

# Summary and Explanation

## 1.1 The council's Constitution

East Herts Council has agreed a 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.

## 1.2 What's in the Constitution?

1.2.1 The Constitution describes the various bodies that make up the Council, their functions, membership and procedural rules.

1.2.2 The workings of the Council's committees can be found in Sections 3 to 8. Sections 10 and 11 provide 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.

1.2.3 Sections 14 to 19 have the Codes of Conducts and Protocols which Officers and Members have agreed to comply with.

## 1.3 How the Council operates

1.3.1 The Council is composed of 50 Members elected every four years. Members are democratically accountable to residents of their ward. The overriding duty of Members 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.

1.3.2 Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee, through the Monitoring Officer, trains and advises them on the code of conduct.

1.3.3 All Members meet together as the Council. Meetings of the Council are open to the public unless exempt or confidential matters are under discussion. At these meetings, Members 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.

## **1.4 How Decisions Are Made**

1.4.1 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 between two and nine further Members, appointed by the Leader. When major decisions are to be discussed or made, these are published in advance 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 exempt 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.

## **1.5 Scrutiny**

1.5.1 There is one scrutiny committee the role of which is to:

- (a) Hold the Executive to account for its actions;
- (b) Advise on the development and implementation of new policy and corporate projects;
- (c) Test whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
- (d) Ensure the rigour and objectivity of performance management and service reviews.

1.5.2 The work of the Overview and Scrutiny Committee leads to reports and recommendations which advise the Executive and the Council as a whole on improvements to its policies, budget and service delivery.

1.5.3 The Overview and Scrutiny Committee also acts as the mediator for call-ins. A call-in is when a minimum of four members argue that a decision which has been made by the Executive, but not yet implemented, is not the best option. The Committee's role is to consider whether the Executive decision will lead to the best practicable outcome.

1.5.4 The Overview and Scrutiny Committee may recommend that the Executive reconsiders the decision. The Committee may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **1.6 The Council's Staff (Officers)**

1.6.1 The council has staff (referred to as '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 protocol governs the relationships between officers and Members of the Council which is set out in Section 17 of this constitution.

## **1.7 Citizens' Rights**

1.7.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Section 3e. 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.

1.7.2 Citizens have the right to:

- (a) Vote at local elections if they are registered;
- (b) Contact their local Member about any matters of concern to them;
- (c) Obtain a paper copy of the constitution on payment of a reasonable fee (the constitution is also available online);
- (d) Attend meetings of the Council and its committees except where, for example, exempt or confidential matters are being discussed;
- (e) Petition to request a referendum on a mayoral form of executive;

- (f) Participate in the Council's question time and suggest topics for and contribute to investigations by the scrutiny committee;
- (g) Find out, from the council's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- (h) Attend meetings of the Executive where key decisions are being discussed or decided;
- (i) See reports and background papers, and any record of decisions made by the Council and Executive;
- (j) Complain to the council about its functions and services;
- (k) Complain to the Ombudsman if they think the council has not followed its procedures properly. However, they should only do this after exhausting the council's own complaints process first;
- (l) Complain to the Monitoring Officer if they have evidence which they think shows that a Member has not followed the council's Code of Conduct; and
- (m) Inspect the council's accounts and make their views known to the external auditor.

1.7.3 The council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Democratic Services at Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ  
email: [democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk)  
tel: 01279 655261

## **1.8 Admission to meetings**

- 1.8.1 All meetings of the Council, its Executive, scrutiny committee, committees, sub-committees and panels are open to the public.
- 1.8.2 There may be occasions when confidential information is to be discussed at a meeting. On such occasions, 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.
- 1.8.3 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.
- 1.8.4 When meetings are convened at short notice and the “five day rule” cannot apply, papers must be available from the time the meeting is convened.
- 1.8.5 Following a meeting, members of the public have a right of access to the agenda and reports considered at a meeting, with the exception of confidential and/or exempt items, and also the Minutes.
- 1.8.6 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.

## **Glossary**

The Constitution contains references which may be defined as follows:

<b>Agent</b>	A person or organisation acting on behalf of the council or on behalf of another organisation.
<b>Approved Duties</b>	Those meetings, events, etc, approved for the purposes of claiming travel and subsistence allowances.
<b>Award Criteria</b>	The criteria by which a successful quotation or tender is to be selected.
<b>Award Procedure</b>	The procedure for awarding a contract.
<b>Background papers</b>	A list at the end of a report of those documents used in compiling the report, which must be available for inspection on request by a Member or the public.
<b>Best Value</b>	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. See also Value for Money.
<b>Bidder</b>	Any person, firm or organisation who asks to be or is invited to submit a Quotation or Tender.

<b>Budget</b>	The revenue and capital budget in any one year.
<b>Call-in</b>	The process by which Scrutiny Members may challenge or require further information on an Executive decision.
<b>Chairman of Committee</b>	The elected Chairman or in his or her absence, the Vice Chairman. The term may also apply to an elected Member elected to preside in the absence of the Chairman and Vice Chairman.
<b>Chairman of Council</b>	The Member elected by Council annually to preside over meetings of the Council and to act as the ceremonial head of the Council.
<b>Chief Officer</b>	As detailed at Section 11 of the Constitution, the Chief Executive and statutory officers
<b>Civic Year</b>	The period between annual meetings of the Council, usually held in May.
<b>Clarification</b>	A request for information from a bidder during a procurement process. The information, if supplied, is to be provided to all Bidders. Alternatively additional information to be supplied to all Bidders during the process.
<b>Clear Days</b>	This excludes Sunday, Bank and Public Holidays, the day of despatch of an agenda, summons or notice (where relevant), the day of the meeting (where

relevant).

<b>Committee</b>	A formal decision-making body which has functions delegated to it by either Council or the Executive.
<b>Confidential Information</b>	As defined in Section 100A(3) of the Local Government Act 1972, this covers information provided to the council by a Government department on terms, which prohibit its disclosure and information, which the council is prohibited from disclosing by statute or by court order.
<b>Constitution</b>	The document describing the decision-making arrangements for the council, together with the detailed rules and procedures for the operation of the decision-making arrangements.
<b>Consultant</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to officers with the skills, experience or capacity to undertake the work.
<b>Co-opted Member</b>	A non-elected person appointed to a committee, sub-committee or panel on a non-voting basis.
<b>Contract Award</b>	Process by which the successful bidder and the unsuccessful bidders are advised of the outcome of the evaluation.

<b>Contract Register</b>	The register to be kept and maintained by the Procurement Manager recording details of all Renewable Contracts entered into by the council.
<b>Contracting Authority</b>	An authority that has established a Framework Agreement that is available for use by other organisations within the Public Sector.
<b>Contracting Decision</b>	Any decisions which impacts on either the procedure or the outcome of the process to include: <ul style="list-style-type: none"> <li>• withdrawal of Invitation to Tender</li> <li>• whom to invite to submit a Quotation or Tender</li> <li>• shortlisting</li> <li>• award of contract</li> <li>• termination of a contract</li> </ul>
<b>Council</b>	The principal decision-maker.
<b>Declaration of Interests</b>	The requirement for Members to give notice of their interests in matters related to an item under consideration (see also <b>Disclosable Pecuniary Interests</b> and <b>Non-Pecuniary Interests</b> ).
<b>Delegated Powers</b>	The description of the level of authority delegated to a committee, sub-committee, panel, Executive Member or Officer.
<b>Deputy Leader of</b>	The elected Member appointed by the

<b>the Council</b>	Leader as Deputy Leader for a four year term.
<b>Disclosable Pecuniary Interests</b>	The requirement for Members to register and declare any financial or beneficial interests as defined in Section 14.
<b>EU Procedure</b>	The procurement procedure required to be followed by the EU where the Total Value exceeds the EU Threshold.
<b>EU Threshold</b>	The contract values at which the EU public procurement directives apply, as amended from time to time.
<b>EU Treaty Procedures</b>	The principles enshrined within the various Treaties. Although these apply directly to all procurement activity above the E U Threshold, they should apply, as a matter of good practice, to all procurement regardless of value.
<b>European Economic Area</b>	The members of the European Union and Norway, Iceland and Liechtenstein.
<b>Executive</b>	The decision-making body of the Council with responsibility for Executive functions.
<b>Executive Members</b>	Those elected Members appointed to the Executive by the Leader.
<b>Exempt Information</b>	As defined by Section 100(1) of the Local Government Act 1972, this includes a number of different categories of information, under which the council is

entitled to withhold certain reports from the public (see Section 12 – Access to Information Procedure Rules)

**Extraordinary Meeting**

A meeting of the Council convened for specific purposes.

**Financial Procedure Rules**

The council's financial regulations incorporated within the Constitution (see Section 9).

**Financial Vetting**

The process by which officers appointed by the Head of Strategic Finance and Property to review the information supplied by the Bidder or Bidders to establish their financial suitability.

**Five Day Rule**

Under the Local Government Act 1972 (as amended by the Access to Information 1985) Act, the council is required to give notice and make available, the agenda and associated papers for five clear days.

**Formal Quotation**

The process of obtaining a Quotation using the e-procurement portal. Officers can either invite a number of suppliers to submit Bids or alternatively, use the open process whereby the project is advertised generally and any supplier can submit a bid.

**Forward Plan**

The published document which provides the statutory notice of the intention by the Executive, an Executive Member or an Officer to make a key decision. The document also sets out other scheduled

major decisions.

**Framework Agreement**

An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Examples of Framework Agreements include those awarded by the Government Procurement Service and others.

**Government Procurement Agreement**

The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

**Government Procurement Service**

The Government Procurement Service (formerly Office of Government Commerce Buying Solutions).

**Group Leader**

The Member identified by a political group as its leader by notice in writing.

**Head of Paid Service**

The Officer designated as such under Section 4 of the Local Government and Housing Act 1989 (see Section 11).

**Hearing Panel**

The quasi-judicial body responsible for determining licensing matters referred to it (see Section 6).

<b>Invitation to Tender</b>	Invitation to Tender documents in the form required by the Contract Procedure Rules.
<b>Key Decision</b>	As defined by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the most significant decisions to be taken by the Executive. A more specific definition can be found in Section 3b.
<b>Leader of the Council</b>	The elected Member elected by Council as leader for a four year term.
<b>Licensing Authority</b>	The Council exercising its duties and responsibilities under the Licensing Act 2003.
<b>Local Choice Functions</b>	As detailed in Part 3A of the constitution, the description of responsibility for local choice functions under Section 13(3)(b) of the Local Government Act 2000 to the Council, the Executive, regulatory committees and Officers.
<b>Member</b>	An elected councillor (referred to as Member) of the Council.
<b>Members' Allowances Scheme</b>	The scheme approved by Council on recommendation from the independent remuneration panel for the payment of allowances to Members.
<b>Members' Code of</b>	The Code adopted by the Council which

<b>Conduct</b>	describes the conduct required of elected or co-opted Members of the Council.
<b>Monitoring Officer</b>	The Officer designated as such under Section 5 of the Local Government and Housing Act 1989 or his/her deputy (see Section 11).
<b>Nominated Suppliers and Sub-Contractors</b>	Those persons specified in a main contract for the discharge of any part of that contract.
<b>Non-commercial considerations</b>	Considerations which may either be brought to the attention of an officer and may be within his or her own knowledge but have no significance when evaluating a potential bidder.
<b>Non-Key Decisions</b>	Executive decisions taken by the Executive, Executive Committees, Executive Members and Officers on less significant matters in accordance with the specified procedure (see Section 3b).
<b>Non-Pecuniary Interests</b>	The requirement for Members to register and declare any non-financial interests as defined in Section 14.
<b>Officers</b>	The employees of the council.
<b>Officers' Code of Conduct</b>	The Code adopted by the Council which describes the conduct required of its Officers.
<b>Ordinary Meeting</b>	A meeting of the Council included in the approved calendar of meetings.

<b>Outside Bodies</b>	External organisations which have invited the council to nominate representative(s) to serve on their management body.
<b>Panel</b>	A formal group of Members with functions delegated by a Committee or a Sub-Committee.
<b>Party Whip</b>	The Member within a political group appointed by that group to manage internal party discipline and activities.
<b>Policy Framework</b>	The plans and strategies which together make up the overarching policy direction determined by Council (see Section 3).
<b>Political Group</b>	As defined in the Local Government (Committees and Political Groups) Regulations 1990, any group of at least two Members who have notified the council in writing that they wish to be treated as a political group.
<b>Portfolio Holder</b>	Otherwise known as Executive Members, those elected Members appointed to the Executive with defined areas of responsibility called portfolios.
<b>Post Tender Negotiation</b>	In limited circumstances negotiations can take place with Bidders after the evaluation process has been completed and prior to the Contract Award.
<b>Procurement Strategy</b>	The document setting out the council's corporate approach to procurement and

key priorities.

**Professional  
Buying  
Organisation**

An organisation established by one or more authorities for the sole purpose of setting up Framework Agreements thereby enabling collaborative purchasing.

**Proper Officer**

The authorised Officer under statutory enactments (see Section 11 – designation of Proper Officers).

**Quasi-Judicial**

A process of decision-making which is similar to a court of law, in that each party with an interest in the matter under consideration has an opportunity to make their case, following which a decision on the facts and representation is made.

**Quick Quotation**

A simplified Quotation process whereby a number of Quotations are sought from at least 3 suppliers without using the e-procurement portal.

**Quorum**

The minimum number of Members required to be present for a meeting to be properly convened.

**Quotation/Quote**

A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender). See also Quick Quotation and Formal Quotation.

**Regulatory  
Committees**

Those Committees of the Council falling outside the executive arrangements that are charged with regulatory functions,

such as development management, licensing, etc.

<b>Relevant Contract</b>	Contracts to which the Contract Procedure Rules apply.
<b>Renewable Contract</b>	Contracts which are for repeatable purchases of goods or services or works and are not one-off purchases.
<b>Request for Quotation</b>	Request for Quotation documents in the form required by the Contract Procedure Rules.
<b>Scrutiny</b>	A process of holding the Executive to account.
<b>Section 151 Officer</b>	The Officer designated as such under Section 151 of the Local Government Act 1972 (see Section 11).
<b>Standard Terms and Conditions</b>	The terms and conditions agreed by the council as being applicable in all contracts as an alternative to either bespoke terms and conditions or the terms and conditions of the other party to the contract or agreement.
<b>Statutory Undertakers</b>	The various companies and agencies with legal rights to carry out certain development and highways works, such as utilities and telecoms.
<b>Sub-Committee</b>	A formal decision-making body with functions referred or delegated to it by a committee.

<b>Task and Finish Group</b>	An informal group of Members established by a Scrutiny Committee to examine a specific issue.
<b>Tender</b>	A candidate's proposal submitted in response to an Invitation to Tender.
<b>Terms of Reference</b>	The description of what a committee, sub-committee or panel may concern itself with.
<b>Total Value</b>	The whole of the value or estimated value (in money or equivalent value) for a single procurement or disposal.
<b>Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)</b>	The regulations that apply where responsibility for the delivery of works or services for the council is transferred from one organisation (for example a private contractor or local authority in-house team) to another (for example, following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer.
<b>Urgent Matter</b>	A matter which is to be considered at a meeting of the Council, a committee or a sub-committee by virtue of section 100B

(4) (b) of the Local Government Act 1972. This provides for matters not appearing on the agenda to be considered at the meeting, if by reason of special circumstances, the Chairman is of the opinion that the item should be considered as a matter of urgency.

**Value for Money**

Value for money is not the lowest possible price; it combines goods or services that fully meet the council's needs, with the level of quality required, delivery at the time the council needs it, and at an appropriate price.

**Ward**

A geographical area of the District represented by 1 – 3 elected Members.

**Written Notice**

Unless otherwise stated, a notice given in writing or electronically.