

## **SECTION 2**

### 2. Purpose, Definition Interpretation and Amendment of the Constitution

#### 2.1 Purpose of the Constitution

The purpose of the Constitution is to:

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

#### 2.2 Definitions in the Constitution

- 2.2.1 The Constitution of the Council is this document (Sections 1 to 20).
- 2.2.2 Within the Constitution the following words and phrases have the meaning set out below:-

“Budget”	the overall revenue and capital budget approved by Full Council (Section 16.2);
“Chair of the Council”	means the Member elected at Annual Council to chair its meetings. See section 4.5.4.
“Cabinet Panel”	This is a group of members that has <sup>2</sup> been established by Cabinet as an investigatory and advisory body to Cabinet, Executive Members or relevant Service Directors on a subject area that falls within their terms of reference. For the avoidance of doubt the Panel will not duplicate the work of Overview and Scrutiny Committee.

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<sup>2</sup> NB may be established by Council, but usually Cabinet.

“Chief Officer”	As defined under section 12.8.1(c) <sup>3</sup>
“Councillor”	a person elected to the Council to represent an area (called an electoral ward) within North Hertfordshire District Council;
“Deputy Chief Officer”	As defined under the Local Government & Housing Act 1989 and relevant Regulations
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. In general terms the provision of services, how the Council spends its budget, the Council’s procedures and management are Executive Functions.  Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.  The regulatory functions, for example, planning licensing and building control, are not Executive Functions;
“Forward Plan”	In this constitution the Notice of Key Decision and a Notice of Private Meeting of the Cabinet published by the Council over a four month period (including decisions to be made by the Cabinet, individual Cabinet members or delegated officers).
“Full Council”	the body where all Councillors act to exercise functions of the Council;
“Head of Paid Service”	an officer who must be appointed by law to carry out certain functions. See Section 12.2 for more details. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Head of Paid Service. Any reference to Chief Executive in legislation or Council Policy and Procedure documents is deemed to be a reference to the holder of this position

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

“Independent Person”	the person(s) appointed by Full Council to fulfil the requirements of section 28 of the Localism Act 2011 in respect of complaints about Members
“Key Decision”	<p>as defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012, means an executive decision which is likely:-</p> <p>(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or</p> <p>(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District;</p>
“Leader”	a Member of Cabinet responsible for chairing Cabinet.
“Legislation or Legislative”	<p>See section 5.3.;</p> <p>reference to legislation or legislative means any Act, Regulation, order, instrument or rule and/ or statutory guidance under such provisions, however expressed;</p>
“Local Choice Functions”	there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;
“Member”	a Councillor;
“Monitoring Officer”	an officer who must be appointed by law to carry out certain functions. See Section 12.3 for a description of those functions. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Monitoring Officer;
“Non-Executive Functions”	all functions of the Council which are not Executive Functions;
“Neighbourhood plans and orders”	Neighbourhood Plans, Neighbourhood Development Plans/ Orders, Community Right to Build Orders, Designation of Neighbourhood Area, Neighbourhood Forum or Business Area, including related referenda, Independent Examination (‘IE’) and incidental matters, or any other descriptions amending or replacing the same.”
“Policy Framework”	See Section 4.2;
“Executive Member”	a Member of Cabinet with particular responsibilities determined by the Leader

“Proper Officer”	means an officer to whom a duty/ role or decision making power is delegated, as set out at Section 14.5 – 14.6 unless otherwise described;
“Section 151 Officer”	an officer who must be appointed by law to carry out certain functions. Also known as Chief Finance Officer. See Section 12.4 for a description of those functions. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Section 151 Officer;
“Service”	one of the services provided by the Council, for example Waste collection, Council Tax collection, Leisure;
“SIAS”	means the Shared Internal Audit Service appointed by the Chief Finance Officer to undertake the Internal Audit function for the Council
“Statutory Officer”	the Head of Paid Service, the Section 151 Officer or the Monitoring Officer
“Ward Advocate”	A Councillor representing an individual or group within a ward (or at the request of another Councillor in a single Member ward to so so) on an issue, application, concern. This should be subject to the Code of Conduct rules on interests and not being involved in any subsequent decision making on the matter.

## 2.3 Interpretation of the Constitution

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the ruling of the person chairing or presiding at the meeting either to the interpretation or application of the Constitution or as to any proceedings of the Council (or part of it) shall be final and not challenged.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

## 2.4 Duty to Monitor and Review the Constitution

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

## 2.5 Protocol for Monitoring and Review of Constitution by Monitoring Officer.

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 2.5.1 Observe meetings of different parts of the Member and officer structure;
- 2.5.2 Undertake an audit trail of a sample of decisions;
- 2.5.3 Record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders; and
- 2.5.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

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

## 2.6 Changes to the Constitution including the Financial Regulations

### 2.6.1 Approval

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

### 2.6.2 Minor Changes

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

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

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

- 2.6.3 Any change made under paragraph 2.6.2(d) shall come into force with immediate effect but shall be referred to Full Council as soon as is reasonably possible and shall continue to have effect only if Full Council agree.
- 2.6.4 Changes made under paragraph 2.6.2 must be notified to all Members.
- 2.6.5 Change to Mayoral Form of Executive

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

#### 2.6.6 Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next full Council meeting.

### 2.7 Suspension of the Constitution

#### 2.7.1 Limit to Suspension

The Rules of this Constitution may not be suspended. Any of the Rules, with the exception of those contained in Sections 4.8.16(f), 4.8.16(h) and 4.8.17(b) may be suspended to the extent permitted within these Rules and the law.

#### 2.7.2 Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

### 2.8 Publication

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

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

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