

CONSTITUTION OF THE COUNCIL

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Summary and Explanation

The Council's Constitution

The East Hertfordshire District Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to the belief that local government should never be onerous or burdensome and should always act to empower individuals and their communities. All processes operated by the Council will permit access by individuals affected whenever possible and be designed to be equitable and fair. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The executive (Article 7)
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).

- Community Voice (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council operates

The Council is composed of 50 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community of East Herts, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are open to the public unless confidential matters are under discussion. At these meetings councillors decide the Council's overall policies and set the budget each year. The Council will appoint the Leader, agree the terms of reference of committees and make appointments to them. It will also approve the policy framework, holding to account the executive and committees. There are public question times when any person may put forward questions.

HOW DECISIONS ARE MADE

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive is made up of the Leader, who is appointed by the Council, and a cabinet of 6 Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the executive's forward plan in so far as they can be

anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

DEVELOPMENT CONTROL DECISIONS

These decisions cannot, by law, be taken by the executive. A committee of Councillors meets in public to decide on planning applications. They have detailed reports from officers, comments from consultees such as neighbours and parish councils and legal advice. If planning consent is refused the applicant can appeal to the Secretary of State for the Environment, Transport and the Regions who may overturn the Council's decision.

OVERVIEW AND SCRUTINY

There are 3 overview and scrutiny committees who support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. An Overview and scrutiny committee also monitors the decisions of the executive. It can 'call-in' a decision which has been made by the executive but not yet implemented. This enables it to consider whether the decision is appropriate.

The committee may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

In order to give local citizens a greater say in council affairs, 5 Community Voice Forums have been created. These cover Bishop's Stortford, Hertford, Ware, Buntingford and Sawbridgeworth.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within

the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a council tenant, they have additional rights, which are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution on payment of a reasonable fee;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees;
- find out, from the executive's forward plan, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and executive;
- complain to the Council about its functions and services;

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Board for England if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Democratic Services at the Council Offices, The Causeway, Bishop's Stortford, Hertfordshire, CM23 2EN (tel: 01279 655261 ext 2170, 'e'-mail: [jeff.hughes @eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)).

Admission to meetings

All meetings of the Council, its executive, overview and scrutiny committees, committees and area forums are open to the public.

There may be occasions when "confidential information" is to be discussed at a meeting. On such occasion, the Council must exclude the public. Similarly, when information of a certain specified nature (exempt information) is to be considered, the Council has the discretion to resolve to exclude the public from a meeting.

The public has a right of access to agendas and reports for meetings. These papers must be available for public inspection "five clear days" in advance of a meeting and also at a meeting. There is no right of access to reports containing confidential and/or exempt information.

When meetings are convened at short notice and the "five day rule" cannot apply, papers must be available from the time a meeting is convened.

Following a meeting, members of the public have a right of access to the agenda for and reports considered at a meeting, with the exception of confidential and/or exempt items, and also the Minutes.

Decisions of the executive and key decisions taken by officers must be recorded. The record must also detail the reasons for a decision, any

alternative options considered before reaching a decision and any declarations of interest. Records of decisions and any background papers must be made public.

Part 2

Articles of the Constitution

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the East Hertfordshire District Council.

1.03 Purpose of the Constitution

The Council is committed to serving the aspirations and the needs of the whole community of East Hertfordshire with efficient and cost effective services. It will promote economic, environmental and social wellbeing whilst protecting the District's heritage of market towns, villages and countryside.

The Council believes that local government should never be onerous or burdensome and should always act to empower individuals and their communities. All processes operated by the Council will permit access by individuals affected whenever possible and be designed to be equitable and fair.

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;

6. ensure that no one will review or scrutinise a decision which they were directly involved in taking;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 – Members of The Council

DEVELOPING ROLES FOR COUNCILLORS

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 50 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

- (b) **Eligibility.** To be qualified to be elected as a Member of the Council a person must be 21 years of age or over at the date of their nomination, and a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another state of the European Community, and either:-
 - (1) be a local Government elector for the area of the Council; or
 - (2) have during the whole of the twelve months preceding the day on which he or she is nominated as a candidate occupied as owner or tenant any land or other premises in the area of the Council; or
 - (3) have as his or her principal or only place of work in the twelve months preceding the day on which he or she is nominated as a candidate premises in the area of the Council; or
 - (4) has resided in the area of the Council during the whole of the twelve months preceding the day on which he or she is nominated as a candidate.

A person is disqualified for election if they:-

- (a) hold a paid office under the Council or a politically restricted post as defined under the provisions of the Local Government Housing Act 1989; or

- (b) are bankrupt; or

- (c) have been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine, during the five years preceding the election; or
- (d) are disqualified under any enactment relating to corrupt or illegal practices.

2.02 Election and terms of councillors

Election and terms. The regular election of councillors under this constitution will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests identified within the ward and represent the ward as a whole;
 - (v) be involved in decision-making;
 - (vi) participate in the governance of the Council;
 - (vii) be available to represent the Council on other bodies; and
 - (viii) maintain the highest standards of conduct and ethics.

(b) **Rights and duties**

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

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

2.05 Allowances

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

Article 3 – Citizens and The Council

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the executive when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Community Voice.** Citizens have the right to attend, speak and present petitions at Community Voice and, if invited by the Chairman, to vote.
- (e) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;

- (iii) the Standards Board for England about a breach of the Councillor's Code of Conduct;
- (iv) the Council's External Auditor in relation to the accounts of the Council.

3.02 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers. When attending meetings citizens will be expected to comply with the decisions of the chairman of that meeting.

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following Plans and strategies:-
- Best Value Performance Plan;
 - Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan;
 - Food Law Enforcement Service Plan;
 - The plan and strategy which comprise the Housing Investment Programme;
 - Local Agenda 21 Strategy;
 - Cultural Strategy
 - Supplemental Planning Guidance
 - Grants Policy
 - Equal Opportunities and Access Policies
 - Economic Development Strategy
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, approval of Council's net expenditure, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 **Functions of the full Council**

Only the Full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (e) appointing the Chairman of the Council;
- (e) appointing the Leader of the Council;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.05;
- (i) changing the name of the district;

- (j) confirming the appointment of the head of paid service;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;
- (m) all other matters which, by law, must be reserved to Council; and
- (n) to represent the views of the local community on matters of significance.

4.03 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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

4.04 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

Article 5 – Chairing The Council

5.01 Role and function of the Chairman.

The Chairman of Council and in the Chairman's absence, the Vice-Chairman will have the following roles and functions:

CEREMONIAL ROLE

The Chairman of the Council will be the usual representative of the Council at ceremonial events such as Remembrance Day, The County Council Garden Party, Civic Dinners and similar events at other authorities, Diocesan Church services, etc.

It will be at the discretion of the Chairman of the Council to delegate duties such as the official opening of new buildings or facilities to members of the executive or to other Councillors.

The Leader of the Council will normally represent the Council at any event where a political or policy dimension is required. This would include the Local Government Association conference, meetings of the Hertfordshire LGA and joint meetings with other authorities. The Leader has discretion to delegate these responsibilities to other Members of the executive or to other Councillors.

CHAIRING THE COUNCIL MEETING

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors, the public and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the executive are able to hold the executive to account;

4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and the Chairman determines appropriate.

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

The Council will appoint the overview and scrutiny committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
1 Policy Scrutiny Committee	<ul style="list-style-type: none"> • To develop policy proposals. • To review and scrutinise the policies of the Council. • To consider the draft budget which is recommended to the Council by the Executive. • To make recommendations to the Executive. • To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change. • To consider issues referred by the Executive, including modifications to the Constitution, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council.
2 Performance Scrutiny Committee	<ul style="list-style-type: none"> • To monitor the performance of the Council. • To make recommendations to the Executive. • To take evidence from interested groups and individuals and make recommendations to the Executive and council for policy change and review the performance of outside bodies. • To consider issues referred by the Executive, or members of the Committee and where the views of

Committee	Scope
	outsiders may contribute, take evidence and report to the Executive and Council.
Call-In Scrutiny Committee	To review decisions of the Cabinet referred by 4 Councillors within 5 days of the decision.

6.02 General role

Within their terms of reference, overview and scrutiny committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the Executive and/or the Full Council in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive.

6.03 Specific functions

(a) **Policy development and review.** The Policy Scrutiny Committee and the Performance Scrutiny Committee may:

- i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

- iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
- (b) Policy Scrutiny Committee may:
- i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
 - ii) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance.
- (b) **Scrutiny.** Within their terms of reference, Overview and scrutiny committees may:
- i) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
 - ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - iii) question Members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- and
- v) question and gather evidence from any person (with their consent).

- (c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for any finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work. It is the responsibility of the executive in conjunction with the Head of the Paid Service to ensure appropriate and adequate officer support for the work of Overview and Scrutiny Committees.

6.04 **Proceedings of overview and scrutiny committees**

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

Article 7 – The Executive

THE ROLE OF THE EXECUTIVE

7.01 **Role**

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

7.02 **Form and composition**

The executive will consist of the executive leader together with at least 2, but not more than 9, councillors appointed to the executive by the Leader of the Council. This body will be known as the Cabinet. The Council shall determine the number of Councillors appointed to the executive on receipt of a report by the Leader of the Council.

7.03 The Leader will be a Councillor elected to the position of Leader by the Council at the first annual meeting following the ordinary election of Councillors and holds office for the period ending with day of the next ordinary election of Councillors unless within that period:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor; or
- (d) is removed from the office of Leader by resolution of the Council following a written notice of motion signed by at least 15 Members including 5 Members of the same political party as the Leader and delivered not later than 10 working days before the meeting.

7.04 **Other executive members**

Other executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer and will be reported to the next meeting of the Council.

7.05 Proceedings of the executive

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

7.06 Responsibility for functions

The Council shall initially determine the allocation of functions. The Leader will thereafter maintain a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions. There shall be no committee of the executive without the consent of the Council.

Article 8 – Regulatory and other committees

8.01 **Regulatory and other committees**

The Council will appoint the committees set out in the left hand column of the table “Responsibility for Council Functions” in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

Article 9 – The Standards Committee

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of at least:
- two councillors other than the Leader;
 - one person who is not a councillor or an officer of the council or a member of any other body having a standards committee (an independent member);
 - one member of a parish council wholly or mainly in the Council's area (a Parish Member).
- (b) **Independent members.** Independent members will be entitled to vote at meetings;
- (c) **Parish members.** At least one parish member must be present when matters relating to those parish councils or their members are being considered;
- (d) **Chairing the Committee.** A member of the executive may not chair the committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the councillors, and co-opted members to observe the Members' Code of Conduct;

- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors, and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer.
- (h) the exercise of (a) to (g) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.

ADDITIONAL ROLES OF STANDARDS COMMITTEES

- submission of recommendations to Council on Code of Practice on relations between Members and Officers.
- oversight of the register of Members' interests
- overview of the whistle blowing policy;

Article 10 – Area Committees and Forums

10.01 Community Voice

The Council has appointed Community Voice to replace Area Forums.

10.02 Area committees

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

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

10.03 Form, composition and function

- (a) **Table of area committees.** There are no area committees. The Council will appoint Community Voice as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

Name of Community Voice	Composition	Terms of Reference
Bishop's Stortford Buntingford Hertford Sawbridgeworth Ware		To reflect its consultative role, the Community Voice has an advisory capacity. It submits reports on matters of concern locally to the executive, overview and scrutiny committees or the Council. The executive may seek the views of Community Voice on any matter it considers appropriate. Community Voice may appoint non-voting co-optees to serve on the forum on an annual basis. It is a regular opportunity for the authority to reach out to local communities to listen to their views and to respond to them through better informed decision making.

10.04 **Conflicts of interest – membership of area committees and overview and scrutiny committees**

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area 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 Standards Committee.
- (b) **General policy reviews.** Where the overview scrutiny committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.05 **Area committees and Community Voice – access to information**

Community Voice and Area committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

10.06 **Executive members on area committees and Community Voice**

A member of the executive may serve on an area committee/Community Voice if otherwise eligible to do so as a Councillor.

Article 11– Joint Arrangements

11.01 Arrangements to promote well being

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

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The executive may appoint members to a joint committee from outside the executive in the following circumstances:
 - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive

may appoint to the joint committee any Councillor who is a Member for an ward which is wholly or partly contained within the area,

The political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.05 **Contracting out**

The executive may contract out to another body or organisation functions 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 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.

Article 12 – Officers

TERMINOLOGY

12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Executive Director (Head of Paid Service)	Central support services, finance
Executive Director (Returning Officer)	Operations, legal administration, governance support
Assistant Director (Law and Control)	Monitoring Officer and support to the Standards Committee.
Such posts as may be designated Chief Officers	

- (c) **Head of paid service, monitoring officer and chief financial officer.** The Council will designate the following posts as shown:

Post	Designation
Executive Director (Head of Paid Service)	Head of Paid Service
Assistant Director (Law and Control)	Monitoring Officer
Assistant Director (Financial Services)	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.02 **Functions of the head of paid service**

- (a) **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.
- (b) **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.

12.03 **Functions of the monitoring officer**

- (a) **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **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 executive in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **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.

- (d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

12.04 **Functions of the chief finance officer**

- (a) **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 executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **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.
- (d) **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 the elected mayor and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

12.05 **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 their opinion sufficient to allow their duties to be performed.

12.06 **Conduct**

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

12.07 **Employment**

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

Article 13 – Decision Making

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

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

PRINCIPLES OF DECISION MAKING

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.
- (f) an explanation of what options were considered and the reasons for the decision in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

13.03 Types of decision –

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

(b) Key decisions.

- (i) “Key decision”, as defined in the Local Authorities Executive Arrangements (Access to Information) (England) Regulations 2001, means an executive decision which is likely -
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’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 or electoral divisions in the area of the local authority.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the executive

Subject to Article 13.08, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by overview and scrutiny committees

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 - Finance, Contracts and Legal Matters

14.01 **Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.02 **Contracts**

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

14.03 **Legal proceedings**

The Assistant Director (Law and Control) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director (Law and Control) considers that such action is necessary to protect the Council's interests.

14.04 **Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director (Law and Control) or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must be made under the common seal of the Council attested by the Assistant Director (Law and Control).

14.05 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director (Law and Control). A

decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director (Law and Control) should be sealed. The affixing of the Common Seal will be attested by the Assistant Director (Law and Control).

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

Monitoring Officer

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 and report to Members as appropriate.

Protocol for monitoring and review of constitution by monitoring officer

A key role for the monitoring officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the monitoring officer may:

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.
- (b) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a 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.

The change will not take effect until the end of the mayor's term of office.

- (c) **Change from a Leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up Proposals.

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 **Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **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 are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:

Rule 14 - Rule of Debate

Rule 16 - Previous decisions

Financial Regulations and Contract Procedure Rules

16.02 **Interpretation**

The ruling of the Chairman of the Council as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.03 **Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

- (b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area including electronically and is updated as necessary.

Schedule 1: Description of *Executive Arrangements*

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Community Voice)
Community Voice is based around the five main towns.
4. Article 11 (Joint arrangements)
There are no joint arrangements.
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Function

