee, Finance, Audit and Risk Committee, Council Tax Setting Committee, Joint Staff Consultative Committee and the Standards Committee. Substitutes are allowed for Panels.
- (e) Substitute members will have all the powers and duties of any ordinary member of the Committee or Panel but will not be able to exercise any special powers or duties exercised by the person they are substituting.
- (f) Substitute members may attend meetings in that capacity only:
 - (i) to take the place of the ordinary member for whom they are designated substitute;
 - (ii) when the ordinary member will be absent for the whole of the meeting;
 - (iii) after notifying the Proper Officer by 12 noon on the day of the meeting or the day before by 12 noon (where that meeting is scheduled between 9 am – 5pm the following day).

4.8.5 Time and Place of Meetings and Agenda setting the Agenda and Recording of Meeting by the Council

- (a) The time and place of meetings will be determined by the Proper Officer and notified in the summons.
- (b) Responsibility for setting the agenda lies with the Chair in consultation with the Proper Officer. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Chair is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader and Managing Director⁶.
- (c) The Leader of the Council, Executive Member and relevant officers will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. Any item requested to be included on the agenda by the Chair shall be included.

⁶ The right to remove does not apply to Statutory Officer reports (CFO & MO) under ss114/114A Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989.

- (d) The Council takes an audio recording of all parts of its committee meetings which the public are entitled to attend. This and any visual recording the Council takes are retained in accordance with the Council's data retention policies.

4.8.6 **Notice of and Summons to Meetings**

- (a) The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the above and Section 15. At least five clear days before a meeting, the Proper Officer publish the summons and with date, time, place and specify the business to be transacted, and will be accompanied by such reports as are available (subject to the requirement under Section 15, that all reports must be available at least five clear days before the meeting unless the report is genuinely urgent).
- (b) For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record", "background papers" "open to the public" when referred to as being:
 - (i) "open to inspection" shall include for these and all other purposes as being published on the Council's website (or electronic meetings management system);
 - (ii) to be published, posted or made available at Council's offices is satisfied if this is by publication on the Council's website (or electronic meetings management system);
 - (iii) "open to the public" includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming.

4.8.7 **Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair, but must request the permission of the Council before speaking on matters other than procedural. The person presiding will ensure that formality is maintained throughout the proceedings. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

4.8.8 **Quorum of Meetings**

- (a) The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. In the event that there is a quorum present for subsequent agenda items, the meeting will resume. Remaining business will be considered at a time and date fixed by the Chair or where legally necessary to request that a delegated decision/ decisions are made under urgency provisions. If they do not fix a date, or make such a request, the remaining business will be considered at the next ordinary meeting.

4.8.9 **Presentations by the Public**

- (a) Unless otherwise stated in the rules for Full Council or a particular Committee, presentations from the public under the Public Participation item of a Committee agenda must not exceed five minutes in length.
- (b) Points of clarification may be asked by Council or a particular Committee through the Chair, of the person making a presentation. The Chair can decline to put a point of clarification if they consider this irrelevant or this has been covered during the presentation.

- (c) Public presentations on matters decided in the past 6 months, or those already made to Cabinet, Committees/ Sub-Committees or Council on the same issue prior to a decision will not be accepted without the agreement of the Chair of the meeting.
- (d) Notice of Presentations

A presentation may only be made if notice has been given in writing or by electronic mail to the Proper Officer no later than midday, two working days before the day of the meeting.
- (e) Number of Presentations

At any one meeting no person may make more than two presentations and no more than two such presentations may be made on behalf of one organisation.
- (f) Scope of Presentations

The Chair and/or Proper Officer may reject a presentation if it:

 - (i) is not about a matter for which the Council has a responsibility or which affects the District;
 - (ii) is defamatory, frivolous or offensive;
 - (iii) is substantially the same as a presentation which has been made at a meeting of the Council in the past six months;
 - (iv) is a duplicate of a same or similar one at the meeting;
 - (v) requires the disclosure of confidential or exempt information.
- (g) Exceptions to this rule apply to the Planning Control Committee see Appendix 1 to Section 8). Community Forums are informal bodies (see terms of reference).

4.8.10 Questions by the Public

- (a) General

Members of the public may ask questions of the Leader and members of the Cabinet at ordinary meetings of the Full Council, Cabinet, Committees and Sub-Committees.
- (b) Order of Questions

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.
- (c) Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than midday, five working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put. The Proper Officer shall endeavour to make the question that has been accepted under 4.8.10 available to Members three days before the day of the meeting.
- (d) Number of Questions

At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.

(e) Scope of Questions

- (i) The Chair and/or Proper Officer may reject a question if it:
- (ii) is not about a matter for which the Council has a responsibility, or which affects the District;
- (iii) is defamatory, frivolous or offensive;
- (iv) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (v) is a duplicate of a same or similar one at the meeting;
- (vi) requires the disclosure of confidential or exempt information.

(f) Record of Questions

The Proper Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

(g) Asking the question at the meeting

The questioner will normally be expected to attend the meeting and put the question in person. The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

(h) Supplementary question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds set out in (e) above.

(i) Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer as soon as practicable and any written answer will be made available on the Council's website.

(j) Reference of question to the Cabinet or a Committee

Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

4.8.11 Questions by Members

(a) On Reports of the Cabinet or Committees

A Member of the Council may ask the Leader or the Chair of a Committee or a Cabinet member any question without notice directly arising from an item of the report of the Cabinet, a Cabinet member or a Committee, when that item is being received or is under consideration by the Council.

(b) Questions on Notice at Full Council

Subject to (d), a Member of the Council may ask:

- (i) the Chair;
- (ii) a member of the Cabinet;
- (iii) the Chair of any Committee or Sub-Committee;
- (iv) a question on any matter in relation to which the Council has powers or duties or which affects the District.

(c) Questions on Notice at Committees and Sub-Committees

Subject to (d), a Member of the Council may ask the Chair of a Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which affects the District and which falls within the terms of reference of that Committee or Sub-Committee.

(d) Notice of Questions

For any one meeting each Political Group may submit up to three questions under (b) or (c) if either:

- (i) they have given at least three clear working days' notice in writing of the question to the Proper Officer; or
- (ii) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Proper Officer by 10.00 a.m. on the day of the meeting.

(e) Scope of Questions

- (i) The Chair and/ or Proper Officer may reject a question if it:
- (ii) is not about a matter for which the Council has a responsibility or which affects the District;
- (iii) is defamatory, frivolous or offensive;
- (iv) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (v) is a duplicate of a same or similar one at the meeting;
- (vi) requires the disclosure of confidential or exempt information.

(f) Maximum Number of Questions

The maximum number of questions that may be asked under 4.8.11 (b) and 4.8.11 (c) is three per political group. If there are multiple parts, then each will be treated as an individual question for the purposes of this Rule.

(g) Order of Questions

Questions of which notice has been given under (b) or (c) will be listed on the agenda in the order determined by the Chair of the Council, Committee or Sub-Committee.

(h) Response

An answer may take the form of:

- (i) a direct oral answer at the meeting;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

(i) Supplementary question

A Member asking a question under (b) or (c) may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.8.12 Motions on Notice

(a) Notice

Except for motions which can be moved without notice under 4.8.13, written notice of every motion, signed by at least five Members where the motion calls for the removal from office of the Leader, or by at least two Members in any other case (as proposer and seconder), must be delivered to the Proper Officer not later than midday, six clear working days (excluding the day of the meeting and the day of delivery) before the Council meeting at which it is to be considered⁷. Motions received will be retained in a record of motions which is available for public inspection. The Proper Officer may, with the consent of the Chair, refuse to accept a motion if the matter to which it relates is referred to in the Forward Plan for consideration at a later meeting or there is otherwise an intention to consider that matter at a meeting of the Council within the next three (3) months.

(b) Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which the notices were received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

(c) Scope

Motions must be about matters for which the Council has a responsibility for or which are relevant to or specifically affect the District. The final decision to include any Motion on the agenda shall lie with the Chair of Council in consultation with the Proper Officer.

(d) Debate at Council

⁷ The motion may be signed by hand, or by electronic signatures and may either be emailed or delivered by hand to the Proper Officer.

Motions that have been proposed and seconded shall then be the subject of immediate debate unless the Chair of the Council considers it to be appropriate for the motion to be referred to the Cabinet or a Committee for consideration. In such cases the Chair shall provide reasons for such a decision.

4.8.13 **Motions without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Standing Order;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under (c) or to exclude them from the meeting under (d) or (e); and
- (p) to give the consent of the Council where its consent is required by this Constitution.

4.8.14 **Rules of Debate**

- (a) **No Speeches until Motion Seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

- (b) **Right to Require Motion in Writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed.

- (c) **Secunder's Speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

(d) Councillor's Speaking Right⁸

After a motion has been moved and seconded, any Member who has indicated that they wish to exercise a Councillor's Speaking Right in relation to any item of business shall be entitled to speak to the item from the public area of the meeting room. The rules as to content and length of speeches set out at 4.8.14(e) shall apply. Once the right to speak has been exercised, the member must leave the room before the debate and vote.

(e) Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chair.

(f) When a Member may Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) to speak once on an amendment moved by another Member;
- (ii) to move a further amendment if the motion has been amended since they last spoke;
- (iii) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (iv) in exercise of a right of reply;
- (v) on a point of order; and
- (vi) by way of personal explanation.

(g) Amendments to Motions

- (i) An amendment to a motion must be relevant to the motion and will either be:
 - A. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - B. to leave out words;
 - C. to leave out words and insert or add others; or
 - D. to insert or add wordsas long as the effect of 4.8.14(g)(i)B to 4.8.1(g)(i)D is not to negate the motion.
- (ii) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.

⁸ As defined in the Councillor Code of Conduct which comes into force from 4 May 2018

- (iii) If an amendment is not carried, other amendments to the original motion may be moved.
- (iv) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (v) After an amendment has been carried, the Chair may if requested read out the amended motion before accepting any further amendments, or if there are none, put the substantive motion as amended for debate and to the vote.

(h) Alteration of Motion

- (i) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (ii) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (iii) Only alterations which could be made as an amendment may be made.

(i) Withdrawal of Motion

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

(j) Right of Reply

- (i) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (ii) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- (iii) The mover of the amendment has no right of reply to the debate on their amendment.

(k) Motions which may be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to proceed to the next business;
- (iv) that the question be now put;
- (v) to adjourn a debate;
- (vi) to adjourn a meeting;

(vii) to exclude the public and press in accordance with the Access to Information Rules; and

(viii) to not hear further a Member named under (c) or to exclude them from the meeting under (d).

(l) Closure Motions

(i) A Member may move, without comment, the following motions at the end of a speech of another Member;

A. to proceed to the next business;

B. to ask that the question be now put;

C. to adjourn a debate; or

D. to adjourn a meeting.

(ii) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(iii) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting the motion to the vote.

(iv) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

(m) Point of Order

A point of order is a request from a member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The Member must indicate the rule for law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

(n) Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

4.8.15 Previous Decisions and Motions

(a) Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least twelve members.

(b) Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least twelve members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

- (c) There shall be an exception to 4.8.15 (a) and (b) for motions moved as part of a Budget proposal at the Full Council meeting at which the annual budget is set. Such a motion must be made in accordance with the procedures set out in 4.8.14.

4.8.16 **Voting**

- (a) **Majority**

Unless this Constitution provides otherwise, and subject to Standing Order 4.8.24, any matter will be decided by a simple majority of those Members voting at the time the question was put.

- (b) **Chair's Casting Vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

- (c) **Method of Voting**

Unless a recorded vote is called for or applied under 4.8.16(e),(f) or (h) the Chair will take the vote by:

- (i) electronic voting system(s); or
- (ii) roll-call of Members and the number of votes for, against or abstaining will be recorded; or
- (iii) show of hands; or
- (iv) if there is no dissent, by the affirmation of the meeting.

Only a recorded vote will be detailed in the minutes, although there will be a record if an electronic voting system is used, or audio or visual recording of the meeting taken.

- (d) **Ballots**

The vote will take place by ballot if six Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

- (e) **Recorded Vote**

If one Member present at the meeting so demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing, or where available, the electronic voting system used to record this and entered into the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote must be taken when a budget decision is made under 4.8.16(h).

- (f) **Right to Require Individual Vote to be Recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

(g) Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

(h) Voting on Budget Decisions (a recorded vote is required)

A recorded vote must be taken when a budget decision is made. For the avoidance of doubt the application of this rule and necessity for a recorded vote will be set out in any relevant report. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

A “budget decision” means a meeting at which the Council:

- (i) makes a calculation (whether originally or by way of substitute) of: council tax; basic amount of tax; additional calculations of special items to part only areas (precept or special expenses); different tax for different bands; substitute calculations; amounts payable by each billing authority;⁹ or
- (ii) issues a precept¹⁰ relating to (i) above and this includes a meeting where the calculation or issuing a precept is included as an item of business on the agenda.
- (iii) References to a vote means voting on any decision related to (i) and (ii) above.

4.8.17 Minutes

(a) Signing the Minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

(b) No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

(c) Form of Minutes

Minutes will contain all motions and amendments in the form and order the Chair put them.

4.8.18 Public Petitions – Full Council Debate

- (a) Petitions must comply with the Council’s Petition Scheme set out at Section 3 Appendix 1.

⁹ As defined under sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992.

¹⁰ Under Chapter 4 of Part 1 of the Local Government Finance Act 1992

- (b) Petitions under this Standing Order 4.8.19 shall be taken immediately before reports but if a petition relates to a particular item on a report, then it shall be presented immediately before consideration thereof.

4.8.19 Attendance by and exclusion of the Public

- (a) A member of the public is entitled to attend a public Council meeting. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Section 15 of this Constitution or Standing Order 4.8.21 (Disturbance by Public).

4.8.20 Members' Conduct

- (a) Speaking at Meetings

When a Member wishes to speak at Full Council they must notify their request via the audio system (or by hand in the absence of this) and address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

- (b) Chair Speaking

When the Chair speaks during a debate, any Member speaking at the time must stop and sit down¹¹. The meeting must be silent.

- (c) Member not to be Heard Further

If a Member persistently disregards a ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, a motion may be moved that the Member may not be heard further. If seconded, the motion will be voted on without debate.

- (d) Member to Leave the Meeting

If the Member continues to behave improperly after such a motion not to be heard further is carried, a motion may be moved that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without debate. If after such a vote to leave or adjourn has been passed and the Member fails to remove themselves from the meeting, the Member shall be treated as though they have left the meeting (and shall not be heard further or have their vote counted for the remainder of the meeting). If the presence of that Member would prejudice the council's interests the Chair may suspend the meeting.

- (e) If a Member attends a Meeting, where any business of the meeting relates to or is likely to affect that Member's Disclosable Pecuniary Interest¹² (DPI) or an Other Registrable/ non-Registrable Interest which in the latter case is so significant (both as described in the NHDC Code of Conduct), then the Member:

- (i) must not participate in any discussion on that item of business;
- (ii) must not vote on that item of business;
- (iii) must retire from the Meeting, until the discussion and vote on that item of business has taken place.

¹¹ If standing sit down.

¹² Without a dispensation from the Monitoring Officer.

In the event that the Member with an Interest as described does not abide by Rule 4.8.20(e), the Chair shall follow the procedure under 4.8.20 (c) and (if required) 4.8.20(d).

(f) General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

(g) Recording Meetings

Members taking their own recording of a committee meeting must comply with the Council's Protocol for Recording of Council Meetings and ensure that Council business is not disrupted or disturbed. Examples of such behaviour are set out at 3.2.1(c)(ii).

(h) Where a Member is required to leave under (d) or (e) above, and they are at the meeting virtually, access is to be severed whilst any discussion or vote takes place in respect of the item or items of business to which this relates or remainder of the meeting in the case of (d).

4.8.21 Disturbance by Public

(a) Removal of Member of the Public

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting. If they are in attendance remotely, then use of language, or electronic methods or imagery which disrupts the meeting (whether intended or not) would lead to the person being muted, and or video stream from them being disabled to excluded them from any further participation.

(b) Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

(c) Recording Meetings

Members of the Public taking recordings of a committee meeting must comply with the Council's Protocol for Recording of Council Meetings and ensure that Council business is not disrupted or disturbed. Examples of such behaviour are set out at 3.2.1(c)(ii).

4.8.22 Suspension and Amendment of Standing Orders

(a) Suspension

All of these Standing Orders, except (f),(h) and (b) may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

(b) Amendment

Any motion to add to, vary or revoke these Standing Orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

4.8.23 Decision Making

- (a) In order to vote on an agenda item at any meeting of the Council or a Committee or Sub-Committee, a Member must be present for the entirety of the debate and consideration of that item.
- (b) All decisions of the Council and Committees will be made in accordance with the following principles:
 - (i) Proportionality (that is the action must be proportionate to the desired outcome);
 - (ii) Due consultation and the taking of professional advice from officers;
 - (iii) Respect for human rights;
 - (iv) A presumption in favour of openness; and
 - (v) Clarity of aims and desired outcomes.

4.8.24 Applications to Committees and Sub Committees

- (a) All of these Standing Orders apply to meetings of Full Council save 4.8.23(a), which only applies to Full Council when making Strategic Planning / Developmental or Statutory Officer Employment decisions.
- (b) The following Standing Orders apply to Cabinet: 4.8.6, 4.8.9 – 4.8.11(a),(c)-(h); 4.8.13(b)-(d), (f)-(l),(n)-(p); 4.8.14(a)-(d),(g),(k),(m); 4.8.–5 - 4.8.17; 4.8.–9 - 4.8.21 (but not 4.8.20(a)); and 4.8.23(b).
- (c) The following Standing Orders apply to Committees and Sub-Committees (excluding the Employment Panel): 4 – 4.8.7; 4.8.9 - 4.8.11(a),(c)-(i); 4.8.13(b)-(d),(f)-(l), (n)-(p); 4.8.14(a)-(e),(g)-(i), (k)- (n); 4.8.15 - 4.8.17; 4.8.19 – 4.8.22 (except (a)); and 4.8.23. 4.8.15 applies to Committees and only applies to Sub-Committees when making a final disciplinary decision.
- (d) The following Standing Orders apply to the Employment Panel: 4.8.2(a), 4.8.5(a)(d), 4.8.6 (note the Panel must be appointed 20 days before the meeting under 12.8.12), 4.8.13(a)(b)(c)(l)(m)(n), 4.8.19 and 4.8.23.
- (e) The following Standing Order 4.8.23(a) only applies to the following Committees: Council Tax Setting Committee; Employment Committee; Employment Appeals Committee; Licensing and Regulation; Planning Control Committee; any Licensing Sub or Standards Sub Committees.
- (f) Standing Order 4.8.9(d) shall not apply to Planning Control Committee. See applicable rule under Appendix 1 to section 8.

SECTION 5

5. The Cabinet

5.1 Introduction

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution. Many decisions will be made by the Cabinet on behalf of the Full Council.

5.2 Form and Composition of the Cabinet

The Cabinet will consist of:

5.2.1 the Leader of the Council (the "Leader"); and

5.2.2 at least two but not more than nine (or other parameters set by legislation) Councillors appointed to the Cabinet as Executive Members by the Leader.

5.3 Leader

5.3.1 Election

The Leader will be a Councillor elected to the position of Leader by the Council at an Annual Meeting. An election will be held on the day of the Annual Meeting when the incumbent's term of office as Leader has expired¹³.

5.3.2 Term of Office

The Leader will hold office until the fourth anniversary of their appointment, or until any of the following events arise¹⁴:

- (a) They resign from the office;
- (b) They are disqualified from being a Councillor;
- (c) They are no longer a Councillor; or
- (d) Where the Council passes a resolution removing them from office.

5.3.3 Role of the Leader

The Leader will carry out all of the Council's Executive Functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. Further information is contained in Section 14.

5.3.4 The Cabinet Scheme of Delegation

Within two weeks of being elected as Leader the Leader will submit to the Proper Officer a Cabinet Scheme of Delegations setting out the responsibilities and delegated authority of each member of the Cabinet and any other delegation of any Executive Function the Leader chooses to make.

5.3.5 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting five clear days before it takes place, and other conditions contained in Section 5.10, the Leader can call meetings of the

¹³ Subject to Council Procedural Rules – see 4.8.1.

¹⁴ To the extent not covered in (a)-(d), *ibid*.

Cabinet at such times and places as they choose (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

5.3.6 Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence the Deputy Leader will chair. If the Deputy Leader is not available the Leader will appoint a member of the Cabinet to chair the meeting on their behalf by informing the Proper Officer of the person chosen.

5.3.7 Appointments of Representatives on Outside Bodies

The Leader has authority to appoint representatives of the Council on outside bodies where those outside bodies relate to Executive Functions of the Council.

5.4 Deputy Leader

5.4.1 The Leader will appoint a Deputy Leader to act as Leader in the Leader's absence and the appointment will continue unless:

- (a) They resign from office;
- (b) The Leader removes the Deputy Leader from office;
- (c) They are disqualified from being a Councillor; or
- (d) They are no longer a Councillor.

5.4.2 The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

5.5 Other Cabinet Members

Other Cabinet Members will be Councillors appointed to the position of Executive Member by the Leader. Each Executive Member shall hold office until:

- 5.5.1 they resign from that office;
- 5.5.2 they are removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate;
- 5.5.3 they are disqualified from being a Councillor; or
- 5.5.4 they cease to be a Councillor.

The Leader may at any time appoint an Executive Member to fill any vacancies.

5.6 Note that in a joint administration a 'deputy' to an Executive portfolio holder may be appointed. That deputy will be invited to attend relevant meetings of the Executive (formal or informal) where executive functions are discussed, give their opinion and for this to be taken into account by the Executive decision maker or Cabinet, although they are not formally part of the Cabinet Executive nor an Executive decision maker. This does not apply to the Deputy Leader who is appointed to act as per section 5.4.

5.7 Functions of Cabinet

The Cabinet may exercise the following functions:

By resolution

- 5.7.1 To prepare and agree to implement policies and strategies other than those reserved to Council.
- 5.7.2 To consider, at least annually, the level of reserves, provisions, and balances held by the Authority and recommend any changes to the Council.
- 5.7.3 To take decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council. To monitor performance and risk in respect of the delivery of those policies and priorities.
- 5.7.4 To exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- 5.7.5 To deal with matters affecting the salaries and conditions of employment of officers covered by the JNC Chief Officers terms and conditions.
- 5.7.6 To consider and respond to recommendations and reports from the statutory officers.
- 5.7.7 To monitor quarterly expenditure on the capital programme and agree adjustments within the overall budgetary framework.
- 5.7.8 To monitor quarterly revenue expenditure and agree adjustments within the overall budgetary framework.
- 5.7.9 To monitor quarterly the Treasury Management Strategy and agree adjustments within the policy framework.
- 5.7.10 To write-off debts in accordance with the Financial Regulations.
- 5.7.11 To approve those major service developments or reductions which also constitute Key Decisions.
- 5.7.12 To be kept informed of any issues raised by the Local (External) Auditor.
- 5.7.13 To consider the reports of external review bodies on key aspects of overall service delivery.
- 5.7.14 To carry out the Authority's responsibilities for the General Power of Competence pursuant to section 1 of the Localism Act 2011 for the benefit of the Authority, its area or persons resident in its area and increasing the availability and equality of access to employment.
- 5.7.15 To oversee the provision of all the Council's services other than those functions reserved to the Council.
- 5.7.16 To manage and maintain the Authority's accommodation.
- 5.7.17 To exercise the Authority's powers in planning for and responding to civil emergencies.
- 5.7.18 To exercise the Authority's functions as Local Planning Authority and to receive reports on: strategic planning matters, applications for, approval/ designation, consultations/referendums revocation (or recommend revocation of) neighbourhood plans, Article 4 Directions and orders, (except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory).
- 5.7.19 To oversee the Authority's overall policy on the voluntary and community sector.

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- 5.7.20 To approve the purchase or appropriation of land and buildings where the sale price, premium or initial annual rent (after the expiry of any rent free period) exceeds £500,000 (or such higher figure as is determined in any adopted Asset Management Strategy) but does not exceed £2,500,000.
 - 5.7.21 To dispose of land or buildings where the purchase price, premium or initial annual rent (after the expiry of any rent free period) which exceeds £250,000 but does not exceed £2,500,000.
 - 5.7.22 To accept tenders for individual schemes where the estimated expenditure exceeds the budgetary provision by the limits set out in the Financial Regulations .
 - 5.7.23 To receive reports on contract overspends on schemes in accordance with limits set out in the Financial Regulations and agree the action to be taken.
 - 5.7.24 To promote and develop external partnerships to meet strategic objectives.
 - 5.7.25 To exercise the powers and duties of the Authority under Section 13 and 14 of the Public Order Act 1986.
 - 5.7.26 To confer with other local authorities, government departments, statutory bodies, voluntary bodies, the police or other external agencies in order to discharge the responsibilities vested in the Cabinet.
 - 5.7.27 To deal with all local choice functions set out in the Constitution.
 - 5.7.28 To make decisions where a policy or strategy does not exist.
 - 5.7.29 To approve any waiver of Contract Procurement Rules referred to it by the Monitoring Officer and section 151 Officer, in accordance with the Rules.
 - 5.7.30 To determine charges for car parking.
 - 5.7.31 To make a decision or consider any matter referred to it by an Community Forum.
 - 5.7.32 To consider or receive presentations from members of the public, community groups and outside bodies on matters relating to the District.
 - 5.7.33 To make, renew and revoke Public Spaces Protection Orders.
 - 5.7.34 To agree to the establishment or wind up of a Council wholly or partly owned Local Authority Company, and to approve investment, loans, resource arrangements and asset transfers, act as corporate shareholder, save as otherwise delegated to the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder), Executive Members or Officers under the Sub-Committee terms of reference.
 - 5.7.35 To determine those financial matters reserved to Cabinet by the Financial Regulations.
 - 5.7.36 To determine those procurement matters reserved to Cabinet by the Contract Procurement Rules.
 - 5.7.37 To consider and respond to recommendations from Cabinet Panels.
- By recommendation to Council**
- 5.7.38 To advise the Council in the formulation of those policies within the Council's terms of reference.
 - 5.7.39 The annual budget, including the capital and revenue budgets.

5.7.40 The treasury management strategy (as may be incorporated in an integrated investment strategy);

5.7.41 To make proposals for the purchase, sale or appropriation of land which exceeds Cabinet limits.

5.7.42 To advise on the senior management structure of the Council.

5.7.43 To advise on the promotion, adoption or opposition to local legislation.

5.7.44 The Council Tax Reduction Scheme.

5.8 Delegation of Functions

The Leader may exercise Executive Functions or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

5.8.1 the Cabinet as a whole;

5.8.2 a Committee of the Cabinet (comprising executive members only);

5.8.3 an individual Cabinet Member;

5.8.4 a joint committee;

5.8.5 another local authority or the executive of another local authority;

5.8.6 A delegated Officer.

5.9 Proceedings of the Cabinet

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Section 5.10.

5.10 Rules for Conducting Meetings - Cabinet Procedure Rules

5.10.1 How does the Cabinet Operate?

(a) Who May Make Executive Decisions?

The arrangements for the discharge of Executive Functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive Functions to be discharged by¹⁵:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual member of the Cabinet;
- (iv) an Officer;
- (v) joint arrangements; or
- (vi) another local authority.

¹⁵ Functions may be discharged by an Area Committee if the Council has Area Committees

(b) Delegation by the Leader

Following the annual meeting of the Council, the Leader will present to the Council a written record of executive delegations made by them for inclusion in the Council's Scheme of Delegation at Section 14 to this Constitution. This document presented by the Leader will contain the following information about Executive Functions in relation to the coming year:

- (i) The names, addresses and Wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (v) the nature and extent of any delegation of Executive Functions to any Community Forum or Panel (for recommendation only), any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- (vi) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

(c) Sub-Delegation of Executive Functions

- (i) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive Function, they may delegate further any recommendation (not decision) to an Community Forum, joint arrangements or an Officer.
- (ii) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to an Officer.
- (iii) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- (iv) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

(d) The Council's Scheme of Delegation and Executive Functions

- (i) Subject to below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council.
- (ii) If the Leader is able to decide whether to delegate Executive Functions, they may amend the Scheme of Delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body or Committee. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (iii) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when they have served it on its Chair.

(e) Conflicts of Interest

- (i) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.
- (ii) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.
- (iii) If the exercise of an Executive Function has been delegated to a Committee of the Cabinet, an individual member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.

(f) Frequency and location of Cabinet Meetings

The Cabinet will have a minimum of six regular meetings each year, to be agreed by the Leader. The Cabinet shall meet at the Council offices, Gernon Road, Letchworth Garden City or some other location agreed by the Leader.

(g) Transparency of Cabinet Meetings

The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Rules in Section 15, for example where confidential or exempt information is being discussed.

(h) Quorum

The quorum for a meeting of the Cabinet or a committee of it shall be three, and shall include the Leader or Deputy Leader or such member of the Cabinet as the Leader has appointed to chair the meeting in the absence of the Leader or Deputy Leader.

(i) Decision making

- (i) Executive Decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Section 15 of this Constitution.
- (ii) Where Executive Decisions are delegated to a Committee of the Cabinet, the rules applying to Executive Decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

5.10.2 How are Cabinet Meetings Conducted?

(a) Who Presides?

If the Leader is present, they will preside. In their absence, the Deputy Leader will preside.

(b) Who May Attend?

Members may attend in accordance with rule 3.3.2(a). For the public these details are set out in the Access to Information Rules in Section 15 of this Constitution.

(c) What is considered?

At each meeting of the Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet, by the Overview and Scrutiny Committee, Finance, Audit and Risk Committee or by the Council, for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 6.3 and 16 of this Constitution;
- (iv) consideration of referrals from the Overview and Scrutiny Committee, Finance, Audit and Risk Committee, or any other Committee able to refer matters to Cabinet;
- (v) Matters set out in the agenda for the meeting, which shall indicate within the report which are Key Decisions and which are not, in accordance with the Access to Information Rules set out in Section 15 of this Constitution.

(d) Consultation

All reports to the Cabinet from any member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the Finance, Audit and Risk Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

(e) Who can put Items on the Cabinet Agenda?

- (i) The Leader will decide upon the schedule for meetings of the Cabinet. They may put any matter on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter, subject to the procedures set out in rule 4.8.5.
- (ii) Items for consideration by the cabinet may also be included by the Proper Officer in the following circumstances set out in (e)(iii) to (vi) below.
- (iii) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- (iv) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- (v) The Council, the Overview and Scrutiny Committee, the Finance, Audit and Risk Committee or an Community Forums may request the Proper Officer to include an item on the agenda of the next available meeting of the Cabinet for consideration.
- (vi) A Member may request the Proper Officer to include an item on the agenda of the next available meeting of the Cabinet for consideration, subject to the Leader's consent.

5.11 Cabinet Sub-Committee (Council Charities)

5.11.1 Membership

The Sub-Committee shall comprise three (3) Executive members nominated by the Leader.

5.11.2 Quorum

3

5.11.3 Meetings

Ad Hoc

5.11.4 Roles and Functions

- (a) To act on behalf of the Council as a Corporate Trustee for all assets of the Council that are held on a charitable trust.
- (b) In the capacity of Corporate Trustee, to consider all matters relating to those trusts, including the use, operation and management of trust assets and the preservation of the objectives of those trusts so instituted.
- (c) To consider all proposals and representations from and on behalf of the Council or any third party, in connection with the use, operation, management and ownership of trust assets.
- (d) To secure all necessary advice and assistance, including, where necessary, external advice and assistance, to ensure that the interests of those trusts are protected and preserved.
- (e) To receive reports on any matter, including the property and financial implications concerning those trust's assets.

Delegated powers	Delegated Members and Officers
To authorise the entering into any agreement, contract, lease, consent, or deed to surrender or termination for administrative or minor matters (including minor amendments).	Sub-Committee Chair in consultation with lead Officer for the Trust concerned and Trust lawyer.
In cases of emergency or urgency to carry out any of the Sub-Committee functions, powers, or duties.	Lead Officer for the Trust concerned in consultation with the Chair of Sub-Committee where possible.

5.12 **Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder)**

5.12.1 Membership

The Sub-Committee shall compromise three (3) Executive members nominated by the Leader. Substitutes may be permitted at the discretion of the Leader.

5.12.2 Quorum

3

5.12.3 Meetings

Ad Hoc

5.12.4 Roles and Functions

- (a) To represent the Council's interests as shareholder in wholly owned and other companies.
- (b) To undertake all functions of the Council as shareholder under the Company Act, unless delegated otherwise.
- (c) To ensure that actions taken by the companies accord with the interests of the Council as shareholder and contribute to the Council's objectives.
- (d) To consider (and approve in principle where appropriate) any proposed or amended company documentation (save minor administrative documentation) including Memorandum and Articles of association and shareholder agreements.
- (e) To undertake the actions, activities and responsibilities as shareholder provided for and required by any Memorandum and Articles of Association and shareholder agreements.
- (f) To provide, or withhold, consent as appropriate (in principle, where formal company ratification is required) on those matters requiring shareholder consent as defined in the Memorandum and Articles of Association and shareholders agreements.
- (g) In the specific case of a wholly owned company to:
 - (i) review the Business Plan prepared by the Company prior to its adoption by the company.
 - (ii) Oversight of performance and financial delivery against business plan;
 - (iii) review and agree (in principle where formal company ratification is required) any proposals to undertake activities outside of the District, unless already allowed for within Memorandum and Articles of association;
 - (iv) to agree to appoint or dismiss (in principle in so far as company ratification is required) any Director of the company (where power is reserved to the shareholder).
- (h) To make recommendations to Cabinet on the investment, loans, resource arrangements and asset transfers to companies;
- (i) Prior to the creation of any wholly or partly owned company:
 - (i) to consider options for activities which are for a commercial purpose and would need to be undertaken by such a company;
 - (ii) to make recommendation to Cabinet to establish such a company
- (j) Delegating specific functions, other than those listed below to Officers of the Council to increase commercial flexibility.

Delegated Powers	Delegated Members and Officers
Approval of minor administrative documentation	Chair of Sub-Committee in consultation with the Client Lead Officer for the Company concerned (in default of nominated officer this shall be Service Director: Resources).
Signing of documentation on behalf of the Council	Lead Client Officer for the Company concerned (in default of nominated officer this shall be Service Director: Resources).
In cases of emergency or urgency to carry out any of the Sub-Committee functions, powers or duties	Chief Finance Officer or Monitoring Officer in consultation with the Chair of Sub-Committee where possible.

SECTION 6

6. Scrutiny

6.1 Introduction

- 6.1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. A Scrutiny Committee can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- 6.1.2 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants and service users. A Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.
- 6.1.3 The Council has one Scrutiny Committee, the Overview and Scrutiny Committee and it is required by statute to abide by any statutory limitations placed upon it.

6.2 Overview and Scrutiny Committee

6.2.1 Membership

- (a) No more than twelve (12) Members shall be appointed to the Overview and Scrutiny Committee.
- (b) Neither the Chair of the Council nor any members of the Cabinet may be members of the Overview and Scrutiny Committee. Moreover, no Member may be involved in scrutinising a decision in which they have been directly involved.
- (c) The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of non-voting co-optees.

6.2.2 Meetings of the Overview and Scrutiny Committee

- (a) No more than twelve (12) Members shall be appointed to the Overview and Scrutiny Committee.
- (b) Neither the Chair of the Council nor any members of the Cabinet may be members of the Overview and Scrutiny Committee. Moreover, no Member may be involved in scrutinising a decision in which they have been directly involved.
- (c) The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of non-voting co-optees.

6.2.3 Quorum

The quorum for the Overview and Scrutiny Committee will be five (5) voting members of the Committee.

6.2.4 Scrutiny Support

It is the responsibility of the Head of Paid Service to ensure appropriate officer support for the Overview and Scrutiny Committee.

6.2.5 Work Programme

The Overview and Scrutiny Committee will be responsible for setting their own Work Programme and in doing so they should take into account wishes of members of that Committee who are not Members of the largest political group on the Council. The Work Programme should retain flexibility to deal with urgent issues.

6.2.6 Annual Report

The Overview and Scrutiny Committee must report annually to the Full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

6.2.7 Terms of Reference

The Overview and Scrutiny Committee has the following functions:

- (a) Discharge the statutory functions granted to the Committee by Section 21 of the Local Government Act 2000, as amended, plus consideration of any matter referred to it under Section 21A, plus any powers and functions conferred under Sections 21A, 21B and 21D of the Local Government Act 2000;
- (b) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive. This includes the power for the Overview and Scrutiny Committee to recommend that the decision be reconsidered by the person who made it, or to arrange for its function under this section, so far as it relates to the decision, to be exercised by the authority;
- (c) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;
- (d) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive;
- (e) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive;
- (f) Pursuant to the requirements of the Police and Justice Act 2006 (as amended) review or scrutinise decisions made, or other action taken, in connection with the discharge by the Council and other bodies and persons responsible for crime and disorder strategies for the area or in relation to a local crime and disorder matter and to make reports or recommendations to the Council for the discharge of those functions and arrange for copies of any report to be sent to those bodies and persons responsible for crime and disorder strategies for the area (and such other co-operating persons and bodies as it thinks appropriate);
- (g) To consider a local crime and disorder matter, (including in particular forms of crime and disorder that involve anti-social behaviour or adversely affecting the local environment, or the misuse of drugs, alcohol and other substances), referred to it by any member of the Council or by Cabinet pursuant to the requirements of the Police and Justice Act 2006 (as amended);
- (h) Question members of the Cabinet and/or Committees and/or officers about their views on issues and proposals affecting the area and to make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area;
- (i) Question and gather evidence from any other person (with their consent);

- (j) Review and scrutinise the policies, plans, expenditure and performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance which impact upon the economic, social or environmental well-being of the authority's area or any part of it, and make recommendations to such bodies and to the Council on any such policies, plans, expenditure and performance;
- (k) Liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative partnership working;
- (l) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (m) Consider mechanisms to encourage and enhance community participation in the development of policy options;
- (n) To receive reports from the Leader annually on the Cabinet's priorities for the coming year and its performance in the previous year;
- (o) Consider the impact of policies to assess if they have made a difference;
- (p) Review and scrutinise the decisions by and performance of the Cabinet and/or Committees and/or Officers in relation to individual decisions, and over time;
- (q) To consider the Forward Plan and comment as appropriate prior to any decision being made;
- (r) Consider reports relating to the authority's use of the Regulation of Investigatory Powers Act (2000) (RIPA);
- (s) To review performance against the Council's agreed objectives / priorities and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or service areas. To consider risk to the achievement of those objectives/ priorities. To make recommendations to Cabinet
- (t) Receive a referral from any member of the Committee, relevant to the functions of the Committee;
- (u) To appoint time limited task and finish Topic Groups to undertake detailed scrutiny work report back to the Overview and Scrutiny Committee to make recommendations to the Cabinet;
- (v) To monitor the quality of task and finish group work and the implementation and impact of recommendations;
- (w) To collaborate with other overview and scrutiny committees or bodies carrying out similar functions outside the Council;
- (x) To scrutinise decisions prior to implementation in accordance with the Council's adopted call-in procedure.
- (y) Consider reports relating to the authority's safeguarding responsibilities.

6.3 Rules for Conducting Meetings – Scrutiny Procedure Rules

6.3.1 These rules apply to the scrutiny function of Overview and Scrutiny Committee.

6.3.2 Agenda Items:

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- (a) The agenda shall be set in accordance with rule 4.8.5 and (b) to (e) below.
- (b) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of that Committee to be included on the agenda for the next available meeting. Ten working days' notice of the item should be given to the Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.
- (c) On receipt of such a request, so long as it is within the relevant terms of reference, the Proper Officer will ensure that it is included on the next available agenda.
- (d) Any five Members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. Ten working days' notice of the item should be given to the Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item. If the Proper Officer receives such a notification, then they will include the item on the next available agenda.
- (e) The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and/or, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at their next meeting.

6.3.3 Limitations on Scrutiny

The Overview and Scrutiny Committee shall have the power to receive a Call-In made in accordance with the rules at 6.3.11, relevant to any of the functions of the Committee, other than:

- (i) A planning or licensing decision;
- (ii) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (but not including the right to complain to the ombudsman);
- (iii) Any matter which is vexatious is substantially the same as a call in previously reviewed by a meeting of the Committee in the last six months, vexatious, discriminatory or unreasonable;
- (iv) The decision as to whether the call-in is valid or falls within (i)-(iii) above rests with the Proper Officer or Monitoring Officer in their absence.

6.3.4 Procedure at Overview and Scrutiny Committee Meetings

- (a) The Overview and Scrutiny Committee shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations see section 6.3.12);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
 - (v) the business otherwise set out on the agenda for the meeting.

- (b) The Overview and Scrutiny Committee may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:
 - (i) that the business be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;
 - (iii) that any investigation be conducted so as to maximise the efficiency of the investigation and analysis; and
 - (iv) that the business be conducted as efficiently as possible.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
- (d) These Scrutiny Procedure Rules shall apply to any Sub-Committees of an Overview and Scrutiny Committee as they apply to that Committee save that the functions of call-in of Executive Decisions under 6.3.11 shall be reserved to the full Overview and Scrutiny Committee.

6.3.5 Consideration of Call-Ins at Overview and Scrutiny Committee Meetings

Where a decision is subject to Call-In in accordance with the Rules set out at 6.3.11, the Overview and Scrutiny Committee shall consider the matter as follows:-

- (a) The Notice of Call-In will be provided to the Overview and Scrutiny Committee, together with the Minutes (or delegated decision record) and reports relevant to the decision called in;
- (b) The Members who signed the Notice of Call-In will be expected to attend the meeting and shall be invited to address the Committee on the reasons for the Call-In. Ordinarily it is expected that one Member will be nominated to present the reasons on behalf of those who called in the decision. The Overview and Scrutiny Committee shall be invited to ask questions of the Members who signed the Notice of Call-In;
- (c) The Executive Member and/or relevant officers shall be invited to address the Committee on the decision taken and the grounds stated in the Notice of Call-In. The Overview and Scrutiny Committee shall be invited to ask questions of the Executive Member and/or relevant officers;
- (d) The Overview and Scrutiny Committee shall debate and consider the Call-In and make recommendations on its conclusions. If the Committee decides to refer the matter back to the decision maker, the referral must be made in accordance with 6.3.11(a)(v).

6.3.6 Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Policy Framework).

- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at their next ordinary meeting.

6.3.7 Making sure that Scrutiny Reports are considered by the Cabinet

- (a) The agenda for Cabinet meetings shall include as a referral any relevant resolutions of Overview and Scrutiny Committee. The Overview and Scrutiny Committee reports to the Cabinet shall be included on the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable.
- (b) Where the Cabinet has delegated decision making power to another individual member of the Cabinet the Overview and Scrutiny Committee will submit a copy of their report to them for consideration. At the time of doing so the Overview and Scrutiny Committee shall serve a copy on the Proper Officer. The Member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his written response to it shall be sent to the Proper Officer and the Leader. The Member, if requested to do so, will also attend a future meeting of the Overview and Scrutiny Committee to present their response. If the Member is unable to accept the recommendations of the Overview and Scrutiny Committee, they must refer the matter to the Cabinet for debate. After consideration by the Cabinet, the Member may exercise their decision-making powers and must report back to the Overview and Scrutiny Committee.

6.3.8 Rights of the Overview and Scrutiny Committee Members to Documents

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Rules in Section 15 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the relevant Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

6.3.9 Members and Officers Giving Account

- (a) The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (as set out in the Terms of Reference). As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any appropriate Officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance,
 and it is the duty of those persons to attend if so required.
- (b) Where any Member or Officer is required to attend Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer, if necessary in

writing, giving at least five working days' notice of the meeting at which they are required to attend (unless agreed otherwise). Any notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee.

- (c) Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance, within a maximum of ten days from the original date.

6.3.10 Attendance by Others

The Overview and Scrutiny Committee may invite other people to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

6.3.11 Call -In

(a) Rules

- (i) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, or an Executive Decision is made by an Officer with delegated authority, the decision shall be published by the Proper Officer, including on the Council's web-site, and shall be available at the main offices of the Council normally within two clear working days of it being made. Notice of all decisions that are required to be published shall be sent to all Members of the Council on the Friday of the week in which the decision was taken. In the case of Individual Executive decisions, the Record of Decision will be forwarded to the Chair of Overview and Scrutiny Committee at the same time as this is forwarded to the Proper Officer (unless the urgency provisions apply – see below).
- (ii) That notice will bear the date on which it is published by the Proper Officer. The notice will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless within that time the Proper Officer is given written notice requesting that the decision be referred to the Overview and Scrutiny Committee.
- (iii) During that period the Chair or any five Members of the Council may submit, in writing, a request to the Proper Officer to call-in a decision for scrutiny specifying the grounds for the call-in.
- (iv) The Proper Officer shall then notify the decision taker of the call-in. The Proper Officer shall call a meeting of the Overview and Scrutiny Committee on such a date as they may determine, where possible after consultation with the Chair or Vice-Chair of the Committee, and in any case to be held within ten clear working days of the decision to call-in (only in exceptional circumstances will the Chair of the Overview and Scrutiny Committee consider extending this time limit).
- (v) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then

reconsider within a further twenty clear working days, amending the decision or not, before adopting a final decision.

- (vi) If following an objection to the decision, the Overview and Scrutiny Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further ten working day period, whichever is the earlier.
- (vii) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an Executive Decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. If that is the case, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, or a Committee of it, a meeting will be convened to reconsider within five working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within three working days of the Council's request.
- (viii) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.
- (ix) Where an executive decision was upon recommendation of an Community Forum, then the right of call-in shall extend to any five Members of another Community Forum if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their Forum relates. In such cases, those five Members must make a written request to the Proper Officer to call-in the decision. They shall call a meeting of the relevant Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within five days of the decision to call-in. All other provisions relating to call-in shall apply as if the call-in had been exercised by the Chair of the Overview and Scrutiny Committee or any five Members of the Council.

(b) Call-In and Urgency

- (i) The call-in procedure set out above shall not apply where the decision being taken is urgent, irrespective of whether the decision was taken by Cabinet, an individual member of the Cabinet, or an Executive Decision made by an Officer with delegated authority. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.

- (ii) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Proper Officer and a report submitted to Council with proposals for review if necessary.

6.3.12 The Party Whip

If a member of the Overview and Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, that member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

6.3.13 Conflicts of interest - Membership of Committees and Overview and Scrutiny Committee

If the Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of a Committee of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Monitoring Officer.

6.3.14 Councillor Call for Action

- (a) The Councillor Call for Action is a mechanism for enabling elected members to bring matters of local concern to the attention of the Council via the Scrutiny process. However, it is intended that it should be an option of “last resort” and therefore used only where all other avenues and opportunities for scrutiny have been exhausted.
- (b) Any member may request that an item is placed on the agenda of the Overview and Scrutiny Committee for consideration.
- (c) The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to this section at Appendix 1.

APPENDIX 1 TO SECTION 6

Councillor Call for Action - Guidance for Councillors

1. The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.
2. Any Member may request that an item is placed on the agenda of the Overview and Scrutiny Committee for consideration. The Member making that request does not have to be a member of the Overview and Scrutiny Committee or any Scrutiny Sub-Committee.
3. The Call for Action should be an option of “last resort”. In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Overview and Scrutiny Committee agenda if the Chair, in consultation with the Proper Officer, is satisfied that:
 - 3.1 the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners and the constituent(s) having exhausted other avenues, including the Council’s complaints process as appropriate; and
 - 3.2 the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and
 - 3.3 the issue of concern has a demonstrable impact on a part or the whole of the Member’s electoral wardand accordingly information to support the above matters should accompany the Call for Action request.
4. A Call for Action cannot, in any event, relate to:
 - 4.1 a planning decision;
 - 4.2 a licensing decision;
 - 4.3 any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - 4.4 any matter which is vexatious, discriminatory, or not reasonable to be included in the agenda for, or to be discussed at a meeting of Overview and Scrutiny Committee.
 - 4.5 any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006
 - 4.6 Any matter that has already been through the Call for Action Process.
5. If the Chair rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.
6. A valid Call for Action will be considered at the next ordinary meeting of the Overview and Scrutiny Committee or at a special meeting of the Committee within 14 days of validation whichever is the sooner.
7. The subject matter of the Call for Action will be the subject of a report from the relevant Service Director to whom the power or duty has been delegated, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to

the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.

8. The Call for Action will be considered by the Overview and Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Rules of the Constitution in Section 15.
9. The Member who referred the matter under sub-paragraph 2 above may address the Overview and Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
10. The Overview and Scrutiny Committee may also consider representations from any residents of the electoral ward affected by the Call for Action, subject to the discretion of the Chair.
11. If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Executive Member shall also attend the Overview and Scrutiny Committee to answer questions and make any representations.
12. Where the Overview and Scrutiny Committee makes a report or recommendations to the Council or the Executive as a result of a reference under paragraph 2 above, the Overview and Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 (“the 2000 Act”) in relation to confidential or exempt information.
13. The Overview and Scrutiny Committee will, by notice in writing to the Proper Officer, require the Council or Cabinet:
 - 13.1 to consider the report or recommendations,
 - 13.2 to respond to the Overview and Scrutiny Committee indicating what, if any action the Council or Cabinet proposes to take,
 - 13.3 if the Overview and Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,
 - 13.4 if the Overview and Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

and to do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Proper Officer received the notice.

SECTION 7

7. The Standards Committee

Introduction

- 7.1 Trust and confidence in public office holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office holders. Our Councillors are expected to live up to high standards of behaviour and demonstrating that they do so underpins that confidence in local democracy. The Standards Committee has an important part to play in promoting and maintaining high standards of conduct.

Composition

7.2 Membership

The Standards Committee is composed of at least fourteen Members. Its membership includes:

- 7.2.1 At least twelve (12) Councillors appointed proportionately (four of whom may be a member of the Executive nominated by the Leader); and
- 7.2.2 A maximum of four Parish¹⁶ Councillors co-opted as non-voting members.

The Independent Person and Reserve Independent Person shall be invited to attend the meetings of the Standards Committee

7.3 Number of Meetings

There shall be two regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chair of the Committee or by the Proper Officer if they consider it is necessary or appropriate.

7.4 Quorum

- 7.4.1 The quorum for a meeting of the Standards Committee shall be four voting members of that Committee.
- 7.4.2 At least one Parish member must be present when matters relating to Parish Councils or their members are being considered. References to Parish Councils include Town Councils.

7.5 Terms of Reference

The Standards Committee will have the following roles and functions:

- 7.5.1 to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority;
- 7.5.2 to advise and assist Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct;
- 7.5.3 to conduct hearings on behalf of the Parish Council;
- 7.5.4 to advise the Council on the adoption or revision of the Members' Code of Conduct;

¹⁶ Parish also includes Town and Community Councillors

- 7.5.5 to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria;
- 7.5.6 to receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;
- 7.5.7 to advise, train or arrange to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- 7.5.8 to assist Councillors and Co-Opted Members to observe the Members' Code of Conduct;
- 7.5.9 to hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- 7.5.10 to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- 7.5.11 to review and approve the Council's arrangements for dealing with complaints about Member conduct (subject to: minor amendments delegated to the Monitoring Officer in consultation with the Independent Person);
- 7.5.12 to inform Council and the Managing Director of relevant issues arising from the determination of Code of Conduct complaints;
- 7.5.13 to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to s33 of the Localism Act 2011;
- 7.5.14 to deal with applications for exemption from political restriction or to consider whether to include a post within the list of politically restricted posts.

7.6 Standards matters

The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues.

7.7 Standards Sub-committee

7.7.1 Membership

No more than three (3) voting Members of the Standards Committee shall be appointed to a Standards Sub-Committee.

7.7.2 Quorum

3 voting Members (which should aim to achieve cross political party representation wherever practicable)

7.7.3 The Chair shall be elected by the Sub-Committee at each meeting.

7.7.4 A Parish Councillor must be invited to be co-opted as a non-voting member in dealing with a complaint against a Parish Councillor.

7.7.5 The Independent Person or Reserve Independent Person to attend the meetings of the Standards Sub-Committee dealing with hearings into allegations of misconduct.

7.7.6 Terms of Reference

- (i) To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct at which a member against whom a complaint has been made can respond to an investigation report, and the Sub-Committee can following a Hearing, make one of the following findings:
 - A. That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing;
 - B. That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing;
 - C. That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed;
- (ii) The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy;
- (iii) After making a finding the sub-committee shall, as soon as reasonably practicable provide written notice of its findings and the reasons for its decision to the Member and complainant;
- (iv) To conduct an Appeal¹⁷ Hearing following an appeal by a Member or Co-opted Member against a finding that they have breached the Authority's Code of Conduct and/or against any sanction imposed.

7.8 Rules of Procedure and Debate

The Standing Orders contained in Section 4.8 will apply to meetings of the Standards Committee.

¹⁷ If there is one under any adopted Complaints Handling Procedure

SECTION 8

8. Regulatory Committees

8.1 The Government gives powers to local authorities to act as the regulatory body in respect of some functions, for example licensing and planning matters in the area. Many licensing or planning applications are able to be decided by officers under delegated powers, however some decisions are made by Committee, as set out in the terms of reference in this section. The Council appoints the Committees to discharge the functions set out in this Section 8 of the Constitution. Except where expressly stated, the Standing Orders contained in Section 4 will apply to meetings of these Committees.

8.2 Licensing and Regulation Committee

8.2.1 Membership

No more than fifteen (15) Councillors shall be appointed to the Licensing and Regulation Committee.

8.2.2 Quorum

The quorum for a meeting of the Licensing and Regulation Committee shall be five (5) voting members of that Committee.

8.2.3 Meetings

There shall be at least one (1) regular meeting of the Committee per year:-

- (a) to consider all Licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Service Director: Legal and Community.
- (b) to make recommendations to Council on the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005.
- (c) to consider and amend other non-executive Licensing Policies (minor amendments to be delegated to the Licensing Manager in consultation with the Chair of Committee and the relevant Executive Member).
- (d) to receive an annual report on Licensing activities including performance information.

8.3 Licensing Sub-Committee or Licensing Regulation Sub-Committee

8.3.1 Membership

Three (3) Councillors shall be appointed to a Sub-Committee and one non-voting observer reserve Councillor¹⁸.

8.3.2 Quorum

The quorum for a meeting of a Sub-Committee shall be three (3) voting member of that Sub-Committee.

The Licensing Sub-Committee:

¹⁸ NB In the event that one of the voting Councillors cannot attend, has a conflict or is unable to participate for the whole of the meeting, the reserve shall become a voting participating Member of the Sub-Committee for quorum and decision making purposes.

licensing functions in accordance with the Licensing Act 2003, Gambling Act 2005 (as per 8.3.3)

Licensing Regulation Sub-Committee:
Local Government (Miscellaneous Provisions) Act 1982 (as per 8.3.4)

Please note that the hearing is a public meeting, but the Sub-Committee's deliberations take place privately, prior to resuming the public meeting to announce its decision.

8.3.3 Licensing Act 2003

- (a) When there is a Police objection to a temporary event to hear and determine whether or not to issue a counter notice.
- (b) An application for a personal licence where the applicant has unspent convictions and the police make a representation.
- (c) When a relevant representation (which has not been determined as frivolous and vexatious) has been received from one or more authorised persons, interested parties or responsible authorities as defined by the Licensing Act 2003 and has not been withdrawn to hear and determine an:
 - (i) Application for a personal licence;
 - (ii) Application for a premises licence;
 - (iii) Application for a club premises certificate;
 - (iv) Application for provisional statement;
 - (v) Application to vary a premises licence;
 - (vi) Application to vary a club premises certificate;
- (d) When a representation has been made by the Police to hear and determine in accordance with the Licensing Act 2003:
 - (i) Applications to vary the designated premises supervisor;
 - (ii) Applications for transfer of premises licences;
 - (iii) Applications for interim authorities.
- (e) Applications to review premises licences in accordance with the Licensing Act 2003.
- (f) Applications to review club premises certificates in accordance with the Licensing Act 2003.
- (g) Revocations of personal licences where convictions come to light after grant in accordance with the Licensing Act 2003.

Gambling Act 2005

- (h) Where a relevant representation (which has not been determined as frivolous and/or vexatious) has been received from one or more authorised persons, interested parties or responsible authorities as defined by the Gambling Act 2005 and has not been withdrawn, to hear and determine an:
 - (i) Application for a premises licence;

- (ii) Application to vary a premises licence;
- (iii) Application for a provisional statement;
- (iv) Application for Club gaming/Club machine permits;
- (i) Where representations have been received from the Gambling Commission with regard to an application for transfer of a licence.
- (j) Applications to review a premises licence in accordance with the Gambling Act 2005.
- (k) The cancellation of Club gaming/Club machine permits.

8.3.4 Local Government (Miscellaneous Provisions) Act 1982 (as amended)
When an objection has been received to an application for a sexual entertainment venue.

8.4 Planning Control Committee

8.4.1 Membership

No more than twelve (12) members shall be appointed to the Planning Control Committee.

[Note - members may be requested to present to a Planning Appeal any Planning Control Committee objection to a planning application or reasons for refusing an application.]

8.4.2 Quorum

The quorum for a meeting of the Planning Control Committee shall be five (5) voting members of that Committee.

8.4.3 Meetings

There shall be twelve (12) regular meetings of the Committee per year. The procedure for the participation of members of the public and non-Committee members is set out in Appendix 1 and Appendix 2 to this Section 8.

8.4.4 The Planning Control Committee exercises those functions of the local planning authority not delegated to the Service Director: Regulatory. The Service Director: Regulatory may refer a matter to the Planning Control Committee for determination or consideration if the application is controversial or of significant public interest or is likely to have a significant impact on the environment.

8.4.5 The Planning Control Committee shall determine¹⁹:

- (a) any residential development with a site area of 0.5 hectares or greater;
- (b) any development with greater than 500sq. metres floorspace on a site of more than 1 hectare or other operational development with a site area of 1 hectare or greater;
- (c) any other planning application, application for advertisement consent, listed building consent or conservation area consent where:
 - (i) a statutory consultee has submitted a written opinion contrary to the recommendation of the Service Director: Regulatory and which is a valid material planning consideration in the opinion of the Service Director: Regulatory; or

¹⁹This does not apply to notifications to the Council for development that would fall under the Town and Country Planning (General Permitted Development) (England) Order 2015

- (ii) a parish or town council²⁰ has submitted a written opinion contrary to the recommendation of the Service Director: Regulatory:
 - A. which is a valid material planning consideration in the opinion of the Service Director: Regulatory; and
 - B. provided that the written opinion of the parish or town council is supported in writing by at least one Ward Member²¹ within five working days of the Ward Member being notified of the representation.
- (iii) within three (3) weeks of the matter appearing in the weekly lists of applications a Member²² requests in writing the matter to be determined by the Committee:
 - A. detailing the reasons, which in the opinion of the Development and Conservation Manager and the Chair of the Planning Control Committee are based upon one or more valid material planning considerations;

and

 - B. detailing the reasons that the matter is in the wider public interest.

Where a Member makes such a request they should attend the relevant Committee meeting to present their reasons/grounds to the Committee. If they are unable to attend the relevant Committee meeting the Member must arrange for another member to present on their behalf or provide a written statement presenting their reasons/grounds.

- (d) applications submitted by the Council for its own development other than those for which no objection has been received;
- (e) the granting of orders to revoke or modify planning permissions where compensation may be payable;
- (f) the granting of certificates of alternative development;
- (g) any application made by an elected member of the Council;
- (h) any application made by an employee of the Council where applications are other than for householder development;
- (i) any application for householder*²³ development made by an employee of the Planning and Building Control Service or Chief Officer²⁴;
- (j) to receive updates on Planning Appeals lodged and Appeal Decisions made;
- (k) to receive quarterly updates on planning enforcement matters;
- (l) to consider whether to confirm tree preservation orders to which objections have been received.

²⁰ NB Parish meetings do not have this right.

²¹ A Member with an Other Registrable, or non-Registrable Interest and/ or Disclosable Pecuniary Interest must not be involved in the request to referral to Committee. In a single Member Ward, another District Councillor can request referral.

²² A Member with an Other Registrable, or non-Registrable Interest and/or Disclosable Pecuniary Interest must not be involved in the request to referral to Committee. In a single Member Ward, another District Councillor can request referral.

²³ Householder development includes Planning Applications, Listed Building consents, TCA/TPO's, Certificates of Lawful Use, Certificates of Lawful Development and Conservation Area Consents

²⁴ As defined under section 12.8.1(c)

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

APPENDIX 1 TO SECTION 8
THE MEMBERS PLANNING CODE OF GOOD PRACTICE²⁵

[Adopted 18 April 2024]

Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process (*this includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with Officers or the public and consultative meetings*). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of their staff, and preferably well before any meeting takes place.

Executive bullet point summary of the dos and don'ts: *if unsure, seek advice*

- *Firstly, apply the NHDC Member Code of Conduct and then this Members Planning Code.*
- *Declare interests, follow procedures that apply to those interests.*
- *Come to meetings with an open mind and demonstrate that you are open-minded.*
- *Don't involve yourself in pre-application advice or negotiations.*
- *Refer queries on applications and procedures to Officers.*
- *Ensure that if you call in a proposal to go before the Committee that your reasons are clear (as per the Committee terms of reference). You should attend the Committee and speak to the item if you do this. **Don't do this if you have an interest.***
- *Avoid meeting directly with developers/ attending presentations by them. If you need a meeting, speak to the Development and Conservation Manager to arrange, and don't go without Officer(s) being present. Avoid lobbying other Members about a proposal.*
- *Attend a site visit if organised by the Council. Don't enter a site other than as part of an official site visit, even if invited.*
- *Comply with the Council's public speaking procedures and if sitting on the Committee, don't communicate directly or participate in social media exchanges with others.*
- *Don't put pressure on Planning Officers to change their recommendations before a Committee.*
- *Come to your decision only after due consideration of all relevant information. Make decisions in accordance with the Development Plan unless material considerations indicate otherwise.*
- *Don't vote or take part in the discussion on a proposal at the Meeting unless you have been present to hear the entire debate, including the Officers' introduction to the matter.*
- *Report potential planning breaches to the Development and Conservation Manager.*
- *You must attend any mandatory training. Attend other specialist training if offered.*

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Member's Code of Conduct first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (and Other Registrable or Non-Registrable

²⁵ Based on the Lawyers in Local Government 'LLG' Model January 2024

Interests as per Member's Code of Conduct) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

- **Do** then apply the rules in this Members' Planning Code, which seeks to explain and supplement the Member's Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your Monitoring Officer or their staff advising at the meeting.

2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by the Member's Code of Conduct.
- **Do take into account when approaching a decision that** the principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that "*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*". It is therefore advisable that you:
 - **Don't** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with Officers or Members when other members of the public would not have the same opportunity to do so.
 - **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate Officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on you in representing that proposal.
 - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest or Other Registrable and Non-Registrable interests and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Planning Control Committee as a main item and not dealt with by Officers under delegated powers;
 - you must not get involved in the processing of the application (this includes pre-application discussions with Officers and Members); and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with Officers and in public speaking at Planning Control Committee (as there are specific legal and Code restrictions on what you will be unable to do, if at all, at a meeting under legislation and the Member's Code of Conduct, without a prior dispensation from the Monitoring Officer *in writing*).

3. Fettering Discretion in the Planning Process (natural justice, predisposition and Predetermination)

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you.
 - must keep an open mind and hear all of the evidence before you, both the Officers' presentation of the facts and their advice and the arguments from all sides.
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and Planning Control Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District and County Councillor), provided:
 - the proposal does not substantially affect the wellbeing or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Control Committee, and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Planning Control Committee.
- **Do** explain that you do not intend to speak and vote as a member of the other Parish/Town/Community or County committee because you will be perceived as having judged (**or you reserve the right to judge**) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward Advocate (*where this is available as per the Procedure for Speaking at Planning Control Committee*) where you need to represent the views of local electors, **but only where you do not have a Disclosable Pecuniary or Other Registrable or Non-Registrable Interest**. Where you do not have an Interest, and can speak:
 - advise the proper Officer or Chair that you have registered your wish to speak in this capacity before commencement of the item;

- remove yourself from the seating area for members of the Planning Control Committee for the duration of that item; and
- ensure that your actions are recorded in accordance with the Committee's procedures.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural, or technical advice to Officers.
- **Don't** agree to any formal or informal private meetings with applicants, developers, or groups of objectors where you can avoid it, without the prior knowledge and approval of the Development and Conservation Manager (this includes at the pre-application stage discussions or negotiations with Officers or Members). Where you feel that a formal meeting would be useful in clarifying the issues, *you should seek to arrange that meeting yourself through a request to the Development and Conservation Manager to organise it.* The Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the *Development and Conservation Manager* any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an Officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a Committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward/particular interest or area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the *Development and Conservation Manager* at the earliest opportunity.

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- **Do** promptly refer to the *Development and Conservation Manager* any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers to follow the matter up.
- **Do** note that, (*unless you have a Disclosable Pecuniary or Other Registrable or Non-Registrable interest*), you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate Officers (*making it clear in those exchanges that you must keep an open mind*);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a Ward Advocate.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias. This is also likely to be a Registrable Interest and you must act according to the Code of Conduct and this Code if that applies).
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal, seek advice from the Monitoring Officer in advance of the meeting on how (if applicable) you can participate, and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give the impression, if you are a Member or substitute Member of the Committee, that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- **Don't** decide or discuss how to vote on any application at any sort of Political Group Meeting or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection;
 - or
 - there are significant policy or precedent implications, and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Planning Control Committee any information gained from the site visit that you feel would benefit all Members of the Planning Control Committee.

- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the Officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on-site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the Officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the [*relevant Development and Conservation Manager*] about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Planning Control Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a Member of the Planning Control Committee during the Committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on Officers to put forward a particular recommendation (*this does not prevent you from asking questions or submitting views to the Development and Conservation Manager, which may be incorporated into any Planning Control Committee report*).
- **Do** recognise that Officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Development and Conservation Manager or Service Director or those Officers who are authorised by their Service Director to deal with the proposal at a Member level.
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct, and applicable law. As a result, planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Planning Control Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Planning Control Committee that the "call in" complies with the Committee's Terms of reference.

- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the Officers' introduction to the matter. *Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to participate and vote. If this renders the Planning Control Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again.*
- **Do** have recorded the reasons for Planning Control Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. It will help to take advice from Officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge (at a Planning Appeal and/ or during any Court proceedings).

11. Planning Enforcement

- It is not always a criminal offence to carry out development without planning permission. However, it is likely to constitute a contravention of planning laws and the Council (as Local Planning Authority) can enforce those laws. Therefore:
- **Do** pass on reports from local residents of suspected planning breaches or those you believe have taken place, to the Development and Conservation Manager as soon as possible, as enforcement action is time critical. These will then be investigated in line with the Corporate Enforcement Policy and Members updated when or where appropriate and enforcement matters reported regularly to the Planning Control Committee.
- **Don't** discuss enforcement matters with third parties – you should stress that you cannot commit the Council to any particular course of enforcement action.
- **Don't** recommend a preferred course of action to Officers – what action is taken, if any, must conform to the Corporate Enforcement Policy.

12. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

CONSTITUTION

- **Do** participate in any annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

SECTION 9 - COMMUNITY FORUMS²⁶

9. Community Forums

9.1 Introduction:

To promote greater engagement with our communities, North Herts Council has five informal Forums which cover different geographical areas of the district. These are to provide a 'sounding board' for community opinion and an opportunity to input to the Council, via a Forum or their Councillors at a local level. In addition to the local community, County Councillors, Parish/Town, Community Councillors and other partners such as the Police, are welcomed to the Forum meetings, and to speak on an item.

9.2 All Members of the Council will be a member of a Forum that includes their own Ward.

9.3 Each Forum elects its Chair and Vice-Chair annually. If a Chair and Vice Chair cannot be appointed at the first meeting of a Forum or at the next available meeting, such appointment shall be made at the subsequent ordinary Council meeting by Full Council.

9.4 Meetings: each Forum will aim to meet at least four (4) times per year, with the flexibility to meet virtually, hybrid or in person. The dates are agreed by Full Council at Annual Council, however, may be moved or cancelled in consultation with the Chair (or Vice Chair in their absence).

9.5 Although this is an informal body, the quorum for all Forums shall be 3 (three). The Forums will aim to make recommendations by consensus; however, in the event of a vote, and a tie, the Chair will have a casting vote under normal principles.

9.6 The aim is for each Forum to set a topic or theme for each meeting at the start of the municipal year, with input from the Councillors, communities and partners. The Chair will aim to do this with all the Forum membership, however, will have the final say as to agenda setting.

9.7 Terms of Reference

9.7.1 To act as a Forum for discussion on matters of local interest and to elicit/hear the views of local bodies and organisations.

9.7.2 To consider and act as an advisory body to the relevant Executive Member for grants who approves these (in consultation with the relevant Service Director). Any 'between meeting' grant applications can be dealt with in urgent situations with the recommendation of the Area Forum members by email or in urgent situations, the Chair.

9.7.3 To undertake a community leadership role in bringing together different interest groups from the public, private and voluntary sectors to work in partnership to meet the Council's corporate strategic and local objectives.

9.7.4 To receive petitions, presentations, and questions from members of the public, groups and outside bodies on matters relating to their area.

9.7.5 To provide local input into service specifications where feasible for a local area and input for relevant local area consultations.

9.7.6 In line with the Council's adopted Statement of Community Involvement to receive any presentations from developers, their agents and/ or Council officers on relevant applications for Strategic Housing Sites and other significant development (as defined in Policy SP9 of the Council's Local Plan), ask questions and provide comments accordingly.

9.8 Community area, membership, and wards

²⁶ These terms of reference may be amended by the Leader, Executive or Officer in consultation with the Executive. These are not formal decision-making bodies. Last updated as per Delegated Decision dated 1 May 2024

Community Forum	Membership	Composition
Baldock and District	7	The Wards of Baldock East, Baldock West, Arbury and Weston & Sandon which comprise the parishes of Ashwell, Baldock (unparished) Bygrave (East & West ward), Caldecote, Clothall, Hinxworth, Newnham, Radwell, Rushden, Sandon, Wallington and Weston.
Hitchin	12	The Wards of Hitchin Bearton, Hitchin Highbury, Hitchin Oughton, Hitchin Priory (including Hitchin unparished, the north ward of the parish of St Ippolyts) and Hitchin Walsworth.
Letchworth	12	The Wards of Letchworth Grange, Letchworth Norton, Letchworth South East, Letchworth South West and Letchworth Wilbury (including Letchworth unparished).
Royston and District	8	The Wards of Ermine, Royston Heath, Royston Meridian, and Royston Palace (which comprise the area of Royston Town Council and the parishes of Barkway, Barley, Kelshall, Nuthampstead, Reed and Therfield).
Southern Rural	12	The Wards of Cadwell, Codicote, & Kimpton, Graveley St Ippolyts & Wymondley, Great Ashby, Hitchwood, Knebworth and Offa (which comprise the parishes of Codicote, Graveley, Great Ashby, Hexton, Holwell, Ickleford, Kimpton Kings Walden, Knebworth, Langley, Lilley, Offley, Pirton, Preston, St Ippolyts (south ward), St Pauls Walden and Wymondley.

SECTION 10

10. Other Committees

10.1 Finance, Audit and Risk Committee

10.1.1 Role and Functions

The Role and functions of the Finance, Audit and Risk Committee shall be as follows:

- (a) Finance, Audit and Risk; and
- (b) the oversight and approval of Financial, Audit and Risk Management matters (not otherwise the responsibility of the Cabinet, Full Council or Standards Committee) as set out in the Terms of Reference.

10.1.2 Membership

- (a) No more than eight members shall be appointed to the Finance, Audit and Risk Committee; and
- (b) one co-opted as non-voting Independent member.

The Chair shall be appointed at the annual meeting of the Council.

10.1.3 Quorum

The Quorum for a meeting of the Finance, Audit and Risk Committee shall be three (3) voting members of that Committee.

10.1.4 Proceedings of the Finance, Audit and Risk Committee.

There shall be five regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chair of the Committee or by the Proper Officer if they consider it is necessary or appropriate.

10.1.5 Terms of Reference:

Finance

- (a) To review and approve the Statement of Accounts.
- (b) To review and recommend the Medium Term Financial Strategy to Cabinet (including, although not limited to consideration of associated procedures, policies and process).
- (c) To consider the Council's policy in relation to Treasury Management and make recommendations on the Annual Treasury Management and Investment Strategy, and Treasury Management Code of Practice.
- (d) Assist the Council and the Cabinet in the development of its Budget and Policy Framework process by in-depth analysis of policy issues pertaining to finance, audit and risk.
- (e) To consider mechanisms to encourage participatory budgeting and enhanced community participation in the budget process.

- (f) To review the financial performance of the Council in relation to its policy objectives, and budgetary amounts, and to make recommendations to Cabinet (unless legally reserved to Full Council) on any matter arising out of the finance monitoring and review process within the terms of this Committee.
- (g) To maintain an overview of the Council's Constitution in respect of Contract Procurement Rules and Financial Regulations, consider any major changes and make recommendations to Council for approval.
- (h) To receive reports referred by the Chief Finance Officer on the financial performance of any of the Council's wholly owned limited companies.

Audit & Governance

Internal

- (i) To ensure that an annual review of the effectiveness of internal control (accounting records, supporting records and financial) systems is undertaken and this review considered before approving the Annual Governance Statement.
- (j) To consider the Shared Internal Audit Service ('SIAS') annual report and opinion, summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements (including, although not limited to agreed high level recommendations not implemented).
- (k) To review the SIAS arrangements, including performance, effectiveness, consideration of any associated reports and approve/ make recommendations as appropriate.
- (l) To consider and approve the Annual Audit Plan, Code of Audit Practice and Statement of Responsibilities (including any drafts, where appropriate).
- (m) To approve the Code of Corporate Governance.
- (n) To review and comment on the development of anti-fraud and anti-corruption strategies, 'Raising Concerns at Work' and Whistleblowing Policy.
- (o) To review the Shared Anti-Fraud Service ('SAFS') arrangements, including performance, effectiveness, consideration of any associated reports and approve/ make recommendations as appropriate.

External Audit

- (p) To appoint (when this requirement arises) the Council's Auditor Panel (if expedient, with one or more other relevant authority).
- (q) To appoint (when this requirement arises) the Council's external Local Auditor, having consulted and taken into account the advice of the Council's Auditor Panel.
- (r) To consider (and to approve where required) the Annual Audit letter to Members, Annual Audit and Inspection Fee Letter.
- (s) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (t) To receive reports or recommendations from the external Local Auditor, other than public interest reports (which shall be direct to Full Council).

Risk

- (u) To monitor the effective development and operation of risk management and corporate governance, agree actions (where appropriate) and make recommendations to Cabinet.

General

- (v) To review any issue referred to it by the Managing Director, Statutory Officer or Service Director, or any Council body and undertake such other functions that may be delegated to it from time to time by Council.
- (w) To bring to the attention of Council financial, audit or risk concerns, with recommendations as to how these matters should be remedied.
- (x) When undertaking any of the afore-stated functions to consider compliance with Council policies, other public standards, controls and best practice.

10.2 Council Tax Setting Committee

10.2.1 Terms of Reference

The Council will appoint one Council Tax Setting Committee for the purpose of setting the Council Tax Base and the Council Tax unless the decision can be taken by a meeting of Full Council. The Committee will have the responsibilities as set below, where required:

- (a) Set the Council Tax Base in accordance with the Local Authority (Calculation of Council Tax Base) Regulations 2012;
- (b) Set the Council Tax in accordance with Chapter III & IV of the Local Government Finance Act 1992;
- (c) Approve the non-domestic rating income (NNDR1) Return.

10.2.2 Specific Functions

The functions of the Council Tax Setting Committee are to set the Council Tax Base and to set the overall level of Council Tax for the following financial year taking into account the precepts of all Major and Local Precepting Authorities. The Committee also approves the information submitted to the Government about non-domestic rate income, as required by the NNDR1 form.

10.2.3 Membership

No more than five members shall be appointed to the Council Tax Setting Committee. The Chair shall be appointed at the annual meeting of the Council.

10.2.4 Quorum

The Quorum for a meeting of the Council Tax Setting Committee shall be three voting members of that Committee.

10.2.5 Proceedings of the Council Tax Setting Committee.

There shall usually be one (1) regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chair of the Committee or by the Proper Officer if they consider it is necessary or appropriate.

10.2.6 Meetings of the Council Tax Setting Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest (including whipping declarations);
- (c) responses of the Council to their reports; and
- (d) any other business set out on the agenda for the meeting.

10.3 **Employment Committee**

10.3.1. Membership

No more than five (5) members (including at least one (1) member of Cabinet) shall be appointed to the Employment Committee.

10.3.2. Quorum

The quorum for a meeting of the Committee shall be three (3) voting members of that Committee.

10.3.3. Meetings

As called for by the Proper Officer.

10.3.4. Terms of Reference

- (a) To interview candidates for the post of Head of Paid Service (Managing Director) and make a recommendation for appointment to Council.
- (b) To interview and appoint candidates for the posts of Service Director, and to interview and recommend to Council the appointment of Monitoring Officer, Chief Finance Officer and Returning Officer/ Electoral Registration Officer;
- (c) To consider any alleged misconduct and take any necessary disciplinary action against the Managing Director, the Monitoring Officer, the Chief Finance Officer in accordance with the Officer Employment Procedure Rules (as applicable to the Officers concerned). If following consideration of the matter the Committee concludes that a 'relevant officer'²⁷ should be dismissed then this will be referred to the Employment Panel for consideration and potential recommendation of dismissal to Full Council. The remit of the Committee will include whether to recommend issuing a notice of dismissal of a 'relevant officer' for disciplinary reasons to the Employment Panel, or deciding whether to impose all other disciplinary action including dismissal (unless reserved to Full Council).
- (d) To authorise suspension of the Managing Director where it is considered appropriate during the investigation of alleged misconduct.
- (e) Exercise the powers under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations up to the financial limits set out in the Council's Pay Policy Statement.

10.3.5. By recommendation to Council:

- (a) The appointment of the Head of Paid Service (Managing Director), Chief Finance Officer or Monitoring Officer prior to any offer being issued.

²⁷ As per definition 12.8.7 – 12.8.14 of the Officer Employment Procedure Rules

- (b) The dismissal of the Head of Paid Service (Managing Director), Chief Finance Officer or Monitoring Officer prior to any notice being issued (for all non-disciplinary reasons).
- (c) Any decision within the Committee's terms of reference which would exceed the financial limits set out in the Council's Pay Policy Statement.

1. Delegated powers	2. Delegated Members and Officers
3. To ascertain whether allegations raised against the Managing Director, the Monitoring Officer or, the Chief Finance Officer are substantial issues regarding investigation or whether they do not require investigation on the basis that they are clearly unfounded, trivial or best dealt with under an alternative procedure.	4. Monitoring Officer (or Deputy Monitoring Officer in the event of conflict or absence) in consultation with the Chair.

10.4 Employment Panel:

10.4.1 Membership

Two Independent Persons, comprising of the appointed Independent Person and Reserve Independent Person.

10.4.2 Quorum

The quorum for a meeting of the Committee shall be two (2).

10.4.3 Meetings

As called for by the Proper Officer, following the Employment Committees consideration under convened to consider whether to recommend to Council the dismissal of a 'relevant officer' as per 12.8.7 – 12.8.14 of the Officer Employment Procedure Rules. When sitting for this purpose the Committee shall be considered a Panel as defined by The Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015.

10.4.4 Terms of reference:

To consider any alleged misconduct and recommendation for dismissal from the Employment Committee against a 'relevant officer' in accordance with the Officer Employment Procedure Rules. The remit of that meeting will include whether to agree with any prior recommendation to dismiss and recommend issuing a notice of dismissal of that 'relevant officer' to Full Council.

10.5. Employment Appeals Committee

10.5.1 Membership

No more than five (5) members who are not be members of the Employment Committee (including at least one (1) member of Cabinet) shall be appointed to the Employment Appeals Committee.

10.5.2 Quorum

The quorum for a meeting of the Committee shall be three (3) voting members of that Committee.

10.5.3 Meetings

Ad-Hoc

10.5.4 Terms of Reference

- (a) The determination of appeals against any decision of the Employment Committee to take action short of dismissal against the Managing Director, the Monitoring Officer or the Chief Finance Officer following an allegation of misconduct.
- (b) To consider appeals against decisions made by the Managing Director relating to the dismissal by reason of redundancy or otherwise of Chief Officers²⁸, other than Statutory Officers.

10.6 Joint Staff Consultative Committee (JSCC)

10.6.1 Introduction

JSCC is an informal committee which is attended by representatives of the Staff Consultation Forum and Trade Union(s). It does not make decisions, but provides an opportunity for Members to discuss employee relations and Human Resource management issues. The Chair is appointed at Annual Council.

10.6.2 Membership

No more than five (5) Members shall be appointed to the Joint Staff Consultative Committee.

10.6.3 Quorum

The quorum for the meeting of the JSCC shall be three (3) voting Members of that Committee.

10.6.4 Meetings

Four per year.

10.6.5 Terms of Reference

The JSCC will have the following roles and functions:

- (a) Regular consultation between the Council and its employees;
- (b) To be the Member interface with employees on major human resource issues;
- (c) To be the strategic HR Forum for NHDC Members;
- (d) To consider, report and make recommendations to the Service Director: Resources on terms and conditions of service and on training and development.

²⁸ As defined in section 12.8.1(c)

SECTION 11

11. Joint Arrangements

11.1. Introduction

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

11.2. Arrangements to Promote Wellbeing

The Cabinet, in order to promote the economic, social, or environmental wellbeing of its area, may:

11.2.1. enter into arrangements or agreements with any person or body;

11.2.2. co-operate with, or facilitate or co-ordinate the activities of any person or body; and

11.2.3. exercise on behalf of that person or body any functions of that person or body.

11.3. Joint Arrangements

11.3.1. 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 those other local authorities.

11.3.2. 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 those other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.

11.3.3. The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for an electoral ward contained within the area. Political balance requirements do not apply to such appointments.

11.4. Access to Information

11.4.1. The Access to Information Rules in Section 15 apply.

11.4.2. If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

11.4.3. If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

11.5. Delegation to and from Other Local Authorities

11.5.1. The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.

11.5.2. The Cabinet can delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.

11.5.3. The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

11.6. Contracting Out

The Council (in respect of Non-Executive Functions) and the Cabinet (in respect of Executive Functions) may contract out to another body or organisation functions:

11.6.1. which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or

11.6.2. under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

11.7. CCTV Joint Executive Committee

11.7.1. Membership, Quorum and Meetings

- (a) The Membership shall comprise: three members²⁹ from each of the Authorities (in North Hertfordshire, Cabinet members). Meetings shall be held at least once per annum or when there is sufficient business.
- (b) Meetings shall be held alternately at the offices of each partner authority.
- (c) The Chair shall ordinarily be a Member of the Authority hosting the meeting although Members present at the meeting may choose a Chair from any Member present.
- (d) The quorum shall be three Members, with at least one from each of the partner authorities.
- (e) The meetings shall follow the normal Standing Orders of the hosting authority.

11.7.2. Terms of Reference

- (a) To discuss (and agree the strategic and policy issues relating to the jointly owned and operated CCTV Control and Monitoring service.
- (b) To deal with all matters defined under the CCTV 'Code of Practice' as the responsibility of the CCTV Joint Executive Committee.
- (c) To consider operations and performance reports from the CCTV Operations Manager and CCTV Officer Management Board.
- (d) To consider and approve any location, expansion or contraction proposals and services changes for the CCTV Control Room, Network, and monitoring service.
- (e) To consider and agree changes to the CCTV 'Code of Practice'.
- (f) To ensure the Independent inspection regime is set up and maintained.
- (g) To receive and approve the Independent Inspectors' annual report.

²⁹ At least one Executive Member nominated should be the Executive Member with responsibility for CCTV.

- (h) To consider complaints regarding any breaches of the CCTV 'Code of Practice' and recommendations for preventing breaches. To recommend disciplinary action where appropriate.
- (i) To express views regards the jointly owned company, Hertfordshire CCTV Ltd, to be channeled through the CCTV Officer Management Board
- (j) To make recommendations on any of the above to the Officer Management Board.

HERTFORDSHIRE GROWTH BOARD - INTEGRATED GOVERNANCE FRAMEWORK

Hertfordshire Growth Board (**HGB**) is currently operating to provide strategic co-ordination around growth and place leadership for the eleven councils and Local Enterprise Partnership (the **LEP**) in Hertfordshire. Governance is through an agreed Terms of Reference (**TOR**) (incorporated below) and a collaboration Memorandum of Understanding (**MOU**).

HGB is also in negotiation with HM Government to secure a Growth Deal which will require a formal governance model to provide accountability to government and good governance and transparency in the local management and use of any funds received under such an arrangement.

HGB comprises twelve local partners, namely the County Council, the Hertfordshire District and Borough councils³⁰ and the LEP. Its governance framework consists of the Board itself, with twelve members, supported by a Scrutiny Committee also of twelve members.

1. Hertfordshire Growth Board Summary of Functions

- 1.1 HGB is established to ensure the effective coordination of strategic planning and delivery and to ensure that the objectives of a future Growth Deal for Hertfordshire are met.
- 1.2 HGB will also be responsible for the commissioning of projects funded by money provided through a Growth Deal, and for overall control of that programme of projects. For each individual project, HGB may act as lead, with budget responsibility; alternatively, it may appoint as lead a constituent council, who will be responsible for the delivery of that budget, under the oversight of the HGB. This shall also apply to circumstances in which funding is provided to the HGB by the member Councils or by other parties, such as the LEP.
- 1.3 HGB shall also support the development of local planning policy that promotes (1) the UK Government's stated aim of net zero carbon by 2050, and (2) constituent Councils' 2030 targets, and contributes towards biodiversity gain whilst embracing the changes needed for a low carbon world.
- 1.4 The Councils agree to delegate the exercise of their functions to the HGB to the extent necessary to enable the HGB to pursue and achieve the purposes in paragraphs 4.1 and 4.2 of the Terms of Reference, and to undertake any actions necessary, incidental or ancillary to achieving those objectives. The Councils shall make the necessary changes to their respective schemes of delegation accordingly.
- 1.5 The HGB may further delegate to officers of the Councils.
- 1.6 The HGB will consider any reports and recommendations from the HGB Scrutiny Committee as appropriate.
- 1.7 The HGB shall develop its own Forward Plan.

Terms of Reference and Standing Orders

³⁰ Hertfordshire County Council, Borough of Broxbourne Council, Dacorum Borough Council, East Hertfordshire District Council, Hertsmere Borough Council, North Hertfordshire District Council, St Albans City and District Council, Stevenage Borough Council, Three Rivers District Council, Watford Borough Council, Welwyn Hatfield Borough Council.

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

1.8 The HGB's Terms of Reference and Standing Orders are set out in Appendix 1 and the accompanying Annex.

2. HGB Scrutiny Committee Summary of Functions

2.1 The HGB Scrutiny Committee has delegated authority to exercise the following functions:

- (a) Advise the HGB in connection with the achievement of the functions set out at paragraph 1 above;
- (b) Prepare and submit reports and/or recommendations to the HGB; and
- (c) Carry out all other statutory scrutiny functions in relation to the HGB.

Terms of Reference and Standing Orders

2.2 The HGB Scrutiny Committee's Terms of Reference and Standing Orders are set out in Appendix 2 and the accompanying Annex.

Appendix 1

TERMS OF REFERENCE OF THE HERTFORDSHIRE GROWTH BOARD

1. Parties

Hertfordshire County Council
Borough of Broxbourne Council
Dacorum Borough Council
East Hertfordshire District Council
Hertsmere Borough Council
North Hertfordshire District Council
St Albans City and District Council
Stevenage Borough Council
Three Rivers District Council
Watford Borough Council
Welwyn Hatfield Borough Council
Hertfordshire Local Enterprise Partnership (**LEP**)

2. Status

2.1 The Hertfordshire Growth Board (**HGB**) has been established by Hertfordshire County Council and the District and Borough Councils listed above. It is a joint committee of these Councils, established by the Councils under sections 101 and 102 of the Local Government Act 1972, section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.

3. Membership

3.1 Twelve members, comprising one elected member from each Council (anticipated to be the Leader/Directly Elected Mayor of each Council) with full voting rights, and a member nominated by the LEP (anticipated to be the Chair of the LEP) who is a co-opted non-voting member. The

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

elected members shall be obliged to have due regard to the representations made by the LEP member.

- 3.2 Each constituent council may appoint a substitute from time to time. The substitute member shall have the same rights of speaking and voting at the meetings as the member for whom the substitution is made.
- 3.3 The HGB, with the agreement of its members, may co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.
- 3.4 The HGB may appoint representatives to other outside bodies of which the HGB has membership.

4. Functions

General Functions

4.1 The HGB has delegated authority to exercise the following functions:

- (a) Exercising strategic direction, monitoring, delivery and co-ordination of current and future Growth Board strategy, programmes and implementation of any Growth Deal Project;
- (b) Effective place leadership, ensuring that interests relating to spatial planning, economic prosperity, infrastructure provision, health provision, sustainability and climate change mitigation are effectively taken into account, coordinated and incorporated in place-making, in order to safeguard and maintain Hertfordshire's unique quality of life and prosperity;
- (c) Securing strategic collaboration and delivery across the councils and with the LEP in accordance with the policy objectives of the partner organisations;
- (d) Acting as the place leadership body for Hertfordshire that may act as a single voice to Government (and other national and sub-national bodies) on issues relevant to its ambit;
- (e) Coordinating the prioritisation of Growth Board funding from devolved and other funding sources for infrastructure schemes, to ensure that decisions are made in one place and supported by all relevant partners and stakeholders;
- (f) Promoting and lobbying for Hertfordshire's interests and for funding;
- (g) Oversight, accountability for and prioritisation of the Growth Board Growth fund;
- (h) To bring together the work of the emerging South West Herts Joint Planning and North, East and Central Herts Joint Planning groups, ensure strategic infrastructure requirements are identified and fed into the Hertfordshire Infrastructure and Funding prospectus.
- (i) To maintain a current understanding of infrastructure needs through the Hertfordshire Infrastructure and Funding prospectus and other sources so key infrastructure priorities needed to support economic and housing growth can be determined

- (j) To maintain particular focus on the successful regeneration of Hertfordshire's New Towns, the health of Town Centres and development and delivery of new Garden Towns and Communities.

Specific Functions

4.2 The HGB also has delegated authority to:

- (a) Approve single position statements in relation to strategic Growth Deal issues;
- (b) Approve projects, including the allocation of project funding, which fall within the ambit of a future Growth Deal agreement;
- (c) Approve the major priorities under the auspices of a future Growth Deal;
- (d) Approve plans and strategies necessary or incidental to the implementation of a Growth Deal; and
- (e) Consider recommendations from the HGB Scrutiny Committee.

4.3 For the avoidance of doubt, the following non-executive and executive functions of the constituent Councils (and where applicable, the LEP) are excluded from the delegations to the HGB:

- (a) Statutory planning functions;³¹
- (b) Statutory housing functions;
- (c) Statutory functions relating to economic development;
- (d) Statutory highways and transport functions;
- (e) Matters incidental to the exercise of the above functions.

5. Professional and Administrative Support

- 5.1 Hertfordshire County Council shall act as the accountable body for the HGB in respect of financial matters and its financial procedure rules will apply in this context. It will provide Section 151 and Monitoring Officer roles to the Committee in accordance with its internal procedures.
- 5.2 Hertfordshire County Council's Director of Finance (Section 151 Officer) will provide the HGB with quarterly financial reports for funding that has been allocated directly to Hertfordshire County Council as the Accountable Body. These reports will provide the HGB with an overview of the funds spent and funds committed against funds allocated.
- 5.3 For those programmes and funding streams where another local authority is the Accountable Body, the relevant Section 151 Officer will provide the financial and performance information to the County Council's Section 151 Officer, for integration into the quarterly reporting process.
- 5.4 Committee management and administrative support to the HGB will be provided by Hertfordshire County Council.
- 5.5 The lead role on projects shall be determined by the HGB, subject to the guiding principle that the lead council should normally be the Council primarily responsible for the service in question for their area. The procurement and other rules of the lead council will apply in respect of projects.

³¹ This includes acting as Local Planning Authority on strategic planning matters, applications, approval and designation, consultations/referendums revocation (or recommend revocation of) neighbourhood plans, Article 4 Directions and orders

6. Standing Orders

- 6.1 The HGB will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

7. Advisory Sub-Groups

- 7.1 The HGB may establish Programme Boards/Advisory Sub-Groups to oversee specific work programmes or broader thematic areas as required. Programme Boards/Sub-Groups, reporting into the HGB, will be managed in accordance with separate terms of reference as agreed by the HGB.
- 7.2 The role, remit and membership of Programme Boards/Advisory Sub-Groups will be reviewed regularly to ensure they remain flexible to the demands of ongoing and new programmes of work.

8. Withdrawal

- 8.1 The firm intention is that HGB will continue until the programme is completed. Recognising the very serious implications of withdrawal from the HGB for the delivery of any Growth Deal programme, if a Council decides to withdraw from its role within HGB, it commits to sharing this with HGB members at the earliest possible opportunity, and to entering into constructive discussions to avoid this happening or to reach a way forward.
- 8.2 In all cases:
- (a) A minimum of six months' prior notice shall be given before withdrawal; and
 - (b) Withdrawal shall take effect from the beginning of the financial year.

9. Costs

- 9.1 The costs of running the HGB will be funded from the HGB Growth Fund in combination with officer time contributions from constituent councils.
- 9.2 Each Council makes a legally binding commitment that, should it withdraw from the HGB, it shall pay all additional costs (such as increased project costs) that fall to be met by the other partner Councils that are reasonably attributable to that withdrawal. This could include, for example, the costs that are locked into projects that have already been committed to, or the costs of dissolving integrated officer and Member arrangements and re-establishing independent arrangements.

10. Dispute Resolution

- 10.1 This section 10 governs disputes which may arise between the members and former members (including the LEP member, but not including any other co-opted member) in relation to these Terms of Reference or the Standing Orders of the HGB, or the decisions or operations of the HGB (a **Dispute**).
- 10.2 Each member as defined in paragraph 10.1 shall be entitled to refer a Dispute to the Heads of Paid Service of the member Councils and the Chief Executive of the LEP (together the **Dispute Panel**), who shall seek to agree a resolution. If the Dispute Panel is unable to resolve the matter within 1 month of it being referred to them, it shall agree any further dispute resolution procedure that it deems appropriate. This may include but is not limited to mediation via the Centre for Effective Dispute Resolution (CEDR).

Annex A to Appendix 1
HERTFORDSHIRE GROWTH BOARD STANDING ORDERS

1. Membership

- 1.1 The HGB will have a voting membership of eleven, each Council being entitled to appoint one voting member.
- 1.2 The HGB may agree to co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.

2. Alternate or Substitute Members

- 2.1 Each Council will be entitled to appoint from time to time one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.
- 2.2 The LEP and any other co-opted members will be entitled to nominate an alternate or substitute member to act in the absence of their principal co-opted member.
- 2.3 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 1 hour in advance of the relevant meeting of the identity of their substitute.

3. Term of Office

- 3.1 The term of office of voting and alternate or substitute voting members shall end:
 - (a) if rescinded by the appointing Council; or
 - (b) if the member ceases to be a member of the appointing Council.
- 3.2 The LEP member and any co-opted members may at any time ask the HGB to replace their nominated co-opted member and alternate or substitute member by way of further nomination.

4. Appointment of Chair and Vice-Chair

- 4.1 The HGB shall appoint a Chair and two Vice-Chairs at its first meeting. At the time of appointing the Vice-Chairs, the HGB shall decide which of them takes priority if the Chair is absent and both of them are present.
- 4.2 With effect from the Annual General Meeting 2023 the appointment of the Chair and Vice Chair shall be decided annually as the first substantive item of business at the AGM.³²
- 4.3 There shall be no term limits for Vice-Chairs.
- 4.4 The co-opted members of the HGB shall not act in the role of either the Chair or the Vice-Chair of the HGB.

5. Quorum

- 5.1 The quorum for meetings of the HGB will be 9 voting members.

³² Amendment 4.2 approved Full Council 13 July 2023

- 5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.
- 5.3 If there is no quorum at any stage during a meeting, the Chair will adjourn the meeting for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed, and the remaining items will be declared null and void.

6. Member Conduct

- 6.1 HGB members appointed by the eleven Councils shall be bound by the Code of Conduct of their nominating authority. The HGB member appointed by the LEP (and those nominated by other co-opted members) will be bound by the Code of Conduct of Hertfordshire County Council.
- 6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.
- 6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, a vote will be taken without discussion.

7. Notice of and Summons to Meetings

- 7.1 Notice will be given to the public of the time and place of any meeting of the HGB in accordance with the Access to Information rules of the Council providing HGB secretariat functions.
- 7.2 At least seven clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such details as are available.

8. Meeting Frequency

- 8.1 The HGB will meet on at least a quarterly basis, or as determined by the HGB, with one of those meetings acting as the annual meeting.
- 8.2 Extraordinary Meetings may be summoned by (i) the Chair, or (ii) any nine councils writing to the Chair to request one. The notice from the Chair or the letter from the nine councils shall state the business of the meeting, and no other business shall be considered.

9. Virtual Meetings

- 9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020**, or such other legislation as permits meetings to take place remotely, remain in force.
- 9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.

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- 9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.
- 9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.
- 9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.
- 9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

10. Voting

- 10.1 Before taking any decision, the local authority members of the HGB will have due regard to the advice and opinions expressed by the LEP member and other co-opted members.
- 10.2 HGB members commit to seek, where possible, to operate on the basis of consensus.
- 10.3 Should it not be possible in a specific instance to find a consensus, the issue shall stand deferred to a later meeting of the HGB. At the next meeting, a vote will be again taken and, if a consensus is still not achievable, the decision will be made on the basis of a simple majority.
- 10.4 The Chair shall have a casting vote; however, the convention of the HGB is that the Chair shall not exercise this.

11. Reports from the HGB Scrutiny Committee

- 11.1 The HGB will receive reports and recommendations from the HGB Scrutiny Committee as appropriate and the Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present them.

12. Questions by the Public and Public Speaking

- 12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB. This standard protocol is to be observed by public speakers:
- (a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
 - (b) Notice of the question should be submitted to the Chief Legal Officer of Hertfordshire County Council by 10am at least five working days before the meeting, stating to whom the question is to be put;

- (c) Questions must be limited to a maximum of 300 words;
- (d) Answers will be given in writing and will be published on the HGB website by 5pm on the day preceding the relevant meeting;
- (e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
- (f) Questioners will not be permitted to raise the competence or performance of a member, officer or representative of any partner on the HGB, nor any matter involving exempt information (normally considered as 'confidential');
- (g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;
- (h) If any clarification of what the questioner has said is required, the Chair will have the discretion to allow other HGB members to ask questions;
- (i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- (j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- (k) Questions should relate to items that are on the agenda for discussion at the meeting in question. The Chair will have the discretion to allow questions to be asked on other issues.

13. Petitions

13.1 At the discretion of the Chair, members of the public may submit and present petitions to the HGB. This standard protocol is to be observed by petitioners:

- (a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB to do;
- (b) Petitions must relate to something which is within the responsibility of the HGB, or over which it has influence;
- (c) Petitions must include the name and contact details of the petition organiser;
- (d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB, but HGB members will be notified of them as long as they contain at least 50 signatures;

- (e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
- (f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
- (g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
- (h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received will be entitled to present their petition;
- (i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time-wasting or require the disclosure of exempt information (normally considered as 'confidential');
- (j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).

13.2 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB, as per Standing Order 11.

14. Participation at HGB Meetings by Other Members of Partner Councils or Other Representatives of Partner Bodies

14.1 At the discretion of the Chair, other elected members of the Councils or the LEP or co-opted members may be entitled to speak and participate at meetings of the HGB.

15. Minutes

15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

16. Exclusion of the Public and Press

16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information rules of legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

17. Recording of Proceedings

17.1 The recording in any format of meetings of the HGB is permitted, except:

- (a) Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting;
- (b) Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see Standing Order 16).

18. Disturbance by Public

- 18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If that person continues to interrupt, the Chair will order his or her removal from the meeting room.
- 18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.
- 18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

19. Interpretation of Standing Orders

19.1 The ruling of the Chair of the HGB as to the application of these Standing Orders shall be final.

20. Suspension of Standing Orders

20.1 With the exception of Standing Orders 4, 5, 7.1, 8, 10 and 15, and as far as is lawful, any of these Standing Orders may be suspended by motion passed unanimously by those entitled to vote.

Appendix 2

HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE TERMS OF REFERENCE

1. Parties

Hertfordshire County Council
Borough of Broxbourne Council
Dacorum Borough Council
East Hertfordshire District Council
Hertsmere Borough Council
North Hertfordshire District Council
St Albans City and District Council
Stevenage Borough Council
Three Rivers District Council
Watford Borough Council
Welwyn Hatfield Borough Council

2. Status

The Hertfordshire Growth Board Scrutiny Committee has been established by the Councils listed above. It is a joint advisory committee of these Councils, established under section 102(4) of the Local Government Act, 1972.

3. Membership

3.1 One elected member appointed by each of the member Councils and one member appointed by the LEP (total 12).

4. Functions of the HGB Scrutiny Committee

4.1 The HGB Scrutiny Committee is established to advise the HGB with regard to the latter's role in achieving the objectives in the HGB Terms of Reference.

4.2 The HGB Scrutiny Committee will act as a forum for discussion with a wider range of members and stakeholders across the Hertfordshire area, so that the HGB benefits from a wider range of expertise in making its decisions.

4.3 To this end, the HGB Scrutiny Committee may receive and comment on ("pre-scrutinise") reports to the HGB, may offer advice to the HGB on the discharge of its functions and may review its work.

4.4 The HGB Scrutiny Committee shall develop its own Forward Plan and may submit reports or recommendations to the HGB for consideration, as appropriate.

5. Professional and Administrative Support

5.1 Committee management and administrative support to the HGB Scrutiny Committee will be provided by Hertfordshire County Council.

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

5.2 Other professional support will be provided to the HGB Scrutiny Committee on an ad hoc basis as agreed between the Councils.

6. Standing Orders

The HGB Scrutiny Committee will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

7. Costs

The costs of running the HGB Scrutiny Committee will be funded from the HGB Growth Fund.

Appendix 2 – Annex A

HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE STANDING ORDERS

1. Membership

1.1 The HGB Scrutiny Committee will have a membership of 12, with each Council and the LEP being entitled to appoint one member. Members must not be executive members of their appointing authority.

2. Alternate or Substitute Members

2.1 Each Council will be entitled to appoint one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.

2.2 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 5 working days in advance of the relevant meeting of the identity of their substitute.

3. Term of Office

3.1 The term of office of members from the Councils shall end:

- a. if rescinded by the appointing Council; or
- b. if the member ceases to be a member of the appointing Council.

4. Appointment of Chair and Vice-Chair

4.1 The HGB Scrutiny Committee will appoint a Chair and Vice-Chair at its first meeting.

4.2 The appointment of the Chair described in 4.1 shall be for a term up to the first meeting of the HGB Scrutiny Committee that follows both the 2021 local elections and the 2021 Annual Meetings of the constituent Councils (the **Post-Election Meeting**). At the Post-Election Meeting, the HGB Scrutiny Committee may either re-appoint the same member as Chair, or appoint a new Chair for a term of two years. Save in the above case, the Chair shall serve a single consecutive term of two years.

4.3 There shall be no term limits for Vice-Chairs.

4.4 Where there are three or more candidates for appointment and there is, after balloting, no candidate with a clear majority, meaning in this case the votes of more than 50% of members

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

present and voting, the candidate with the least number of votes will withdraw and there will be a fresh ballot of remaining candidates; and so on until a candidate has that majority.

5. Quorum

- 5.1 The quorum for meetings of the HGB Scrutiny Committee will be 7 members.
- 5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.
- 5.3 If there is no quorum at any stage during a meeting, the person presiding over the meeting will adjourn for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed and the remaining items will be declared null and void.

6. Member Conduct

- 6.1 HGB Scrutiny Committee members appointed by the Councils shall be bound by the Code of Conduct of their nominating authority.
- 6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.
- 6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period.
If seconded, a vote will be taken without discussion.

7. Notice of and Summons to Meetings

- 7.1 Notice will be given to the public of the time and place of any meeting of the HGB Scrutiny Committee in accordance with the Access to Information rules of Hertfordshire County Council.
- 7.2 At least five clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB Scrutiny Committee. The agenda will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such details as are available.

8. Meeting Frequency

- 8.1 The HGB Scrutiny Committee may set its own timetable for meetings, normally on a date preceding meetings of the HGB in order to allow the HGB Scrutiny Committee to consider issues the HGB will be taking decisions on and advise accordingly.

9. Virtual Meetings

- 9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority**

Police and Crime Panel Meetings) (England and Wales) Regulations 2020, or such other legislation as permits meetings to take place remotely, remain in force.

- 9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.
- 9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.
- 9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.
- 9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.
- 9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

10. Voting

- 10.1 All HGB Scrutiny Committee members will be voting members.
- 10.2 Voting for meetings of the HGB Scrutiny Committee will be conducted on the basis of a simple majority. The Chair shall have a casting vote; the convention shall be that the Chair shall not exercise this.

11. Reports from the HGB Scrutiny Committee to the HGB

- 11.1 The Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present reports from the HGB Scrutiny Committee as appropriate.

12. Questions by the Public and Public speaking

- 12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB Scrutiny Committee. This standard protocol is to be observed by public speakers:
 - (a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
 - (b) Notice of the question should be submitted the Chief Legal Officer of Hertfordshire County Council at the latest by 10am three working days before the meeting;
 - (c) Questions must be limited to a maximum of 300 words;

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- (d) Answers will be given in writing and will be circulated at the meeting;
- (e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
- (f) Questioners will not be permitted to raise the competence or performance of a member of the HGB Scrutiny Committee or the HGB, nor any matter involving exempt information (normally considered as 'confidential');
- (g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;
- (h) If any clarification of what the questioner has said is required, the Chair will have the discretion to allow other HGB Scrutiny Committee members to ask questions;
- (i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- (j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- (k) Questions should relate to items that are on the agenda for discussion at the meeting in question. However, the Chair will have discretion to allow questions to be asked on other issues.

13. Petitions

- 13.1 At the discretion of the Chair, members of the public may submit and present petitions to the HGB Scrutiny Committee. This standard protocol is to be observed by petitioners:
- (a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB Scrutiny Committee to do;
 - (b) Petitions must relate to something which is within the responsibility of the HGB Scrutiny Committee, or over which it has influence;
 - (c) Petitions must include the name and contact details of the petition organiser;
 - (d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB Scrutiny Committee, but HGB Scrutiny Committee members will be notified of them as long as they contain at least 50 signatures;

- (e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
- (f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
- (g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
- (h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received will be entitled to present their petition;
- (i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time-wasting or require the disclosure of exempt information (normally considered as 'confidential');
- (j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).

13.2 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB as per Standing Order 10.

14. Participation at HGB Scrutiny Committee Meetings by Other Members of Partner Councils or Other Representatives of Partner Bodies

14.1 At the discretion of the Chair, other elected members of the Councils, or representatives from the LEP or other co-opted members, may be entitled to speak and participate at meetings of the HGB Scrutiny Committee.

15. Minutes

15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

16. Exclusion of the Public and Press

16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

17. Recording of Proceedings

- 17.1 The recording in any format of meetings of the HGB Scrutiny Committee is permitted, except:
- (a) Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting; and/or
 - (b) Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see standing order 16).

18. Disturbance by the Public

- 18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If the individual continues to interrupt, the Chair will order his or her removal from the meeting room.
- 18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.
- 18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

19. Interpretation of Standing Orders

- 19.1 The ruling of the Chair as to the application of these Standing Orders shall be final.

20. Suspension of Standing Orders

- 20.1 With the exception of Standing Orders 5, 7.1, 10 and 15, and as far as is lawful, any of these Standing Orders may, as far as is lawful, be suspended by motion passed unanimously by those entitled to vote.

SECTION 12

12 Officers

12.1 Management Structure

12.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

The Council's management structure is published on the Council's website.

12.1.2 Officer delegation

The Council will engage persons for the following posts, (as set out in the table below, to be appointed as per the legislative requirements as applicable), which designation includes persons acting temporarily in such capacity. These Officers have the power to delegate further under their schemes of delegation, as detailed further in Section 14.

Post	Responsibility
Managing Director	<ul style="list-style-type: none">• Head of Paid Service: to co-ordinate discharge of all functions and exercise overall managerial and operational responsibility for staff• To lead the Senior Management Team;• Representing the Council on partnership and external bodies (as required by statute or the Council) and Strategic Partnerships.• Emergency Planning Officer.
Service Director - Customers	<ul style="list-style-type: none">• Chief Information Officer / Data Controller• Careline;• Customer Service Centre;• Data Protection and Freedom of Information;• Information Technology;• Management Support Unit;• Print;• Revenues and Benefits.
Service Director – Enterprise	<ul style="list-style-type: none">• Lead officer in relation to business development and commercial operations.• Council Director – Building Control Companies;• Council Director – Housing/Property Development Companies;

Post	Responsibility
	<ul style="list-style-type: none"> • Development of Commercial Operations; • Economic Development; • Estates and Asset Management; • Markets; • Museums including North Hertfordshire Museum and Hitchin Town Hall; • Project Support.
<i>Revenues Manager</i>	<ul style="list-style-type: none"> • Council's Data Protection Officer
Service Director: Housing & Environmental Health	<ul style="list-style-type: none"> • Community Safety; • Environmental Enforcement (including health and safety, food safety and hygiene, contaminated land, air quality); • Environmental Health; • Housing; • Licensing.
Service Director – Legal and Community	<ul style="list-style-type: none"> • Chief Legal Officer to the Council; • Monitoring Officer; • Community & Partnership (including grants); • Committee, Member & Scrutiny Services; • Elections Services; • Legal Services; • Policy and Safeguarding (including health); • Scrutiny support.
Service Director – Place	<ul style="list-style-type: none"> • Active Communities (excluding safeguarding & Health); • Climate Change Lead Officer; • Grounds Maintenance; • Leisure development opportunities & Leisure Management;

Post	Responsibility
	<ul style="list-style-type: none"> • Parks and Open Spaces (including Green Space Strategy); • Waste (including shared waste service).
Service Director - Regulatory	<ul style="list-style-type: none"> • Building Control (client); • Car Parking (including enforcement); • Development Management; • Parking and Transport Strategy; • Planning (local planning Authority) including Strategic Planning.
Service Director - Resources	<ul style="list-style-type: none"> • Chief Finance Officer – section 151 • Anti-Money Laundering Reporting Officer • Building Services; • Emergency Planning; • Finance; • Human Resources; • Performance, project management, risk, audit and insurance; • Shared anti-fraud service; • Procurement.

12.1.3 Scheme of Delegations

The Scheme of Delegations to Officers is set out in Section 14.

12.1.4 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

Post	Designation
Managing Director	Head of Paid Service
Service Director: Legal and Community	Monitoring Officer
Service Director: Resources	Chief Finance Officer

Such posts will have the functions and responsibilities more particularly described in Sections 12.2 to 12.4 and delegations under section 14.

12.2 Functions of the Head of Paid Service

12.2.1 Discharge of Functions by the Council

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.

12.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

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 Members, staff 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 the Cabinet in relation to an Executive Function if they consider 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.

12.3.3 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.

12.3.4 Receiving Complaints about Councillors

The Monitoring Officer will receive complaints of failures to comply with the Members' Code of Conduct and determine, in consultation with the Independent Person, whether a complaint requires formal investigation. The Monitoring Officer may seek to resolve a complaint informally prior to a decision on whether the complaint merits formal investigation.

12.3.5 Conducting Investigations

The Monitoring Officer will arrange formal investigations as appropriate into matters referred to them and make reports or recommendations in respect of them to the Standards Committee. Subject to providing a report for information to the Standards Committee, the Monitoring Officer may take no further action where a formal investigation finds no evidence of a failure to comply with the Members' Code of Conduct, or seek an informal resolution (subject to consultation with the Independent Person) where the complainant is satisfied with the outcome.

12.3.6 Advising whether decisions of the Cabinet are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

12.3.7 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 the Councillors.

12.3.8 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.4 Functions of the Chief Finance 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 administration of the financial affairs of the Council.

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 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.

12.4.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

12.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in the opinion of the Monitoring Officer and Chief Finance Officer sufficient to allow their duties to be performed.

12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol for Officer/Member Relations set out in Section 18 of this Constitution.

12.7 Employment

CONSTITUTION

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out below.

12.8 Officer Employment Procedure Rules

The Council is legally obliged under the Local Government & Housing Act 1989 (the '1989 Act') and consequential Regulations to adopt mandatory Standing Orders relating to members of staff. These are contained in the Officer Employment Procedure Rules detailed under this rule 12.8.

12.8.1 Introduction

- (a) The functions of appointment and dismissal and taking disciplinary action against a member of staff must be discharged on behalf of the Council by the Head of Paid Service (Managing Director) or an Officer nominated by them. Save for as provided for in these rules this means that the appointment, dismissal or disciplinary action for staff (other than political assistants) must be dealt with by the Managing Director or their nominee, without any participation by Members.
- (b) Nothing in 12.8.1 and 12.8.6 (a) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—
 - (i) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- (c) In paragraph 12.8.1-12.8.4 'Chief Officer' means the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, all Service Directors.³³

12.8.2 Recruitment and Appointment

- (a) Declarations
 - (i) The Council has drawn up at statement requiring any candidate for an appointment as an officer to state in writing whether they are the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or the partner of such persons.
 - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.
- (b) Seeking Support for Appointment
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
 - (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

³³ The procedures in paragraph 12.8.3 shall not apply to any other non-statutory Chief Officer, that would otherwise fall within the statutory definition pursuant to the provisions of the Local Authorities (Standing Orders) Regulations 1993 Paragraph 3 of Part II of Schedule 1. Section 2(7) Local Government Act 1989 defines non-statutory Chief Officer

12.8.3 Recruitment of Chief Officers

12.8.3.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:
 - (i) the duties of the Officer concerned; and
 - (iii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the procedures mentioned in paragraph 12.8.3(a)0 to be sent to any person on request.

12.8.3.2 Where a post has been advertised as provided for in 12.8.3.1, the Council shall–

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.

12.8.3.3 Where a post has been advertised as provided for in 12.8.3.1 and no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with standing order 12.8.3.1

12.8.4 Appointment of Head of Paid Service (Managing Director)

- (a) The Full Council shall decide whether to approve the appointment of the Head of Paid Service, following the recommendation of the Employment Committee and before the offer of appointment is made.
- (b) The Full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet (via the procedure set out in 12.8.5 below).

12.8.5 Appointments and Dismissals of Chief Officers any Chief officers that fall outside of the section 12.8.1 (c) provision and Deputy Chief Officers.

In this paragraph:

“the appointor”

means the relevant decision making body or officer as per the Terms of Reference or delegation to Full Council, Committee or the Head of Paid Service, or as in the case of the initial notification to the Proper Officer – on behalf of;

“dismissor”

means the relevant decision-making body or officer as per the terms of reference or delegation to Full Council, Committee or the Head of Paid Service and

“the Proper Officer” means the Service Director: Legal and Community Services.

- (a) Where the appointor or dismissor is proposing to appoint or dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- (b) The appointor shall not make an offer of appointment in relation to the Head of Paid Service, any Chief Officer or Deputy Chief Officer until:
 - (i) the appointor has notified the Proper Officer of the name of the person they wish to make the offer and any other particulars considered to be relevant to the appointment;
 - (ii) the Proper Officer has notified every member of the Cabinet of:
 - A. the name of the person to whom the appointor wishes to make the offer;
 - B. any other particulars relevant to the appointment which have been notified to the Proper Officer; and
 - C. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; andeither:
 - D. the Leader has, within the period specified, notified the appointor that neither they nor any other member of the Cabinet has any objection to the making of the offer;
 - E. the Proper Officer has notified the appointor that no objection was received by them within that period from the Leader; or
 - F. the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Notice of the dismissal of the Head of Paid Service, Chief Officer or Deputy Chief Officer must not be given by the dismissor until:

- (iii) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (iv) the Proper Officer has notified every member of the Cabinet of:
 - A. the name of the person who the dismissor wishes to dismiss;
 - B. any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
 - C. the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and

either:

- D. the Leader has, within the period specified, notified the dismissor that neither they nor any other member of the Cabinet has any objection to the dismissal;
- E. the Proper Officer has notified the Committee that no objection was received by them within that period from the Leader; or
- F. the Committee (or, in the case of the proposed dismissal of the Head of Paid Service, the Full Council) is satisfied that any objection received from the Leader within that period is not material or is not well-founded;

12.8.6 Other Officers

- (a) Appointment and dismissal and taking disciplinary action against a member of staff below Chief Officer as defined in section 12.8.1 (c) (other than political assistant) is the responsibility of the Head of Paid Service or his nominee, and may not be undertaken by councillors.
- (b) The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group. [Please note – the Council does not currently employ any assistants to political groups]
- (c) The Council’s policies in relation to recruitment, selection, appointment, disciplinary action and dismissal shall otherwise apply.

Disciplinary Action - Statutory Officers

12.8.7 The Local Authorities (Standing Orders) (England) Regulations 2001(as amended) (the “Regulations”) sets out the legal requirement for an authority to incorporate these provisions on disciplinary action in their standing order relating to certain “relevant officers” (defined below) They set out the basis of how disciplinary action is taken against these relevant officers. The Employment Panel is the relevant Committee for the purposes of the Regulations. When interpreting 12.8.7 -12.8.15:

“the 2011 Act” means the Localism Act 2011;

“chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

“independent person” means any person appointed under section 28(7) of the 2011 Act; by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

“local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority, in this authority the Panel;

“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the Head of the authority’s paid service, Chief Finance Officer or Monitoring Officer, as the case may be.

- 12.8.8 A relevant officer may not be dismissed by the authority unless the procedure set out in the following Rules is complied with.
- 12.8.9 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 12.8.10 Subject to Rule 12.8.11, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 12.8.9 in accordance with the following priority order—
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities.
- 12.8.11 An authority is not required to appoint more than two relevant independent persons in accordance with 12.8.10 but may do so.
- 12.8.12 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 12.8.13 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 12.8.14 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.
- 12.8.15 Councillors will not be involved in the dismissal of or disciplinary action against any Officer below the level of Chief Officer, except as set out in 12.8.1(b) and where such involvement is necessary for an investigation or inquiry into alleged misconduct, through the Council’s adopted disciplinary procedure, by way of an appeal to the Employment Appeals Committee in respect of disciplinary action.

SECTION 13

13 Finance, Contracts and Legal Matters

13.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial regulations set out in Section 19 of this Constitution.

13.2 Contracts

Every contract made by the Council will comply with the Contract Procurement Rules set out in Section 20 of this Constitution.

13.3 Legal Proceedings

13.3.1 The Service Director: Legal and Community is authorised to institute³⁴, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Service Director: Legal and Community considers that such action is necessary to protect the Council's interests.

13.3.2 The Service Director: Legal and Community has delegated powers to authorise officers to appear in court on the Council's behalf.

13.4 Authentication of Documents

13.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Service Director: Legal and Community or other person authorised by them, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

13.4.2 Any contract with a value exceeding the figure set out in the Contract Procurement Rules and Financial Regulations, entered into on behalf of the Council shall be made in writing. Subject to the Contract Procurement Rules, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by at least one authorised officer.

13.5 Common Seal of the Council

13.5.1 Common Seal

(a) The Common Seal of the Council shall be kept in a safe place in the custody of the Service Director: Legal and Community.

(b) A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

13.5.2 Sealing and Execution of Documents

The Common Seal will be affixed to those documents which, in the opinion of the Service Director: Legal and Community should be sealed. The affixing of the Common Seal will be attested by those officers authorised to do so by this Constitution (or as may be further delegated to officers).

13.5.3 Record of Sealing of Documents

³⁴ Save for proceedings under the Health and Safety at Work etc Act 1974.

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the officer affixing the seal and consecutively numbered in a book to be provided for the purpose.

13.5.4 References in 13.5.1-13.5.3 above (and Common Seal generally) includes an electronic version.

SECTION 14

14. Responsibility for Functions – Summary

14.1 Introduction

The functions of the Authority fall into two categories:

14.1.1 Council functions; and

14.1.2 Executive functions,

Included in this part of the Constitution are:

14.1.3 the Scheme of Delegation of executive and council functions to Officers;

14.1.4 the list of Proper Officer designations

Sections 6,7, 8 and 9 of the Constitution describe the executive and council functions that are delegated to Committees.

14.2 Council Functions

14.2.1 These are functions that cannot be the responsibility of the Cabinet. For example, adopting the annual budget, can only be the responsibility of the full Council. In other cases, the responsibility for undertaking the function may be delegated by the Council to a committee or an officer. Where this is the case it is shown in the terms of reference (committees) or the scheme of delegation (officers).

14.2.2 There are also a number of functions which individual Councils can allocate to Cabinet or retain for its own determination. These are known as “local choice functions” and are listed showing which matters are retained and which are allocated to Cabinet.

14.3 Executive Functions

All other functions are executive functions. Decisions about these functions may be taken by the Leader, the Cabinet, individual Cabinet members, Cabinet Committees, joint arrangements with other authorities and officers.

14.4 TERMS OF REFERENCE

14.4.1 Council and Committees exercising Council Functions:

- (a) Council (see Section 4);
- (b) Scrutiny Functions (see Section 6):
 - (i) Overview and Scrutiny Committee,
- (c) Standards Functions (see Section 7):
 - (i) Standards Committee
 - (ii) Standards Sub-Committee;
- (d) Regulatory Functions (see Section 8):
 - (i) Licensing and Regulation Committee;

- (ii) Licensing Sub-Committee;
- (iii) Planning Control Committee;
- (e) Finance Audit and Risk Committee (see Section 10);
- (f) Council Tax Setting Committee (see Section 10);
- (g) Employment Committee (see Section 10);
- (h) Joint Staff Consultative Committee (see Section 10);

14.4.2 Cabinet Committees and Executive Members exercising Executive Functions

- (a) Cabinet (see Section 5);
- (b) Cabinet Sub-Committee (Charities) (see Section 5)
- (c) CCTV Joint Executive Committee (see Section 11);
- (d) Executive Members (see Section 14.8).

14.5 Proper Officer Designations

14.5.1 Council Functions

These are functions which cannot be the responsibility of the Executive. The table below demonstrates how the Council has chosen to reserve matters to itself for decision or delegate them to a Committee or an officer. The functions listed in the table are those referred to in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
All those functions for which the Council is responsible relating to town and county planning and development control	Planning Control Committee/ Service Director: Regulatory
All those functions for which the Council is responsible relating to the protection and treatment of hedgerows, the preservation of trees/ and complaints about high hedges	Service Director: Regulatory
All those functions for which the Council is responsible relating to public rights of way	Planning Control Committee/ Service Director: Regulatory
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals	Licensing and Regulation Committee/ Service Director: Housing & Environmental Health

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
Functions relating to Smoke free premises	Service Director: Housing & Environmental Health
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer)	Service Director: Housing & Environmental Health
All those functions relating to elections	Council/ Service Director: Legal and Community
Functions relating to the name and status of areas and individuals	Council
Functions relating to Community governance	Council
Power to make, amend, revoke or re-enact byelaws	Council
Power to promote or oppose local or personal bills	Council
Power to make and amend procedure rules (Standing Orders and Financial Regulations)	Council / Monitoring Officer and Chief Finance officer under the requirements of section 2.6
Power to appoint staff, and to determine the terms and conditions on which they hold office in accordance with approved Council policies (including procedures for their dismissal and the Officer Employment Procedure Rules under section 12.8	Council/ Managing Director and Service Directors
Duty to make arrangements for the proper administration of financial affairs	Council
Power to appoint officers for particular purposes (appointment of Proper Officers)	Council
Duty to designate an officer as the Head of the Authority's paid service	Council
Duty to designate an officer as the Monitoring Officer and to provide staff	Council
Duty to approve the Authority's statement of accounts, income and	Finance Audit & Risk Committee

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
expenditure and balance sheet, or record of payments and power to make payments in cases of maladministration	
Power to make payments in cases of maladministration	Managing Director
Power to make a closing order on a takeaway food shop	Director: Housing & Environmental Health
Powers relating to overview and scrutiny committee	Council
“Proper Officer” under section 13(3) Local Government Acts 1972, to act as Parish Trustee to a Parish Meeting (in a parish not having a separate parish council).	Committee, Member & Scrutiny Manager/ officer delegated as such by the Services Director – Legal and Community

14.5.2 Responsibility for Local Choice Functions

The Council has the discretion to choose which part of the structure should be responsible for certain functions (known as “Local Choice Functions”). These are set out in Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Regulations). The Council has determined who is responsible for these functions in the table below.

Function	Decision Making Body	Delegated to
Functions under local Acts (other than a function specified in Regulation 2 and Schedule 1 of the Regulations)	Cabinet	Service Directors
Determination of an appeal against any decision of the Authority	Council	(where designated) Licensing and Regulation Committee/ or as provided under statutory provision
The discharge of any function relating to the control of pollution, the management of air quality or contaminated land	Cabinet	Service Director: Housing & Environmental Health
The service of an abatement notice for a statutory nuisance	Cabinet	Service Director: Housing & Environmental Health

Function	Decision Making Body	Delegated to
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Cabinet	Service Director: Housing & Environmental Health
Inspections for statutory nuisance	Cabinet	Service Director: Housing & Environmental Health
Investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Service Director: Housing & Environmental Health
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Cabinet	Service Director: Regulatory
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	General delegation to Managing Director, and Service Directors
The appointment, nomination or revocation of appointment of any individual to any office/body other than to Full Council	Council	Managing Director/ Service Director: Legal and Community (in the event of vacation of office, in consultation with Group Leaders in respect of elected Councillors ³⁵)
The making of agreements with other local authorities and external agencies for the placing of staff and joint working arrangements	Council	Managing Director

14.6 Scheme of Delegation to Officers

14.6.1 Introduction

This scheme sets out those council and executive functions, powers and duties which are delegated to officers and allocates the Proper Officer roles.

14.6.2 General Principles

- (a) This scheme operates under Section 101 of the Local Government Act 1972 (council functions) and section 9E Local Government Act 2000 (executive functions).

³⁵ In accordance with any requirements under the Local Government (Committees and Political Groups) Regulations 1990

- (b) All officers discharging these functions shall also have power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of those functions, including entering into temporary arrangements with other authorities for the delivery of services.
- (c) All officers discharging these functions may authorise any member of their staff to act on their behalf and shall keep a written record of all sub-delegations in a register held by the Monitoring Officer (subject to the limitations at 14.6.3 and within specific policies).
- (d) Before taking a decision under delegated powers which may be controversial or politically sensitive the officer shall notify the relevant Cabinet Executive Member. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance³⁶ (or any policy) on the statutory requirements and procedures.
- (e) An officer may always refer a delegated decision to the Cabinet or Council or any of their respective Committees rather than make the decision.
- (f) The Managing Director may exercise any of the delegated powers in this scheme or may authorise one officer to carry out the functions of another absent officer.

14.6.3 General Limitations

- (a) This scheme does not delegate to officers:
 - (i) any matter exclusively reserved to Council, Cabinet or a committee;
 - (ii) any matter which by law may not be delegated to an officer.
- (b) All decisions made under delegated powers must have regard to the legal, financial, risk, equalities, social value and human resource implications of the decision.
- (c) Officers shall exercise delegated powers in accordance with the policies of the Council and the requirements of this Constitution.

14.6.4 General Authorisations

- (a) Managing Director, and the Service Directors

The Managing Director and the Service Directors are delegated the following functions, powers and duties for their respective service areas:

- (i) The operational management of staff;
- (ii) Entering into contracts to carry out works and/or for the supply of goods and services within approved budgets (subject also to approval of the Service Director for: Customers in respect of software or hardware contracts). All may attest the fixing of the Common Seal to a contract or Deed;
- (iii) Serving any requisition for information, notice or authorising any works in default and recovery of any related expenditure;
- (iv) Recommending legal proceedings to the Service Director for Legal and Community;

³⁶ NHDC Guidance to Members and Officers – Taking a delegated decision 2018 or any replacement

- (v) To submit tenders and, where successful, to enter into contracts for the supply of goods and services to other local authorities and public bodies;
- (vi) To have responsibility for the management of health and safety in line with the Council's Health and Safety Policy;
- (vii) To consider and co-ordinate any investigation by the Local Government Ombudsman;
- (viii) To set fees and charges in accordance with the Council's Financial Regulations and relevant policies, in consultation with the Executive Member;
- (ix) National Lottery and external funding applications.

14.6.5 Delegation of Authority – **Managing Director**

(a) Functions	The Managing Director shall exercise the following functions	
(i)	To carry out the duties of the Head of Paid Service (section 4 of the Local Government & Housing Act 1989) which includes all necessary powers for:	
	A	Coordinating the discharge of all functions
	B	Exercising overall managerial responsibility for staff
(ii)	To make any minor changes to terms and conditions for staff	
(iii)	To dismiss any member of staff including (unless otherwise reserved to Committee or Full Council and excluding Statutory Officers) in accordance with legislative, Officer Employment Procedure Rules and Council’s staff related policies.	
(iv)	In cases of emergency or urgency (where possible in consultation with the Leader of the Council) to carry out any Council or Executive function, power or duty	
(v)	To represent the authority on partnerships and external bodies as required by statute or by the Council	
(vi)	To lead the Senior Management Team	
(vii)	To decide, in consultation with the Monitoring Officer, upon Members’ “need to know” and provide for access to information and to decline access where information would be considered exempt (as defined under section 15).	
(viii)	To be responsible for performance review issues	
(ix)	To authorise employees of the Council to enter onto land to enable them to carry out the functions of the Council.	
(x)	The granting of approval for staff to be allowed to undertake outside work.	
(xi)	To authorise Officers to conduct directed surveillance or the use of covert human intelligence sources or the acquisition of confidential information in accordance with the Regulations of Investigatory Powers Act 2000.	

	(xii)	To authorise Officers to use juveniles and vulnerable individuals as covert human intelligence sources	
	(xiii)	To consider any report of the Local Government Ombudsman and to settle any compensation payments up to £2000	
	(xiv)	To authorise, issue vary or cancel Closure Notices to deal with nuisance or disorder or designate a person to do so under relevant legislation ³⁷ .	
(b) Service Responsibilities	The Managing Director shall exercise all of the functions other than those reserved to Council, Cabinet and Committee in relation to:		The Executive Member responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:
	(i)	Growth Board	Leader of the Council

14.6.6 Delegation of Authority - **Service Director: Customers**

(a) Functions	The Service Director: Customers shall exercise the following functions		
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.	
	(ii)	To be responsible for performance review issues within the Directorate.	
	(iii)	To be the Council's Chief Information Officer.	
	(iv)	To be the Council's Data Controller.	
	(v)	To issue applications for the acquisition of Communications data.	
	(vi)	To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy.	
	(vii)	To authorise the commencement, defence, withdrawal or settlement of legal proceedings for Council tax, non-domestic rates, sundry debts, Business Improvements District levy, Housing Benefit overpayments, and parking penalty charge notices (from warrant stage).	

³⁷ S77(2)(b) Anti-Social Behaviour, Crime and Policing Act 2014 Power to issue Closure Notice up to 48 hours must be signed by Managing Director or person designated by them.

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	(viii)	To authorise officers to provide a discretionary service to verify foreign national pensions ³⁸ .		
(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:		The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:	
	(i)	<u>Care functions</u> including the provision and management of Careline and community alarms	Executive Member for Community & Partnerships	
	(ii)	<u>Customer Services</u> Including		
		A	the Customer service centre	Leader of the Council to have strategic oversight; otherwise Executive Member for Community & Partnerships
		B	Coordination of complaints and ombudsman queries	Leader of the Council
		C	the Telecommunications service	Executive Member for Finance and IT
		D	Print contract	Executive Member for Finance and IT
	(iii)	<u>Council Tax and Rates (revenues)</u> Including		Executive Member for Finance and IT which shall include
		A	writing off debt below £5,000 and between £5,001 and £10,000 in conjunction with the Executive Member for Finance and IT	1 writing off debts between £5,001 and £10,000 in conjunction with the relevant Cabinet Executive Member and Service Director: Customers
		B	collection and administration on behalf of the Council of Council Tax, National Non-Domestic Rates, sundry debts, Business Improvements District levy, Housing Benefit overpayments, and	

³⁸ This is a discretionary service and may be subject to a charge pursuant to the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996/1978

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		parking penalty charge notices (from warrant stage)		
	C	valuation, Administration of the National Non-Domestic Rates scheme including NNDR3 return		
	D	administration of the Housing and Council Tax Reduction Schemes including, investigation of benefit fraud and agreeing administrative penalties in lieu of legal proceedings		
	E	Cashiering and related services		
(iv)	<u>Information and communications technology (ICT)</u> including approval of the acquisition of all ICT equipment and services		Executive Member for Finance and IT which shall include	
	1		the development and application of policies, initiatives and services involving the use of information and communications technology to support the work of the Council and the Council's work with others	
	2		development and implementation of policy and strategy for the delivery of e-Government	
(v)	<u>Information management</u> including data protection, data quality and freedom of information <u>Direct delegation of data protection officer function</u> The Revenues Manager shall act as data protection officer for the Council and shall exercise all functions, powers and duties in this regard.		Executive Member for Finance and IT	
(vi)	<u>Management Support and central administrative services</u> Including:		None	
	A	Contract hire	Executive Member for Finance and IT	

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	B	Land Charges	Leader of the Council
	C	Corporate Stationery	Executive Member for Finance and IT

14.6.7 Delegation of Authority – **Service Director: Enterprise**

(a) Functions	The Service Director: Enterprise shall exercise the following functions		
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.	
	(ii)	To be responsible for performance review issues within the Directorate.	
	(iii)	To maintain an overview of the Council's commercial activities/ ventures.	
	(iv)	To act or nominate to act as Director to any wholly owned Local Authority company to which the Director is appointed (subject to the company's internal appointment processes and any legislative requirements).	
(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:		The Leader of the Council to be responsible for Co-operative Development, including development of a Co-operative Development Strategy for the District. To the extent this is covered by the following it falls to the Leader. Otherwise, the Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:
	(i)	<u>Asset management</u> including	Executive Members for Enterprise and Arts, and Finance and IT which shall include:

		A	agreeing terms for and accepting the surrender of leases, negotiating, agreeing and arranging for the release or modification of restrictive covenants, determining applications for licences to assign and consent to sub-let, change of use, make alterations or additions to land or premises, forfeiting (or seeking other appropriate remedy) of leases, licences and wayleaves where covenants have been broken, discharging mortgages and taking decisions under section 137 and 139 of the Local Government Act 1972 regarding Council expenditure on land held on charitable trust	1.	provision and management of the civic buildings, including the letting of accommodation at public buildings owned or occupied by the Council and not specifically under the control of another Cabinet Executive Member
	B	granting, negotiating and settling terms of leases, licences, easements, wayleaves, rent reviews, assignment of leases, the appointment of arbitrators / experts, consents, guarantees and all other minor land matters where the initial annual rent (after the expiry of any rent free period) or the premium does not exceed £500,000 provided that in respect of any matter where the initial rent or premium exceeds £50,000 the decision shall be made in consultation with the Executive Member for Finance and IT			
	C	in consultation with the Service Director: Resources, acquisition of land where the purchase price or premium does not exceed £500,000 or such higher figure as is determined in any adopted Asset Management Strategy.			
	(ii)	<u>Commercial Operations</u> including maximisation of the Council's commercial income		Executive Members for Enterprise and Arts and Finance and IT	
	(iii)	<u>Economic Development</u>		Executive Member for Enterprise and Arts	

		Including regeneration, neighbourhood renewal, bidding for, planning and expenditure of regeneration funding	
	(iv)	<u>Markets</u>	Executive Member for Enterprise and Arts
	(v)	<u>Museum Services</u> Including	Executive Member for Enterprise and Arts
	A	North Hertfordshire museum and Hitchin Town Hall	
	B	Exhibition galleries and art education and loan service	
	C	Archaeological matters	
	(vi)	<u>Project Support</u>	
	(vii)	<u>Tourism and visitor management</u>	Executive Member for Enterprise and Arts

14.6.8 Delegation of Authority – **Service Director: Housing & Environmental Health**

(a) Functions	The Service Director: Housing & Environmental Health shall exercise the following functions	
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council’s policies and procedures.
	(ii)	To be responsible for performance review issues within the Directorate.
	(iii)	To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council’s RIPA policy.
	(iv)	To authorise Consultants in Communicable Disease Control of Public Health England, to act on behalf of the Council as Proper Officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.

	(v)	To authorise Officers to act as an Inspector under the Health and Safety at Work etc Act 1974, such Inspectors are authorised to institute proceedings and prosecute under the Health and Safety at Work etc Act 1974 following consultation with the Service Director: Legal and Community Services.	
(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:		The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:
	(i)	<u>Community safety</u> including authorising or delegating to Officers to deal with antisocial behaviour, nuisance or disorder, including (although not limited to) Closure Notices ³⁹ , Community protection (notices, fixed penalty notices, seizure of goods) under any relevant legislative powers	Executive Member for Community & Partnerships which shall include
			1 community safety and work with the Community Safety Partnership, the police and other law enforcement agencies to reduce crime and disorder, and the fear of either; including as the Council's representative on the Police and Crime Panel
	(ii)	<u>Community safety (enforcement)</u> <u>Including:</u>	Executive Member for Community & Partnerships, with exception of environmental crime (A or B) – the Executive Member for Recycling and Waste
		<u>A</u> fly tipping, byelaws and abandoned vehicles	
	<u>B</u> in consultation with the Service Director: <u>Regulatory, unlawful encampments</u>		
(iii)	<u>Counter Terrorism and Security</u>	Leader of the Council and Executive Member for Community & Partnerships	
(iv)	<u>Environmental Health and enforcement functions</u> Including sewers, drains and private water supplies, housing safety and fitness of premises, domestic energy conservation, health and safety at work, food safety and hygiene, pest control, animal welfare and communicable diseases.	Executive Member for Housing and Environmental Health	

³⁹ Not including authorising/ signing Closure Notices up to 48 hours unless designated by the Managing Director to do so.

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	(v)	<u>Environmental Protection and enforcement functions</u> <u>Including:</u>	Executive Member for Housing and Environmental Health
		<u>A</u> <u>contaminated land, air quality, statutory nuisances, controlled processes</u>	
		<u>B</u> <u>in consultation with the Service Director: Legal and Community, unlawful encampments</u>	
	(vi)	contaminated land, air quality, statutory nuisances, controlled processes	Executive Member for Housing and Environmental Health
	(vii)	<u>Housing and homelessness</u> including housing grants and loans	Executive Member for Housing and Environmental Health
(viii)	<u>Licensing</u> including all functions under all relevant Licensing legislation other than matters reserved to the Licensing and Regulation Committee and Full Council.	Executive Member for Housing and Environmental Health which shall include: 1 Setting of charges and fees for hackney carriages and private hire vehicles in consultation with the Service Director: Housing & Environmental Health and Licensing Manager .	
(ix)	<u>Public health functions under the Public Health Acts and related legislation</u>	Executive Member for Housing and Environmental Health	

14.6.9 Delegation of Authority – **Service Director: Legal and Community**

(a) Functions	The Service Director: Legal and Community shall exercise the following functions	
(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.	
(ii)	To be responsible for performance review issues within the Directorate.	

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(iii)	To act as Chief Legal Officer to the Council.
(iv)	To carry out the functions of the Monitoring Officer (Section 5 of the Local Government & Housing Act 1989 and the Local Government Act 2000).
(v)	To authorise changes to the Governance Policies/ Protocols/ Codes or Guidance (as the case may be) that fall within the remit of the Monitoring Officer and/ or Legal Services (and are not already covered by 14.6.9 to reflect decisions of the Council / Committees and the Cabinet, or minor ones relating to changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all Members of such changes.
(vi)	To authorise changes to the Constitution to reflect resolutions of Council or of the Cabinet, and changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all members of such changes.
(vii)	To authorise consequential changes to the terms of reference of any Committee of the Council or the Cabinet, to reflect any changes of fact and law or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all members of each change.
(viii)	To authorise the institution, defence, withdrawal or settlement of any legal proceedings, civil or criminal (other than for Health and Safety proceedings, Council tax, non-domestic rates and sundry debts).
(ix)	To negotiate and settle any claim or disputes without recourse to Court proceedings including the use of alternative dispute resolution.
(x)	To authorise officers of the Council to appear before the Magistrates' Court or County Court District Judges.
(xi)	To undertake the role of Senior Responsible Officer under the Council's RIPA Policy. To arrange for the discharge of the role of RIPA Co-ordinating Officer.
(xii)	To oversee the Community Right to Challenge Policy or Protocol and to process any Expression of Interest in accordance with the Council's Policies and procedures.
(xiii)	To determine and issue advice and guidelines to the Council on legal, procedural and propriety matters.
(xiv)	To make all necessary arrangements in respect of byelaws and local legislation.

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(xv)	To release guarantee bonds in contracts for works and the supply of goods and services (upon the certificate of the contract manager that the contract has been completed satisfactorily and that any maintenance period has expired).
(xvi)	To instruct Counsel and / or retain the services of other experts or external solicitors or any matter affecting the interests of the authority.
(xvii)	Certify (or authorise Officers to certify) documents on behalf the authority.
(xviii)	To administer the scheme for Members' allowances including the approval of duties for Members' allowances.
(xix)	To make appointments (or where relevant nominate) Councillors or Substitutes to Committees, sub-Committees, panels, boards and outside bodies, in consultation with Group Leaders during the civic year in respect of the appointments that have previously been made at Annual Council.
(xx)	To make all necessary arrangements for Members and Member support and for all Council meetings.
(xxi)	To carry out the duties of the Electoral Registration Officer because of the Registration Officer's inability to act or because of a vacancy.
(xxii)	To carry out the duties of the Returning Officer because of their inability to act or because of a vacancy.
(xxiii)	Witnessing of candidates' and agents' declarations and returns as to election expenses.
(xxiv)	To receive petitions in accordance with the Council's Petition Scheme.
(xxv)	Receipt of petitions questioning an election.
(xxvi)	To make decisions regarding individual submissions relating to the councillor call for action having due regard to actions already undertaken to resolve the matter in question where practicable, after consultation with the Chair of the Overview and Scrutiny Committee.
(xxvii)	To ensure a system for record keeping of all Key Decisions.
(xxviii)	To authorise the Directorate's employees to enter onto land, in accordance with relevant statutory powers to enable them to carry out the functions of the Council.
(xxix)	To appoint the members of the Independent Remuneration Panel, having first consulted the Chief Finance Officer and Group Leaders as to any reason why member(s) not independent.

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(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:		The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:	
	(i)	<u>Committee and member services</u>	Executive Member for Community & Partnerships	
	(ii)	<u>Community & Partnerships</u> including:	Executive Member for Community & Partnerships which shall include:	
	A	financial assistance and grants to external organisations, and voluntary sector and community groups (including although not limited to capital or revenue grants).	1	consultation with local people to help plan and improve Council services and influence the services provided by others
			2	community relations and the promotion of social cohesion and fair opportunities
			3	the Council's relationship with, and funding of, independent advice agencies, community centres, voluntary sector support agencies and other organisations not within the remit of other Cabinet Executive Members
		4	to lead on partnerships and liaisons with external agencies	
		5	To approve grants under the Grants Policy following capital and / or revenue grant panel deliberations, or Community Forum or between Forum meetings, in the latter case having consulted the Chair or Vice Chair of the relevant Community Forum or where no Chair or Vice Chair – the Members of the Community Forum by majority or those responding, or confirming via virtual means, (where applicable), and Service Director: Legal and Community.	
	B	population and other census information	Executive Member for Community & Partnerships	

	(iii)	<u>Community services</u>	Executive Member for Community & Partnerships which shall include
			1. to co-ordinate and therefore try to improve the overall delivery of services provided by public bodies and voluntary organisations
	(iv)	<u>Corporate policy development</u>	Leader of the Council which shall include
		including development of the corporate plan administering area governance arrangements	1 development and implementation of the Council's Corporate Business Planning process, in consultation with the Executive Member for Finance and IT and the Leader
	(v)	<u>Electoral Services</u> including	Executive Member for Community & Partnerships
		A proposals to vary the boundaries of the Borough and Electoral Wards and Polling Districts	Executive Member for Community & Partnerships
	B (subject to compulsory reviews reserved to Full Council) vary polling districts and polling stations ⁴⁰	In consultation with the Returning Officer, relevant ward Councillors and Group Leaders	
(vi)	<u>Equalities and Diversity</u>	Executive Member for Community & Partnerships which shall include:	
		1 ensuring the Council's services are responsive and relevant to a diverse population and free from improper discrimination	
		2 approving the monitoring of the Council's Equality and Diversity Schemes	

	(vii)	<u>Health and wellbeing</u>	Executive Member for Community & Partnerships
			Executive Member for Community & Partnerships to have responsibility for wider public health initiatives arising from the Health and Social Care Act 2012
	(viii)	<u>Legal Services</u>	Leader of the Council
	(ix)	<u>Management of Scrutiny Support</u>	None
	(x)	<u>Safeguarding</u> Including safeguarding of vulnerable children, young people and adults	Executive Member for Community & Partnerships which shall include promoting the Council's position in regard to safeguarding responsibilities across the district

14.6.10 Delegation of Authority – **Service Director: Place**

(a) Functions	The Service Director: Place shall exercise the following functions	
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
	(ii)	To be responsible for performance review issues within the Directorate.
	(iii)	To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy.
	(iv)	To authorise the Directorate's employees to enter onto land, in accordance with relevant statutory powers to enable them to carry out the functions of the Council.
(b) Service Responsibilities	<u>Service Director</u> The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:	<u>Executive Member</u> The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:

	(i)	<u>Active Communities</u> including sports & physical activity development in the community	Executive Member for Community & Partnerships
	(ii)	<u>Environmental Services</u> including cemeteries, crematoria, burials and related services and public conveniences	Executive Member for Environment, Leisure & Green Spaces
	(iii)	<u>Grounds Maintenance</u> including war memorials, provision and maintenance of trees, the management and maintenance of footpaths and bridleways and the Council's provision of arboricultural services	Executive Member for Environment, Leisure & Green Spaces which shall include
			1 Public health activities and contribution to wellbeing of the local population so far as it relates to this portfolio
	(iv)	<u>Land drainage</u>	Executive Member for Environment, Leisure & Green Spaces
	(v)	<u>Leisure Management</u> including sports centres, swimming pools, sports and recreation grounds and leisure strategy development	Executive Member for Environment, Leisure & Green Spaces
	(vi)	<u>Parks and Open Spaces</u> including public art in open spaces, allotments, and promotion of health wellbeing promotion and activity through leisure and use of open spaces licensing of events on Council land: issuing or refusing a licence (with or without conditions or restrictions) to applicants for events	Executive Member for Environment, Leisure & Green Spaces
	(vii)	<u>Waste collection and waste management</u> including recycling and waste minimisation under any enabling legislation (including waste-related	Executive Member for Recycling and Waste Management

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		enforcement: littering, graffiti and waste receptacle offences)	
	(viii)	Communications including public relations and consultations	Leader of the Council & Executive Member for Community & Partnerships
	(ix)	To act as the Lead Officer for Climate change and green issues	Executive Member for Environment, Leisure & Green Spaces

14.6.11 Delegation of Authority – **Service Director: Regulatory**

(a) Functions	The Service Director: Regulatory shall exercise the following functions	
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
	(ii)	To be responsible for performance review issues within the Directorate.
	(iii)	To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy
	(iv)	To discharge the functions of the Appointing Officer under the Party Wall etc. Act 1996
	(v)	To authorise the Directorate's employees to enter onto land, in accordance with relevant statutory powers to enable them to carry out the functions of the Council
(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:	The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:

	(i)	<u>Building Control</u> including client-side Building Control company operational matters as required under any agreements, in addition to all activities relating to discharge of the Council's function as the Local Building Regulation Authority.	Executive Member for Planning and Transport		
	(ii)	<u>Car Parking</u> including enforcement of on and off street parking orders including residential parking zones.	Executive Member for Planning and Transport		
	(iii)	<u>Highways enforcement matters delegated by Hertfordshire County Council</u>	Executive Member for Planning and Transport		
	(iv)	<u>Planning</u> Including:	Executive Member for Planning and Transport including:		
		A	all functions of the Local Planning Authority primarily Planning Policy and Development Control (including enforcement functions, authorising expenditure of planning obligation monies and Environmental Impact Assessment functions, Tree Preservation Orders) other than matters reserved to the Planning Control Committee	1	monitoring the Council's annual report on the Local Plan and making submissions on the same to regional bodies and other external agencies
		B	all functions relating to National Infrastructure Planning including co-ordination of the Council's response to any consultation, examination or other any other matter concerned with major infrastructure projects.	2	responsibility for strategic planning and organisational development
				3	proposals for the Council's planning policies relating to land use (including the Local Plan), for recommendation to full Council, and supplementary guidance
				4	planning briefs for individual development sites

			5	responses to planning guidance and planning policy statements from Government and other local agencies and authorities impacting on the District
			6	co-ordination of the Council's response to major developments on private land or developments affecting the streetscape, where these have not been explicitly reserved to another Cabinet Executive Member
			7	the Council's policies for identifying, and preserving conservation areas
			8	the Council's provision of development and strategic planning and enterprise services
	(v)	<u>Traffic management</u> including the creation of on and off street parking orders and street closure orders	Executive Member for Planning and Transport	
	(vi)	<u>Transportation matters</u> including Footpaths and bridleways (protection, creation, diversion, modification and extinguishment), Highways England matters, street lighting and furniture and the naming and numbering of streets, Highways matters delegated by Hertfordshire County Council, Public transport issues and Goods Vehicles Operators Licences.	Executive Member for Planning and Transport which shall include	
			1	leading on the Council's arrangements for highways matters including partnership and agency arrangements
			2	development and implementation of the Council's Transport Strategy and Initiatives and representing the Council's views on regional transport issues
	(vii)	High hedges	Executive Member for Planning and Transport – any Executive liaison as may be required.	

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14.6.12 Delegation of Authority – **Service Director: Resources**

(a) Functions	The Service Director: Resources shall exercise the following functions	
	(i)	To manage, direct and control all resources allocated to the Directorate in accordance with the Council’s policies and procedures.
	(ii)	To be responsible for performance review issues within the Directorate.
	(iii)	To carry out the functions of the Section 151 officer
	(iv)	Attestation of the Council’s Common Seal
	(v)	To authorise consequential changes to the Financial Regulations to reflect resolutions of Council or of the Executive, and changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all members of such changes
	(vi)	To be responsible for setting the Council’s corporate health and safety policy and ensuring the provision of relevant advice and systems in accordance with legislation
	(vii)	To be responsible for the proper administration of Council charities and their assets
	(viii)	To be the Council’s Anti Money Laundering Reporting Officer
	(ix)	To carry out the duties of the Emergency Planning Officer with all necessary power to act and incur expenditure.
	(x)	To make arrangements for the consideration and determination of applications to: list and removal Assets of Community Value (in consultation with Officers nominated by the Service Director), whether compensation should be paid and of payment of associated costs. To also ensure that any reviews of listings are undertaken in accordance with the relevant legislation.
(b) Service Responsibilities	The Service Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:	
	(i)	<u>Assets/ buildings (maintenance)</u> Including
		The Executive Members responsible for leadership, strategic planning and development, partnership working and decision making within the service area shall be:
		Executive Member for Finance and IT which shall include

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		A	disposal of land and buildings, where such land has been declared surplus to requirements for a sale price or premium which does not exceed £250,000 provided that if the disposal is proposed at an undervalue the Service Director shall always consider whether a referral to Cabinet is necessary	1	the disposal of the Council's property interests (by sale or lease in accordance with the Council's agreed Assets Disposal Strategy) where the sale price, premium or initial annual rent (after the expiry of any rent free period) does not exceed £250,000
		B	in consultation with the Service Director: Enterprise, acquisition of land where the purchase price or premium does not exceed £500,000 or such higher figure as is determined in any adopted Asset Management Strategy.		
	(ii)	<u>CCTV Client Lead Officer</u>		Executive Member for Community & Partnerships & CCTV Joint Executive Committee	
	(iii)	<u>Emergency planning</u> Including operational management (section 138 of the Local Government Act 1972) under general direction of the Emergency Planning Officer		The Executive Member for Finance and IT	
	(iv)	<u>Financial resources</u> including treasury management limits within the Council's budget strategy, the Council's banking arrangements, procurement, financial and accounting arrangements subject to any limits set out in the Financial Regulations, service reviews, performance statistics and all aspects of the Council's efforts to secure improvements in quality of services and cost improvements		Executive Member for Finance and IT which shall include	
				1	in-year changes to the Council's Capital Programme in line with the Financial Regulations per project
				2	Budget planning and all action necessary to maintain overall budget control within the cash limits agreed by full Council (in conjunction with the Leader of the Council)
				3	development and implementation of the Corporate Business Planning process, in consultation with the Leader
				4	use of reserves and any contingency budgets, within the total budget agreed by full Council

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		5	overall strategy for fees and charges
(v)	<u>Health and Safety of staff</u>		Leader of the Council
(vi)	<u>Human Resources</u> including corporate employment policies and operational employment advice, measures to manage productivity and reduce sickness absence, employment and training policies and strategies, organisational development and the provision of core training services to the rest of the Council.		Leader of the Council and the Executive Member for Finance and IT shall include
		1	matters to do with officers leaving the Council's service
		2	payroll and other financial benefits for staff
(vii)	<u>Insurance and risk</u>		Executive Member for Finance and IT
(viii)	<u>Shared Internal audit and anti-fraud service</u>		Executive Member for Finance and IT
(ix)	<u>Stock Transfer Agreement</u> including approvals for all transactions pursuant to the Community Benefit Fund, in consultation with the appropriate Cabinet Executive Member (Finance or Housing); and approvals for any overage, claw back or similar arrangement pursuant to the Stock Transfer Agreement		Executive Member for Finance and IT and Executive Member for Housing and Environmental Health
(x)	<u>Performance (overall monitoring and reporting)</u>		The Leader of Council, unless delegated to Overview & Scrutiny Committee
(xi)	<u>Procurement</u>		Executive Member for Finance and IT

14.6.13 Proper Officers Schedule

The Council may designate any of its officers to carry out specific statutory functions. This officer is referred to in the Statutory provisions as the “Proper Officer”. This schedule confirms the officers appointed as the Proper Officer for the specific functions listed.

Legislative Provision	Function	Proper Officer
Local Government Act 1972		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Director: Legal and Community
S.84(1)	Receipt of notice of resignation of elected members	Returning Officer/ Service Director: Legal and Community
S.88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	Managing Director/ Service Director: Legal and Community
S.89(1)	Notice of casual vacancy	Returning Officer/ Service Director: Legal and Community
S.100 (except 100(D))	Admission of public (including press) to meetings	Service Director: Legal and Community
S.100(B)(2)	The officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Service Director: Legal and Community/ Committee, Member & Scrutiny Manager
S.100(B)(7)	The officer to supply to newspapers copies of documents supplied to councillors	Service Director: Legal and Community/ Committee, Member & Scrutiny Manager
S.100(C)(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Committee, Member & Scrutiny Manager
S.115(2)	Receipt of money due from officers	Service Director: Resources
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Service Director: Resources
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council’s financial affairs	Service Director: Resources
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Service Director: Resources

Legislative Provision	Function	Proper Officer
S.225	Deposit of documents	Service Director: Legal and Community
S.228(3)	Accounts for inspection by any member of the Council	Service Director: Resources
S.229(5)	Certificate of photographic copies of documents	Managing Director/ Service Director: Legal and Community
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Managing Director/ Service Director: Legal and Community
S.238	Certification of byelaws	Managing Director/ Service Director: Legal and Community
S.248(2)	Officer who will keep the Roll of Freemen	Managing Director
Schedule 12		
Local Government Act 1972		
Para 4(2)(b)	Signing of summons to Council meeting	Service Director: Legal and Community
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Service Director: Legal and Community
Schedule 14		
Para 25	Certification of resolution passed under this paragraph	Service Director: Legal and Community
Schedule 16		
Para 28 (amended by the Planning (Consequential Provisions) Act 1990)	Deposits of lists of buildings of special architectural or historic interest	Director: Regulatory
Local Government Act 1974		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Managing Director
Local Government (Miscellaneous Provisions) Act 1976		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Committee, Member & Scrutiny Manager
Local Authorities Cemeteries Order 1977		

Legislative Provision	Function	Proper Officer
Article 10	To sign exclusive rights of burial	Director: Place
Representation of the People Act 1983		
S.9	Registration Officer	Democratic Services Manager /Service Director: Legal & Community Ability under s52(2)&(3) to appoint a further Deputy or in the temporary absence or vacancy an appropriately qualified ERO or Deputy ERO.
S.24	Returning Officer for Local Elections	Democratic Services Manager /Service Director: Legal & Community
S.28	Acting Returning Officer for a Parliamentary Election	Democratic Services Manager /Service Director: Legal & Community
S52(2)	Deputy Registration Officer	Electoral Services Manager
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Democratic Services Manager / Service Director: Legal & Community
Police Reform and Social Responsibility Act 2011		
S.54	To act as police area Returning Officer or local Returning Officer for police and crime commissioner elections (if so designated)	Democratic Services Manager /Service Director: Legal & Community
Local Government and Housing Act 1989		
S.2(4)	Recipient of the list of politically restricted posts	Services Director: Legal and Community
S.3	Employers certificate for exemption from politically restricted posts	Monitoring Officer
S.4	Head of the Paid Service	Managing Director

Legislative Provision	Function	Proper Officer
S.5	The Monitoring Officer	Service Director: Legal and Community
S.15	Officers to receive notices relating to membership of political groups	Managing Director
Local Government (Committees and Political Groups) Regulations 1990		
	For the purpose of the composition of committees and nominations to political groups	Managing Director/ Service Director: Legal and Community
Local Authorities (Standing Orders) (England) Regulations 2001		
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 1, Part II, Paragraph 3	Managing Director
Local Government Act 2000		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Monitoring Officer
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012		
Regulation 12	Recording of executive decisions made at meetings of the Cabinet	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 14	Inspection of documents following executive decisions	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 15	Inspection of background papers	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 13	Individual executive decisions	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 7	Access to agenda and connected reports	Director of Legal and Community/ Committee, Member & Scrutiny Manager

Legislative Provision	Function	Proper Officer
Regulation 9	Publicity in connection with Key Decisions	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 10	General exception relating to publicity in connection with Key Decisions	Director of Legal and Community/ Committee, Member & Scrutiny Manager
Regulation 16	Members' rights of access to documents	Managing Director/ Monitoring Officer
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Service Director of Legal and Community
Public Health (Control of Disease) Act 1984		
S.31	Certification by officer of need for disinfection of premises	Service Director: Housing & Environmental Health
S.32	Certification by officer of need to remove person from infected house	Service Director: Housing & Environmental Health
Public Health Act 1936		
S.85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Service Director: Housing & Environmental Health
Public Health Act 1961		
S.37	Control of any verminous article	Service Director: Housing & Environmental Health
Localism Act 2011		
s.33	Dispensations from section 31(4) Localism Act 2011	Monitoring Officer

14.6.14 Delegations of Executive Function for inclusion in the Scheme of Delegation

In accordance with the Cabinet Procedure Rules and Terms of Reference executive functions will be delegated to the Cabinet Portfolios detailed on the Council's website:

<https://www.north-herts.gov.uk/home/council-and-democracy/councillors-mps-and-meps/councillor-duties-and-responsibilities>.

14.6.15 Extent of Delegated Authority

The extent of the authority delegated to these Executive Members will be limited to:

CONSTITUTION

18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- (a) Decisions which have a cost or saving less than the European Union Procurement threshold for Supplies and Services such as the limit may be from time to time.
- (b) Any decision which is not otherwise delegated to Committees or officers as detailed in the Scheme of Delegation.
- (c) In discharging any functions that have been delegated, the Cabinet Executive Member must act lawfully. This means that that the Cabinet Executive Member must act within the scope of the authority that is delegated to them in accordance with any limits within the delegation, the Constitution, Council policies, procedure rules and the Members' Code of Conduct. Where an issue affects more than one Portfolio, the respective holders of those Portfolios shall consult with each other, officers and the Leader to agree where the decision will be taken.

14.6.16 Leader of the Council

- 14.6.16.1 The scope of the Leader's responsibilities spans all Portfolios, ensuring co-ordination and a coherent approach to the Council's decision making. The Leader can make any decision which is delegated to any Executive Member.
- 14.6.16.2 The Leader will appoint the Deputy Leader and members of Cabinet and allocate responsibility for the discharge of executive functions.
- 14.6.16.3 The Leader is appointed for a four-year term.
- 14.6.16.4 The Deputy Leader will have the powers and responsibilities of the Leader when the Leader is absent or unable to act (including portfolio and statutory responsibilities).
- 14.6.16.5 In discharging this role, the Leader is specifically responsible for leadership, strategic planning and development, partnership working and decision making within the following policy and service areas:-
 - (a) the development of overall strategic and financial plans for the Council and the promotion of both existing and new strategies and plans;
 - (b) overall control of the revenue and capital finances of the Council, in conjunction with the Executive Member with responsibility for those matters
 - (c) the production and publication of the Council's Forward Plan;
 - (d) the Council's contribution to the life of the District and the sub-region;
 - (e) the Council's overall contribution to the health and wellbeing of the district in conjunction with other Executive Members with responsibility for services contributing to "public health";
 - (f) the functioning of Council's Cabinet and the executive powers it holds, including the allocation of responsibilities to the full Cabinet, individual and Cabinet Portfolios; the appointment and dismissal of those Cabinet Executive Members; the appointment of Cabinet committees and sub-committees and the delegation of executive authority to officers;
 - (g) partnership working across the Council's services, including sharing arrangements with other Councils;

- (h) consultation with local people to help plan and improve Council services and influence the services provided by others;
- (i) speaking up on matters of local concern and representing the views of the Council to Government and its agents and to others;
- (j) appointments to outside organisations between meetings of the Council;

14.6.17 Matters of General Delegation

Each Cabinet Executive Member is responsible for:-

- (a) leadership, strategic planning and development, partnership working and decision making within the service areas allocated to them in section 14 of this Constitution.
- (b) the proper administration of the Council's services;
- (c) the efficient use and day-to-day maintenance of Council premises;
- (d) ensuring budget control;
- (e) approving use of specific grants and/or funding from non-governmental sources, and any annual delivery plans and agreements in relation to such funding;
- (f) approving funding exceeding £5,000 per annum to voluntary and other organisations within their Portfolio, and approving jointly with other Cabinet Executive Members where the application affects more than one Portfolio;
- (g) the continuous improvement of the Council's services through a programme of work;
- (h) liaising with the relevant Council Overview and Scrutiny Committee;
- (i) decisions proposed and made. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance⁴¹ (or any policy) on the statutory requirements and procedures;
- (j) the promotion of the Council's policies and communication with the public as appropriate through local and other media, ensuring always that publications are compliant with the Council's Communications Strategy;
- (k) proposing and responding to Government and its agents, and to those sharing common cause and others on matters defined by their responsibilities;
- (l) responding directly to governmental and other consultation papers on behalf of the Council, where the view of the Council has been requested;
- (m) making minor amendments to adopted strategies, policies and procedures;
- (n) the promotion of the Council's existing policies;
- (o) speaking up on matters of local concern and acting as the main Council spokesman on issues within their Portfolio;

⁴¹ NHDC Guidance to Members and Officers – Taking a delegated decision 2015

- (p) the disposal of non-property assets between £5,001 and £100,000 and between £100,001 and £250,000 in conjunction with the Cabinet Executive Member for Finance;
- (q) providing input for procurement exercises within their Portfolio, in accordance with the Contract Procurement Rules;
- (r) approving variations to contracts in accordance with the Contract Procurement Rules;
- (s) approving proposals for the disposal of property valued under £250,000 in respect of the functions for which they are responsible, in conjunction with the Cabinet Executive Member for Finance;
- (t) applying for planning permission for the Council's own development schemes;
- (u) applying for conservation area consent, listed building consent or any other permissions or consents necessary to progress the Council's own development schemes; and
- (v) responding to consultation with officers on setting new external fees and charges and revising current ones.
- (w) press and publicity activity so far as it relates to the scope of their Portfolio.

14.6.18 Deputies to Executive Members

In a joint administration a 'deputy' to an Executive portfolio holder may be appointed. That deputy will be invited to attend relevant meetings of the Executive (formal or informal) where executive functions are discussed, give their opinion and for this to be taken into account by the Executive decision maker or Cabinet, although they are not formally part of the Cabinet Executive nor an Executive decision maker. This does not apply to the Deputy Leader who is appointed to act as per section 5.4.

14.6.19 Procedural Rules

Where an Executive Member is to take a decision which is outside the Key Decision definitions under their delegated powers, they will give at least 5 days notice of the matter to be decided, in the Members Information Service (MIS). The date and time for taking the decision will be included. Members may then request details of the decision to be made and make written representations on the matter, for consideration by the Executive Member.

WHEN MAKING THE DECISION THE EXECUTIVE MEMBER WILL CONSIDER A WRITTEN REPORT FROM OFFICERS AND WILL MAKE THEIR DECISION IN PUBLIC, RECORDING THE DECISION(S) AND REASON(S) FOR IT. ONCE THE DECISION HAS BEEN MADE, NOTICE OF THE DECISION(S) AND THE REASON(S) WILL BE GIVEN IN MIS.

SECTION 15

15. Access to Information Rules

15.1 Scope

These rules apply to all Committee meetings (including Council and Cabinet) unless stated otherwise in the Constitution or legislation. They also apply to meetings called for the purposes of individual decision making. No decision shall be taken unless it is included on the agenda for that meeting and is accompanied by a report from the appropriate officer or Cabinet Member. Where the report is from a Cabinet member, it must state any advice received from officers.

15.2 Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

15.3 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules. Attendance includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming where applicable.

15.4 Notices of Meeting

Unless a meeting is convened at short notice, the Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Council offices and on the Council's website. Reference to 'published, posted or made available at the Council offices' includes publication on the Council's website (or electronic meetings management system).

15.5 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the Council offices and on the Council's website at least five (5) clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors. In the case of items or reports which fail to meet the deadline of five clear working days, the Proper Officer will need to be satisfied that:

15.5.1 the item/report is genuinely urgent; and

15.5.2 it cannot wait until a later meeting;

and the report author is responsible for furnishing these reasons to the Proper Officer.

Reference to 'inspection' in the Constitution includes being published on the Council's website (or electronic meetings management system).

15.6 Access to Minutes etc after the Meeting

The Council will make available copies of the following for a period of six years after the date of a meeting:

15.6.1 the minutes of the meeting or record of decisions taken by the Cabinet, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;

15.6.2 a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;

15.6.3 the agenda for the meeting; and

15.6.4 reports relating to items when the meeting was open to the public.

Access to minutes, decisions and other relevant documents and copies includes being published on the Council's website (or electronic meetings management system).

15.7 Background Papers

15.7.1 List of Background Papers

The Officer preparing a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information as defined in Rule 15.8.

15.7.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

15.8 Exclusion of Access by the Public to Meetings

15.8.1 Confidential Information – Requirement to Exclude Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that confidential information would be disclosed.

15.8.2 Exempt Information – Discretion to Exclude Public

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in article 6.

15.8.3 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

15.8.4 Meaning of Exempt Information

Exempt information means information falling within the following seven categories (subject to any condition):

NOTE: Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

No.	Category of Exempt Information	Condition
1.	Information relating to any individual.	Public interest test applies (see below).
2.	Information which is likely to reveal the identity of an individual.	Public interest test applies (see below).
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information falling within category 3 is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> • The Companies Act 2006; • The Friendly Societies Act 1974; • The Friendly Societies Act 1992; • Co-operative and Community Benefit Societies Act 2014; • The Building Societies Act 1986; or • The Charities Act 2011. <p>Public interest test applies (see below).</p>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below).
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	<p>Information which reveals that the authority proposes:</p> <ul style="list-style-type: none"> • to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or • to make an order or direction under any enactment. 	Public interest test applies (see below).

No.	Category of Exempt Information	Condition
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Public interest test applies (see below).	Public interest test applies (see below).

15.9 Public Interest Test

15.9.1 Information which:

- (a) falls within any of paragraphs 1 to 4, 6 and 7 in the table above; and
- (b) is not prevented from being exempt by virtue of the “qualifications” above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

15.9.2 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

15.9.3 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

- (a) there is a distinction between public interest and what merely interests the public.
- (b) does it further the understanding of and participation in the public debate of issues of the day?
- (c) does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?
- (d) does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- (e) does it bring to light information affecting public health and public safety?

15.10 Exclusion of Access by the Public to Reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 15.8, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

15.11 Application of Rules to the Cabinet

15.11.1 Rules 15.122 - 15.211 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a Key Decision then it must also comply with rules 15.1-.15.10 unless rule 15 (general exception) or rule 16 (special urgency) apply. A Key Decision is as defined in Section 2 of this Constitution.

15.11.2 If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 20 working days of the date

according to the Forward Plan by which it is to be decided, then it must also comply with rules 15.1 – 15.10 unless rule 15.14 (general exception) or rule 17.17 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

15.12 Procedure before taking Key Decisions

15.12.1 Notice of Key Decisions

Subject to rule 15.14 (general exception) and rule 15.17 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a “Notice of Key Decision”) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice of Key Decision;
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with rule 4 (notice of meetings).

15.12.2 Contents of Notice of Key Decision

The Notice of Key Decision will state that a Key Decision is to be taken by the Cabinet, a Committee of the Cabinet, and individual members of the Cabinet, Officers or under joint arrangements in the course of the discharge of an Executive Function. It will describe the following particulars:

- (a) the matter in respect of which the decision is to be made;
- (b) where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and a list of its membership;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

15.12.3 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at the Council offices and on the Council’s website.

15.13 The Forward Plan

15.13.1 The Council is not required by law to publish a Forward Plan. However, a Notice of Key Decision and a Notice of Private Meeting of the Cabinet published by the Council set out not just details of specific Key Decisions, but also details of Key Decisions over a four

month period (including decisions to be made by the Cabinet, individual Cabinet members or delegated officers, which are not Key Decisions). In this constitution, such notices are together referred to as the “Forward Plan”.

15.13.2 The Forward Plan does not have to include exempt information and should not include confidential information, but does give notice of forthcoming Part 2 decisions.

15.14 General Exception

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 15.15 (Special Urgency), the decision may still be taken if:

15.14.1 the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;

15.14.2 the Proper Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;

15.14.3 the Proper Officer has made copies of that notice available to the public at the Council offices and on the Council’s website; and

15.14.4 at least five clear working days have elapsed since the Proper Officer complied with 0 and 15.14.3. Where such a decision is taken collectively, it must be taken in public.

15.15 Special Urgency

15.15.1 If by virtue of the date a decision which must be taken under Rule 15.14 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair, or if the Chair is unavailable to act, then the agreement of the Vice-Chair of the Overview and Scrutiny Committee, the Chair of the Council, or in their absence, the Vice-Chair or Head of Paid Service will suffice.

15.15.2 As soon as reasonably practicable after the decision taker has obtained agreement under 15.15.10, the decision taker must make available at the Council Offices a notice setting out the reasons that the decision is urgent and cannot be reasonably deferred, and arrange for this notice to be published on the Council’s website. The notice will be circulated to Members.

15.16 Report to Council

15.16.1 When the Overview and Scrutiny Committee can Require a Report

If the Overview and Scrutiny Committee think that a Key Decision has been taken which was not:

- (a) included in the Forward Plan;
- (b) the subject of the general exception procedure;
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under rule 15.150;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the

Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

15.16.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

15.16.3 Annual Report on Special Urgency Decisions

The Leader of the Council will submit an annual report to the Council on the Cabinet decisions taken in the circumstances set out in 15.15 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

15.17 Record of Decisions of the Cabinet

15.17.1 The Decision Record

- (a) As soon as reasonably practicable after any meeting, the Proper Officer, or if they were not present at the meeting, the Chair of the meeting, must ensure that a written record is made of every Executive Decision made by the Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.
- (b) This decision record will include a statement, for each decision, of:
 - (i) the decision made;
 - (ii) the date the decision was made;
 - (iii) the reasons for that decision;
 - (iv) any alternative options considered and rejected at the meeting;
 - (v) any personal interest declared; and
 - (vi) any dispensation granted.

15.18 Cabinet Meetings to be held in Public

Meetings of the Cabinet will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting which it is likely that exempt or confidential information would be disclosed.

15.19 Key Decisions by An Individual Member of the Cabinet

15.19.1 Reports Must Be Taken Into Account

Where an individual Member of the Cabinet receives a report which they intend to take into account in making any Key Decision, then they will not make the decision until at least three clear working days after receipt of that report.

15.19.2 Provision of Copies of Reports to Overview and Scrutiny Committee

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

15.19.3 Record of Individual Decision

The decision recording rules in paragraph 15.17.1 will apply.

15.20 Overview and Scrutiny Committee Access to Documents

15.20.1 Rights of Access

Subject to paragraph 15.20.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual Member of the Cabinet.

15.20.2 Limit on Rights

A Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains confidential or exempt information, unless that information is relevant to an action or decision that the Committee are reviewing or scrutinising or intending to scrutinise; or
- (c) advice provided by a political advisor or assistant.

With regard to 15.20.2(b) above, the Overview and Scrutiny Committee will need to demonstrate to the Monitoring Officer that the information requested is relevant to them and the Monitoring Officer shall take the decision as to whether the information should be made available, supplying reasons as appropriate.

15.21 Additional Rights of Access for Members

15.21.1 All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contain material relating to any business to be transacted at a public meeting unless 15.21.1(a), 15.21.1(b) or 15.23.1(c) applies:

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

- (c) where it appears to the Proper Officer that allowing the Member to inspect the document would involve the disclosure of advice provided by a political advisor or assistant.

15.21.2 Any document which is required by Rule 15.21.1 to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 15.21.1 in relation to that time must be available for inspection when the item is added to the agenda.

15.22 Material relating to previous business

15.22.1 All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless 15.21.1(a) or 15.21.1(b) applies.

15.22.2 Any document required to be made available for inspection under 15.22 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

15.22.3 Nature of Rights

These rights of a Member are additional to any other right they may have.

SECTION 16

16. Budget and Policy Framework Procedure Rules

16.1 The Framework for Executive Decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Section 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

16.2 Process for Developing the Framework and the Budget

16.2.1 The Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework.

16.2.2 The Cabinet may undertake consultation with Committees and local stakeholders as deemed appropriate by Cabinet. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee has carried out a statutory Scrutiny function then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals. Finance, Audit and Risk Committee has specific functions reserved to it under its Terms of Reference and shall deal with these matters accordingly.

16.2.3 The Cabinet develops its proposals for the plan, strategy or budget, having due regard to previously approved Priorities as appropriate, and seeks the views from Member budget workshops and Committees as deemed appropriate by Cabinet (including Overview and Scrutiny Committee or Finance Audit and Risk Committee for matters within the Terms of Reference of those Committees). The proposals will be referred by sending a copy to the Proper Officer who will forward them to the Chair of the relevant Committee. The Committee may canvass the views of local stakeholders if it considers it appropriate, having particular regard not to duplicate any consultation carried out by the Cabinet. The Committees consulted shall report to Cabinet on the outcome of their deliberations. Committees shall have 4 to 6 weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make the timescale inappropriate. If it does, it will inform the Committee of the time for response when the proposals are referred to it.

16.2.4 The Cabinet will consider the views of those consulted and may amend its proposals before making recommendations to the full Council for consideration. It will report to the Council how it has taken into account any recommendations from the Member budget workshops and Committee(s) consulted.

16.2.5 The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from any Overview and Scrutiny Committee or Finance, Audit and Risk Committee.

16.2.6 In respect of the preparation of the Budget or a plan, policy or strategy forming part of the Strategic Framework, the Cabinet has a right to ask the Council to reconsider any proposed decision which runs counter to the Cabinet's proposals for either Budget or plans.

16.2.7 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 16.2.8.

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16.2.8 Before the Council:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted;
- (c) adopts (with or without modification) the plan or strategy;

it must inform the Leader of any objections which it has to the draft plan or strategy (and the rationale for such objections) and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

16.2.9 Where the Council gives instructions in accordance with paragraph 16.2.8, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration;
- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

When the period specified by the Council, referred to in paragraph 16.2.9, has expired, the Council must, when:

- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (iii) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified. The Council will then meet again to consider any objections from Cabinet and will make its final decision on the matter on the basis of a simple majority.

16.2.10 Subject to paragraph 16.2.14, where, if estimates are prepared before 8th February in any financial year, the Council's Cabinet submits to the Council for its consideration in relation to the following financial year,

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992 or any other applicable legislation;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or

- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 or any other applicable legislation,

and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in paragraph 16.2.12.

16.2.11 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 16.2.10(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

16.2.12 Where the Council gives instructions in accordance with paragraph 16.2.11, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Cabinet Leader may:

- (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

16.2.13 When the period specified by the Council, referred to in paragraph 16.2.12, has expired, the Council must, when making calculations (whether originally or by way of substitute in accordance with the sections referred to in paragraph 16.2.10(a)), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account,

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Cabinet's reasons for those amendments;
- (c) any disagreement that the Cabinet has with any of the Council's objections; and
- (d) the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

16.2.14 Paragraphs 16.2.11 to 16.2.13 shall not apply in relation to:

- (a) calculations or substitute calculations which a Council is required to make in accordance with sections 52(I), 52(J), 52(T) or 52(U) of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52(J) or 52(U) of that Act.

16.3 Decisions Outside the Budget or Policy Framework

16.3.1 Subject to the provisions of paragraph 16.4 (Urgent Decisions Outside the Budget or Policy Framework) any Committees, whether they be: the Cabinet, Overview and Scrutiny Committee (to the extent that it makes such decisions), Finance, Audit and Risk Committee; or individual members of the Cabinet, or any Officers may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not

wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the full Council, subject to paragraph 16.4 below.

16.3.2 It is the responsibility of the decision-taker to take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget.

16.3.3 If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 16.4 (Urgent Decisions Outside the Budget or Policy Framework) shall apply.

16.4 Urgent Decisions Outside the Budget or Policy Framework

16.4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Executive Functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (a) if it is not practical to convene a quorate meeting of the Full Council; and
- (b) if the Chair of Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

16.4.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee the consent of the Head of Paid Service will be sufficient. The Chair of Overview and Scrutiny Committee should receive copies of any individual Executive delegated decision that could be subject to call-in. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance on the statutory requirements and procedures.

16.4.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

16.5 Virement

Steps taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging Executive Functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Regulations in Section 19 of this Constitution.

16.6 In-Year Changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy or strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

16.6.1 which will result in the consequential closure or discontinuance of a discretionary service or part of service to meet a budgetary constraint;

- 16.6.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
- 16.6.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- 16.6.4 for which provision is made within the relevant budget or policy.

16.7 Call-In of decisions Contrary to the Budget or Policy Framework

- 16.7.1 Where the Overview and Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 16.7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Finance, Audit and Risk Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 16.7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (a) endorse a decision or proposal of the Executive Decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (b) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive Function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

SECTION 17

NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT⁴² FOR COUNCILLORS (AND VOTING / NON-VOTING CO-OPTÉES) BASED ON THE LOCAL GOVERNMENT ASSOCIATION MODEL CODE⁴³

Joint statement

The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations. Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

*[NB LGA introduction moved to footnote. Guidance notes in **BLUE** below requirements]*

Definitions

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:

- (a) is a member of any committee or sub-committee of the authority; or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes County Councils, District Councils, London Borough Councils, Parish Councils, Town Councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support,

⁴² Approved by Full Council 15 April 2021 – in effect from 7 May 2021.

⁴³ *LGA Model dated 19.1.21*, (as amended by recommendation of Standards Committee) Introduction -The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments. All councils are required to have a local Councillor Code of Conduct. The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils

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training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General principles of Councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

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This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance⁴⁴ is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

- 1.1 I treat other Councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

2. Bullying, harassment and discrimination

As a Councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there

⁴⁴ *In italics & blue*

is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the Council

As a Councillor:

- 3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

- 4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

- 4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

- 5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow Councillors to account and are able to constructively

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challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a Councillor:

7.1 I do not misuse Council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. **act in accordance with the local authority's requirements; and**
- b. **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor. Examples include:

- *office support*
- *stationery*
- *equipment such as phones, and computers*
- *transport*
- *access and use of local authority buildings and rooms.*

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a Councillor:

9.1 I register and disclose my interests.

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Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a Register of interests⁴⁵ of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The Register is a public document that can be consulted when (or before) an issue arises. The Register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a Councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

⁴⁵ Councillors within the NHDC District have *individual* Registers of Interest – Modern.gov for District and pdf for local councillors

APPENDICES A-C

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register⁴⁶ with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register **details** of your other personal interests which fall within the categories set out in **Table 2 (Other Registrable Interests)**.

"**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your Register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

⁴⁶ On your Register of Interest [modern.gov]

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public Register.

Nonparticipation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room⁴⁷ unless you have been granted a dispensation⁴⁸. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registrable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registrable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter⁴⁹ [only if members of the public are also allowed to speak at the meeting] but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registrable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative, close associate; or
 - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

⁴⁷ Where this includes virtual meeting, that includes the virtual meeting room.

⁴⁸ Subject to any dispensation granted by the Monitoring Officer – see Appendix C

⁴⁹ Subject to any Speaking Rights you may have under the Standing Orders

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10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

<p>Table 1: Disclosable Pecuniary Interests This sets out the explanation of Disclosable Pecuniary Interests. The statutory provisions can be found in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 .</p> <p>Description of Disclosable Pecuniary Interests (from <i>DCLG Guide for Councillors “Openness and Transparency on Personal Interests” March 2013</i>⁵⁰).</p> <p>If you have any of the following pecuniary interests, they are your Disclosable Pecuniary Interests under the national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.</p>
<p>Employment, office, trade, profession or vocation Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.</p>
<p>Other payments received Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.</p>
<p>Contracts Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority:</p> <ul style="list-style-type: none"> • under which goods or services are to be provided or works are to be executed; and • which has not been fully discharged.
<p>Land Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.</p>
<p>Licences Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.</p>
<p>Corporate tenancies Any tenancy where (to your knowledge) –</p> <ul style="list-style-type: none"> • the landlord is your council or authority; and • the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

⁵⁰ Updated in September 2013.

Securities⁵¹

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either –
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

Appendix C - Dispensations

Reference to 'dispensation' in the code means under section 33 of the Localism Act 2011

If you would like the authority to consider granting you a dispensation where you have a DPI or other Interest, you must make a prior written request to the Monitoring Officer. The grounds under which such an application will be considered are detailed below:

Dispensation grounds⁵²

A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that:

- (a) without the dispensation the number of Councillors prohibited from participating in any particular business, would be so great a proportion of the body transacting the business, as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area;
- (d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

⁵¹ Means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the [Financial Services and Markets Act 2000](#) and other securities of any description, other than money deposited with a building society.

⁵² The full wording for the statutory grounds for a DPI dispensation can be found under section 33 Localism Act 2011

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Reviewed and approved by Council 11 April 2017)

1. Introduction

- 1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.
- 1.2 In particular, this protocol aims to support the enhancement of local democracy by –
- facilitating the participation of Members and officers in the Council's policy development and decision- making processes;
 - assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
 - clarifying arrangements for the provision of the information and support for Members and their party groups.
- 1.3 This Protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.
- 1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.
- 1.5 The Council has adopted a Councillor Code of Conduct (section 17 of the Constitution) which sets out the Conduct expected from Members. Officers are also bound to follow the Council's Employee Code of Conduct and may, in addition be subject to their own professional codes of conduct.
- 1.6 This Protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this Protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this Protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.
- 1.7 Failure of a Member to follow the Protocol for Member / Officer Working Arrangements may amount to a breach of the Councillor Code of Conduct and by an Officer of the Employee Code of Conduct and therefore their terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows:

Members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. It is not the role of Members to determine the day-to-day management of the Authority's services. Mutual respect between Members and officers is essential to good local government.

2.2 Members

Members have four main areas of responsibility:

- (a) determining the policy of the Authority and giving it political leadership;

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- (b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- (c) representing the Authority externally;
- (d) acting as advocates on behalf of their constituents.

2.3 Members of Cabinet, Chair and Vice-Chair

Members of Cabinet and Chair and Vice-Chair of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party-political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with officers and should be treated fairly. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation and the administration will differ from that with opposition groups.

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express their own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view they should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

3.1 Members can expect from officers:

- (a) A commitment to the Authority as a whole, and not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely response to enquiries and complaints;
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness of and sensitivity to the political environment;
- (h) Respect, dignity and courtesy;
- (i) Training and development in order to carry out their role effectively;
- (j) Integrity, mutual support and appropriate confidentiality;
- (k) Not to be subject to bullying or to be put under undue pressure.
- (l) Not to have personal issues raised with them by officers outside the agreed procedures;

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

- (m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- (n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- (o) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political leadership and direction;
- (d) Respect, dignity and courtesy;
- (e) Integrity, mutual support and appropriate confidentiality;
- (f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- (g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- (h) That Members will give due consideration to advice received from officers;
- (i) That Members will not criticise individual officers in public and will instead raise any concerns or complaints with the appropriate officer (dependent on the seniority of the officer concerned – directly or their line manager) in the first instance;
- (j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- (k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- (c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

The issue of officer attendance and advice to political groups is specifically covered below.

- (d) Members will sometimes need to use Council Services in their private capacity, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow the principles of this Protocol in such interactions with officers and in any event any requirements in the Councillors' Code of Conduct (and where applicable the Planning Code of Good Practice). Members are reminded that the Code of Conduct applies to any formal or informal meeting with officers and Members where authority business such as this is discussed. Members should therefore use a third party to liaise and correspond on their behalf.

4. Member/Officer Communication

- 4.1 Members should communicate with officers at the appropriate level Routine service-related enquiries should be initiated through normal departmental enquiry/contact points. Contact and communication includes telephone, e-mail, letters and in person. Members should always identify themselves as being a Member when contacting officers. Flexible working arrangements mean that this will be especially important, as contact will often be via email or telephone. Senior officers may use briefings, e-mail or dispatch to notify Members of Ward issues. The relevant Senior officer will keep Members informed of general developments affecting the Council and/or the District via MIS. If a Member wants an officer to undertake new or additional work (other than routine requests described below) contact should be made in the first instance with the appropriate Senior officer for the service concerned. This will be considered in the context of the Council's priorities, approved policies and resources available.
- 4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this Protocol and any instructions issued by their departmental management.
- 4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.
- 4.4 When a Member wishes to discuss policy, contact should be made with the relevant Executive Member. Operational queries should be raised with the Senior officer for the Service concerned (Service Director or other Senior manager).
- 4.5 Members will experience a number of standardised requests for assistance from constituents and should approach such matters as per below. Officer response times will be as per the Council's published customer care standards:
- 4.5.1. 'First Time' Service Requests or Reports of a service failure: if reporting matters for the first time, then this can be reported on line via the Council's website: <https://www.north-herts.gov.uk/>
- 4.5.2 When dealing with specific planning applications Members should contact the Development Control case officer at the contact number set out on material produced by the Planning Service. This does not include a Member's own application, as this should be handled through a third party on a Member's behalf.
- 4.5.3 Electoral registration issues for residents, including postal votes are handled by the Elections Team. Residents can register on line via <https://www.north-herts.gov.uk/home/elections-and-voting/register-vote>
- 4.6 If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services.

5. Officer Advice to Party Groups

- 5.1 There is no statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups. The advice provided must be consistent with the principle at paragraph 3.1(e) above.
- 5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, Chair or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.
- 5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular –
- (a) The support provided by an Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be

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18.4.24 (section 14 updated following Delegated decision 25 July 2024 [temporary restructure](#))

involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

- (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.
- (c) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.

- 5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.
- 5.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.
- 5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant senior officer for the service concerned, who will consult with the Managing Director. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in their official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.
- 5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election (including Police and Crime Commissioner elections) affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.
- 5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Managing Director who will where appropriate, discuss with the relevant group leaders.

6. Officer/Member/Chair Relationships

- 6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Executive Member and Chair of a Committee and the senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.
- 6.2 The Leader of the Council, Executive Member or Chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Leader/Member/Chair is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless they are the requester⁵³) and Managing Director⁵⁴. The

⁵³ If the Leader is the requester, then this is to be agreed with the Managing Director.

⁵⁴ This does not apply to statutory officer reports – under s114 Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989

relevant officer will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chair and the relevant senior officer should be referred to the Managing Director as Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer.

- 6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet or officers. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members and a record of that decision (as per the Guidance for Decisions Made Under Delegated Authority) completed and published.
- 6.4 It must be remembered that officers within a department are accountable to their Service Director and that whilst officers should also seek to assist a Cabinet Member or Chair (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Service Director or other senior officer. It should also be noted that the Managing Director has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

7. Correspondence

- 7.1 Members and officers are reminded that all written correspondence (including letters, emails and other forms of electronic communication) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.
- 7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.
- 7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails (and other forms of electronic communication) which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Service Director or other senior officer.

8. Publicity and the Media

- 8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from the Communications Unit.
- 8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that they are speaking on their own behalf and not representing or speaking for the Council.
- 8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Monitoring Officer, who will have regard to the Code of recommended practice on local authority publicity.

8.4 In all other respects such communications should be in accordance with the Council's Media Relations protocol.⁵⁵

9. Personal Relationships

9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.

9.2 An officer who is personally connected or related to any Member has a Personal Interest that should notified to his or her Appropriate Officer in writing using the (Personal) Interests Register Form (on the intranet: <http://intranet.north-herts.gov.uk/home/human-resources/hr-policies/conflicts-interest>).

9.3 Members should take into account any personal relationship or connection with any other Member or officer, in considering the need to register or declare a Disclosable Pecuniary Interest or Other Registrable Interest whenever appropriate.

10. Involvement of Members

10.1 Whenever a public meeting is organised by the Council to consider a local issue affecting a particular area, all the Members of the relevant Community Forums or (if only affecting a particular Ward or Wards), those Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, wherever the Council undertakes any form of consultative exercise on a local issue, in line with the Consultation Strategy, the Community Forum /Ward Members should be notified at the outset of the exercise.

10.2 The relevant senior officer will keep Members informed about significant issues in their Ward or elsewhere and affecting the Council generally, including in respect of consultation with parish councils and community groups. Such updates will usually be via MIS and examples include items on national policy, County issues, technical workshops etc. These will be issues of importance over and above the routine matters and which do not contravene the law relating to confidential information.

10.3 When a Member raises a Ward issue with an officer, they will be kept informed of progress if they wish to be.

11. Further Guidance

11.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code or on any similar or related issue is advised to contact the Monitoring Officer. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.

⁵⁵ Available on the internet: <https://www.north-herts.gov.uk/home/customer-services/publications-and-consultations/media-relations-protocol>