

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 Purpose of the Council

The Council is committed to leading the community and working with our partners in promoting economic, social and environmental well-being and the enhancement of the quality of life of North Hertfordshire's communities.

1.03 The Constitution

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

The purpose of the Constitution is to:

- a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b) support the active involvement of citizens in the process of local authority decision making;
- c) help Councillors represent their constituents more effectively;
- d) enable decisions to be taken efficiently and effectively;
- f) create a powerful and effective means of holding decision makers to public account;
- f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- h) 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

2.01 Composition and Eligibility

a) Composition

The Council will comprise 49 Members, who are called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with arrangements approved by the Secretary of State.

b) Eligibility

Only (i) registered voters of the District of North Hertfordshire or (ii) those living or occupying as owner or tenant any land or other premises in the area or (iii) those whose principal or only place of work is within the District, will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

The ordinary election of approximately one third of all Councillors will be held on the first Thursday in May each year during a four year cycle. In the fourth year, no District Council elections take place. Therefore each Councillor serves for a period of four years.

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 as well as setting the budget;

ii) Individually

- Represent their communities and bring their views into the Council's decision making process; that is, become the advocate of and for their communities;
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Balance different interests identified within the Ward and represent the Ward as a whole;
- Be involved in decision making;
- Be available to represent the Council on other bodies and in all other official capacities;
- Maintain the highest standards of conduct and ethics in accordance with the adopted Members' Code of Conduct as contained within this Constitution.

b) Rights and Duties

i) Councillors will have rights of access to documents, information and buildings of the Council as necessary for the proper discharge of their functions and in accordance with the law. When not acting in an official capacity, Councillors will have the same rights of access to documents as other citizens;

ii) Councillors will not disclose 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. For these purposes "confidential" and "exempt" information is defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and all the relevant protocols within and supporting 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 rights that are set out below. These are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

a) Voting and Petitions

Citizens on the Register of Electors for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Executive;

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. Items on an agenda may be suggested as falling within the categories contained within Schedule 12A to the Local Government Act 1972 as suitable for confidential consideration but the meeting must resolve to consider the matter in private;
- ii) Attend meetings of the Cabinet including when key decisions are to be considered;
- iii) Find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
- iv) See reports and background papers and records of decisions made by the Council, the Cabinet and Committees;
- v) Inspect the Council's accounts and make their views known to the external auditor.

c) Participation

Citizens have the right to ask questions at Council and Committee meetings and may be asked to contribute to investigations by the Performance, Audit and Review Committee and Scrutiny Committee.

d) Complaints

Citizens have the right of complaint to:

- i) The Council itself under its complaints procedure;
- ii) The Ombudsman after using the Council's own complaints procedure;
- iii) The Standards Board for England about a breach of the Councillor's Code of Conduct.

3.02 Citizens' Responsibilities

Citizens should be respectful to Councillors, co-opted Members and officers who are carrying out their public duties. They should not be violent, abusive or threatening and should not willfully harm things owned by the Council, Councillors, co-opted Members or officers.

Article 4 - The Full Council

4.01 Meanings

a) Policy Framework

The Policy Framework means the following plans and strategies:

- i) Best Value Performance Plan
- ii) Crime and Disorder Reduction Strategy
- iii) Development Plan documents
- iv) Licensing Policy statement
- v) Sustainable Community Strategy
- vi) Corporate Plan

b) Budget

The Budget includes the allocation of financial resources to different services and projects, proposed balances, 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. (The Financial Regulations contained within Part 4 of this Constitution provide further information about these matters.)

4.02 Functions of the Full Council

Only the Council can exercise the following functions:

- a) Adopting and changing the Constitution;
- b) Approving or adopting the Policy Framework and the Budget;
- c) Setting the overall borrowing limit for the Council;
- d) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter concerning the discharge of a function delegated to the Cabinet or an individual Member, which is covered by the Policy Framework or the Budget, where the decision maker is minded to make it contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget;
- e) Electing the Chairman of the Council;
- f) Appointing the Leader, Deputy Leader and the members of the Cabinet;
- g) Agreeing and or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- h) Appointing the Chairman and Vice-Chairman of Committees, with the exception of (i) the Area Committees who shall elect a Chairman and appoint a Vice-Chairman from amongst their members at their first meeting of each civic year and (ii) the Standards Committee whose Chairman and Vice-Chairman shall be independent persons appointed by the Appointments Board;
- i) Appointing representatives to outside bodies unless the appointment is a function of the Cabinet or has been delegated by the Council;
- j) Adopting an allowances scheme;
- k) Changing the name of the area or conferring the title of Honorary Alderman;
- l) Appointing the Head of Paid Service, Chief Finance Officer and Monitoring Officer;
- m) Making, amending, revoking, re-enacting or adopting bye-laws or promoting or opposing the making of local legislation or personal Bills;
- n) All local choice functions which the Council decides should be undertaken by itself rather than the Cabinet;
- o) All other matters which, by law, must be reserved to the Council;

- p) Represent the views of the local community on matters of significance;
- q) Impose sanctions on Councillors as determined on recommendation from the Standards Committee;
- r) Consider, within 21 days, any report presented by the Monitoring Officer or Chief Finance Officer.

4.03 Council Meetings

There are 3 types of Council meeting:

- a) the Annual Meeting;
- b) Ordinary Meetings;
- c) Extraordinary Meetings.

All such meetings will be conducted in accordance with the Standing Orders in Part 4 of this Constitution.

4.04 Responsibility for Functions

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

Article 5 - Chairing the Council

5.01 Role and Function of the Chairman

The Chairman of the Council and in his or her absence, the Vice-Chairman, will have a ceremonial role as well as a duty to preside over meetings of the Council.

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

- i) To uphold and promote the purposes 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 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 members of the Cabinet or hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account;
- iv) To promote public involvement in the Council's activities;
- v) To be the conscience of the Council;
- vi) To attend such civic and ceremonial functions as the Council and he or she determines appropriate.

Article 6 - Overview and Scrutiny Committees

6.01 Terms of Reference

The Council will appoint one Performance, Audit and Review Committee and at least one Scrutiny Committee for the purpose of carrying out the overview and scrutiny function conferred by Section 21 of the Local Government Act 2000 or Regulations proposed under Section 32 of that Act. The Committees as set out in the left hand column of the table below have the responsibilities as set out in the right hand column.

Committee	Scope
Performance, Audit and Review	<ul style="list-style-type: none"> • To monitor the Council's Best Value Performance Plan; • To assist the Cabinet in the development and review of policy; • To arrange Fundamental Service Reviews and consider reports from review groups undertaking such Reviews; • To fulfil the Council's audit and risk function.
Scrutiny	<ul style="list-style-type: none"> • To review and/or scrutinise decisions taken, or about to be taken; • To scrutinise decisions after implementation in accordance with the Council's adopted call-in procedure; • To scrutinise the performance and service of other organisations in accordance with the Committee's adopted work programme.

6.02 General Role

Within their Terms of Reference, the Performance, Audit and Review Committee and Scrutiny Committee will:

- a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) Make reports and/or recommendations to the full Council and/or the Cabinet and/or Joint or Area Committees in connection with the discharge of any function;
- c) Consider any matter affecting the area or its inhabitants.

6.03 Specific Functions

a) Performance, Audit and Review

The Performance, Audit and Review Committee will:

- i) Set its own work programme;
- ii) Assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- iii) Conduct research and consultation in the analysis of policy issues and possible options;
- iv) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- v) Question members of the Cabinet and/or Committees and officers of the Council about their views on issues and proposals affecting the area;
- vi) 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 working;
- vii) Arrange Fundamental Service Reviews of the Council's own services in line with best value guidance from Government;
- viii) Review and scrutinise the 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.

b) Scrutiny

The Scrutiny Committee(s) will

- i) Set its own work programme;
- ii) Review and scrutinise the decisions made or proposed to be made by

- and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
- iii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or service areas;
- iv) Question members of the Cabinet and/or Committees and/or officers about their decisions and performance, whether generally or in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- v) Make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- vi) Question and gather evidence from any other person (with their consent);
- vii) Review and scrutinise the 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;
- viii) Exercise the right to "call in" for reconsideration, decisions made but not yet implemented by the Cabinet and/or Area Committees.

c) Finance

The Performance, Audit and Review Committee and Scrutiny Committee must exercise overall responsibility for finances made available to them.

d) Annual Report

The Performance, Audit and Review Committee and Scrutiny Committee must report annually to Council on their workings and make recommendations for future work programmes and amended working methods if appropriate to feed into the Service and Financial Planning process.

e) Officers

The Performance, Audit and Review Committee and the Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support their work. It is the responsibility of the Cabinet and the Head of Paid Service to ensure appropriate officer support for these Committees.

6.04 Proceedings of the Performance, Audit and Review Committee and Scrutiny Committee.

Performance, Audit and Review Committee and Scrutiny Committee will conduct their proceedings in accordance with the Performance Audit and Review and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 - The Cabinet

7.01 Role

The Cabinet 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 Cabinet will consist of the Leader of the Council and the Deputy Leader together with at least one, but no more than eight, Councillors appointed to the Cabinet by the Council on the recommendation of the Leader.

7.03 Leader

The Leader will be a Councillor elected to the position at the annual meeting of the Council and the appointment will continue until the next annual meeting unless:

- 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) He/she is removed from the office by resolution of the Council, following a written notice of motion being submitted in accordance with paragraph 11 of Standing Orders as contained within Part 4 of this Constitution.
- e) The Council may also remove the Leader from office in the event of a change in political control of the Council without the need for the submission of a written notice of motion.

7.04 Deputy Leader

The Deputy Leader will be a Councillor appointed to the position at the annual meeting of the Council and the appointment will continue until the next annual meeting unless:

- 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) He/she is removed from the office by resolution of the Council, following a written notice of motion being submitted in accordance with paragraph 11 of Standing Orders as contained within Part 4 of this Constitution.
- e) The Council may also remove the Deputy Leader from office in the event of a change in political control of the Council without the need for the submission of a written notice of motion.

7.05 Other Cabinet Members

Other members of the Cabinet will be appointed at the annual meeting of the Council and the appointment will continue until the next annual meeting unless:

- 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, either individually or collectively, by resolution of the Council.

7.06 Proceedings of the Cabinet

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

7.07 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, officers or joint arrangements are responsible for the exercise of particular functions of the Cabinet. The Cabinet may delegate their functions without reference to the Council.

7.08 Chief Finance Officer Reports

The Cabinet will consider, within 21 days, reports made by the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988.

Article 8 - Regulatory and Other Committees

8.01 Regulatory and Other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution. The responsibilities for each Committee will be as shown within their respective Terms of Reference.

Article 9 - The Standards Committee

9.01 Standards Committee Composition

a) Membership

The Standards Committee will be composed of at least:

- i) eight Councillors, other than the Leader, but including one Cabinet Member;
- ii) four independent persons, known as co-opted Members, who are not Councillors or officers of the Council or any other body having a Standards Committee;
- iii) at least four Members of Parish Councils wholly within the District of North Hertfordshire.

b) Co-opted Independent Members

The co-opted independent Members will be appointed by the Appointments, Investigations and Disciplinary Committee and they are entitled to vote at meetings.

c) Parish Members

At least one Parish Member must be present when matters relating to Parish Councils or their Members are being considered.

d) Chairing the Committee

The Chairman and Vice-Chairman of the Committee must be co-opted independent Members.

9.02 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, as contained within Part 5 of this Constitution;
- c) Advising the Council on the adoption or revision of the Code of Conduct for Councillors;
- d) Monitoring the operation of the Code of Conduct for Councillors;
- e) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Code of Conduct for Councillors;
- f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Code of Conduct for Councillors;

- 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 paragraphs (a) to (g) above in relation to the Parish Councils wholly within the District of North Hertfordshire and the members of those Parish Councils;
- i) To determine local initial assessments into allegations of misconduct by local district and parish councilors etc., by way of a system of Assessment, Review and Hearing Sub-Committees.

Additional Roles of the Standards Committee

- a) Submission of recommendations to the Council on Codes and protocols;
- b) Oversight of the Register of Members' Interests;
- c) Overview of the Whistle Blowing Policy;
- d) Overview of complaints handling and Ombudsman investigations.

Article 10 - Area Committees

10.01 Form, composition and function

The Council will appoint Area Committees as set out in the first column of Table 10.1. The Wards to be included within the area administered by each Area Committee are shown in the second column of Table 10.1.

All Members of the Council will be a member of the Area Committee that includes their own Ward.

The Terms of Reference of Area Committees are set out in Part 3 of this Constitution.

Area Committee	Composition
Baldock & District Committee	The Wards of Baldock East and Baldock Town, the Arbury Ward and the Weston and Sandon Ward which comprise the parishes of Ashwell, Bygrave, Caldecote, Clothall, Hinxworth, Newnham, Radwell, Rushden, Sandon, Wallington and Weston.
Hitchin Committee	The Wards of Hitchin Bearton, Hitchin Highbury, Hitchin Oughton, Hitchin Priory (including the north ward of the parish of St Ippolyts) and Hitchin Walsworth
Letchworth Committee	The Wards of Letchworth Grange, Letchworth East, Letchworth South East, Letchworth South West and Letchworth Wilbury (which comprise Letchworth Garden City Town Council).
Royston and District Committee	The Wards of Royston Heath, Royston Meridian and Royston Palace (which comprise the area of Royston Town Council) and the Ermine Ward (which comprises the parishes of Barkway, Barley, Kelshall, Nuthampstead, Reed and Therfield).

Southern Rural Committee	The Wards of Cadwell, Chesfield, Codicote, Graveley and Wymondley, Hitchwood, Offa & Hoo, Kimpton and Knebworth which comprise the parishes of Codicote, Graveley, Hexton, Holwell, Ickleford, the south Ward of the parish of St Ippolyts (south ward), Kings Walden, Kimpton, Knebworth, Langley, Lilley, Offley, St Pauls Walden, Pirton, Preston and Wymondley
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10.02 Delegations

The Council and Cabinet will include details of the delegations to Area Committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Cabinet and which are not, the composition and membership of the Committees and limitations on delegation. The delegations to Area Committees will include budgets for the purpose of providing grants and discretionary budgets that may be used within the area of the Committee for economic, social and environmental well being.

10.03 Conflicts of interest - Membership of Area Committees and Performance, Audit and Review Committee and Scrutiny Committee

a) Conflict of Interest

If the 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 Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.

b) General Policy Reviews

Where the Performance, Audit and Review Committee is reviewing policy generally the Councillor must declare his/her interest at the commencement of the item but need not withdraw.

10.04 Area Committees - Access to Information

Area Committees will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

Agendas and Notices for Area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.05 Cabinet Members on Area Committees

A Member of the Cabinet may serve on an Area Committee.

Article 11 - Joint Arrangements

11.01 The Cabinet, with the approval of the Council, 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;
- 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 those other local authorities.
- b) 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.
- c) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.
- d) The Cabinet may appoint Members to a joint Committee from outside the Cabinet 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 Cabinet may appoint to the joint Committee any Councillor who is a Member for a Ward which is wholly or partly contained in the area. In such a case 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 Procedure Rules in Part 4 of this Constitution apply;
- b) If all the Members of the joint Committee are Members of the Cabinet or the Executive in each of the participating authorities then its Access to Information regime is the same as that applied to the Cabinet;
- c) If the joint Committee contains Members who are not on the Cabinet or 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 Cabinet 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.

11.05 Contracting Out

The Cabinet 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

12.01 Management Structure

a) General

The Council may engage such staff (referred to as “officers”) as it considers necessary to carry out its functions.

b) Chief Officers

The Council will engage persons for the following posts who will be designated Chief Officers, as set out in Table 12.1

c) The Scheme of Delegation to officers is set out in Part 3 of the Constitution Appendix A.

TABLE 12.1

Post	Functions & Areas of Responsibility
Chief Executive	<ul style="list-style-type: none"> • Head of Paid Service • Electoral Registration Officer • Returning Officer for District and Parish Council Elections • Emergency Planning Officer • To have responsibility for: • Overall corporate management and operational responsibility; • The provision of professional advice to all parties in the decision making process; • Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions; • Representing the Council on partnership and external bodies (as required by either statute or the Council); • Democratic Services • Strategic Partnerships
Strategic Director of Customer Services	<ul style="list-style-type: none"> • Information Technology • Human Resources • Reprographics • Telecommunications • Customer Services • Leisure, Sports and Recreation • Museums • Markets • Meals on Wheels • Community Alarms • Engineering • Grounds Maintenance • Parks and Gardens • Waste Management and Recycling • Emergency Planning • Public Relations and Communications

Strategic Director of Finance, Policy & Governance	<ul style="list-style-type: none"> • To be Chief Finance Officer • Insurance and Risk Management • Financial Accounting • Performance and Quality • Management of Assets • Audit • Council Tax and national Non Domestic Rates • Housing and Council Tax Benefit • Legal Services • Community Development • Grants • Corporate Policy • Scrutiny
Strategic Director of Planning, Housing & Enterprise	<ul style="list-style-type: none"> • Housing Needs • Housing Strategy Development • Planning Development Control • Building Control Environment • The Local Development Framework • Regional and Strategic Planning matters • Environmental Health • Licensing and Enforcement • Community Safety • Economic Development

d) Head of Paid Service, Monitoring Officer and Chief Financial Officer
The Council will designate the following posts as shown in Table 12.2.

TABLE 12.2

Post	Designation
Chief Executive	Head of Paid Service
Corporate Legal Manager	Monitoring Officer
Strategic Director of Finance, Policy & Governance	Chief Finance Officer

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

e) Structure
The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council. 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 Council or to Cabinet 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 the 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 Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are publicly available as soon as possible.

g) Advising whether Cabinet decisions are within the budget and policy framework

The Monitoring Officer will advise whether decisions of the Cabinet 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 Council or to Cabinet 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 loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b) Administration and 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 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 will support and advise all Councillors and officers in their respective roles
- e) Providing 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 Member / Officer Relations as set out in Part 5 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure 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 which part of the Council or which 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 and Committees will be made in accordance with the following principles:

- a) Proportionality (that is 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.

13.03 Type of Decision

a) Decisions reserved to Council

Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.

b) Key Decisions

i) "Key Decision", as defined in the Local Authorities Executive Arrangements (Access to Information) (England) Regulations 2000, means an executive decision which is likely:

- 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
- to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority.

Note: The Council will regard a decision as being a key decision if the expenditure or savings concerned exceeds £50,000, subject to the following exceptions:

- Decisions about the acquisition of and payment for vehicles, plant, machinery, goods, supplies and services where these are dealt with within budget and in accordance with existing Council policy, Contract Standing Orders and Financial Regulations and where the contract does not exceed £250,000;
- Decisions relating to borrowing and investment within the Council's Treasury Management Strategy;
- Decisions relating to the engagement and payment of staff unless the Chief Executive determines otherwise.

ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules as set out in Part 4 of this Constitution.

- 13.04 Decision Making by the Council
Subject to Article 13.08 the Council meeting will follow the Council Procedure Rules as set out in Part 4 of this Constitution when considering any matter.
- 13.05 Decision Making by the Cabinet
Subject to Article 13.08 the Cabinet will follow the Cabinet Procedure Rules as set out in Part 4 of this Constitution when considering any matter.
- 13.06 Decision Making by Performance, Audit and Review Committee and Scrutiny Committee
The Performance, Audit and Review Committee and the Scrutiny Committee will follow the relevant Performance Audit and Review and Scrutiny Procedures Rules as 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 the Council, Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as applied 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 purpose 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 Regulations set out in Part 4 of this Constitution.
- 14.02 Contracts
Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4 of this Constitution.
- 14.03 Legal Proceedings
The Corporate Legal Manager 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 said Manager 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 Corporate Legal Manager or other person authorised by him/her, unless any enactment otherwise so authorises or requires or the Council has given requisite authority to some other person.

Any contract, with a value exceeding the sum specified within the Financial Regulations set out in Part 4 of this Constitution, entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contract must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one authorised officer.

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 Corporate Legal Manager. 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 Corporate Legal Manager should be sealed. The affixing of the Common Seal will be attested by the Corporate Legal Manager or other authorised officer.

Article 15 - Review and Revision of the Constitution

15.01 Duty to monitor and review the Constitution

The Monitoring Officer together with the Scrutiny Committee will monitor and review the operation of the Constitution to ensure that the aims and the principles of the Constitution are given full effect.

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:

- a) Observe meetings of different parts of the Member and officer structure;
- b) Undertake an audit trail of the sample decisions;
- c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders;
- d) Compare practices in this authority with those in other comparable authorities or national examples of best practice.

15.02 Changes to the Constitution

A change to the form of Constitution may be triggered by Members but equally by residents by requiring a mayoral referendum.

a) Approval

Changes to the Constitution will only be approved by the full Council after consideration of proposals from the Monitoring Officer.

b) Change from Leader and Cabinet form of Executive to a different form.

Before drawing up a proposal for a different form of Executive, the Council must take reasonable steps to consult with local electors and other interested parties within North Hertfordshire.

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 into account the purpose of the Constitution as set out in Article 1.

c) Rules capable of Suspension

With the exception of Rules 16.6 and 17.2, any of the Council's Standing Orders as contained within Part 4 of this Constitution may be suspended in accordance with this Article and Rule 22.

16.02 Interpretation

The ruling of the Chairman 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

The Democratic Services Manager will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council.

The Democratic Services Manager 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.

The Democratic Services Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute executive arrangements:

1. Article 6 (Performance, Audit and Review and Scrutiny) and the Performance, Audit and Review and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).