



NORTH HERTFORDSHIRE DISTRICT COUNCIL

CONSTITUTION

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NORTH HERTFORDSHIRE DISTRICT COUNCIL CONSTITUTION

PART A

SECTION 1

1. Introduction

1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Overview and Scrutiny Committee, Standards Committee and Regulatory Committees. Section 12 provides information on the management and officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Sections 4, 5, 6, 7, 8, 9, 10 and 14 say which Council bodies, and which members and officers, have authority to make which decisions.
- 1.1.4 At Sections 4.8 and 6 we have set out the procedural rules that apply to the different Council bodies. You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5 Sections 17 and 18 have the Codes of Conduct and Protocols which officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

1.2 How the Council Operates

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

- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the Budget each year. The Council appoints the Leader of the Council. The Leader then decides the size and membership of the Cabinet (within parameters set by legislation), the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions (for definition see paragraph 2.2 below).
- 1.2.4 In addition to Council and Cabinet there are a number of other committees, whose terms of reference are set out in the Constitution. These committees do different things, for example make decisions on some planning or licensing applications, or scrutinise work being undertaken. There are also five Area Committees which promote close working with our communities. For details as to how the committees operate please look at the section in the Constitution for that committee. These committees have Members from different political parties sitting on them, usually in proportion to their party's overall share of the Council's 49 seats (with the exception of Area Committees).
- 1.2.5 As well as formal committee meetings, which have legal and constitutional requirements as to how they operate, the Council will also occasionally use Working Parties. A Working Party has no legal or constitutional requirements, for example they do not require a published agenda, reports or minutes. Generally these meetings are private, informal and have no decision making powers. Working Parties consider issues in detail and then report back to Council (or another committee) with findings and recommendations. They are often used in the early stages of policy formulation. A Working Party can be formed at any time to deal with a particular issue and will be disbanded after that issue is resolved. The Group Leaders of each political party choose which of their Members will sit on the Working Party.
- 1.2.6 On larger projects the Council uses an approach based on the PRINCE2 (an acronym for projects in controlled environments, version 2) model of project management, in which the lead officer (called the project executive) is the decision maker. This model includes Project Boards whose role is to provide the lead officer with the support and input necessary for the project to proceed and to overcome any problems. The Chief Executive appoints the Lead Officer for the Project Board, who will chair and choose the membership in consultation with the Leader of the Council. Membership will take into account the number of Members/Officers, the risk and/or profile of the project and the skills and experience that will benefit the project (this list is non exhaustive). It may include external support. Membership usually includes appropriate Cabinet members. As an internal consultation and advisory meeting with no decision making powers, meetings are private and do not require a published agenda, reports or minutes.

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

The Council Offices are located at Gernon Road, Letchworth Garden City, SG6 3JF. However, whilst the main office is being refurbished, the Council has temporary offices located at Town Lodge, Gernon Road, Letchworth Garden City; telephone number 01462 474000.

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

SECTION 2

2. Purpose, Definition Interpretation and Amendment of the Constitution

2.1 Purpose of the Constitution

The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other statutory or community 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);
“Chairman of the Council”	means the Member elected at Annual Council to chair its meetings. See section 4.5.4.
“Chief Officer”	As defined under section 2 of the Local Government and Housing Act 1989
“Councillor”	a person elected to the Council to represent an area (called an electoral ward) within North Hertfordshire District Council;
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;

“Executive Function”	<p>Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. In general terms the provision of services, how the Council spends its budget, the Council’s procedures and management are Executive Functions.</p> <p>Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>The regulatory functions, for example, planning licensing and building control, are not Executive Functions;</p>
“Forward Plan”	<p>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, which are not Key Decisions).</p>
“Full Council”	<p>the body where all Councillors act to exercise functions of the Council;</p>
“Head of Paid Service”	<p>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;</p>
“Independent Person”	<p>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</p>
“Key Decision”	<p>as defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012, means an executive decision which is likely:-</p> <ul style="list-style-type: none"> (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District;
“Leader”	<p>a Member of Cabinet responsible for chairing Cabinet. See section 5.3.;</p>
“Legislation or Legislative”	<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	<p>there are some functions which the Council may treat</p>

Functions”	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
“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 Strategic Director of Finance Policy and Governance to undertake the Internal Audit function for the Council
“Statutory Officer”	the Head of Paid Service, the Section 151 Officer or the Monitoring Officer

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. He/she shall report any amendments made to Section 19 to the next available Council meeting for noting. 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 him/her 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

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 Democratic Services Manager will ensure that copies of this Constitution are available for inspection at Council offices.

2.8.2 The Democratic Services Manager will if requested, give a printed copy of this Constitution to Members 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.

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

SECTION 3

3. Getting Information and Getting Involved

3.1 Getting Information

3.1.1 Information Available to Members of the Public

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

A programme of meetings is available by contacting the Council direct, logging on to the Council's website or looking at the Council's notice board outside the Council Offices or library notice boards in Baldock, Hitchin, Letchworth or Royston.

(b) Forward Plan

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

(c) Information available prior to a meeting

At least five clear working days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council. Further detail and clarification is provided in Section 15.

(d) Information available at a meeting

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded). Further detail and clarification is provided in Section 15.

(e) Information available after a meeting

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

(f) Council's Accounts

During the annual audit of the accounts, the Council's accounts are available for public inspection to enable members of the public to make their views known to the external auditor.

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

3.1.2 Information Available to Members of the Council

(a) Members can see any information, which is available to a member of the public.

(b) In addition a member may see any information, which he or she reasonably requires in order to fulfil his or her role as a member of the Council, but a

member will not make public information which is confidential or exempt (as defined in Section 15) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or other party entitled to know it.

3.1.3 Members of the Overview and Scrutiny Committee

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

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

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

NB No member is entitled to see any information relating to a matter in which he or she has a Disclosable Pecuniary Interest.

3.1.4 Information Available to Officers

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

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

3.2 Getting Involved

3.2.1 Members of the Public

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

- (a) Voting for Councillors

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

- (b) Suggesting Items of Business for Meetings

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

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

(c) Taking Part in Meetings

- (i) Members of the public can come to and speak at any meeting which is open to the public. The rules on when you may speak and for how long are contained in Section 4.8.9.
- (ii) ¹The Council operates openly and transparently and recognises that citizens may wish to utilise social media during meetings (including recording meetings). This engagement is welcomed provided that Council business is not disrupted or disturbed. Examples of disruptive behaviour can include:-
 - moving to areas outside the areas designated for the public without the consent of the Chairman;
 - excessive noise in recording or setting up or re-siting equipment during the debate/discussion;
 - intrusive lighting and use of flash photography; and
 - asking for people to repeat statements for the purposes of recording.
- (iii) You can also ask Questions at meetings of Full Council, Cabinet, Committees and Sub-Committees (Section 4.8.10).

(d) Exclusion from Meetings

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

(e) Making Comments/Complaints

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

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

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

¹ 3.2.1(c)(ii) Amended wording approved Full Council 03.09.15

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

(f) Engage with Overview and Scrutiny Committee

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

3.3 Getting Involved – Members

Members can get involved by:-

3.3.1 Suggesting Items of Business for the Agenda

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

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

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

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

3.3.2 Participating in Meetings

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

3.3.3 Executive Members

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

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

3.3.4 Comments and Complaints

- (a) Members may comment on any aspect of Council business by:
 - (i) talking to officers;
 - (ii) talking to the Leader or member of the Cabinet;
 - (iii) talking to the Chairman of the Overview and Scrutiny Committee.
- (b) If a member wishes to complain about:

An Officer	The procedure set out in the Member/Officer Protocol may be used (Section 18)
A Member	The procedure set out in Section 17 may be followed

3.4 **Adverse Weather**

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

APPENDIX 1 TO SECTION 3

NORTH HERTFORDSHIRE DISTRICT COUNCIL PETITION SCHEME

1. Who may submit a petition?

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

2. What are the requirements for submitting a petition?

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

- 2.2 A petition must include:

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

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

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

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

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

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

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

4. Why may a petition not be acceptable?

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

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

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

SECTION 4

4. Full Council

4.1 Introduction

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

4.2 The Policy Framework

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

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

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

4.3 The Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decision relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 16 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

4.4 Functions of the Full Council

4.4.1 Only the Full Council will exercise the following functions:

- (a) approving or adopting the Policy Framework;
- (b) approving or adopting the budget;
- (c) Considering a referendum on Council Tax increases and associated matters;

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

- (v) to authorise the acquisition of land or buildings where the purchase price, premium or initial rent (after the expiry of any rent free period) exceeds £2,500,000;
- (w) to make, amend or withdraw Compulsory purchase orders;
- (x) approving and revising the Petition Scheme;
- (y) to consider or receive presentations from members of the public, community groups and outside bodies on matters relating to the District;
- (z) approving the Council Tax Reduction Scheme;
- (aa) agreeing any award which would exceed the financial limits set out in the Council's Pay Policy Statement;
- (bb) to recognise exceptional contributions to the community by groups or individuals.

4.5 Membership

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

4.5.2 Substitution is not possible at meetings of the Council.

4.5.3 Chairing the Council

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

4.5.4 Role and Function of the Chairman

The Chairman of the Council and in his/her absence, the Vice-Chairman will have the following roles and functions:-

(a) Ceremonial Role

The Chairman of the Council:

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

(b) Responsibilities of the Chairman

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

- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and/or Committee Chairmen to account;
- (iv) to encourage public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

4.5.5 Role of Members

The role of Members is described in the document "Members' Role Descriptions" which is available on the Council's website and from the Democratic Services Manager.

4.6 Council Meetings

There are three types of Council meeting:-

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

4.7 Rules of Procedure and Debate

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

4.8 Rules for Conducting Meetings ("Standing Orders")

4.8.1 Annual Meeting of the Council

(a) Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the Chairman or Vice-Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) elect the Vice-Chairman of the Council;
- (iv) approve the minutes of the last meeting;

- (v) receive any announcements from the Chairman and/or the Head of Paid Service;
 - (vi) elect the Leader of the Council once every four years;
 - (vii) note the number of Members to be appointed to the Cabinet and the appointment those Members;
 - (viii) appoint the Overview and Scrutiny Committee, Finance, Audit and Risk Committee, Standards Committee, Licensing and Appeals Committee, Planning Control Committee, Area Committees, Council Tax Setting Committee and Employment Committee and such other Committees and Sub-Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 14 of this Constitution);
 - (ix) appoint the Chairmen and Vice-Chairmen of Committees, with the exception of the Area Committees, subject to any requirements of this Constitution concerning who may be appointed to such positions;
 - (x) agree the Scheme of Delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Section 14 of this Constitution);
 - (xi) approve a programme of ordinary meetings of the Council for the year; and
 - (xii) consider any business set out in the notice convening the meeting.
- (b) Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

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

4.8.2 Ordinary Meetings

There will be six ordinary meetings each year. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chairman, Leader, members of the Cabinet or the Head of Paid Service;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (f) deal with any business of the last Council meeting;
- (g) receive and debate reports from the Cabinet and the Council's Committees and Chairmen of the Area Committees and receive questions and answers on any of those reports. For this purpose the agenda for each meeting of the Council will include a standing item under which such reports can be presented, subject to compliance with the provisions of the Access to Information Rules regarding notice;
- (h) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (i) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee and Finance, Audit and Risk Committee;
- (j) consider motions; and
- (k) deal with questions from Members in accordance with 4.8.11.

4.8.3 Extraordinary Meetings

(a) Calling Extraordinary Meetings

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

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

(b) Business

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

4.8.4 Appointment of Substitute Members of Committees and Sub-Committees

- (a) As well as allocating seats on Committees and Sub-Committees the Council will allocate seats in the same manner for substitute Members.
- (b) For Committees or Sub-Committees listed at 4.8.4(c) below, but not the Cabinet, the Council will appoint a proportionate number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or sub-Committee. The number of substitutes shall be a maximum of 40% of the total of each group's full committee membership rounded up to the nearest whole number.
- (c) The Committees for which substitutes are permitted are; Employment Committee, Planning Control Committee, Overview and Scrutiny Committee, Finance, Audit and Risk Committee, Council Tax Setting Committee, Joint Staff Consultative Committee and the Standards Committee.
- (d) Substitute members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercised by the person they are substituting.
- (e) Substitute members may attend meetings in that capacity only:
 - (i) to take the place of the ordinary member for whom they are designated substitute;
 - (ii) when the ordinary member will be absent for the whole of the meeting;
 - (iii) after notifying the Proper Officer by 12 noon on the day of the meeting of the intended substitution.

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

- (a) The time and place of meetings will be determined by the Proper Officer and notified in the summons.
- (b) Responsibility for setting the agenda lies with the Chairman in consultation with the Proper Officer. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader and Chief Executive².
- (c) The Leader of the Council, Executive Member and relevant officers will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. Any item requested to be included on the agenda by the Chairman shall be included.

². The right to remove does not apply to Statutory Officer reports (CFO & MO) under ss114/114A Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989.

- (d) The Council takes an audio recording of all parts of its committee meetings which the public are entitled to attend. The recording is retained in accordance with the Council's data retention policies.³

4.8.6 Notice of and Summons to Meetings

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules in Section 15. At least five clear days before a meeting, the Proper Officer will send a summons signed by him/her by post to every Member of the Council or leave it at their usual place of residence. The summons will usually be despatched prior to the statutory minimum five clear days and will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available (subject to the requirement at 15.5 that all reports must be available at least five clear days before the meeting unless the report is genuinely urgent).

4.8.7 Chairman of Meeting

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

4.8.8 Quorum

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. In the event that there is a quorum present for subsequent agenda items, the meeting will resume. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.8.9 Presentations by the Public

- (a) Unless otherwise stated in the rules for Full Council or a particular Committee, presentations from the public under the Public Participation item of a Committee agenda must not exceed five minutes in length.
- (b) Points of clarification may be asked by Council or a particular Committee through the Chairman (up to a total of three on each presentation) of the member of the public making a presentation. The Chairman can decline to put a point of clarification if he/she considers this irrelevant or this has been covered during the presentation.
- (c) Public presentations on matters decided in the past 6 months, or those already made to Cabinet, Committees/ Sub-Committees or Council on the same issue prior to a decision will not be accepted without the agreement of the Chairman of the meeting.

³ Paragraph 4.8.5 amended to include (d) as approved by Full Council 03.09.15.

- (d) Exceptions to this rule apply to the Planning Control Committee and the Area Committees (see Appendix 1 to Section 8 and Section 9.8.3 respectively).

4.8.10 Questions by the Public

- (a) General

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

- (b) Order of Questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

- (c) Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than midday, five working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

- (d) Number of Questions

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

- (e) Scope of Questions

The Proper Officer may reject a question if it:

- (i) is not about a matter for which the Council has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (iv) requires the disclosure of confidential or exempt information.

- (f) Record of Questions

- (i) The Proper Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- (ii) Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

- (g) Asking the question at the meeting

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

(h) Supplementary question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds set out in 4.8.10(e) above.

(i) Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer as soon as practicable.

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

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

4.8.11 Questions by Members

(a) On Reports of the Cabinet or Committees

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

(b) Questions on Notice at Full Council

Subject to 4.8.11(d), a Member of the Council may ask:

- (i) the Chairman;
- (ii) a member of the Cabinet;
- (iii) the Chairman of any Committee or Sub-Committee;

a question on any matter in relation to which the Council has powers or duties or which affects the District.

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

Subject to 4.8.11(d), a Member of the Council may ask the Chairman of a Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which affects the District and which falls within the terms of reference of that Committee or Sub-Committee.

(d) Notice of Questions

A member may ask a question under 4.8.11(b) or 4.8.11(c) if either:

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

(e) Scope of Questions

The Chairman may reject a question if it:

- (i) is not about a matter for which the Council has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (iv) requires the disclosure of confidential or exempt information.

(f) Maximum Number of Questions

A Member may ask only one question under 4.8.11(b) or 4.8.11(c) except with the consent of the Chairman of the Council, committee or sub-committee. The maximum number of questions that may be asked at any meeting of the Full Council is three. If there are multiple parts, then each will be treated as an individual question for the purposes of this Rule and if the number of questions exceeds three the questions to be asked shall be determined by ballot to be conducted by the Proper Officer. Any outstanding questions unable to be asked should be addressed in writing to the Proper Officer for a written response to be provided to all Members.

(g) Order of Questions

Questions of which notice has been given under 4.8.11(b) or 4.8.11(c) will be listed on the agenda in the order determined by the Chairman of the Council, Committee or Sub-Committee.

(h) Response

An answer may take the form of:

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

(iii) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

(i) Supplementary question

A Member asking a question under 4.8.11(b) or 4.8.11(c) may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.8.12 Motions on Notice

(a) Notice

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

(b) Motion Set Out in Agenda

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

(c) Scope

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

(d) Debate at Council

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

4.8.13 Motions without Notice

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;

- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Standing Order;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under 4.8.20(c) or to exclude them from the meeting under 4.8.20(d) or (e); and
- (p) to give the consent of the Council where its consent is required by this Constitution.

4.8.14 Rules of Debate

(a) No Speeches until Motion Seconded

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

(b) Right to Require Motion in Writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

(c) Secunder's Speech

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

(d) Content and Length of Speeches

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

(e) When a Member may Speak Again

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

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

(f) Amendments to Motions

- (i) An amendment to a motion must be relevant to the motion and will either be:
 - A. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - B. to leave out words;
 - C. to leave out words and insert or add others; or
 - D. to insert or add words

as long as the effect of 4.8.14(f)(i)B to 4.8.14(f)(i)D is not to negate the motion.

- (ii) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (iii) If an amendment is not carried, other amendments to the original motion may be moved.
- (iv) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (v) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put the substantive motion as amended for debate and to the vote.

(g) Alteration of Motion

- (i) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

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

(h) Withdrawal of Motion

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

(i) Right of Reply

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

(j) Motions which may be Moved During Debate

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

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to proceed to the next business;
- (iv) that the question be now put;
- (v) to adjourn a debate;
- (vi) to adjourn a meeting;
- (vii) to exclude the public and press in accordance with the Access to Information Rules; and
- (viii) to not hear further a Member named under 4.8.20(c) or to exclude them from the meeting under 4.8.20(d).

(k) Closure Motions

- (i) A Member may move, without comment, the following motions at the end of a speech of another Member;
 - A. to proceed to the next business;
 - B. to ask that the question be now put;

- C. to adjourn a debate; or
 - D. to adjourn a meeting.
- (ii) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
 - (iii) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting the motion to the vote.
 - (iv) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

(l) Point of Order

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

(m) Personal Explanation

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

4.8.15 Previous Decisions and Motions

(a) Motion to Rescind a Previous Decision

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

(b) Motion Similar to One Previously Rejected

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

(c) There shall be an exception to 4.8.15 (a) and (b) for motions moved as part of a Budget proposal at the Full Council meeting at which the annual

budget is set. Such a motion must be made in accordance with the procedures set out in 4.8.14.

4.8.16 Voting

(a) Majority

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

(b) Chairman's Casting Vote

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

(c) Method of Voting

Unless a recorded vote is demanded under 4.8.16(e) the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

(d) Ballots

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

(e) Recorded Vote

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

(f) Right to Require Individual Vote to be Recorded

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

(g) Voting on Appointments

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

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

A recorded vote must be taken when a budget decision is made. For the avoidance of doubt the application of this rule and necessity for a recorded vote will be set out in any relevant report. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded

in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

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

- (i) makes a calculation (whether originally or by way of substitute) of: council tax; basic amount of tax; additional calculations of special items to part only areas (precept or special expenses); different tax for different bands; substitute calculations; amounts payable by each billing authority;⁴ or
- (ii) issues a precept⁵ relating to (i) above and this includes a meeting where the calculation or issuing a precept is included as an item of business on the agenda.

References to a vote means voting on any decision related to (i) and (ii) above.

4.8.17 Minutes

(a) Signing the Minutes

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

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

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

(c) Form of Minutes

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

4.8.18 Public Petitions – Full Council Debate

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

(b) Petitions under this Standing Order 4.8.18 shall be taken immediately before reports but if a petition relates to a particular item on a report then it shall be presented immediately before consideration thereof.

4.8.19 Exclusion of Public

⁴ As defined under sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992.

⁵ Under Chapter 4 of Part 1 of the Local Government Finance Act 1992

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Section 15 of this Constitution or Standing Order 4.8.21 (Disturbance by Public).

4.8.20 Members' Conduct

(a) Standing to Speak at Meetings

When a Member speaks at Full Council he/she must stand and address the meeting through the Chairman. If more than one Member signifies their intention to speak, the Chairman will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

(b) Chairman Speaking

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

(c) Member not to be Heard Further

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

(d) Member to Leave the Meeting

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

(e) If a Member attends a Meeting, where any business of the meeting relates to or is likely to affect that Member's Disclosable Pecuniary Interest⁶ (DPI) or a Declarable Interest which in the latter case is so significant (both as described in the NHDC Code of Conduct), then the Member:

(i) must not participate in any discussion on that item of business;

(ii) must not vote on that item of business;

(iii) must retire from the Meeting, until the discussion and vote on that item of business has taken place.

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

(f) General Disturbance

⁶ Without a dispensation from the Monitoring Officer.

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

(f) Recording Meetings

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

4.8.21 Disturbance by Public

(a) Removal of Member of the Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

(b) Clearance of Part of Meeting Room

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

(c) Recording Meetings

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

4.8.22 Suspension and Amendment of Standing Orders

(a) Suspension

All of these Standing Orders, except 4.8.16(f),(h) and 4.8.17(b) may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

(b) Amendment

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

4.8.23 Decision Making

(a) In order to vote on an agenda item at any meeting of the Council or a Committee or Sub-Committee, a Member must be present in the room for the entirety of the debate and consideration of that item.

(b) All decisions of the Council and Committees will be made in accordance with the following principles:

(i) Proportionality (that is the action must be proportionate to the desired outcome);

- (ii) Due consultation and the taking of professional advice from officers;
- (iii) Respect for human rights;
- (iv) A presumption in favour of openness; and
- (v) Clarity of aims and desired outcomes.

4.8.24 Application to Committees and Sub-Committees

- (a) All of these Standing Orders apply to meetings of Full Council.
- (b) The following Standing Orders apply to Cabinet: 4.8.6; 4.8.9 - 4.8.11(a),(e)-(h); 4.8.13(b)-(d), (f)-(l),(n)-(p); 4.8.14(a),(b),(f),(j),(l); 4.8.15 - 4.8.17; 4.8.19 - 4.8.21 (but not 4.8.20(a)); and 4.8.23.
- (c) The following Standing Orders apply to Committees and Sub-Committees (excluding the Employment Panel): 4.8.5 - 4.8.11(a),(c)-(i); 4.8.13(b)-(d),(f)-(l), (n)-(p); 4.8.14(a),(b),(d),(f)-(h), (j), (l); 4.8.15 - 4.8.17; 4.8.19 - 4.8.22 (but not 4.8.20(a)); and 4.8.23.
- (d) The following Standing Orders apply to the Employment Panel: 4.8.2(a), 4.8.5(a)(d), 4.8.6 (note the Panel must be appointed 20 days before the meeting under 12.8.12), 4.8.13(a)(b)(c)(l)(m)(n), 4.8.19 and 4.8.23.

SECTION 5

5. The Cabinet

5.1 Introduction

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

5.2 Form and Composition of the Cabinet

The Cabinet will consist of:

- 5.2.1 the Leader of the Council (the "Leader"); and
- 5.2.2 at least two but not more than nine (or other parameters set by legislation) Councillors appointed to the Cabinet as Executive Members by the Leader.

5.3 Leader

5.3.1 Election

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

5.3.2 Term of Office

The Leader will hold office until the fourth anniversary of his/her appointment, or until any of the following events arise:

- (a) He/she resigns from the office;
- (b) He/she is suspended from being a Councillor;
- (c) He/she is no longer a Councillor; or
- (d) Where the Council passes a resolution removing him/her from office.

5.3.3 Role of the Leader

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

5.3.4 The Cabinet Scheme of Delegations

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

5.3.5 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting five clear days before it takes place, and other conditions contained in Section 5.9, the Leader can call meetings of the Cabinet at such times and places as he/she chooses

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

5.3.6 Chairing Cabinet Meetings

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

5.3.7 Appointments of Representatives on Outside Bodies

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

5.4 Deputy Leader

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

- (a) He/she *resigns* from office;
- (b) The Leader removes the Deputy Leader from office;
- (c) He/she is suspended from being a Councillor; or
- (d) He/she is no longer a Councillor.

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

5.5 Other Cabinet Members

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

- 5.5.1 he/she resigns from that office;
- 5.5.2 he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate;
- 5.5.3 he/she is suspended from being a Councillor; or
- 5.5.4 he/she ceases to be a Councillor.

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

5.6 Functions of Cabinet

The Cabinet may exercise the following functions:-

By resolution

- 5.6.1 To prepare and agree to implement policies and strategies other than those reserved to Council.
- 5.6.2 To consider, at least annually, the level of reserves, provisions, and balances held by the Authority and recommend any changes to the Council.

- 5.6.3 To take decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council.
- 5.6.4 To exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- 5.6.5 To deal with matters affecting the salaries and conditions of employment of Chief Officers.
- 5.6.6 To consider and respond to recommendations and reports from the statutory officers.
- 5.6.7 To monitor quarterly expenditure on the capital programme and agree adjustments within the overall budgetary framework.
- 5.6.8 To monitor quarterly revenue expenditure and agree adjustments within the overall budgetary framework.
- 5.6.9 To monitor quarterly the Treasury Management Strategy and agree adjustments within the policy framework.
- 5.6.10 To write-off debts in accordance with the Financial Regulations.
- 5.6.11 To approve those major service developments or reductions which also constitute Key Decisions.
- 5.6.12 To be kept informed of any issues raised by the Local (External) Auditor.
- 5.6.13 To consider the reports of external review bodies on key aspects of overall service delivery.
- 5.6.14 To carry out the Authority's responsibilities for the General Power of Competence pursuant to section 1 of the Localism Act 2011 for the benefit of the Authority, its area or persons resident in its area and increasing the availability and equality of access to employment.
- 5.6.15 To oversee the provision of all the Council's services other than those functions reserved to the Council.
- 5.6.16 To manage and maintain the Authority's accommodation.
- 5.6.17 To exercise the Authority's powers for planning and responding to civil emergencies.
- 5.6.18 To exercise the Authority's functions as Local Planning Authority and to receive reports on: strategic planning matters, applications for, approval/ designation, revocation (or recommend revocation of) neighbourhood plans and orders, (except to the extent that those functions are by law the responsibility of the Council or delegated to the Strategic Director of Planning Housing and Enterprise).
- 5.6.19 To oversee the Authority's overall policy on the voluntary and community sector.
- 5.6.20 To approve the purchase or appropriation of land and buildings where the sale price, premium or initial rent (after the expiry of any rent free period) exceeds £250,000 and does not exceed £2,500,000.

- 5.6.21 To dispose of land or buildings where the purchase price, premium or initial rent (after the expiry of any rent free period) which exceeds £250,000 but does not exceed £2,500,000.
- 5.6.22 To accept tenders which exceed budgetary provision.
- 5.6.23 To receive reports on contract overspends in accordance with limits set out in the Financial Regulations and agree the action to be taken.
- 5.6.24 To promote and develop external partnerships to meet strategic objectives.
- 5.6.25 To exercise the powers and duties of the Authority under Section 13 and 14 of the Public Order Act 1986.
- 5.6.26 To confer with other local authorities, government departments, statutory bodies, voluntary bodies, the police or other external agencies in order to discharge the responsibilities vested in the Cabinet.
- 5.6.27 To deal with all local choice functions set out in the Constitution.
- 5.6.28 To make decisions where a policy or strategy does not exist.
- 5.6.29 To approve any waiver of Contract Procurement Rules in accordance with the adopted policy.
- 5.6.30 To determine charges for car parking.
- 5.6.31 To make a decision or consider any matter referred to it by an Area Committee.
- 5.6.32 To consider or receive presentations from members of the public, community groups and outside bodies on matters relating to the District.
- 5.6.33 To make, renew and revoke Public Spaces Protection Orders.
- 5.6.34 To agree to the establishment or wind up of a Council wholly or partly owned Local Authority Company, and to approve investment, loans, resource arrangements and asset transfers, act as corporate shareholder, save as otherwise delegated to the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder), Executive Members or Officers under the Sub-Committee terms of reference.

By recommendation to Council

- 5.6.35 To advise the Council in the formulation of those policies within the Council's terms of reference.
- 5.6.36 The annual budget, including the capital and revenue budgets.
- 5.6.37 To make proposals for the purchase, sale or appropriation of land which exceeds Cabinet limits.
- 5.6.38 To advise on the senior management structure of the Council.
- 5.6.39 To advise on the promotion, adoption or opposition to local legislation.
- 5.6.40 The Council Tax Reduction Scheme.

5.7 Delegation of Functions

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

- 5.7.1 the Cabinet as a whole;
- 5.7.2 a Committee of the Cabinet (comprising executive members only);
- 5.7.3 an individual Cabinet Member;
- 5.7.4 a joint committee;
- 5.7.5 Another local authority or the executive of another local authority;
- 5.7.6 A delegated Officer.

5.8 Proceedings of the Cabinet

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Section 5.9.

5.9 Rules for Conducting Meetings - Cabinet Procedure Rules

5.9.1 How does the Cabinet Operate?

(a) Who May Make Executive Decisions?

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

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

(b) Delegation by the Leader

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

- (i) The names, addresses and Wards of the people appointed to the Cabinet by the Leader;

- (ii) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
 - (iii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
 - (iv) the nature and extent of any delegation of Executive Functions to Area Committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
 - (v) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.
- (c) Sub-Delegation of Executive Functions
- (i) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive Function, they may delegate further to an Area Committee, joint arrangements or an Officer.
 - (ii) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to an Officer.
 - (iii) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
 - (iv) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (d) The Council's Scheme of Delegation and Executive Functions
- (i) Subject to below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council.
 - (ii) If the Leader is able to decide whether to delegate Executive Functions, he/she may amend the Scheme of Delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body or Committee. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
 - (iii) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.
- (e) Conflicts of Interest

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

(f) Frequency and location of Cabinet Meetings

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

(g) Transparency of Cabinet Meetings

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

(h) Quorum

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

(i) Decision making

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

5.9.2 How are Cabinet Meetings Conducted?

(a) Who Presides?

If the Leader is present, he/she will preside. In his/her absence, the Deputy Leader will preside.

(b) Who May Attend?

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

(c) What is considered?

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

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

(d) Consultation

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

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

- (i) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter, subject to the procedures set out in rule 4.8.5.
- (ii) Items for consideration by the cabinet may also be included by the Proper Officer in the following circumstances set out in 5.9.2(e)(iii) to (vi) below.
- (iii) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- (iv) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda

of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.

- (v) The Council, the Overview and Scrutiny Committee, the Finance, Audit and Risk Committee or an Area Committee may request the Proper Officer to include an item on the agenda of the next available meeting of the Cabinet for consideration.
- (vi) A Member may request the Proper Officer to include an item on the agenda of the next available meeting of the Cabinet for consideration, subject to the Leader's consent.

5.10 Cabinet Sub-Committee (Council Charities)

5.10.1 Membership

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

5.10.2 Quorum

3

5.10.3 Meetings

Ad hoc.

5.10.4 Roles and Functions:

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

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

any of the Sub-Committee functions, powers or duties.	consultation with the Chairman of Sub-Committee where possible.
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5.11 Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder)

5.11.1 Membership

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

5.11.2 Quorum

3

5.11.3 Meetings

Ad hoc

5.10.4 Roles and Functions

- (a) To represent the Council's interests as shareholder in wholly owned and other companies.
- (b) To undertake all functions of the Council as shareholder under the Company Act, unless delegated otherwise.
- (c) To ensure that actions taken by the companies accord with the interests of the Council as shareholder and contribute to the Council's objectives.
- (d) To consider (and approve in principle where appropriate) any proposed or amended company documentation (save minor administrative documentation) including Memorandum and Articles of association and shareholder agreements.
- (e) To undertake the actions, activities and responsibilities as shareholder provided for and required by any Memorandum and Articles of Association and shareholder agreements.
- (f) To provide, or withhold, consent as appropriate (in principle, where formal company ratification is required) on those matters requiring shareholder consent as defined in the Memorandum and Articles of Association and shareholders agreements.
- (g) In the specific case of a wholly owned company to:
 - (i) review the Business Plan prepared by the Company prior to its adoption by the company.
 - (ii) monitor performance and financial delivery against business plan;

- (iii) review and agree (in principle where formal company ratification is required) any proposals to undertake activities outside of the District, unless already allowed for within Memorandum and Articles of association;
 - (iv) to agree to appoint or dismiss (in principle in so far as company ratification is required) any Director of the company (where power is reserved to the shareholder).
- (h) To make recommendations to Cabinet on the investment, loans, resource arrangements and asset transfers to companies;
- (i) Delegating specific functions, other than those listed below, to Officers of the Council to increase commercial flexibility.

Delegated Powers	Delegated Members and Officers
Approval of minor administrative documentation	Chairman of Sub-Committee in consultation with the Lead Officer for the Company concerned
Signing of documentation on behalf of the Council	Lead Officer for the Company concerned
In cases of emergency or urgency to carry out any of the Sub-Committee functions, powers or duties	Chief Finance Officer or Monitoring Officer in consultation with the Chairman of Sub-Committee where possible.

SECTION 6

6. Scrutiny

6.1 Introduction

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

6.2 Overview and Scrutiny Committee

6.2.1 Membership

- (a) No more than 16 Members shall be appointed to the Overview and Scrutiny Committee.
- (b) Neither the Chairman of the Council nor any members of the Cabinet may be members of the Overview and Scrutiny Committee. Moreover, no Member may be involved in scrutinising a decision in which he/she has been directly involved.
- (c) The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of non-voting co-optees.

6.2.2 Meetings of the Overview and Scrutiny Committee

There shall be six regular meetings of the Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary meeting of the Overview and Scrutiny Committee may be called by its Chairman (or in his or her absence, the Vice-Chairman) or by the Proper Officer, if he or she considers it necessary or appropriate.

6.2.3 Quorum

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

6.2.4 Scrutiny Support

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

6.2.5 Work Programme

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

6.2.6 Annual Report

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

6.2.7 Terms of Reference

The Overview and Scrutiny Committee has the following functions:

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

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

- (x) To scrutinise decisions prior to implementation in accordance with the Council's adopted call-in procedure.
- (y) Consider reports relating to the authority's safeguarding responsibilities.

6.3 Rules for Conducting Meetings – Scrutiny Procedure Rules

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

6.3.2 Agenda Items:

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

6.3.3 Limitations on Scrutiny

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

- (i) A planning or licensing decision;
- (ii) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (but not including the right to complain to the ombudsman);
- (iii) Any matter which is vexatious is substantially the same as a call in previously reviewed by a meeting of the Committee in the last six months, vexatious, discriminatory or unreasonable;

- (iv) The decision as to whether the call-in is valid or falls within (i)-(iii) above rests with the Proper Officer or Monitoring Officer in his/her absence.

6.3.4 Procedure at Overview and Scrutiny Committee Meetings

- (a) The Overview and Scrutiny Committee shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations see section 6.3.12);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) The Overview and Scrutiny Committee may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:
 - (i) that the business be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;
 - (iii) that any investigation be conducted so as to maximise the efficiency of the investigation and analysis; and
 - (iv) that the business be conducted as efficiently as possible.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
- (d) These Scrutiny Procedure Rules shall apply to any Sub-Committees of an Overview and Scrutiny Committee as they apply to that Committee save that the functions of call-in of Executive Decisions under 6.3.11 shall be reserved to the full Overview and Scrutiny Committee.

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

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

- (a) The Notice of Call-In will be provided to the Overview and Scrutiny Committee, together with the Minutes (or delegated decision record) and reports relevant to the decision called in;

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

6.3.6 Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Policy Framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at their next ordinary meeting.

6.3.7 Making sure that Scrutiny Reports are considered by the Cabinet

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

6.3.8 Rights of the Overview and Scrutiny Committee Members to Documents

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

6.3.9 Members and Officers Giving Account

- (a) The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (as set out in the Terms of Reference). As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any appropriate Officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance,
 and it is the duty of those persons to attend if so required.
- (b) Where any Member or Officer is required to attend Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer, if necessary in writing, giving at least five working days' notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.
- (c) Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance, within a maximum of ten days from the original date.

6.3.10 Attendance by Others

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

6.3.11 Call-In

- (a) Rules

- (i) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, or an Executive Decision is made by an Officer with delegated authority, the decision shall be published by the Proper Officer, including on the Council's web-site, and shall be available at the main offices of the Council normally within two clear working days of it being made. Notice of all decisions that are required to be published shall be sent to all Members of the Council on the Friday of the week in which the decision was taken. In the case of Individual Executive decisions, the Record of Decision will be forwarded to the Chairman of Overview and Scrutiny Committee at the same time as this is forwarded to the Proper Officer (unless the urgency provisions apply – see below).
- (ii) That notice will bear the date on which it is published by the Proper Officer. The notice will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless within that time the Proper Officer is given written notice requesting that the decision be referred to the Overview and Scrutiny Committee.
- (iii) During that period the Chairman or any five Members of the Council may submit, in writing, a request to the Proper Officer to call-in a decision for scrutiny specifying the grounds for the call-in.
- (iv) The Proper Officer shall then notify the decision taker of the call-in. The Proper Officer shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the Chairman or Vice-Chairman of the Committee, and in any case to be held within ten clear working days of the decision to call-in (only in exceptional circumstances will the Chairman of the Overview and Scrutiny Committee consider extending this time limit).
- (v) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further twenty clear working days, amending the decision or not, before adopting a final decision.
- (vi) If following an objection to the decision, the Overview and Scrutiny Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further ten working day period, whichever is the earlier.
- (vii) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an Executive Decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. If that is the case, the Council will refer any decisions to which it objects back to the decision making person

or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, or a Committee of it, a meeting will be convened to reconsider within five working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within three working days of the Council's request.

- (viii) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.
- (ix) Where an executive decision has been taken by an Area Committee, then the right of call-in shall extend to any five Members of another Area Committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their Committee relates. In such cases, those five Members must make a written request to the Proper Officer to call-in the decision. He/she shall call a meeting of the relevant Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within five days of the decision to call-in. All other provisions relating to call-in shall apply as if the call-in had been exercised by the Chairman of the Overview and Scrutiny Committee or any five Members of the Council.

(b) Call-In and Urgency

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

6.3.12 The Party Whip

If a member of the Overview and Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, that member must declare the existence of the whip and the nature of it before the commencement of

deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

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

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

6.3.14 Councillor Call for Action

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

APPENDIX 1 TO SECTION 6

Councillor Call for Action - Guidance for Councillors

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

information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.

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

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

SECTION 7

7. THE STANDARDS COMMITTEE

Introduction

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

Composition

7.2 Membership

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

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

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

7.3 Number of Meetings

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

7.4 Quorum

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

7.5 Terms of Reference

The Standards Committee will have the following roles and functions:

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

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

7.6 Standards matters

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

7.7 STANDARDS SUB-COMMITTEE

7.7.1 Membership

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

7.7.2 Quorum

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

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

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

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

7.7.6 Terms of Reference

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

7.8 Rules of Procedure and Debate

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

SECTION 8

8. Regulatory Committees

8.1 Introduction

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

8.2 Licensing and Appeals Committee

8.2.1 Membership

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

8.2.2 Quorum

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

8.2.3 Meetings

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

- (a) to consider all Licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Strategic Director of Planning Housing and Enterprise.
- (b) to make recommendations to Council on the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005
- (c) to consider appeals against decisions made by the Employment Committee relating to the conduct, capability or other substantial issue concerning all chief officers where the action to be taken is short of dismissal.

8.3 Licensing Sub-Committee

8.3.1 Membership

Three (3) Councillors shall be appointed to a Licensing Sub-Committee.

8.3.2 Quorum

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

These bodies deal with licensing functions delegated from the Licensing and Appeals Committee in accordance with the Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982. Please note that the hearing is a

public meeting, but the Sub-Committee's deliberations take place privately, prior to resuming the public meeting to announce its decision.

8.3.3 Licensing Act 2003

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

Gambling Act 2005

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

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

Local Government (Miscellaneous Provisions) Act 1982 (as amended)

When an objection has been received to an application for a sexual entertainment venue.

8.4 Planning Control Committee

8.4.1 Membership

No more than fifteen (15) members shall be appointed to the Planning Control Committee.

[Note - members may be requested to present to a Planning Appeal any Planning Control Committee objections to a planning application.]

8.4.2 Quorum

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

8.4.3 Meetings

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

8.4.4 The Planning Control Committee exercises those functions of the local planning authority not delegated to the Strategic Director of Planning Housing and Enterprise. The Strategic Director of Planning, Housing and Enterprise may refer a matter to the Planning Control Committee if the application is controversial or of significant public interest or is likely to have a significant impact on the environment.

8.4.5 The Planning Control Committee shall determine⁷:

- (a) any residential development with a site area of 0.5 hectares or greater;
- (b) any development with greater than 500sq. metres floorspace on a site of more than 1 hectare or other operational development with a site area of 1 hectare or greater;
- (c) any other planning application, application for advertisement consent, listed building consent or conservation area consent where:
 - (i) a statutory consultee has submitted a written opinion contrary to the recommendation of the Strategic Director of Planning, Housing and Enterprise and which is a valid material planning consideration in the opinion of the Head of Development & Building Control; or
 - (ii) a parish or town council⁸ has submitted a written opinion contrary to the recommendation of the Strategic Director of Planning, Housing and Enterprise:
 - A. which is a valid material planning consideration in the opinion of the Head of Development & Building Control; and

⁷This does not apply to notifications to the Council for development that would fall under the Town and Country Planning (General Permitted Development) (England) Order 2015

⁸ NB Parish meetings do not have this right.

- B. provided that the written opinion of the parish or town council is supported in writing by at least one Ward Member⁹ within five working days of the Ward Member being notified of the representation
- (iii) within three (3) weeks of the matter appearing in the weekly lists of applications a Member (without any declarable interest) requests in writing the matter to be determined by the Committee:
 - 1 supported by reasons based upon one or more material planning considerations; or
 - 2 supported by reasons that the matter is in the wider public interest.

Where a member makes such a request they should attend the relevant Committee meeting to present their reasons/grounds to the Committee.

Members should not require an application to be referred to the Planning Control Committee for decision solely to enable a person to speak.

- (d) applications submitted by the Council for its own development other than those for which no objection has been received;
- (e) the granting of orders to revoke or modify planning permissions where compensation may be payable;
- (f) the granting of certificates of alternative development;
- (g) any application made by an elected member of the Council;
- (h) any application made by an employee of the Council where applications are other than for householder development;
- (i) any application for householder*¹⁰ development made by an employee of the Planning and Building Control Service or Chief Officer;
- (j) to receive updates on Planning Appeals lodged and Appeal Decisions made;
- (k) to receive quarterly updates on planning enforcement matters;
- (l) to consider whether to confirm tree preservation orders to which objections have been received.

⁹ A Ward Member with a declarable Interest must not be involved in the referral to Committee

¹⁰ Householder development includes Planning Applications, Listed Building consents, TCA/TPO's, Certificates of Lawful Use, Certificates of Lawful Development and Conservation Area Consents

APPENDIX 1 TO SECTION 8

PROCEDURE FOR PUBLIC PARTICIPATION IN THE CONSIDERATION BY THE PLANNING CONTROL COMMITTEE OF APPLICATIONS MADE UNDER THE TOWN AND COUNTRY PLANNING AND RELATED LEGISLATION

1. SCOPE OF SCHEME

- 1.1 The scheme should apply solely to applications, made under the Town and Country Planning, Listed Building and Conservation Area Acts and related legislation, which are the subject of a written report to the Planning Control Committee and not to those applications which fall to be determined under officer delegation.
- 1.2 The right to address the Committee should be confined to the applicant or his agent or representative, persons who have previously made written representations to the Authority either for or against the application proposals and the local Member of the County Council. In the case of objectors or supporters (including the applicant or agent) where more than one person in each group wishes to speak, they should be strongly encouraged to nominate one of their number to address the Committee in order to make the most effective use of their allotted time.
- 1.3 The time slot allocated to each group of speakers should not exceed 5 minutes. This time limit should be strictly adhered to in order to ensure that the business of the Committee can be transacted as expeditiously as is reasonably possible. It is suggested that the Committee & Member Services Officer has the responsibility for time-keeping rather than the Chairman.
- 1.4 The Chairman of the Committee should have the right to stop persons from speaking at any time if he/she considers the matters being presented to be defamatory, improper or outside the scope of the responsibilities of the Committee. This would be additional to the Chairman exercising discretion as to whether a meeting should be suspended for the purpose of maintaining order.
- 1.5 Persons should only be allowed to address the Planning Control Committee if they have previously registered with the Council's Democratic Services Manager by 12 noon on the day of the meeting but not before the agenda of the meeting has been made public (normally five working days prior to the meeting). They may speak at subsequent meetings, in the case of a decision being deferred, unless they have spoken at the first meeting. If more than one person registers their wish to speak, they should be advised by the Democratic Services Manager to contact the first person who has registered in an endeavour to agree how to share their 5 minutes.
- 1.6 Persons addressing a Committee should not be permitted to put questions to the Chairman, Members or officers. Likewise, that person should not, normally, be questioned as this could give the opportunity for extending their presentation which would be unfair on the other parties.

2. PROCEDURE AT MEETINGS

- 2.1 Those persons who have registered to speak should arrive at least 10 minutes before the meeting in order to make contact with the Committee & Member Services Officer.

- 2.2 At the appropriate point in the meeting, the Chairman announces the item and invites the planning officer to speak.
- 2.3 The planning officer introduces the proposal, drawing attention to significant issues and up-dating, if necessary, the written agenda report.
- 2.4 The representative(s) of those persons objecting to the application is/are invited to address the Committee for up to 5 minutes in total.
- 2.5 The applicant, applicant's agent or the representative of those persons supporting the application is/are invited to address the Committee for up to 5 minutes in total.
- 2.6 Points of clarification may be asked by the Committee through the Chairman (up to a total of three on each representation) of the objector(s), applicant, applicant's agent or representative. This limit does not apply to points of clarification asked of the planning officer (see 2.7 below). The Chairman can decline to put a point of clarification if he/she considers this irrelevant in planning term or that this has been covered in the planning officer's report or during any of the representations.
- 2.7 The Chairman will invite the planning officer to comment on any of the issues raised.
- 2.8 The Committee will debate the proposal and then make its decision.

APPENDIX 2 TO SECTION 8

PROCEDURE FOR PARTICIPATION OF NON-PLANNING CONTROL COMMITTEE MEMBERS IN THE CONSIDERATION BY THE PLANNING CONTROL COMMITTEE OF APPLICATIONS MADE UNDER THE TOWN AND COUNTRY PLANNING ACT AND RELATED LEGISLATION

1. SCOPE OF SCHEME

- 1.1 The scheme should apply solely to applications, made under the Town and Country Planning, Listed Building and Conservation Area Acts and related legislation, which are the subject of a written report to the Planning Control Committee and not to those applications which fall to be determined under officer delegation.
- 1.2 The right of Non-Planning Control Committee Members to address the Committee should be in the following circumstances:
 - 1.2.1 the Ward Member(s) in whose ward the application site is located;
 - 1.2.2 on applications which are considered to be of significance within the wider area, and with the agreement of the Chairman of the Committee, other Members may address the Committee in addition to the relevant Ward Members;
 - 1.2.3 on applications in Wards where all Ward Members serve on the Planning Control Committee (including single Member Wards), such Members may nominate another Member to address the Committee in the role of advocate (see footnote 1 below) either for or against the application.
- 1.3 There will be a maximum of two “groups” of speakers (i.e. those supporting and those objecting) for each application. The time slot allocated to each “group” of speakers should not exceed 5 minutes except where the applications are Major Applications (see footnote 2 below) where the time for each “group” will not exceed 10 minutes. In cases where Major Applications are of significant public interest the Chairman can, in advance of the meeting, extend the maximum 10 minute period. Where this discretion is to be exercised the Democratic Services Manager will be informed. If more than one Member registers their wish to speak either for or against the application, they should be advised by the Democratic Services Manager to contact the first Member who has registered in an endeavour to agree how to make best use of their total time. This time limit should be strictly adhered to in order to ensure that the business of the Committee can be transacted as expeditiously as is reasonably possible. It is suggested that the Committee & Member Services Officer has the responsibility for time-keeping rather than the Chairman.
- 1.4 The Chairman of the Committee should have the right to stop persons from speaking at any time if he/she considers the matters being presented to be defamatory, improper or outside the scope of the responsibilities of the Committee. This would be additional to the Chairman exercising discretion as to whether a meeting should be suspended for the purpose of maintaining order.
- 1.5 Members should only be allowed to address the Planning Control Committee if they have previously registered with the Council's Democratic Services Manager by 12 noon

on the day of the meeting, but not before the agenda of the meeting has been made public (normally five working days prior to the meeting). They may speak at subsequent meetings, in the case of a decision being deferred.

- 1.6 Members addressing a Committee should not be permitted to put questions to the Chairman, Committee Members or officers. Likewise, that Member should not, normally, be questioned as this could give the opportunity for extending their presentation which would be unfair on the other parties.
- 1.7 Members should not require an application to be referred to the Planning Control Committee for decision solely to enable a person to speak.

2. **PROCEDURE AT MEETINGS**

- 2.1 Those Members who have registered to speak should arrive at least 10 minutes before the meeting in order to make contact with the Committee & Member Services Officer.
- 2.2 At the appropriate point in the meeting, the Chairman announces the item and invites the planning officer to speak.
- 2.3 The planning officer introduces the proposal, drawing attention to significant issues and up-dating, if necessary, the written agenda report.
- 2.4 The representative(s) of those members of the public objecting to the application is/are invited to address the Committee for up to 5 minutes in total. Any Non-Planning Control Committee Members objecting to the application is/are then invited to address the Committee for up to 5 minutes in total or 10 minutes in total where the application is a Major Application (see footnote 2 below). In cases where Major Applications are of significant public interest the Chairman can, in advance of the meeting, extend the maximum 10 minute period. Where this discretion is to be exercised the Democratic Services Manager will be informed.
- 2.5 The applicant, applicant's agent or the representative of those persons supporting the application is/are invited to address the Committee for up to 5 minutes in total. Any Non-Planning Control Committee Members supporting the application is/are then invited to address the Committee for up to 5 minutes in total or 10 minutes in total where the application is a Major Application. In cases where Major Applications are of significant public interest the Chairman can, in advance of the meeting, extend the maximum 10 minute period. Where this discretion is to be exercised the Democratic Services Manager will be informed.
- 2.6 The Chairman will invite the planning officer to comment on any of the issues raised.
- 2.7 The Committee will debate the proposal and then make its decision.

Footnote 1

In this context 'advocate' is a Member championing their constituents' views upon an application to the Committee and is not a legal adversarial role.

Footnote 2

"Major Application" is defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015/595 as:

- (c) the provision of dwelling houses where –
 - (i) the number of dwelling houses to be provided is 10 or more;
 - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within (c) (i);
- (d) the provision of building or buildings where the floor space to be created by the development is 1000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more

In addition, there may be circumstances outside these definitions where the application is of significant public interest, which will be treated as Major Applications. The determination of this will be a decision for the Chairman.

APPENDIX 3 TO SECTION 8

NORTH HERTFORDSHIRE DISTRICT COUNCIL'S MEMBER'S PLANNING CODE OF GOOD PRACTICE¹¹ [Adopted by the Council on 3 September 2015]

Introduction

The aim of this Planning Code of Good Practice (the 'Code'): to ensure that there are no grounds for suggesting that a decision is biased, partial or not well founded in the planning process.

One of the key purposes of the planning system is to regulate development and use of land for the public interest. If you are a Member of the Planning Control Committee ('the Committee') your role is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. If you are any other NHDC Member, your role is to ensure that a democratic, fair and transparent process is followed through your role as Ward advocate.

When the Code applies: this Code applies to all Members at all times when involving themselves in the planning process, whether you are a Member of the Committee or not (this includes pre-application discussions, briefings, when taking part in the decision making meetings of the Council or when involved on less formal occasions, such as meetings with Officers, the public, consultative meetings and acting as Ward advocate). This includes not only **planning applications/ proposals**, but also **planning enforcement** or **site specific policy issues**.

If you have any doubts about how this Code applies to you please seek advice from the Monitoring Officer or one of his/her staff, preferably well before any meeting takes place. As planning is an area of Council business that the public are interested in, remember to consider how your actions will be viewed by them.

1. Relationship to the Members' Code of Conduct ('Code of Conduct')

- **Do** apply the Code of Conduct first, as this must always be complied with. Frequently specific issues will arise on interests: Disclosable Pecuniary Interests ('DPs') and any Declarable interests (identified at 4.6). However, other matters such as making sure you are not seen to misuse your position, or disclose sensitive confidential information – and abiding by the seven Principles of Public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership set out under 3.1, will also be relevant.
- **Do** then apply this Code, as it seeks to explain and supplement the Code of Conduct and in basic terms the law on the planning process. If you do not abide by this Code, you may put:
 - the Council at risk of appeals, or legal challenges on the legality of the decision or complaints of maladministration; and

¹¹ Based on the Lawyers in Local Government Model Council Members' Planning Code or Protocol 2014.

- yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions - a complaint may be made to the police to consider criminal proceedings and/ or the Standards Committee.

2. Development Proposals and Interests

The Principle of Integrity is key to decision making and is defined in these terms:

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**”.*

So:

- **Don’t** get involved at any stage of the determination of an application if you have an interest in it. **That includes involvement in pre-application discussions or negotiations with an Officer or Members.** If you have an interest you may nominate someone to make representations on your behalf. You may make representations in writing. Members with a DPI or Declarable Interest will not be notified of pre-application advice, if Officers are aware of the interest.
- **Don’t** seek or accept any preferential treatment, or place yourself in a position that could lead the public to conclude that you are receiving preferential treatment, because you are a Councillor.
- **Don’t** act as Ward advocate if you have a DPI or Declarable Interest.
- **Do** notify the Monitoring Officer in writing where it is clear you have a DPI or other Declarable Interest and the existence and nature to other relevant Officers.

Also note:

If this is your DPI:

- you should send the notification no later than submission of that application or as soon as you are aware that the application has been made (e.g. if this is you or your spouse’s employer you may only become aware at a later date);
- **if this is your application** this will always be referred to the Committee for decision and not dealt with by Officers under delegated powers;
- you must not get involved in the processing of the application; and

- you should use an agent to liaise and correspond on your behalf and deal with Officers, attend and speak on your behalf in the public speaking session at Committee.

If this is a Declarable Interest:

- Do not get involved in trying to refer the proposal to Committee.
- Ask another Councillor to deal with this with Officers or speaking at Committee as Ward advocate.
- **Exceptions are detailed below for Multi-hatted Members.**

3. Pre-determination, bias, reasonableness and fettering discretion in the Planning Process

You are a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed towards an outcome *provided you have not pre-determined a proposal or be seen to have done so*. To ensure that is the case (i.e. that you have approached this in a reasonable and unfettered way) you must give due consideration to all representations, Development Plan documents and material planning considerations (which will be set out in any Planning Case Officer's report that comes before Committee). Members must have and **be seen to have** an open mind on a planning application.

So:

- Don't get involved in pre-application advice or negotiations other than providing general advice on the planning process/ or procedure¹². Planning Officers will deal with this, and applicants are made aware that this is not binding on the authority. Pre-application advice is available for all applications and encouraged for certain types of applications. Ward Councillors (and other Councillors as thought appropriate) will be informed if pre-application advice has been provided for Major¹³ applications. Active involvement of Committee Members in a proposal prior to determination is likely to lead to an appearance of bias and/or predetermination if the Committee becomes the decision making body
- **Don't** do or say anything to make it appear that you have reached a conclusion on any planning proposal prior to the formal decision being made i.e. don't "fetter your discretion" by approaching the decision with a closed mind.
- **Do** listen to the views of Officers, applicants and objectors and debate at the Committee meeting *i.e. keep an open mind in the light of all the evidence and arguments*. You should only take account of the Development Plan documents and material planning considerations and must disregard irrelevant issues and considerations.

¹² Amended under delegated authority of the Monitoring Officer section 14.6.19(c)(d) of the Constitution, following resolution of Standards Committee 12 October 2016.

¹³ As defined under Art. 2 The Town and Country Planning (Development Management Procedure) (England) Order 2015

- **Do** be aware that you will be perceived as biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being a chief advocate for the proposal.

Multi-hatted Members (i.e. where you are elected/ appointed to another local government body e.g. County or Parish/ Town Council): In all cases declare the nature of your Declarable Interest before the item is considered

Where the external body is only a consultee on the application:

- **Do** take part in the debate on a proposal when acting as part of a consultee body, provided:
 - you make it clear that your views are expressed on the limited information before you only;
 - you reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community (and not just to the people in that area, ward or parish), as and when it comes before the Committee and you then hear all of the relevant information; and
 - you do not commit yourself or others may vote when the proposal comes before the Committee.

You should then be in a position to attend, debate and vote on the item at the Committee. If the body is affected in other ways by the proposal you should consider seeking specific advice from the Monitoring Officer.

Where the external body is the decision maker (such as the Hertfordshire County Council) and this Council is a consultee and the public interest test is met:

- **Do** feel you can choose whether to involve yourself in the District consultation debate and vote, or observe. You can observe the District Committee discussions if you wish to participate in the County Council decision. If the external body has a Monitoring Officer and you are unsure whether to take part, seek his/her advice.

Where the external body is the applicant:

If you have been a chief advocate:

- **Don't** take part in the Committee debate or vote as the Public Interest test is likely to be met. You may exercise speaking rights, but should follow the process set out below* if you do. Seek advice if you are unsure.

If you have not been a key advocate or had a significant role in the proposal:

- **Do take part** if you have not committed yourself, as the Public interest test is unlikely to be met. This is going to be the case for most County Council consultee matters and *may*

be the case for Town and Parish related proposals. **Seek advice from the Monitoring Officer on the proposals.**

- **Do** take the opportunity to exercise your separate speaking rights as a Ward advocate where you need to be represented the views of local electors (so long as you do not have a DPI or other Declarable Interest). *Where you intend to do this:
 - advise the Proper Officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the Members area to the public area of the Committee for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to Officers and/ or the Planning pages of the Council's website. As a Ward Councillor you will frequently be approached for advice on what to do, or where to obtain information and this is the best approach. If you sit on the Committee you should refrain from making comments on an application before it is determined in case you are accused of having made up your mind. Also section 5 "**Lobbying of Councillors**".
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors if you can avoid it. Where you feel that a formal meeting would be useful to clarify issues, you only arrange that meeting through the Development and Conservation Manager if she/ he is able to organise one. If the meeting can be arranged, the Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the Council's rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report any significant contact with the applicant and other parties to the Development and Conservation Manager, explaining the nature of the contact and your involvement in them (and this recorded on the planning file).

In addition in respect of presentations by Applicants/Developers:

- **Don't** attend a planning presentation without requesting an Officer to be present if you sit on the Committee. Ideally any presentation should be made to the Committee as a whole as part of the determination procedure. If you are on the Committee and attend a presentation outside of that process, take care – you will not have all the information and should reserve / and make clear you will reserve your opinion on the proposals until this is considered properly by the Council.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application. This will be carried out at the Committee.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at the Committee.

5. Lobbying of Councillors

- **Do not commit yourself** to those lobbying you (generally or as part of the Statement of Community Involvement process) to vote a particular way at Committee, as you will be seen as it prejudicing your impartiality, and therefore your ability to participate in the Committee's determination. It is, however, possible to act as Ward advocate if you do not sit on the Committee and do not have an interest.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make impartial decisions that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is minimal, its acceptance is declared as soon as possible, including adding it to your register of interests where relevant.
- **Do** pass on any lobbying correspondence you receive to the Development and Conservation Manager at the earliest opportunity.
- **Do** promptly refer any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise to the Development and Conservation Manager.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent, an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter. If you do you will have to follow the DPI or Declarable Interest path (see Code of Conduct and above).
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them how they should vote in advance of the meeting at which the planning decision will be taken.
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.
- **Don't** sit on the Committee if you are likely to regularly submit a number of planning applications. Councillors who are Members of Committee should never act as agents for individuals (including a company, group or body) pursuing a planning matter.

7. Site Visits/Inspections

A planning “**site visit**” is a recognised planning term within the planning system with a defined legal purpose. The purpose of a planning site visit is to observe the site and gain a better understanding of the issues. Visits made by Committee Members with Officer assistance are therefore the best approach. The Council does not regularly organise site visits and relies on report and presentations at Committee for consideration purposes. However, on larger or potentially contentious developments it may do so. ***This is not the same as a location or drive by visit by a Member.*** Once a Member becomes aware of a proposal they may be tempted to visit the site alone (i.e. a location or drive by visit). In such situations, the Member is only entitled to view the application site **from public vantage points**; they have no right to enter private property. While Members may be invited to enter the site by the owner, **it is not good practice to do so, as it can lead to the perception of bias.** Therefore if applicable Committee Members:

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

Requests can be made to the Development and Conservation Manager, or at Committee if the item is on the agenda and will be arranged if it is agreed that it is reasonable (in terms of timing and nature of the proposal).

- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the Officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority, or attend the Committee and direct them to or inform the Officer present.
- **Don't** express a committed opinions or views about the proposal.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on Officers to put forward a particular recommendation. (*This does not prevent you from asking questions or submitting views to the Officer, which may be incorporated into any Committee report*).

- **Do** recognise that Officers are part of a management structure and only discuss a proposal outside of any arranged meeting, with a Head of Service or those Officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. *As a result, Planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.*

10. Decision Making

- **Do** ensure that if you request a proposal to go before the Committee rather than be determined through Officer delegation, that **you provide clear reasons** (as per the Committee's terms of reference under 8.4.5 (c) (ii) or (iii)) **AND you should attend and speak to the item at Committee if you have made a request for this to go before Committee to present reasons/ grounds to the Committee.**
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan¹⁴ unless material planning considerations indicate otherwise.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendation or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge at Appeal/ Inquiry or Judicial Review.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request further information. If necessary this may lead to a proposal to defer (or, if sufficient reasons to do so, a refusal).
- **Do** make clear any reasons for deferral of any proposal, as these must be recorded.

¹⁴ The Development Plan is defined under section 38 of the Planning and Compulsory Purchase Act 2004 as any regional strategy, development plan documents (taken as a whole) which have been adopted or approved in relation the area and any adopted neighbourhood development plans.

- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the Officer's introduction to the matter.

11. Planning Enforcement

It is not always a criminal offence to carry out development without planning permission. However, is likely to constitute a contravention of planning laws and the Council (as Local Planning Authority) can enforce those laws.

So:

- **Do** pass on reports from local residents of suspected planning breaches or those you believe have taken place, to the Development and Conservation Manager, as soon as possible, as **enforcement action is time critical**. These will then be investigated and Members updated when or where appropriate and enforcement matters reported regularly to the Committee.
- **Don't** discuss enforcement matters with third parties – you should stress that you cannot commit the Council to any particular course of enforcement action.

12. Training

- **Don't** participate in decision making at Committee unless you have attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and therefore assist you in carrying out your role properly and effectively. All Members are invited for annual refresher training and should endeavour to attend.
- **Do** participate in any annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

13. In summary:

- Apply Code of Conduct and then this Code.
- Declare interests and follow the participation procedures that apply to the interest you have.
- Don't involve yourself in pre-application advice or negotiations.
- Refer queries on applications and procedures to Officers.

- Ensure that if you request a proposal to go before the Committee that your reasons are clear (as per the Committee terms of reference). **You should attend the Committee and speak to the item if you do this.** Don't do this if you have an interest.
- Avoid meeting directly with developers/ attending presentations by them without Officers being present. Avoid lobbying other Members about a proposal.
- If you decide to undertake a location/ drive by of the proposal site, only view this from public vantage points. **This is not the same as a Planning Site Visit and Committee Members should attend if organised by the Council.**
- Don't put pressure of Planning Officers to change their recommendations before a Committee.
- Come to meetings with an open mind and demonstrate that you are open-minded.
- Come to your decision only after due consideration of all of relevant information. Making decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- Don't vote or take part in the discussion on a proposal at the meeting unless you have been present to hear the entire debate, including the Officers' introduction to the matter.
- If you are proposing, (seconding or supporting) a decision contrary to an Officer's recommendation or the Development Plan you must clearly identify the planning reasons for doing so. These reasons must be given prior to the vote and be recorded. You may have to justify the resulting decision by giving evidence in the event of any challenge.
- Report potential planning breaches to the Development and Conservation Manager.
- You must attend any mandatory training. Attend other specialist training if made available.
- **If you are unsure about any of the above, seek advice.**

SECTION 9

9. Area Committees

9.1 Introduction

In order to promote close working with our communities there are five Area Committees which cover different geographical areas of the district. The Area Committees are given substantial powers and responsibilities, within the parameters of the policies set by the Council and Cabinet and as set out in the terms of reference, including the ability to consider and report to Cabinet and Council on any matter affecting their area. Area Committees must operate within Council policy and decisions must be consistent with the Budget and Policy framework and service specific policies.

9.2 Form, composition and function

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

Area Committee	Membership	Composition
Baldock and District Committee	6	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	13	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	13	The Wards of Letchworth Grange, Letchworth East, Letchworth South East, Letchworth South West and Letchworth Wilbury.
Royston and District Committee	7	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	10	The Wards of Cadwell, Chesfield, Codicote, Graveley and Wymondley, Hitchwood, Offa & Hoo, Kimpton and

Rural Committee		Knebworth which comprise the parishes of Codicote, Graveley, Great Ashby, 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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9.2.2 All Members of the Council will be a member of the Area Committee that includes their own Ward.

9.2.3 The Area Committee elects its Chairman and Vice-Chairman annually.

9.3 Delegations

The Council and Cabinet will include details of the delegations to Area Committees. 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.

9.4 Area Committees - Access to Information

9.4.1 Area Committees will comply with the Access to Information Rules in Part 15 of this Constitution.

9.4.2 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.

9.5 Cabinet Members on Area Committees

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

9.6 Quorum

9.6.1 The quorum for meetings of Area Committees will be:

Baldock and District Committee 3
Hitchin Committee 7
Letchworth Committee 7
Royston and District Committee 3
Southern Rural Committee 5

9.6.2 In the event of a tie the Chairman will have a casting vote.

9.7 Meetings

- 9.7.1 There will be a maximum¹⁵ of four (4) ordinary meetings of each Area Committee per year.
- 9.7.2 Extraordinary meetings can be called by the Proper Officer in consultation with the Leader of the Council following a request of the Chairman, giving due notice as required by the Access to Information Procedure Rules.
- 9.7.3 At an extraordinary meeting of an Area Committee the only business to be transacted will be that included within the summons to attend the meeting.

9.8 Terms of Reference

9.8.1 Policy - exercise of decisions by resolution

- (a) To allocate discretionary budgets within the terms determined by the Council.
- (b) To allocate devolved budgets and activities within the terms determined by the Council.
- (c) To promote the introduction of local byelaws.
- (d) To provide public seats and shelters.
- (e) To maintain public War Memorials.
- (f) To provide art in public places.
- (g) To designate polling places and review the boundaries of polling districts.

9.8.2 Community

- (a) To undertake a community leadership role in bringing together different interest groups from the public, private and voluntary sectors to work in partnership to meet the Council's corporate strategic and local objectives.
- (b) To consider the policies and actions of the Cabinet as to their appropriateness to the needs and aspirations of local communities.
- (c) To receive petitions, presentations and questions from members of the public, groups and outside bodies on matters relating to their area.
- (d) To act as a forum for discussion on matters of local interest and in particular to elicit/hear the views of local bodies and organisations.
- (e) To make arrangements for the provision of information about local services and other matters to people in the area.

¹⁵ As from civic year 2016/17

- (f) To provide local input into centrally determined specifications for all services.
- (g) To establish and maintain relationships with outside bodies/voluntary organisations operating specifically within the area including, where appropriate, the provision of discretionary grant aid/financial support etc. but excluding grants for district-wide activities (as determined by the Head of Policy and Community Services).

9.8.3 Protocols

- (a) Within the above Terms of Reference, the style and tone of a meeting and the way it is managed will be determined by the Chairman and Committee members.
- (b) There is no intention to be prescriptive about the management of meetings, but rather to let local Members run their business in ways that best reflect their local areas, provided that decisions are consistent with the Council's Budget and Policy framework and service specific policies.
- (c) Notwithstanding this, the following are guidelines to assist Members in determining their approach:
 - (i) Members of the public may request to speak at a meeting and must give advance notice of their intention to do so by contacting the Democratic Services Manager by noon of the day of the meeting. The option to speak will be at the discretion of the Chairman. In normal circumstances there would be a maximum time allowed of ten (10) minutes. This action would fall within the agenda item of Public Participation.
 - (ii) County Councillors are able to attend area meetings and may speak, but not vote, subject to having notified the Chairman of their wish to do so. Such notification to be given to the Democratic Services Manager before 4pm on the day of the meeting.
 - (iii) Parish Councillors are able to attend area meetings, but should do so as members of the public and sit in the public gallery, unless specifically requested to participate by the Chairman. Parish Councillors do not have a right to speak at a meeting, but may do so at the discretion of the Chairman.
 - (iv) The Chairman may invite advisors to meetings as and when required to assist in discussion. They may speak as directed by the Chairman but not vote.
 - (v) At Area Committee meetings, with the exception of the Area Champions and Committee Administrators, officers should only "come to the table" to present their reports. Once they have done

this they may return to the public gallery or feel free to leave the meeting.

- (vi) For items where the Committee resolves to exclude the public and press, officers should remain outside of the meeting room until called in to present their report, and once this has been discussed, they should leave the meeting.

SECTION 10

10. OTHER COMMITTEES

10.1 **Finance, Audit and Risk Committee**

10.1.1 Role & Functions

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

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

10.1.2 Membership

No more than seven members shall be appointed to the Finance, Audit and Risk Committee. The Chairman shall be appointed at the annual meeting of the Council.

10.1.3 Quorum

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

10.1.4 Proceedings of the Finance, Audit and Risk Committee.

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

10.1.5 Terms of Reference:

Finance

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

- (e) To consider mechanisms to encourage participatory budgeting and enhanced community participation in the budget process.
- (f) To review the financial performance of the Council in relation to its policy objectives, and budgetary amounts, and to make recommendations to Cabinet (unless legally reserved to Full Council) on any matter arising out of the finance monitoring and review process within the terms of this Committee.
- (g) To maintain an overview of the Council's Constitution in respect of Contract Procurement Rules and Financial Regulations, consider any major changes and make recommendations to Council for approval.

Audit & Governance

Internal

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

External Audit

- (o) (Subject to enabling legislation) to appoint the Council's Auditor Panel (if expedient, with one or more other relevant authority).
- (p) To appoint (when this requirement arises) the Council's external Local Auditor, having consulted and taken into account the advice of the Council's Auditor Panel.
- (q) To consider (and to approve where required) the Annual Audit letter to Members, Annual Audit and Inspection Fee Letter.

- (r) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (s) To receive reports or recommendations from the external Local Auditor, other than public interest reports (which shall be direct to Full Council).

Risk

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

General

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

10.2 Council Tax Setting Committee

10.2.1 Terms of Reference

The Council will appoint one Council Tax Setting Committee for the purpose of setting the Council Tax Base and the Council Tax. The Committee will have the responsibilities as set below.

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

10.2.2 Specific Functions

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

10.2.3 Membership

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

10.2.4 Quorum

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

10.2.5 Proceedings of the Council Tax Setting Committee.

There shall be a minimum of two regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it is necessary or appropriate.

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

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

10.3 **Employment Committee**

10.3.1 Membership

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

10.3.2 Quorum

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

10.3.3 Meetings

As called for by the Proper Officer.

10.3.4 Terms of Reference

- (a) To interview candidates for the post of Head of Paid Service (Chief Executive) and make a recommendation for appointment to Council.

- (b) To interview and appoint candidates for the posts of Strategic Director (except Statutory Officers) and to interview and recommend to Council the appointment of Statutory Officers.
- (c) To appoint candidates for the posts of Head of Service and Corporate Manager.
- (d) To consider any alleged misconduct and take any necessary disciplinary action against the Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Strategic Directors in accordance with the Officer Employment Procedure Rules (as applicable to the Officers concerned). If following consideration of the matter the Committee concludes that a 'relevant officer'¹⁶ should be dismissed then this will be referred to the Employment Panel for consideration and potential recommendation of dismissal to Full Council. The remit of the Committee will include whether to recommend issuing a notice of dismissal of a 'relevant officer' for disciplinary reasons to the Employment Panel, or deciding whether to impose all other disciplinary action including dismissal (unless reserved to Full Council).
- (e) Exercise the powers under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations up to the financial limits set out in the Council's Pay Policy Statement.
- (f) To consider appeals against decisions made by the Chief Executive relating to the dismissal by redundancy or otherwise of Strategic Directors (except Statutory Officers), Heads of Service and Corporate Managers.

10.3.5 By recommendation to Council:

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

10.4 Employment Panel:

10.4.1 Membership

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

10.4.2 Quorum

¹⁶ As per definition 12.8.7 – 12.8.14 of the Officer Employment Procedure Rules

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

10.4.3 Meetings

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

10.4.4 Terms of reference:

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

10.5 Joint Staff Consultative Committee (JSCC)

10.5.1 Introduction

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

10.5.2 Membership

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

10.5.3 Quorum

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

10.5.4 Meetings

4 per year.

10.5.5 Terms of Reference

The JSCC will have the following roles and functions:

- (a) Regular consultation between the Council and its employees;
- (b) To be the Member interface with employees on major human resource issues;

- (c) To be the strategic HR Forum for NHDC Members;
- (d) To consider, report and make recommendations to the Strategic Director of Customer Services on terms and conditions of service and on training and development.

SECTION 11

11. Joint arrangements

11.1 Introduction

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

11.2 Arrangements to Promote Wellbeing

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

- 11.2.1 enter into arrangements or agreements with any person or body;
- 11.2.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and
- 11.2.3 exercise on behalf of that person or body any functions of that person or body.

11.3 Joint Arrangements

- 11.3.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- 11.3.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with those other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- 11.3.3 The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for an electoral ward contained within the area. Political balance requirements do not apply to such appointments.

11.4 Access to Information

- 11.4.1 The Access to Information Rules in Section 15 apply.
- 11.4.2 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

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

11.5 Delegation to and from Other Local Authorities

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

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

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

11.6 Contracting Out

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

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

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

11.7 CCTV Joint Committee

11.7.1 Membership, Quorum and Meetings

(a) The Membership shall be comprise three Cabinet members from each of the Authorities.

(b) Meetings shall be held at least once per annum or when there is sufficient business.

(c) Meetings shall be held alternately at the offices of each partner authority.

(d) The Chairman shall be a member of the Authority hosting the meeting.

(e) The quorum shall be three Members, with at least one from each of the partner authorities.

(f) The meetings shall follow the normal Standing Orders of the hosting authority.

11.7.2 Terms of Reference

(a) To discuss and agree the strategic and policy issues relating to the jointly owned and operated CCTV Control and Monitoring service.

- (b) To deal with all matters defined under the CCTV 'Code of Practice' as the responsibility of the CCTV Executive Board.
- (c) To consider and approve expansion or contraction proposals for the CCTV Control Room, Network, and monitoring service.
- (d) To consider and agree changes to the CCTV 'Code of Practice'.
- (e) To ensure the Independent inspection regime is set up and maintained.
- (f) To receive and approve the Independent Inspectors' annual report.
- (g) To consider complaints regarding any breaches of the CCTV 'Code of Practice' and recommendations for preventing breaches. To recommend disciplinary action where appropriate.
- (h) To make recommendations on any of the above to the Officer Management Board.

SECTION 12

12. Officers

12.1 Management Structure

12.1.1 General

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

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

12.1.2 Officer delegation

The Full Council will engage persons for the following posts, (as set out in the table below), which designation includes persons acting temporarily in such capacity. These Officers have the power to delegate further under their schemes of delegation.

Post	Functions and Areas of Responsibility
Chief Executive	<ul style="list-style-type: none">• Head of Paid Service;• Electoral Registration Officer;• Returning Officer for Elections and Officer responsible for referenda;• Emergency Planning Officer; <p>To have responsibility for:</p> <ul style="list-style-type: none">• Overall corporate management and operational responsibility;• The provision of professional and impartial advice to all parties in the decision making process;• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise);• Representing the Council on partnership and external bodies (as required by statute or the Council);• Democratic Services;

Post	Functions and Areas of Responsibility
	<ul style="list-style-type: none"> • Strategic Partnerships.
Strategic Director of Customer Services	<ul style="list-style-type: none"> • Human Resources; • Reprographics; • Telecommunications; • Customer Services; • Leisure, Sports and Recreation; • Museums; • Markets; • Grounds Maintenance; • Parks and Gardens; • Waste Management (including waste-related enforcement) 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; • Data Protection and Freedom of Information; • Insurance and Risk Management; • Financial Accounting; • Performance; • Management of Assets; • Audit; • Council Tax and National Non-Domestic Rates; • Housing and Council Tax Benefit; • Legal Services; • Community Development;

Post	Functions and Areas of Responsibility
	<ul style="list-style-type: none"> • Grants; • Corporate Policy; • Information Technology; • Freedom of Information;
Strategic Director of Planning, Housing & Enterprise	<ul style="list-style-type: none"> • Housing Needs; • Housing Strategy Development; • Community Alarms; • Planning Development Control; • Building Control Environment; • The Local Plan, community infrastructure, Neighbourhood plans and orders (and related referenda with Returning Officer) • Regional and Strategic Planning matters; • Environmental Health; • Licensing; • Environmental Enforcement; • Community Safety; • Economic Development; • Overview and Scrutiny;

12.1.3 Scheme of Delegations

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

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

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service

Post	Designation
Corporate Legal Manager	Monitoring Officer
Strategic Director of Finance, Policy and Governance	Chief Finance Officer

Such posts will have the functions described in Sections 12.2 to 12.4.

12.2 Functions of the Head of Paid Service

12.2.1 Discharge of Functions by the Council

The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

12.2.2 Restrictions on Functions

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

12.3 Functions of the Monitoring Officer

12.3.1 Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for Members, staff and the public.

12.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to an Executive Function if 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.

12.3.3 Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

12.3.4 Receiving Complaints about Councillors

The Monitoring Officer will receive complaints of failures to comply with the Members' Code of Conduct and determine, in consultation with the Independent Person, whether a complaint requires formal investigation. The

Monitoring Officer may seek to resolve a complaint informally prior to a decision on whether the complaint merits formal investigation.

12.3.5 Conducting Investigations

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

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

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

12.3.7 Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to the Councillors.

12.3.8 Restrictions on Posts

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

12.4 Functions of the Chief Finance Officer

12.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if 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.

12.4.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

12.4.3 Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

12.4.4 Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

12.4.5 Give Financial Information

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

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

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

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

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

12.6 Conduct

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

12.7 Employment

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

12.8 Officer Employment Procedure Rules

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

12.8.1 Introduction

- (a) The functions of appointment and dismissal and taking disciplinary action against a member of staff must be discharged on behalf of the Council by the Head of Paid Service (Chief Executive) or an Officer nominated by him/her. Save for 12.8.1(b) and Deputy Chief Officers as detailed under 12.8.5(d) below, this means that the appointment, dismissal or disciplinary action for staff below Chief Officer level must be dealt with by the Chief Executive or his/her nominee, without any participation by Members This does not apply to the appointment or

dismissal of, or disciplinary action against a statutory officer, Chief Officer, or political assistant.

- (b) Nothing in 12.8.1 and 12.8.6 (a) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—
 - (i) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

12.8.2 Recruitment and Appointment

(a) Declarations

- (i) The Council has drawn up at statement requiring any candidate for an appointment as an officer to state in writing whether they are the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or the partner of such persons.
- (i) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

(b) Seeking Support for Appointment

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (i) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (ii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

12.8.3 Recruitment of Chief Officers

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

- (a) draw up a statement including the following:
 - (i) the duties of the Officer concerned; and

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the procedures mentioned in paragraph 12.8.3(a) to be sent to any person on request.

12.8.4 Appointment of Head of Paid Service (Chief Executive)

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

12.8.5 Appointments and Dismissals of Chief Officers (Head of Paid Service, Chief Finance Officer, Monitoring Officer, Strategic Directors) and Deputy Chief Officers

In this paragraph:

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

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

“the Proper Officer” means the Democratic Services Manager.

- (a) Where the appointor or dismissor is proposing to appoint or dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- (b) The appointor shall not make an offer of appointment in relation to the Head of Paid Service, any Chief Officer or Deputy Chief Officer until:
 - (i) the appointor has notified the Proper Officer of the name of the person he/she or it wishes to make the offer and any other particulars considered to be relevant to the appointment;
 - (ii) the Proper Officer has notified every member of the Cabinet of:

- A. the name of the person to whom the appointor wishes to make the offer;
- B. any other particulars relevant to the appointment which have been notified to the Proper Officer; and
- C. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and

either:

- D. the Leader has, within the period specified, notified the appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
- E. the Proper Officer has notified the appointor that no objection was received by him within that period from the Leader; or
- F. the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

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

(iii) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(iv) the Proper Officer has notified every member of the Cabinet of:

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

either:

- D. the Leader has, within the period specified, notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
- E. the Proper Officer has notified the Committee that no objection was received by him within that period from the Leader; or

- F. the Committee (or, in the case of the proposed dismissal of the Head of Paid Service, the Full Council) is satisfied that any objection received from the Leader within that period is not material or is not well-founded;

12.8.6 Other Officers

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

Disciplinary Action

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

"the 2011 Act" means the Localism Act 2011;

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

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

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

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

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

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

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

SECTION 13

13. Finance Contracts and Legal Matters

13.1 Financial Management

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

13.2 Contracts

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

13.3 Legal Proceedings

13.3.1 The Corporate Legal Manager is authorised to institute¹⁷, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Corporate Legal Manager considers that such action is necessary to protect the Council's interests.

13.3.2 The Corporate Legal Manager has delegated powers to authorise officers to appear in court on the Council's behalf.

13.4 Authentication of Documents

13.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Corporate Legal Manager or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

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

13.5 Common Seal of the Council

13.5.1 Common Seal

(a) The Common Seal of the Council shall be kept in a safe place in the custody of the Corporate Legal Manager.

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

13.5.2 Sealing and Execution of Documents

¹⁷ Save for proceedings under the Health and Safety at Work etc Act 1974.

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.

13.5.3 Record of Sealing of Documents

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

SECTION 14

14. Responsibility for Functions - Summary

14.1 Introduction

The functions of the Authority fall into two categories:

14.1.1 Council functions; and

14.1.2 Executive functions,

Included in this part of the Constitution are:

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

14.1.4 the list of Proper Officer designations

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

14.2 Council Functions

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

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

14.3 Executive Functions

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

14.4 TERMS OF REFERENCE

14.4.1 Council and Committees exercising Council Functions:

- (a) Council (see Section 4);
- (b) Scrutiny Functions (see Sections 6):
 - (i) Overview and Scrutiny Committee,
- (c) Standards Functions (see Section 7):

- (i) Standards Committee
- (ii) Standards Sub-Committee;
- (d) Regulatory Functions (see Section 8):
 - (i) Licensing and Appeals Committee;
 - (ii) Licensing Sub-Committee;
 - (iii) Planning Control Committee;
- (e) Finance Audit and Risk Committee (see Section 10);
- (f) Council Tax Setting Committee (see Section 10);
- (g) Employment Committee (see Section 10);
- (h) Joint Staff Consultative Committee (see Section 10);

14.4.2 Cabinet Committees and Executive Members exercising Executive Functions

- (a) Cabinet (see Section 5);
- (b) Cabinet Sub-Committee (Charities) (see Section 5);
- (c) Area Committees (see Section 9);
- (d) CCTV Joint Committee (see Section 11);
- (e) Executive Members (see Section 14.8).

14.5 Proper Officer Designations

14.5.1 Council Functions

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

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
All those functions for which the Council is responsible relating to town and county planning and development control	Planning Control Committee/Strategic Director of Planning Housing and Enterprise
All those functions for which the Council is responsible relating to the	Planning Control Committee/Licensing and Appeals Committee/ Strategic

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
protection and treatment of hedgerows, the preservation of trees and complaints about high hedges	Director of Planning Housing and Enterprise
All those functions for which the Council is responsible relating to public rights of way	Planning Control Committee/ Strategic Director of Planning Housing and Enterprise
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals	Licensing and Appeals Committee/ Strategic Director of Planning Housing and Enterprise
Functions relating to Smoke free premises	Strategic Director of Planning Housing and Enterprise
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer)	Strategic Director of Planning Housing and Enterprise
All those functions relating to elections	Council/Chief Executive
Functions relating to the name and status of areas and individuals	Council
Functions relating to Community governance	Council
Power to make, amend, revoke or re-enact byelaws	Council
Power to promote or oppose local or personal bills	Council
Power to make and amend procedure rules (Standing Orders and Financial Regulations)	Council
Power to appoint staff, and to determine the terms and conditions on which they hold office in accordance with approved Council policies (including procedures for	Council/Chief Executive and Directors

Function as set out in Regulation 2 and Schedule 1 of the Regulations	To whom the function is reserved or delegated
their dismissal)	
Duty to make arrangements for the proper administration of financial affairs	Council
Power to appoint officers for particular purposes (appointment of Proper Officers)	Council
Duty to designate an officer as the Head of the Authority's paid service	Council
Duty to designate an officer as the Monitoring Officer and to provide staff	Council
Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and power to make payments in cases of maladministration	Council/Chief Executive
Power to make a closing order on a takeaway food shop	Strategic Director of Planning Housing and Enterprise
Powers relating to overview and scrutiny committee	Council
"Proper Officer" under section 13(3) Local Government Act 1972, to act as Parish Trustee to a Parish Meeting (in a parish not having a separate parish council).	Democratic Services Manager

14.5.2 Responsibility for Local Choice Functions

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

Function	Decision Making Body	Delegated to
Functions under local Acts (other than a function specified in Regulation 2 and Schedule 1 of the Regulations)	Cabinet	Strategic Directors
Determination of an appeal against any decision of the Authority	Council	Licensing and Appeals Committee
The discharge of any function relating to the control of pollution, the management of air quality or contaminated land	Cabinet	Strategic Director of Planning Housing and Enterprise
The service of an abatement notice for a statutory nuisance	Cabinet	Strategic Director of Planning Housing and Enterprise
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Cabinet	Strategic Director of Planning Housing and Enterprise
Inspections for statutory nuisance	Cabinet	Strategic Director of Planning Housing and Enterprise
Investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Strategic Director of Planning Housing and Enterprise
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Cabinet	Strategic Director of Planning Housing and Enterprise
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	General delegation to Chief Executive, Directors and Heads of Services
The appointment or revocation of appointment of any individual to any office/body other than the Council	Council	Chief Executive
The making of agreements with other local authorities and	Council	Chief Executive

Function	Decision Making Body	Delegated to
external agencies for the placing of staff and joint working arrangements		

14.6 Scheme of Delegation to Officers

14.6.1 Introduction

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

14.6.2 General Principles

- (a) This scheme operates under Section 101 of the Local Government Act 1972 (council functions) and section 13 Local Government Act 2000 (executive functions).
- (b) All officers discharging these functions shall also have power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of those functions, including entering into temporary arrangements with other authorities for the delivery of services.
- (c) All officers discharging these functions may authorise any member of their staff to act on their behalf and shall keep a written record of all sub-delegations in a register held by the Chief Executive (subject to the limitations at 14.6.3 and within specific policies).
- (d) Before taking a decision under delegated powers which may be controversial or politically sensitive the officer shall notify the relevant Cabinet Executive Member. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance¹⁸ (or any policy) on the statutory requirements and procedures.
- (e) An officer may always refer a delegated decision to the Cabinet or Council or any of their respective Committees rather than make the decision.
- (f) The Chief Executive may exercise any of the delegated powers in this scheme or may authorise one officer to carry out the functions of another absent officer.

14.6.3 General Limitations

- (a) This scheme does not delegate to officers:

¹⁸ NHDC Guidance to Members and Officers – Taking a delegated decision 2015

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

14.6.4 General Authorisations

- (a) Chief Executive, the Strategic Directors, Heads of Service and Corporate Managers

The Chief Executive, Strategic Directors, Heads of Service and Corporate Managers are delegated the following functions, powers and duties for their respective service areas:

- (i) The operational management of staff;
- (ii) Entering into contracts to carry out works and/or for the supply of goods and services within approved budgets (subject also to approval of the Strategic Director of Finance, Policy and Governance for IT software or hardware contracts);
- (iii) Serving any requisition for information, notice or authorising any works in default and recovery of any related expenditure;
- (iv) Recommending legal proceedings to the Chief Legal Officer;
- (v) To submit tenders and, where successful, to enter into contracts for the supply of goods and services to other local authorities and public bodies;
- (vi) To have responsibility for the operational management of the health and safety policy;
- (vii) To consider and co-ordinate any investigation by the Local Government Ombudsman;
- (viii) To set fees and charges in accordance with the Council's Financial Regulations and relevant policies, in consultation with the Executive Member;
- (ix) National Lottery and external funding applications.

14.6.5 Delegation of Authority - Chief Executive

- (a) The Chief Executive shall exercise the following functions:

- (i) To carry out the duties of the Head of Paid Service (section 4 of the Local Government & Housing Act 1989) which includes all necessary powers for:
 - A. Co-ordinating the discharge of all functions;
 - B. Exercising overall managerial responsibility for staff.
- (ii) To make any minor changes to terms and conditions for staff.
- (iii) To dismiss any member of staff including Strategic Directors, Heads of Service and Corporate Managers (unless otherwise reserved to Committee or Full Council and excluding Statutory Officers) either by way of redundancy or any other appropriate use of the Council's staff related policies.
- (iv) In cases of emergency or urgency (where possible in consultation with the Leader of the Council) to carry out any council or executive function, power or duty.
- (v) To represent the authority on partnerships and external bodies as required by statute or by the Council.
- (vi) To lead the Senior Management Team.
- (vii) To ensure a system for record keeping of all Key Decisions.
- (viii) To decide, in consultation with the Monitoring Officer, upon Members' "need to know" and provide for access to information and to decline access where information would be considered exempt (as defined under section 15.10.4).
- (ix) To be responsible for performance review issues.
- (x) To carry out the duties of the Electoral Registration Officer.
- (xi) To carry out the duties of the Returning Officer.
- (xii) To carry out the duties of the Emergency Planning Officer with all necessary power to act and incur expenditure.
- (xiii) To authorise employees of the Council to enter onto land where necessary to enable them to carry out the functions of the Council.
- (xiv) The granting of approval for staff to be allowed to undertake outside work.
- (xv) Attestation of the Council's Common Seal.
- (xvi) To authorise Officers to conduct directed surveillance or the use of covert human intelligence sources or the acquisition of

confidential information in accordance with the Regulations of Investigatory Powers Act 2000.

- (xvii) To authorise Officers to use juveniles and vulnerable individuals as covert human intelligence sources.
- (xviii) To consider any report of the Local Government Ombudsman and to settle any compensation payments up to £1000.
- (xix) Management of Scrutiny Support.
- (xx) To authorise, issue vary or cancel Closure Notices to deal with nuisance or disorder or designate a person to do so under relevant legislation¹⁹.
- (xxi) To maintain an overview of the Council's commercial activities/ventures.

(b) Service Responsibilities

The Chief Executive shall discharge all of the functions other than those reserved to Council, Cabinet and Committee in relation to:

- (i) Electoral Services;
- (ii) Committee and member services.

14.6.6 Delegation of Authority - Strategic Director of Customer Services

(a) The Director shall exercise the following functions:

- (i) To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
- (ii) To be responsible for performance review issues within the Directorate.

(b) Service Responsibilities

- (i) The Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:

A. Customer Services including:

- 1 The Customer service centre;
- 2 Coordination of complaints and ombudsman queries;

¹⁹ S77(2)(b) Anti-Social Behaviour, Crime and Policing Act 2014 Power to issue Closure Notice up to 48 hours must be signed by Chief Executive or person designated by him/her.

- 3 The Telecommunications service;
 - 4 Reprographics and corporate stationery;
 - 5 The Courier and member mail service.
- B. Public Relations and Consultation;
- C. Human Resources including corporate employment policies and operational employment advice;
- D. Leisure services including:
- 1 Sports centres and swimming pools;
 - 2 Sports and recreation grounds;
 - 3 Markets;
 - 4 Leisure strategy development;
 - 5 Tourism and visitor management.
- E. Environmental Services including:
- 1 Maintenance of parks, open spaces and allotments;
 - 2 Cemeteries, crematoria, burials and related services;
 - 3 Arboriculture;
 - 4 Public conveniences;
 - 5 Street cleansing;
 - 6 Waste collection (including waste-related enforcement: littering, graffiti, fly-posting, unauthorised distribution of free literature on designated land, waste receptacle offences), recycling and waste minimisation under any enabling legislation;
 - 7 Land drainage.
- F. Operational management of emergency planning (section 138 of the Local Government Act 1972) under general direction of the Emergency Planning Officer;
- G. Museum Services including Exhibition galleries and art education and loan service;
- H. Enforcement of on and off street parking orders including residential parking zones.

14.6.7 Delegation of Authority - Strategic Director of Finance Policy and Governance

(a) The Director shall exercise the following functions:

- (i) To carry out the functions of the Section 151 officer;
- (ii) To manage direct and control all resources allocated to the Directorate in accordance with Council policies and procedures;
- (iii) Attestation of the Council's Common Seal;
- (iv) In cases of emergency or urgency to exercise any of the functions powers or duties of the Chief Executive;
- (v) To be responsible for performance review issues within the Directorate;
- (vi) To authorise consequential changes to the Financial Regulations to reflect resolutions of Council or of the Executive, and changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all members of such changes.
- (vii) To consider and determine applications for Review of: the decision to list an Asset of Community Value, whether compensation should be paid and of payment of associated costs.
- (viii) To appoint the members of the Independent Remuneration Panel, having first consulted the Monitoring Officer and Group Leaders as to any reason why member(s) not independent.

(b) Service Responsibilities

- (i) The Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:
 - A. Insurance arrangements and risk management;
 - B. Management of financial resources including:
 - 1 Treasury Management limits within the Council's budget strategy;
 - 2 the Council's banking arrangements;
 - 3 Financial and accounting arrangements subject to any limits set out in the Financial Regulations.
 - C. Information and communications technology (ICT) including approval of the acquisition of all ICT equipment and services ;

D. Information management including:

- 1 data protection;
- 2 data quality;
- 3 freedom of information.

E. Asset management including:

- 1 disposal of land and buildings, where such land has been declared surplus to requirements for a sale price or premium which does not exceed £250,000 provided that if the disposal is proposed at an undervalue the Strategic Director shall always consider whether a referral to Cabinet is necessary;
- 2 acquisition of land where the purchase price or premium does not exceed £250,000;
- 3 granting, negotiating and settling terms of leases, licences, easements, wayleaves, rent reviews, assignment of leases, the appointment of arbitrators / experts, consents, guarantees and all other minor land matters where the initial annual rent (after the expiry of any rent free period) does not exceed £50,000 or the calculation of the premium is based on an annual rent not exceeding £50,000;
- 4 agreeing terms for and accepting the surrender of leases;
- 5 negotiating, agreeing and arranging for the release or modification of restrictive covenants;
- 6 determining applications for licences to assign and consent to sub-let, change of use, make alterations or additions to land or premises;
- 7 forfeiting (or seeking other appropriate remedy) of leases, licences and wayleaves where covenants have been broken;
- 8 discharging mortgages;
- 9 decisions under section 137 and 139 of the Local Government Act 1972 regarding Council expenditure on land held on charitable trust;
- 10 Maintenance of the Council's assets/ buildings;
- 11 Equalities and diversity

- 12 CCTV;
 - 13 Health and well being;
 - 14 Safeguarding of children, young people and vulnerable adults;
 - 15 Climate change and green issues.
- F. Collection and administration of Council Tax, National Non-Domestic Rates and sundry debts on behalf of the Council including:
- 1 Valuation;
 - 2 the commencement, defence, withdrawal or settlement of legal proceedings;
 - 3 writing off debt below £5,000 and between £5,001 and £10,000 in conjunction with the Executive Member for Finance and IT;
 - 4 Administration of the National Non-Domestic Rates scheme including NNDR3 return;
 - 5 Administration of the Housing and Council Tax Reduction Schemes including:
 - A investigation of benefit fraud;
 - B agreeing administrative penalties in lieu of legal proceedings.
- G. Legal Services (with the exception of the responsibilities of the Monitoring Officer):
- 1 To authorise the institution, defence, withdrawal or settlement of legal proceedings for Council tax, non-domestic rates and sundry debts;
 - 2 To authorise officers of the Council to appear before the Magistrates' Court;
- H. Management Support and central administrative services including:
- 1 Contract hire;
 - 2 Car loan schemes.
- I. Land Charges;
- J. Shared Internal audit and anti-fraud service;

- K. Procurement;
- L. Management of corporate policy development including:
 - 1 Development of the corporate plan;
 - 2 Administering area governance arrangements;
 - 3 Operational management and support for external partnership arrangements.
- M. Community engagement and development including:
 - 1 Financial assistance and grants to external organisations;
 - 2 Voluntary sector and community group development.
- N. Community services including:
 - 1 Active communities;
 - 2 Public halls, community centres and rural community buildings.
- O. Approvals for all transactions pursuant to the Community Benefit Fund, in consultation with the appropriate Cabinet Executive Member (Finance or Housing);
- P. Approvals for any overage, claw back or similar arrangement pursuant to the Stock Transfer Agreement.

14.6.8 Delegation of Authority - Strategic Director of Planning Housing and Enterprise

(a) The Director shall exercise the following functions:

- (i) To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures;
- (ii) To be responsible for performance review issues within the Directorate;

(b) Service responsibilities:

- (i) The Director shall exercise the following functions powers and duties except those reserved to Council, Cabinet or a Committee in relation to:
 - A. All functions of the Local Planning Authority primarily Planning Policy and Development Control (including enforcement functions, authorising expenditure of planning obligation monies and Environmental Impact Assessment

functions, Tree Preservation Orders) other than matters reserved to the Planning Control Committee;

- B. All activities relating to discharge of the Council's function as the Local Building Regulation Authority;
- C. Highway matters and transportation matters including:
 - 1 Footpaths and bridleways (protection, creation, diversion, modification and extinguishment);
 - 2 Highways Agency matters;
 - 3 Street naming and numbering;
 - 4 Highways matters delegated by Hertfordshire County Council;
 - 5 Public transport issues;
 - 6 Goods Vehicles Operators Licences.
- D. Traffic management including the creation of on and off street parking orders and street closure orders;
- E. Housing, homelessness and care functions including the provision and management of Careline, community alarms and oversight of the Council's involvement in Hertfordshire Community Meals;
- F. Environmental health function including:
 - 1 Sewers, drains and private water supplies;
 - 2 housing grants and loans;
 - 3 caravan sites;
 - 4 housing safety and fitness of premises;
 - 5 domestic energy conservation;
 - 6 health and safety at work;
 - 7 food safety and hygiene;
 - 8 pest control;
 - 9 animal welfare;
 - 10 communicable diseases.

- G. Environmental Protection and enforcement functions including:
- 1 contaminated land;
 - 2 air quality;
 - 3 statutory nuisances;
 - 4 permitted processes;
 - 5 street trading;
 - 6 Sunday trading;
 - 7 abandoned vehicles;
 - 8 flytipping;
 - 9 byelaws;
 - 10 flyposting;
 - 11 unlawful encampments;
 - 12 scrap metal.
- H. Public health functions under the Public Health Acts and related legislation;
- I. Licensing functions under all relevant Licensing legislation other than matters reserved to the Licensing and Appeals Committee;
- J. Community safety;
- K. To authorise or delegate to Officers to deal with antisocial behaviour, nuisance or disorder, including (although not limited to) Closure Notices²⁰, Community protection (notices, fixed penalty notices, seizure of goods) and high hedges under any relevant legislative powers;
- L. To discharge the functions of the Appointing Officer under the Party Wall etc. Act 1996;
- M. Responsibilities in respect of Counter Terrorism and Security;
- N. Economic development.

²⁰ Not including authorising/ signing Closure Notices up to 48 hours unless designated by Chief Executive to do so.

14.6.9 Delegation of Authority - Corporate Legal Manager

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

- (m) To release guarantee bonds in contracts for works and the supply of goods and services (upon the certificate of the Chief Officer concerned that the contract has been completed satisfactorily and that any maintenance period has expired).
- (n) Attestation of the Council's Common Seal.
- (o) To instruct Counsel and / or retain the services of other experts or external solicitors or any matter affecting the interests of the authority;
- (p) Certify (or authorise Officers to certify) documents on behalf the authority.

14.6.10 Delegation of Authority - Democratic Services Manager

- (a) To administer the scheme for Members' allowances including the approval of duties for Members' allowances;
- (b) To make appointments (or where relevant nominate) Councillors to Committees, sub-Committees, panels, boards and outside bodies, in consultation with Group Leaders, when vacancies arise during the civic year in respect of the appointments that have previously been made at Annual Council;
- (c) To make all necessary arrangements for Members and Member support and for all Council meetings;
- (d) Attestation of the Council's Common Seal;
- (e) To carry out the duties of the Electoral Registration Officer because of the Registration Officer's inability to act or because of a vacancy;
- (f) To carry out the duties of the Returning Officer because of his inability to act or because of a vacancy;
- (g) Witnessing of candidates' and agents' declarations and returns as to election expenses;
- (h) To receive petitions in accordance with the Council's Petition Scheme;
- (i) Receipt of petitions questioning an election;
- (j) To make decisions regarding individual submissions relating to the councillor call for action having due regard to actions already undertaken to resolve the matter in question where practicable, after consultation with the Chairman of the Overview and Scrutiny Committee.
- (k) To verify foreign national pensions

14.6.11 Delegation of Authority - Head of Finance, Performance and Asset Management

- (a) To be responsible for the Council's corporate health and safety in accordance with legislation and the Councils' adopted policy.
- (b) To be responsible for the proper administration of Council charities and their assets.
- (c) To be the Council's Anti Money Laundering Reporting Officer.
- (d) To consider and determine applications to: list and removal Assets of Community Value (in consultation with Officers nominated by the Strategic Director), whether compensation should be paid and of payment of associated costs.

14.6.12 Delegation of Authority - Head of Revenues, Benefits & I.T.

- (a) To be the Council's Chief Information Officer
- (b) To be the Council's lead Data Protection Officer
- (c) To issue applications for the acquisition of Communications data
- (d) To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy.

14.6.13 Delegation of Authority – Head of Housing and Public Protection

- (a) To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy.
- (b) To authorise Consultants in Communicable Disease Control of Public Health England, to act on behalf of the Council as proper officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.
- (c) To authorise Officers to act as an Inspector under the Health and Safety at Work etc Act 1974, such Inspectors are authorised to institute proceedings and prosecute under the Health and Safety at Work etc Act 1974 following consultation with the Corporate Legal Manager.

14.6.14 Delegation of Authority – Head of Leisure and Environmental Services

- (a) To authorise Officers to conduct directed surveillance and to act as a covert human intelligence source Handler or Controller under the Council's RIPA policy.

14.7 Proper Officers Schedule

The Council may designate any of its officers to carry out specific statutory functions. This officer is referred to in the Statutory provisions as the "Proper Officer". This

schedule confirms the officers appointed as the Proper Officer for the specific functions listed.

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

Legislative Provision	Function	Proper Officer
	Survey Act 1841 will be sent	Governance
S.225	Deposit of documents	Strategic Director of Finance, Policy and Governance
S.228(3)	Accounts for inspection by any member of the Council	Strategic Director of Finance, Policy and Governance
S.229(5)	Certificate of photographic copies of documents	Chief Executive/Monitoring Officer/Democratic Services Manager
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Chief Executive
S.238	Certification of byelaws	Chief Executive
S.248(2)	Officer who will keep the Roll of Freemen	Chief Executive
Schedule 12		
Local Government Act 1972		
Para 4(2)(b)	Signing of summons to Council meeting	Democratic Services Manager
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Democratic Services Manager
Schedule 14		
Para 25	Certification of resolution passed under this paragraph	Democratic Services Manager
Schedule 16		
Para 28 (amended by the Planning (Consequential Provisions) Act 1990)	Deposits of lists of buildings of special architectural or historic interest	Strategic Director of Planning, Housing and Enterprise
Local Government Act 1974		

Legislative Provision	Function	Proper Officer
S.30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Democratic Services Manager
Local Authorities Cemeteries Order 1977		
Article 10	To sign exclusive rights of burial	Strategic Director of Customer Services
Representation of the People Act 1983		
S.9	Registration Officer	Chief Executive
S.24	Returning Officer for Local Elections	Chief Executive
S.28	Acting Returning Officer for a Parliamentary Election	Chief Executive
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive
Police Reform and Social Responsibility Act 2011		
S.54	To act as police area Returning Officer or local Returning Officer for police and crime commissioner elections (if so designated)	Chief Executive
Local Government and Housing Act 1989		
S.2(4)	Recipient of the list of politically restricted posts	Democratic Services Manager
S.3	Employers certificate for exemption from politically restricted posts	Monitoring Officer

Legislative Provision	Function	Proper Officer
S.4	Head of the Paid Service	Chief Executive
S.5	The Monitoring Officer	Corporate Legal Manager
S.15	Officers to receive notices relating to membership of political groups	Chief Executive
Local Government (Committees and Political Groups) Regulations 1990		
	For the purpose of the composition of committees and nominations to political groups	Chief Executive
Local Authorities (Standing Orders) (England) Regulations 2001		
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 1, Part II, Paragraph 3	Chief Executive
Local Government Act 2000		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Monitoring Officer
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012		
Regulation 12	Recording of executive decisions made at meetings of the Cabinet	Democratic Services Manager
Regulation 14	Inspection of documents following executive decisions	Democratic Services Manager
Regulation 15	Inspection of background papers	Democratic Services Manager
Regulation 13	Individual executive decisions	Democratic Services Manager
Regulation 7	Access to agenda and connected reports	Democratic Services Manager
Regulation 9	Publicity in connection with Key Decisions	Democratic Services Manager

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

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

In accordance with the Cabinet Procedure Rules and Terms of Reference executive functions will be delegated to the following Cabinet Portfolios.

Portfolio	Cabinet Member	Address	Ward
Leader	Councillor Mrs L.A	68 Broadwater Avenue, Letchworth Garden City,	Letchworth South

Portfolio	Cabinet Member	Address	Ward
	Needham	Hertfordshire, SG6 3HJ	West
Finance and IT Deputy Leader	Councillor T.W. Hone	15 Fouracres, Letchworth Garden City, Hertfordshire SG6 3UF	Letchworth South West
Community Engagement & Rural Affairs	Councillor T. Hunter	1 Cowslip Close, Royston, Hertfordshire, SG8 9TJ	Royston Meridian
Housing & Environmental Health	Councillor B. Lovewell	23 Milton View, Hitchin, Hertfordshire SG4 0QD	Hitchin Walsworth
Leisure	Councillor J Gray	Abbotshay Farm, Tanyard Lane, Ayot St Lawrence, Herts. AL6 9BS	Codicote
Planning, and Enterprise	Councillor D. Levett	172 Rushby Mead, Letchworth Garden City, Hertfordshire, SG6 1SQ	Letchworth South East
Policy, Transport and Green Issues	Councillor J. Cunningham	14 Blackmore, Letchworth Garden City, Herts. SG6 2SY	Letchworth South East
Waste Management, Recycling & Environment	[Leader – TBC]		Royston Heath

14.8.1 Matters of General Delegation

Each Cabinet Executive Member is responsible for:-

- (a) the proper administration of the Council's services;
- (b) the efficient use and day-to-day maintenance of Council premises;
- (c) ensuring budget control;
- (d) approving use of specific grants and/or funding from non-governmental sources, and any annual delivery plans and agreements in relation to such funding;
- (e) approving funding exceeding £5,000 per annum to voluntary and other organisations within their Portfolio, and approving jointly with other

Cabinet Executive Members where the application affects more than one Portfolio;

- (f) the continuous improvement of the Council's services through a programme of work;
- (g) liaising with the relevant Council Overview and Scrutiny Committee;
- (h) decisions proposed and made. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance²¹ (or any policy) on the statutory requirements and procedures;
- (i) the promotion of the Council's policies and communication with the public as appropriate through local and other media, ensuring always that publications are compliant with the Council's Communications Strategy;
- (j) proposing and responding to Government and its agents, and to those sharing common cause and others on matters defined by their responsibilities;
- (k) responding directly to governmental and other consultation papers on behalf of the Council, where the view of the Council has been requested;
- (l) making minor amendments to adopted strategies, policies and procedures;
- (m) the promotion of the Council's existing policies;
- (n) speaking up on matters of local concern and acting as the main Council spokesman on issues within their Portfolio;
- (o) the disposal of non-property assets between £5,001 and £100,000 and between £100,001 and £250,000 in conjunction with the Cabinet Executive Member for Finance;
- (p) providing input for procurement exercises within their Portfolio, in accordance with the Contract Procurement Rules;
- (q) approving variations to contracts in accordance with the Contract Procurement Rules;
- (r) approving proposals for the disposal of property valued under £250,000 in respect of the functions for which they are responsible, in conjunction with the Cabinet Executive Member for Finance;
- (s) applying for planning permission for the Council's own development schemes;

²¹ NHDC Guidance to Members and Officers – Taking a delegated decision 2015

- (t) applying for conservation area consent, listed building consent or any other permissions or consents necessary to progress the Council's own development schemes; and
- (u) responding to consultation with officers on setting new external fees and charges and revising current ones.

14.8.2 Leader of the Council

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

Cabinet Executive Members; the appointment of Cabinet committees and sub-committees and the delegation of executive authority to officers;

- (g) partnership working across the Council's services, including sharing arrangements with other Councils;
- (h) Liaison with other statutory agencies in and outside the District and leading on the Council's Local Strategic Partnership;
- (i) the Council's communications strategies and activities and press and publicity activity;
- (j) information provision and management;
- (k) consultation with local people to help plan and improve Council services and influence the services provided by others;
- (l) community safety and work with the Community Safety Partnership, the police and other law enforcement agencies to reduce crime and disorder, anti-social and nuisance behaviour, and the fear of either;
- (m) speaking up on matters of local concern and representing the views of the Council to Government and its agents and to others;
- (n) appointments to outside organisations between meetings of the Council;
- (o) Legal Services;
- (p) Democratic Services, excluding Electoral Services and Electoral Registration;
- (q) the Land Charges Service;
- (r) Customer Services;
- (s) the health and safety of staff;
- (t) the implementation of public safety measures and the Council's Emergency Plan, in accordance with prevailing national guidance;
- (u) Human Resources including:
 - (i) personnel, employment and training policies and strategies;

(ii) the provision of core training services to the rest of the Council;

(iii) measures to manage productivity and reduce sickness absence;

(iv) matters to do with officers leaving the Council's service, in conjunction with the Executive Member for Finance;

(v) payroll and other financial benefits for staff in conjunction with the Executive Member for Finance;

(vi) Organisational Development.

14.8.3 Finance and I.T

The scope of this Portfolio is concerned with the Council's:-

- (a) Budget planning and all action necessary to maintain overall budget control within the cash limits agreed by full Council (in conjunction with the Leader of the Council);
- (b) development and implementation of the Corporate Business Planning process, in consultation with the Policy Executive Member;
- (c) the determination of applications for national non-domestic rate discretionary relief, and remission or reduction of rate liability and other miscellaneous minor rating matters arising;
- (d) use of the special reserves and reserved contingency budgets, within the total budget agreed by full Council;
- (e) in-year changes to the Council's Capital Programme up to a limit of £100,000 per project;
- (f) financial planning;
- (g) investments and treasury management;
- (h) the collection of taxes, the determination and payment of Housing and Council Tax Benefit;
- (i) overall strategy for fees and charges;
- (j) maximisation of the Council's commercial income;
- (k) audit, fraud, financial probity, insurance and risk management;
- (l) payroll and other financial benefits for staff in consultation with the Leader;
- (m) the Council's procurement policies and procedures;

- (n) maintenance of the Council's buildings (other than day-to-day maintenance);
- (o) overall management of the Council's property assets and the disposal of the Council's property interests (by sale or lease in accordance with the Council's agreed Assets Disposal Strategy) where the sale price, premium or initial annual rent (after the expiry of any rent free period) does not exceed £250,000;
- (p) provision and management of the civic buildings, including the letting of accommodation at public buildings owned or occupied by the Council and not specifically under the control of another Cabinet Executive Member;
- (q) writing off debts between £5,001 and £10,000 in conjunction with the relevant Cabinet Executive Member and Strategic Director of Finance, Policy & Governance;
- (r) development and implementation of policy and strategy for the delivery of e-Government;
- (s) the development and application of policies, initiatives and services involving the use of information and communications technology to support the work of the Council and the Council's work with others;
- (t) Press and publicity activity so far as it relates to the scope of this Portfolio.

14.8.4 Community Engagement and Rural Affairs

The scope of this Portfolio is concerned with the Council's:-

- (a) tourism and visitor management;
- (b) leading on the Council's responsibilities arising from equalities and diversity law and best practice to ensure its services are responsive and relevant to a diverse population and free from improper discrimination;
- (c) to co-ordinate and therefore try to improve the overall delivery of services provided by public bodies and voluntary organisations;
- (d) consultation with local people to help plan and improve Council services and influence the services provided by others;
- (e) community relations and the promotion of social cohesion and fair opportunities;
- (f) diversity and equalities matters, including approving the monitoring of the Council's Equality and Diversity Schemes;
- (g) the Council's relationship with, and funding of, independent advice agencies, community centres, voluntary sector support agencies and

other organisations not within the remit of other Cabinet Executive Members;

- (h) community safety and work with the Community Safety Partnership, the police and other law enforcement agencies to reduce crime and disorder, and the fear of either; including as the Council's representative on the Police and Crime Panel;
- (i) to lead on partnerships and liaison with external agencies, including in relation to the promotion of health and wellbeing;
- (j) Press and publicity activity so far as it relates to the scope of this Portfolio;
- (k) corporate grants including the rural funding scheme and grants made under Memoranda of Understanding or similar agreements;
- (l) development and implementation of strategies and policies for the enhancement and sustainability of the District, in particular rural areas and communities;
- (m) to act as the Council's spokesperson and principal point of contact on matters affecting Town, Parish and Community Councils;
- (n) the provision and monitoring of the Council's CCTV arrangements;
- (o) the operation and services offered by the Council's public halls;
- (p) play and play ranger schemes;
- (q) the arts and cultural services, including archaeological matters, museums, galleries;
- (r) promoting the Council's position in regard to children's services across the district and in particular the protection of children and young people undertaken within its safe-guarding responsibilities;
- (s) responsibilities in respect of Counter Terrorism and Security.

14.8.5 Housing and Environmental Health

The scope of this Portfolio is concerned with the Council's:-

- (a) Community alarms and Careline;
- (b) Homelessness and its prevention;
- (c) Housing allocations and the Common Housing Register;
- (d) Housing advice;
- (e) Housing strategy;

- (f) Gypsies and Travellers;
- (g) Private sewers, drainage and drains;
- (h) Housing grants and loans;
- (i) Caravan sites;
- (j) Housing safety and the fitness of premises;
- (k) Housing energy conservation;
- (l) Health and safety at work;
- (m) Food safety and hygiene;
- (n) Communicable diseases;
- (o) Public Health Act funerals;
- (p) Enforcement relating to Pests;
- (q) Control of pollution / environmental protection (including noise);
- (r) Contaminated land;
- (s) Local air quality;
- (t) Permitting of controlled processes;
- (u) Statutory nuisances;
- (v) Miscellaneous public health duties (such as the Health Acts);
- (w) Miscellaneous public health functions (including the prohibition of smoking in public places);
- (x) wider public health initiatives arising from the Health and Social Care Act 2012 which relate to functions within the Housing and Environmental Health portfolio;
- (y) Licensing;
- (z) Local licensing (including, but not limited to, hackney carriage drivers and vehicles, private hire vehicles, drivers and operators, permits for small lotteries and street collections and house to house collection licences, gambling, small lotteries, sex shops, pet shops and dangerous wild animals);
- (aa) hackney carriages and private hire vehicles – to be consulted on setting of charges, fees, etc.
- (bb) Dealers of scrap metal;

- (cc) Street trading consents and licences;
- (dd) Sunday trading;
- (ee) Animals (welfare, associated licensing and enforcement);
- (ff) Abandoned vehicles;
- (gg) Fly tipping and illegal waste disposal;
- (hh) Enforcement of byelaws (NHDC and HCC where delegation exists);
- (ii) Highways enforcement matters delegated by Hertfordshire County Council;
- (jj) Miscellaneous street scene enforcement functions (including fly posting and litter) and fixed penalty notices;
- (kk) Share interest in North Hertfordshire Homes Limited unless the decision relates to significant matters that might have a long term implication for the Council, in which case such matters must be referred to the Council;
- (ll) Safeguarding of vulnerable adults;
- (mm) Press and publicity activity so far as it relates to the scope of this Portfolio.

14.8.6 Leisure

The scope of this Portfolio is concerned with the Council's role in:

- (a) leisure services, including sports centres and sports development for adults;
- (b) recreation grounds and facilities;
- (c) markets;
- (d) parks, open spaces (including public art in these places) and outdoor swimming pools;
- (e) health and wellbeing promotion and activity through leisure and use of open spaces, so far as it relates to the scope of this portfolio;
- (f) allotments;
- (g) Press and publicity activity so far as it relates to the scope of this Portfolio.

14.8.7 Planning, and Enterprise

The scope of this Portfolio is concerned with the Council's role as:-

- (a) Local Planning Authority and its interest in the preservation, enhancement and conservation of the environment including monitoring the Council's annual report on the Local Plan and making submissions on the same to regional bodies and other external agencies;
- (b) proposals for the Council's planning policies relating to land use (including the Local Plan), for recommendation to full Council, and supplementary guidance;
- (c) planning briefs for individual development sites;
- (d) responses to planning guidance and planning policy statements from Government and other local agencies and authorities impacting on the District;
- (e) co-ordination of the Council's response to major developments on private land or developments affecting the streetscape, where these have not been explicitly reserved to another Cabinet Executive Member;
- (f) street lighting and furniture and the naming and numbering of streets;
- (g) the Council's policies for enforcement of planning conditions and against improper development;
- (h) the Council's policies for identifying, and preserving conservation areas;
- (i) the Council's provision of development and building control and strategic planning and enterprise services;
- (j) land drainage;
- (k) Tree Preservation Orders and High Hedges Regulations;
- (l) development and implementation of the Council's Transport Strategy and Initiatives and representing the Council's views on regional transport issues;
- (m) leading on the Council's arrangements for highways matters including partnership and agency arrangements;
- (n) Regeneration, neighbourhood renewal and economic development, including bidding for, planning and expenditure of regeneration funding;
- (o) NHDC Localism Champion;
- (p) Press and publicity activity so far as it relates to the scope of this Portfolio.

14.8.8 Policy Transport and Green Issues

The scope of this Portfolio is concerned with the Council's:-

- (a) responsibility for strategic planning and organisational development;
- (b) development and implementation of the Council's Corporate Business Planning process, in consultation with the Executive Member for Finance and the Leader;
- (c) population and other census information;
- (d) the Council's Annual Report, Service reviews, performance statistics and all aspects of the Council's efforts to secure improvements in quality in its services, cost improvements and external accreditation and recognition,
- (e) the Council's complaints system and its response to investigations by the Local Government Ombudsman;
- (f) proposals to vary the boundaries of the Borough and Electoral Wards and Polling Districts;
- (g) the Nottingham Declaration on Climate Change and other green issues affecting the District;
- (h) NHDC Children and Young People's Champion;
- (i) Press and publicity activity so far as it relates to the scope of this Portfolio;
- (j) car parks and parking operations including decriminalised parking enforcement;
- (k) the Council's communications strategies and activities and press and publicity activity in consultation with the Leader.

14.8.9 Waste Management, Recycling and Environment

The scope of this Portfolio is concerned with the Council's role in:-

- (a) waste management (including waste-related enforcement: littering, graffiti, fly-posting, unauthorised distribution of free literature on designated land, waste receptacle offences under any enabling legislation), waste minimisation and recycling;
- (b) cleansing, public conveniences and cesspools;
- (c) grounds maintenance, amenity areas and associated functions;
- (d) provision and maintenance of trees;
- (e) cemeteries, crematoria burials and related services;
- (f) war memorials;
- (g) the management and maintenance of footpaths and bridleways;

- (h) the Council's provision of arboricultural services;
- (i) Public health activities and contribution to wellbeing of the local population so far as it relates to the functions of this portfolio;
- (j) NHDC Heritage Champion;
- (k) Press and publicity activity so far as it relates to the scope of this Portfolio.

14.8.10 Extent of Delegated Authority

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

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

14.8.11 Procedural Rules

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

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

SECTION 15

15. Access to Information Rules

15.1 Scope

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

15.2 Additional Rights to Information

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

15.3 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

15.4 Notices of Meeting

Unless a meeting is convened at short notice, the Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Council offices and on the Council's website.

15.5 Access to Agenda and Reports Before the Meeting

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

15.5.1 the item/report is genuinely urgent; and

15.5.2 it cannot wait until a later meeting;

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

15.6 Supply of Copies

15.6.1 The Council will supply to Members of the Committee copies of the agenda and reports for that Committee.

- 15.6.2 The Proper Officer will ensure that copies of the agenda and reports are made available at the meeting of the Committee for any other Member, or member of the public, who attends the meeting.
- 15.6.3 If you are not a Member of the Committee you should access the agenda and reports via the Council's website.
- 15.6.4 The Chairman of Overview and Scrutiny Committee will receive copies of all reports for every Committee whose business can be scrutinised by Overview and Scrutiny Committee and any individual Executive delegated decision that could be subject to call-in.

15.7 Access to Minutes etc after the Meeting

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

- 15.7.1 the minutes of the meeting or record of decisions taken by the Cabinet, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- 15.7.2 a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 15.7.3 the agenda for the meeting; and
- 15.7.4 reports relating to items when the meeting was open to the public.

15.8 Background Papers

15.8.1 List of Background Papers

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

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

but does not include published works or those which disclose exempt or confidential information as defined in Rule 15.10.

15.8.2 Public Inspection of Background Papers

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

15.9 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at, and made available to the public at the Council's main offices.

15.10 Exclusion of Access by the Public to Meetings

15.10.1 Confidential Information – Requirement to Exclude Public

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

15.10.2 Exempt Information – Discretion to Exclude Public

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

15.10.3 Meaning of Confidential Information

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

15.10.4 Meaning of Exempt Information

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

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

No.	Category of Exempt Information	Condition
1.	Information relating to any individual.	Public interest test applies (see below).
2.	Information which is likely to reveal the identity of an individual.	Public interest test applies (see below).

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

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

15.11 Public Interest Test

15.11.1 Information which:

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

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

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

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

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

15.12 Exclusion of Access by the Public to Reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 15.10, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be

disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

15.13 Application of Rules to the Cabinet

15.13.1 Rules 15.14 - 15.23 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a Key Decision then it must also comply with rules 15.1-15.12 unless rule 15 (general exception) or rule 16 (special urgency) apply. A Key Decision is as defined in Section 2 of this Constitution.

15.13.2 If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 20 working days of the date according to the Forward Plan by which it is to be decided, then it must also comply with rules 15.1 - 15.12 unless rule 15.16 (general exception) or rule 17.17 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

15.14 Procedure before taking Key Decisions

15.14.1 Notice of Key Decisions

Subject to rule 15.16 (general exception) and rule 15.17 (special urgency), a Key Decision may not be taken unless:

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

15.14.2 Contents of Notice of Key Decision

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

- (a) the matter in respect of which the decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- (c) the date on which, or the period within which, the decision is to be made;

- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

15.14.3 Publication of the Notice of Key Decision

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

15.15 The Forward Plan

15.15.1 The Council is not required by law to publish a Forward Plan. However, a Notice of Key Decision and a Notice of Private Meeting of the Cabinet published by the Council set out not just details of specific Key Decisions, but also details of Key Decisions over a four month period (including decisions to be made by the Cabinet, individual Cabinet members or delegated officers, which are not Key Decisions). In this constitution, such notices are together referred to as the "Forward Plan".

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

15.16 General Exception

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 15.17 (Special Urgency), the decision may still be taken if:

- 15.16.1 the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- 15.16.2 The Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- 15.16.3 the Proper Officer has made copies of that notice available to the public at the Council offices and on the Council's website; and
- 15.16.4 at least five clear working days have elapsed since the Proper Officer complied with 15.16.2 and 15.16.3. Where such a decision is taken collectively, it must be taken in public.

15.17 Special Urgency

15.17.1 If by virtue of the date a decision which must be taken under Rule 15.16 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman, or if the Chairman is unavailable to act, then the agreement of the Vice-Chairman of the Overview and Scrutiny Committee, the Chairman of the Council, or in his/her absence, the Vice-Chairman or Head of Paid Service will suffice.

15.17.2 As soon as reasonably practicable after the decision taker has obtained agreement under 15.17.1, the decision taker must make available at the Council Offices a notice setting out the reasons that the decision is urgent and cannot be reasonably deferred, and arrange for this notice to be published on the Council's website. The notice will be circulated to Members.

15.18 **Report to Council**

15.18.1 When the Overview and Scrutiny Committee can Require a Report

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

- (a) included in the Forward Plan;
- (b) the subject of the general exception procedure;
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Chairman/Vice-Chairman of the Council under rule 15.17;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

15.18.2 Cabinet's Report to Council

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

15.18.3 Annual Report on Special Urgency Decisions

The Leader of the Council will submit an annual report to the Council on the Cabinet decisions taken in the circumstances set out in 15.17 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

15.19 Record of Decisions of the Cabinet

15.19.1 The Decision Record

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

15.20 Cabinet Meetings to be held in Public

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

15.21 Key Decisions by An Individual Member of the Cabinet

15.21.1 Reports Must Be Taken Into Account

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

15.21.2 Provision of Copies of Reports to Overview and Scrutiny Committee

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

15.21.3 Record of Individual Decision

The decision recording rules in paragraph 15.19.1 will apply.

15.22 Overview and Scrutiny Committee Access to Documents

15.22.1 Rights of Access

Subject to paragraph 15.22.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

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

15.22.2 Limit on Rights

A Scrutiny Committee will not be entitled to:

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

With regard to 15.22.2(b) above, the Overview and Scrutiny Committee will need to demonstrate to the Monitoring Officer that the information requested is relevant to them and the Monitoring Officer shall take the decision as to whether the information should be made available, supplying reasons as appropriate.

15.23 Additional Rights of Access for Members

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

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any

terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

(c) advice provided by a political advisor or assistant.

15.23.2 Any document which is required by Rule 15.23.1 to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

(a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

(b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 15.23.1 in relation to that time, must be available for inspection when the item is added to the agenda.

15.24 Material relating to previous business

15.24.1 All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless 15.23.1(a) or 15.23.1(b) applies.

15.24.2 Any document required to be made available for inspection under 15.24 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

15.24.3 Nature of Rights

These rights of a Member are additional to any other right he/she may have.

SECTION 16

16. Budget and Policy Framework Procedure Rules

16.1 The Framework for Executive Decisions

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

16.2 Process for Developing the Framework and the Budget

- 16.2.1 The Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework.
- 16.2.2 The Cabinet may undertake consultation with Committees and local stakeholders as deemed appropriate by Cabinet. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee has carried out a statutory Scrutiny function then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals. Finance, Audit and Risk Committee has specific functions reserved to it under its Terms of Reference and shall deal with these matters accordingly.
- 16.2.3 The Cabinet develops its proposals for the plan, strategy or budget, having due regard to previously approved Priorities as appropriate, and seeks the views from Member budget workshops and Committees as deemed appropriate by Cabinet (including Overview and Scrutiny Committee or Finance Audit and Risk Committee for matters within the Terms of Reference of those Committees). The proposals will be referred by sending a copy to the Proper Officer who will forward them to the Chairman of the relevant Committee. The Committee may canvass the views of local stakeholders if it considers it appropriate, having particular regard not to duplicate any consultation carried out by the Cabinet. The Committees consulted shall report to Cabinet on the outcome of their deliberations. Committees shall have 4 to 6 weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make the timescale inappropriate. If it does, it will inform the Committee of the time for response when the proposals are referred to it.
- 16.2.4 The Cabinet will consider the views of those consulted and may amend its proposals before making recommendations to the full Council for consideration. It will report to the Council how it has taken into account any recommendations from the Member budget workshops and Committee(s) consulted.
- 16.2.5 The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the

Council shall have before it the Cabinet's proposals and any report from any Overview and Scrutiny Committee or Finance, Audit and Risk Committee.

16.2.6 In respect of the preparation of the Budget or a plan, policy or strategy forming part of the Strategic Framework, the Cabinet has a right to ask the Council to reconsider any proposed decision which runs counter to the Cabinet's proposals for either Budget or plans.

16.2.7 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 16.2.8.

16.2.8 Before the Council:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted;
- (c) adopts (with or without modification) the plan or strategy;

it must inform the Leader of any objections which it has to the draft plan or strategy (and the rationale for such objections) and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

16.2.9 Where the Council gives instructions in accordance with paragraph 16.2.8, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration;
- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

When the period specified by the Council, referred to in paragraph 16.2.9, has expired, the Council must, when:

- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or

strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

(iii) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified. The Council will then meet again to consider any objections from Cabinet and will make its final decision on the matter on the basis of a simple majority.

16.2.10 Subject to paragraph 16.2.14, where, if estimates are prepared before 8th February in any financial year, the Council's Cabinet submits to the Council for its consideration in relation to the following financial year,

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992 or any other applicable legislation;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 or any other applicable legislation,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 16.2.12.

16.2.11 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 16.2.10(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

16.2.12 Where the Council gives instructions in accordance with paragraph 16.2.11, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Cabinet Leader may:

- (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the

Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

16.2.13 When the period specified by the Council, referred to in paragraph 16.2.12, has expired, the Council must, when making calculations (whether originally or by way of substitute in accordance with the sections referred to in paragraph 16.2.10(a)), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account,

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Cabinet's reasons for those amendments;
- (c) any disagreement that the Cabinet has with any of the Council's objections; and
- (d) the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

16.2.14 Paragraphs 16.2.11 to 16.2.13 shall not apply in relation to:

- (a) calculations or substitute calculations which a Council is required to make in accordance with sections 52(I), 52(J), 52(T) or 52(U) of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52(J) or 52(U) of that Act.

16.3 Decisions Outside the Budget or Policy Framework

16.3.1 Subject to the provisions of paragraph 16.4 (Urgent Decisions Outside the Budget or Policy Framework) any Committees, whether they be: the Cabinet, Area Committees, Overview and Scrutiny Committee (to the extent that it makes such decisions), Finance, Audit and Risk Committee; or individual members of the Cabinet, or any Officers may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the full Council, subject to paragraph 16.4 below.

16.3.2 It is the responsibility of the decision-taker to take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget.

- 16.3.3 If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 16.4 (Urgent Decisions Outside the Budget or Policy Framework) shall apply.

16.4 Urgent Decisions Outside the Budget or Policy Framework

- 16.4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Executive Functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (a) if it is not practical to convene a quorate meeting of the Full Council; and
 - (b) if the Chairman of Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
- 16.4.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Head of Paid Service will be sufficient. The Chairman of Overview and Scrutiny Committee should receive copies of any individual Executive delegated decision that could be subject to call-in. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance on the statutory requirements and procedures.
- 16.4.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

16.5 Virement

Steps taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging Executive Functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Regulations in Section 19 of this Constitution.

16.6 In-Year Changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy or strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- 16.6.1 which will result in the consequential closure or discontinuance of a discretionary service or part of service to meet a budgetary constraint;
- 16.6.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
- 16.6.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- 16.6.4 for which provision is made within the relevant budget or policy.

16.7 Call-In of decisions Contrary to the Budget or Policy Framework

- 16.7.1 Where the Overview and Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 16.7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Finance, Audit and Risk Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 16.7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - (a) endorse a decision or proposal of the Executive Decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (b) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive Function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

- (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

SECTION 17

NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT FOR COUNCILLORS (AND VOTING / NON-VOTING CO-OPTTEES)

(Approved by Council on 18 July 2013)

1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, (voting or non-voting) co-opted and appointed members.

2. When does the Code of Conduct apply?

- 2.1 In this Code "meeting" means any meeting of
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) any of the authority's or its executive's committees, sub committees joint committees, joint sub-committees, or area committees;
 - (d) informal meetings with other members and/or officers relating to the discharge of the authority's functions.
- 2.2 The Code of Conduct applies—
 - (a) whenever you conduct the business, or are present at a meeting, of the authority; or
 - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed; or
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of the authority; or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.

- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.
- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

- 3.1 As a Member of North Hertfordshire District Council you shall have regard to the seven principles of public life.

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

3.2 Duties and Responsibilities

You must:

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority.

3.3 Information

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 Conduct

You must

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the authority.
- (c) comply with any request of the authority's monitoring officer or section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 Use of your Position

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of the authority—

(i) imprudently;

(ii) in breach of the authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

3.6 **Decision Making**

You must:

(a) when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's officers, in particular by—

(i) the authority's head of paid service;

(ii) the authority's s.151 officer/ chief finance officer;

(iii) the authority's monitoring officer/ chief legal officer;

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 **Compliance with the Law and the Authority's Rules and Policies**

You must:

(a) observe the law and the authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) comply with the authority's Gifts and Hospitality Policy;

(c) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code of Good Practice for Members.

4. Interests

- 4.1 Remember - breaches of the requirements of the Localism Act 2011 relating to Disclosable Pecuniary Interests can constitute a criminal offence.

Disclosable Pecuniary Interests

- 4.2 You have a Disclosable Pecuniary Interest if you, or your spouse or civil partner, have a pecuniary interest as defined by regulations made by the Secretary of State. The description of Disclosable Pecuniary Interests published by DCLG in their Guide for Councillors "Openness and Transparency on Personal Interests" is attached in Appendix A. Interests or your spouse or civil partner are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.
- 4.3 You must:
- (a) within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
 - (b) ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your Disclosable Pecuniary Interests.
- 4.4 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.
- 4.5 If a function of the authority may be discharged by a member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

Declarable Interests

- 4.6 You have a Declarable Interest in an item of business of the Council where:
- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or
 - (b) it relates to or is likely to affect any of the interests listed in the Appendix to this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or

(c) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest; or

(d) the interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 (or such other figure set in the Council's Gifts and Hospitality Policy). You need not disclose this interest if it was registered more than 6 years before the date of the meeting; or

(e) it relates to or is likely to affect any body of which you are a member or in a position of general control or management which:

(i) you are appointed or nominated to by the authority; or

(ii) exercises functions of a public nature; or

(iii) is directed to charitable purposes; or

(iv) as its principal purposes includes the influence of public opinion or policy (including any political party or trade union)

and that interest is not a Disclosable Pecuniary Interest.

5. Sensitive Information

5.1 A Disclosable Pecuniary Interest may not be published or made available for inspection where the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if it is entered in the register of interests. Copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011.

5.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 5.1 is no longer sensitive information, notify the Monitoring Officer.

6. Declaring interests at meetings

6.1 If you are present at a Meeting at which an item of business in which you have a Disclosable Pecuniary Interest is to be considered or is being considered you must make a verbal declaration of the existence and nature of the Disclosable Pecuniary Interest at the meeting at or before the consideration of the item of business or as soon as the interest becomes apparent. If the interest is not registered and is not the subject of a pending notification you must notify the Monitoring Officer of the interest within 28 days of the Meeting

6.2 If you attend a meeting at which any item of business is to be considered and you are aware that you have a Declarable Interest in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

7. Effect of Interests on Participation at Meetings

- 7.1 If you are present at a meeting of the council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting, you must not:
- (a) participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting participate further in any discussion of the business, or
 - (b) participate in any vote or further vote taken on the matter at the meeting.
- 7.2 The prohibitions at paragraph 7.1 apply to any form of participation, including speaking as a member of the public. In certain circumstances you can request a dispensation from these prohibitions from the Monitoring Officer.
- 7.3 If you are present at a meeting of the council and you have a Declarable Interest relating to any business which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest you must not participate in the discussion or vote on the item, although you may speak as a member of the public.
- 7.4 If you have a Disclosable Pecuniary Interest, or a Declarable Interest which is so significant that you must not participate, you must leave the room or chamber where the meeting is being held unless you have received a dispensation from the Monitoring Officer.
- 7.5 If you are leaving the room or chamber in accordance with paragraph 7.4 you may listen to any speeches from the public but must leave prior to the item being presented or in any other case, whenever it becomes apparent that that business is being considered at that meeting.

8. Dispensations

- 8.1 Section 33 of the Localism Act 2011 allows the Council in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority, even if the member has a Disclosable Pecuniary Interest relating to that business. If you would like the Council to consider granting you a dispensation, you must make a written request to the Monitoring Officer, who has been authorised by the Council to make decisions on requests for dispensations.

Appendix A

Description of Disclosable Pecuniary Interests (from *DCLG Guide for Councillors "Openness and Transparency on Personal Interests" March 2013²²*)

If you have any of the following pecuniary interests, they are your **Disclosable Pecuniary Interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

Contracts

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Land

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) –

- the landlord is your council or authority; and
- the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Securities

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and

(b) either –

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share class of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

²² Updated in September 2013.

SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Reviewed and approved by Council 11 April 2017)

1. Introduction

1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.

1.2 In particular, this protocol aims to support the enhancement of local democracy by –

- facilitating the participation of Members and officers in the Council's policy development and decision making processes;
- assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for Members and their party groups.

1.3 This Protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.

1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

1.5 The Council has adopted a Councillor Code of Conduct (section 17 of the Constitution) which sets out the Conduct expected from Members. Officers are also bound to follow the Council's Employee Code of Conduct and may, in addition be subject to their own professional codes of conduct.

1.6 This Protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this Protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this Protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.

1.7 Failure of a Member to follow the Protocol for Member / Officer Working Arrangements may amount to a breach of the Councillor Code of Conduct and by an Officer of the Employee Code of Conduct and therefore their terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows:

Members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. It is not the role of Members to determine the day-to-day management of the Authority's services. Mutual respect between Members and officers is essential to good local government.

2.2 Members

Members have four main areas of responsibility:

- a) determining the policy of the Authority and giving it political leadership;
- b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- c) representing the Authority externally;
- d) acting as advocates on behalf of their constituents.

2.3 Members of Cabinet, Chairmen and Vice-Chairmen

Members of Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with officers and should be treated fairly. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation and the administration will differ from that with opposition groups.

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

3.1 Members can expect from officers:

- a) A commitment to the Authority as a whole, and not to any political group;
- b) A working partnership;
- c) An understanding of and support for respective roles, workloads and pressures;

- d) Timely response to enquiries and complaints;
- e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- g) Awareness of and sensitivity to the political environment;
- h) Respect, dignity and courtesy;
- i) Training and development in order to carry out their role effectively;
- j) Integrity, mutual support and appropriate confidentiality;
- k) Not to be subject to bullying or to be put under undue pressure.
- l) Not to have personal issues raised with them by officers outside the agreed procedures;
- m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- o) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- a) A working partnership;
- b) An understanding of and support for respective roles, workloads and pressures;
- c) Political leadership and direction;
- d) Respect, dignity and courtesy;
- e) Integrity, mutual support and appropriate confidentiality;
- f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- h) That Members will give due consideration to advice received from officers;
- i) That Members will not criticise individual officers in public and will instead raise any concerns or complaints with the appropriate officer (dependent on the seniority of the officer concerned – directly or their line manager) in the first instance;
- j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

The issue of officer attendance and advice to political groups is specifically covered below.

- d) Members will sometimes need to use Council Services in their private capacity, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow the principles of this Protocol in such interactions with officers and in any event any requirements in the Councillors' Code of Conduct (and where applicable the Planning Code of Good Practice). Members are reminded that the Code of Conduct applies to any formal or informal meeting with officers and Members where authority business such as this is discussed. Members should therefore use a third party to liaise and correspond on their behalf.

4. Member/Officer Communication

- 4.1 Members should communicate with officers at the appropriate level Routine service related enquiries should be initiated through normal departmental enquiry/contact points. Contact and communication includes telephone, e-mail, letters and in person. Members should always identify themselves as being a Member when contacting officers. Flexible working arrangements mean that this will be especially important, as contact will often be via email or telephone. Senior officers may use briefings, e-mail or dispatch to notify Members of Ward issues. The relevant Senior officer will keep Members informed of general developments affecting the Council and/or the District via MIS. If a Member wants an officer to undertake new or additional work (other than routine requests described below) contact should be made in the first instance with the appropriate Senior officer for the service concerned. This will be considered in the context of the Council's priorities, approved policies and resources available.
- 4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this Protocol and any instructions issued by their departmental management.
- 4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.
- 4.4 When a Member wishes to discuss policy, contact should be made with the relevant Executive Member. Operational queries should be raised with the Senior officer for the Service concerned (Head of Service, Corporate Manager or other Senior manager).
- 4.5 Members will experience a number of standardised requests for assistance from constituents and should approach such matters as per below. Officer response times will be as per the Council's published customer care standards:
 - 4.5.1. 'First Time' Service Requests or Reports of a service failure: if reporting matters for the first time, then this can be reported on line via the Council's website: <https://www.north-herts.gov.uk/>
 - 4.5.2 When dealing with specific planning applications Members should contact the Development Control case officer at the contact number set out on material produced by the Planning Service. This does not include a Member's own application, as this should be handled through a third party on a Member's behalf.
 - 4.5.3 Electoral registration issues for residents, including postal votes are handled by the Elections Team. Residents can register on line via <https://www.north-herts.gov.uk/home/elections-and-voting/register-vote>

4.6 If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services.

5. Officer Advice to Party Groups

5.1 There is no statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups. The advice provided must be consistent with the principle at paragraph 3.1(e) above.

5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, Chairman or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.

5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular –

a) The support provided by an Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.

c) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.

5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.

5.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.

5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant senior officer for the service concerned, who will consult with the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.

5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election (including Police and

Crime Commissioner elections) affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.

- 5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.
- 5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Chief Executive who will where appropriate discuss with the relevant group leaders.

6. Officer/Member/Chairman Relationships

- 6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Executive Member and Chairman of a Committee and the senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.
- 6.2 The Leader of the Council, Executive Member or Chairman will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless s/he is the requester²³) and Chief Executive Officer²⁴. The relevant officer will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chairman and the relevant senior officer should be referred to the Chief Executive as Head of Paid Service, the Corporate Legal Manager and/or the Chief Finance Officer.
- 6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet or officers. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members and a record of that decision (as per the Guidance for Decisions Made Under Delegated Authority) completed and published.
- 6.4 It must be remembered that officers within a department are accountable to their Head of Service/Corporate Manager and that whilst officers should also seek to assist a Cabinet Member or Chairman (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Head of Service/Corporate Manager or other senior officer. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

²³ If the Leader is the requester, then this is to be agreed with the Chief Executive.

²⁴ This does not apply to statutory officer reports – under s114 Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989

7. Correspondence

- 7.1 Members and officers are reminded that all written correspondence (including letters, emails and other forms of electronic communication) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.
- 7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.
- 7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails (and other forms of electronic communication) which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Head of Service/Corporate Manager or other senior officer.

8. Publicity and the Media

- 8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from the Communications Unit.
- 8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf and not representing or speaking for the Council.
- 8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Corporate Legal Manager, who will have regard to the Code of recommended practice on local authority publicity
- 8.4 In all other respects such communications should be in accordance with the Council's Media Relations protocol.²⁵

9. Personal Relationships

- 9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.
- 9.2 An officer who is personally connected or related to any Member has a Personal Interest that should notified to his or her Appropriate Officer in writing using the (Personal) Interests Register Form (on the intranet: <http://intranet.north-herts.gov.uk/home/human-resources/hr-policies/conflicts-interest>).

²⁵ Available on the internet: <https://www.north-herts.gov.uk/home/customer-services/publications-and-consultations/media-relations-protocol>

9.3 Members should take into account any personal relationship or connection with any other Member or officer, in considering the need to register or declare a Disclosable Pecuniary Interest or Declarable interest whenever appropriate.

10. Involvement of Members

10.1 Whenever a public meeting is organised by the Council to consider a local issue affecting a particular area, all the Members of the relevant Area Committee or (if only affecting a particular Ward or Wards), those Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, wherever the Council undertakes any form of consultative exercise on a local issue, in line with the Consultation Strategy, the Area Committee/Ward Members should be notified at the outset of the exercise.

10.2 The relevant senior officer will keep Members informed about significant issues in their Ward or elsewhere and affecting the Council generally, including in respect of consultation with parish councils and community groups. Such updates will usually be via MIS and examples include items on national policy, County issues, technical workshops etc. These will be issues of importance over and above the routine matters and which do not contravene the law relating to confidential information.

10.3 When a Member raises a Ward issue with an officer, they will be kept informed of progress if they wish to be.

11. Further Guidance

11.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code or on any similar or related issue is advised to contact the Corporate Legal Manager. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.