



COUNTY COUNCIL

**CONSTITUTION**

**ADOPTED BY THE COUNTY COUNCIL ON 21 MAY 2019**

# **HERTFORDSHIRE COUNTY COUNCIL**

## **CONSTITUTION**

This is the Constitution of Hertfordshire County Council (“the Council”). It sets out the rules under which the Council conducts its business. It aims to:

- describe how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and communicated effectively
- enable the Council to provide clear leadership to the community in partnership with the public, businesses and other organisations
- support the active involvement of members of the public in decision-making
- help Councillors represent their constituents
- enable decision-makers to be held to account
- ensure that decision-makers are identifiable and that reasons are given for decisions.

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## **SECTION 1 - SUMMARY**

### **1.1 How the Council Operates**

The Council is composed of 78 County Councillors (usually referred to in this Constitution as “Councillors”) elected every 4 years. Each Councillor represents an area of the County called an electoral division and has a duty to represent the interests of people in that division. The overriding duty of Councillors, however, is owed to the whole County.

There is a Code of Conduct (“the Code of Conduct for Members”) which applies to Councillors when they carry out their duties (Annex 20 – Code of Conduct for Members and Register of Interests). There is a Standards Committee which is responsible for training and advising Councillors on, and deals with complaints about breaches of, the Code of Conduct for Members.

All Councillors meet together at full Council Meetings when decisions are taken on the Council’s overall policies and the budget. Meetings are open to the public. Members of the public are able to ask questions of leading Councillors, and can present petitions in accordance with the Council’s Standing Orders (Annex 6) and the Council’s Petitions Scheme (Annex 24).

### **1.2 How Decisions are Made**

The Executive is that part of the Council which is responsible for most decisions on how the Council’s services are run. The Executive is made up of the Executive Leader (referred to in this document as “the Leader of the Council”) and at least 2 and up to 9 Councillors appointed by the Leader of the Council. The Executive is sometimes referred to as the Cabinet (the terms “Executive” and “Cabinet” have effectively the same meaning). The Executive delegates responsibility for many day-to-day decisions to officers, but still retains overall responsibility for them. When major decisions are to be made, notice is Published in advance in a document known as the Forward Plan. When the Executive meets to take decisions, the public can attend unless personal or confidential matters are being discussed.

The Executive cannot take decisions which are out of line with the Council’s Policy Framework (see Section 4 below and Annex 5 – Budget and Policy Framework Procedure Rules) or budget agreed by the full Council.

Councillors have the opportunity at each meeting of the Executive to question Executive Members (Annex 7).

Members of the public may present petitions in accordance with the Petitions Scheme (Annex 24).

### 1.3 Overview and Scrutiny

There is a system of scrutiny which supports and challenges the work of the Executive and Council. There is an Overview and Scrutiny Committee which monitors decisions of the Executive.

There is a procedure whereby Councillors can refer Executive decisions to the Overview and Scrutiny Committee for consideration before they are implemented (this is known as “call-in”). The Overview and Scrutiny Committee cannot change the Executive decision, but it can ask the relevant decision maker to re-consider it (Annex 9).

The Overview and Scrutiny Committee also sets an overall work programme for scrutinising matters for which the Executive is responsible. It appoints Topic Groups to undertake the detailed scrutiny work. Scrutiny meetings are open to the public except when personal or confidential matters are being discussed.

There is also a Health Scrutiny Committee which scrutinises the work of the National Health Service in Hertfordshire, the Council’s public health functions and the work of the Council’s Health and Wellbeing Board

### 1.4 The Council’s Staff

The Council’s staff (called “officers”) give advice to Councillors and take day-to-day decisions on the running of services. The Council is required by law to appoint a “Monitoring Officer” with responsibility to ensure that the Council acts within the law and a Chief Finance Officer with responsibility for the Council’s financial affairs and for ensuring that the Council’s spending is lawful. Further detail about these roles is given in Section 10 (Officers).

There is a Protocol which governs the relationship between Councillors and officers (Annex 18 - Protocol for Relationships Between Councillors and Officers). A key point in it is that all officers must be politically neutral and must provide support to all Councillors irrespective of party.

## **SECTION 2 - COUNCILLORS**

### **2.1 Composition**

The Council comprises 78 Councillors. One Councillor is elected by the voters of each of the 78 electoral divisions in the County.

Only registered voters of the County or those living or working there are eligible to be elected as Councillors.

### **2.2 Election and Terms of Office**

County Council elections are held every four years, normally on the first Thursday in May. All County Councillors are elected at the same time. The new Councillors take up office on the 4th day after the day of the elections.

Where a Councillor dies, resigns or becomes disqualified, a by-election is held to fill his or her place on the Council for the remainder of the original term of office, unless the vacancy occurs within 6 months of the date fixed for the next four yearly elections.

### **2.3 Roles & Functions of all Councillors**

#### **a) Key roles**

All Councillors will:

- Acting together in full Council, be responsible for major policies and the budget;
- Contribute to the good governance of the County and actively encourage the public to participate in decision-making;
- Represent the interests of their electoral division;
- Maintain the highest standards of conduct and ethics.

#### **b) Rights and Duties**

- Councillors have a right of access to information held by the Council in order to carry out their duties as Councillors;
- Councillors will not make public information which is confidential or exempt (see the Access to Information Rules in Annex 4) without the agreement of the Council; or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

**2.4 Conduct**

Councillors will at all times observe the Protocol for Relationships between Councillors and Officers and the Code of Conduct for Members set out in Annexes 18 and 20 respectively.

**2.5 Allowances**

Councillors are entitled to receive allowances in accordance with the Scheme for Members Allowances set out in Annex 17.



## **SECTION 3 - THE COUNCIL AND CITIZENS**

### **3.1 Rights**

Hertfordshire citizens have the following rights in relation to the Council:

- a) The right to vote if they are on the electoral roll;
- b) The right to sign a petition to request a referendum for an elected Mayor and the right to vote in such a referendum.
- b) The following rights in relation to information:
  - (i) to attend meetings of the Council, the Executive, Committees, Panels, topic groups and other member bodies, except where confidential or exempt information is being discussed;
  - (ii) to find out from the Forward Plan what Key Decisions will be taken by or on behalf of the Executive and when;
  - (iii) to see reports and background papers and any records of decisions made by the Council, the Executive, Committees or other member bodies except where they contain confidential or exempt information;
  - (iv) to submit a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 to see any information held by the Council;
  - (v) to inspect the Council's accounts (at certain times laid down by law) and make their views known to the Council's external auditor.
- c) The right to:
  - (i) question the Leader of the Council and other Executive Members at Council Meetings (Annex 6);
  - (ii) present petitions at meetings of the Council, the Executive, Cabinet Panels, Regulatory Committees, the Overview and Scrutiny Committee and the Health Scrutiny Committee (Annexes 6, 7, 9 and 12 respectively and Annex 24 (Petitions Scheme)).
- d) The right to complain to:
  - (i) the Council under its own Complaints Procedures;
  - (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints procedures;

- (iii) the Council's Monitoring Officer that a Councillor has breached the Code of Conduct for Members (Annex 20).

### **3.2 Responsibilities**

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Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council.

**SECTION 4 - THE COUNCIL MEETING****4.1 Functions of the Full Council**

4.1.1 The full Council approves or adopts the “Policy Framework” which consists of the following plans, strategies and documents:

- (a) Development Plan Documents relating to minerals and waste and proposals in connection with the preparation of altered or replacement documents
- (b) Children and Young People’s Plan
- (c) Local Transport Plan
- (d) Crime and Disorder Reduction Strategy
- (e) Youth Justice Plan

4.1.2 The full Council approves the budget, including the allocation of financial resources to different services and projects; contingency plans; the Council tax base; setting the Council tax precept; decisions relating to the Council’s overall borrowing requirements; the control of capital expenditure and the setting of virement limits. The procedures under which these matters are dealt with are set out in the Budget and Policy Framework Procedure Rules (Annex 5) and in Financial Regulations (Annex 14).

4.1.3 The full Council:

- a) elects the Leader of the Council and decides his/her term of office
- b) has overall responsibility for those functions for which the Executive by law may not be responsible and delegates the majority of such functions to committees or to officers (see Annex 3 - Responsibility for Functions (including Scheme of Delegation to Officers))
- c) approves the terms of reference for committees and makes appointments to them (such appointments and the appointment of substitutes may also be made by the Director of Law & Governance under delegated powers)
- d) appoints representatives to outside bodies in relation to non-executive functions (such appointments may also be made by the Director of Law & Governance under delegated powers)
- e) agrees the Scheme for Members’ Allowances
- f) approves the appointment of Head of Paid Service
- g) makes bylaws and promotes or opposes any local legislation

- h) is responsible for those functions in relation to which the Council has a choice as to whether or not they are to be the responsibility of the Executive (“Local Choice Functions”) and which the Council has decided should not be the responsibility of the Executive (as set out in Annex 3 – Responsibility for Functions) (such functions may in practice be the responsibility of committees or officers under powers delegated by the Council as set out in Annex 3)
- i) approves the Council’s Pay Policy
- j) is responsible for any other matters which by law are reserved to it.

#### **4.2 Council Meetings**

There are 3 types of Council meeting:

- a) the Annual Meeting
- b) ordinary meetings
- c) extraordinary meetings

and they are conducted in accordance with the Council Standing Orders set out in Annex 6.

#### **4.3 Responsibility for Functions**

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Annex 3 (Responsibility for Functions) sets out who is responsible for those functions which are not the responsibility of the Executive.

**SECTION 5 - CHAIRING THE COUNCIL**

- 5.1 The Chairman of the Council is elected by the Council at the Annual Meeting and holds office until the election of his or her successor. The Chairman has the following functions:
- a) to preside over meetings of the Council to ensure that its business is conducted efficiently and in accordance with the law and the Constitution
  - b) to represent the Council at official events in accordance with the Protocol for Appointments, official events and media protocols set out in Annex 22.
- 5.2 In the absence of the Chairman, the Vice-Chairman of the Council deputises for the Chairman.
- 5.3 The Chairman (or Vice-Chairman) has a casting vote at Council meetings where there is an equality of votes.

**SECTION 6 - OVERVIEW AND SCRUTINY**

- 6.1 The Council carries out its duty under the Local Government Act 2000 to appoint Overview and Scrutiny Committees by appointing the Overview and Scrutiny Committee as set out in Annex 8 (Scrutiny Committees).
- 6.2 The Overview and Scrutiny Committee is the Council's crime and disorder committee for the purposes of the Police and Justice Act 2006.
- 6.3 The Council also appoints a Health Scrutiny Committee to scrutinise the planning, provision and operation of health services affecting residents in Hertfordshire. This includes the Council's public health functions carried out under the Health and Social Care Act 2012 and the work of the Council's Health and Wellbeing Board established under that Act.
- 6.4 The Overview and Scrutiny Committee's remit is as set out in paragraph 1 of Annex 8. The Health Scrutiny Committee's remit is as set out in paragraph 2 of Annex 8.
- 6.5 The Executive's Forward Plan, containing details of all matters likely to be the subject of key decisions, shall be made available to all Councillors at least 28 days prior to the first day upon which the Forward Plan comes into effect.
- 6.6 Any Councillor may refer "a local government matter" to the Overview and Scrutiny Committee. A "local government matter" is a matter relating to the Council's functions which affects the Councillor's electoral division. If the Overview and Scrutiny Committee decide not to scrutinise the matter they must tell the member why they are not doing so.
- 6.7 The Overview and Scrutiny Committee and the Health Scrutiny Committee may appoint time-limited Topic Groups to deal with particular matters.
- 6.8 No member of the Executive (and no Deputy Executive Member) may be a member of the Overview and Scrutiny Committee, the Health Scrutiny Committee, any Topic Group appointed by either of those committees, or of the Implementation of Scrutiny Advisory Committee. No member of the Health Scrutiny Committee may be appointed to the Health and Wellbeing Board.
- 6.9 The Overview and Scrutiny Committee and the Health Scrutiny Committee, and any Topic Group, may require members of the Executive and officers to attend before them to answer questions. It is the duty of a member or officer to comply with any such requirement. The Overview and Scrutiny Committee, Health Scrutiny Committee and Topic Groups may invite other persons to attend their meetings.
- 14 6.10 The Overview and Scrutiny Committee and Health Scrutiny Committee conduct their proceedings in accordance with the Standing Orders for the Overview and Scrutiny and the Health Scrutiny Committees set out in Annex 9 and shall have regard to the Guidelines for Scrutiny set out in Annex 10.

## **SECTION 7 - THE EXECUTIVE**

### **7.1 Role**

The Executive exercises all of the Council's functions which are not the specific responsibility of any other part of the Council.

### **7.2 Form & Composition**

7.2.1 The Executive is a Leader and Cabinet Executive, consisting of

- a) a Councillor elected as Leader by the Council; and
- b) between 2 and 9 Councillors appointed to the Executive by the Leader of the Council.

7.2.2 The Leader of the Council is elected by the Council at the first Annual Meeting following the ordinary election of County Councillors and holds office until the election of a new Leader of the Council at the Annual Meeting of the Council following the next ordinary election of County Councillors, unless within that period the Leader of the Council:

- a) resigns from the office of Leader of the Council by giving notice in writing to the Director of Law & Governance or
- b) ceases to be a Councillor or
- c) is removed from the office of Leader of the Council by resolution of the Council in accordance with 7.2.3 below.

7.2.3 The full Council may by resolution remove the Leader of the Council from office provided that:

- a) any such resolution is passed at a meeting specially convened for the purpose with the proposed resolution set out in the summons for the meeting;
- b) the full Council by the same resolution elects another Councillor as Leader of the Council.

7.2.4 Where there is a vacancy in the office of the Leader of the Council arising from the resignation of the Leader of the Council or the Leader of the Council ceasing to be a member of the Council the full Council shall elect a new Leader of the Council at the next ordinary meeting of the Council, or at an extraordinary meeting summoned for the purpose, and, pending the election of a new Leader of the Council, the Deputy Leader of the Council shall hold the office of Leader of the Council on an interim basis.

7.2.5 A new Leader of the Council elected by the full Council in accordance with 7.2.4 above shall hold office for the remainder of the former Leader of the Council's original term subject to the provisions of 7.2.2 and 7.2.3

7.2.6 Members of the Executive, to include a Deputy Leader of the Council, are appointed by the Leader of the Council, and except for the Deputy Leader of the Council, hold office for the period ending with the day of the next ordinary election of County Councillors unless within that period:

- a) they resign from office by giving notice in writing to the Leader of the Council, copied to the Director of Law & Governance
- b) they cease to be Councillors
- c) the Director of Law & Governance receives a written notice of removal signed by the Leader of the Council.

7.2.7 Subject to 7.2.8 below, the Deputy Leader of the Council holds office until the election of a Leader of the Council at the Annual Meeting of the Council following the next ordinary election of County Councillors, unless within that period any of the circumstances set out in 7.2.6 a) to c) apply.

7.2.8 The Deputy Leader of the Council will cease to hold office if removed from office by the Leader of the Council or, where the Leader of the Council ceases to hold office for any reason, as soon as a new Leader of the Council is elected by the full Council.

7.2.9 Appointments and removals made by the Leader of the Council must be notified to the Director of Law & Governance as soon as possible.

7.2.10 A Register of Members of the Executive is set out in Annex 2.

### **7.3 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Standing Orders for the Executive set out in Annex 7.

### **7.4 Responsibility for Functions**

7.4.1 The Leader of the Council will allocate responsibility for discharging executive functions to the Cabinet, Executive Members and officers. The current allocation is set out below:

- a) The Executive, acting collectively, is responsible for all the functions of the Council which are not allocated to the Council itself or another part of the Council by law or by this Constitution.



- b) Each Executive Member has responsibility (portfolio) for a particular area of the Council's work, and shall, in relation to that work, have the following functions:
- to oversee the development and implementation of policy
  - to propose an appropriate course of action when a matter comes before the Executive for decision
  - to be consulted by officers before decisions are taken by them under powers delegated from the Executive, where the Constitution or the arrangements made by the Leader of the Council require consultation with an Executive Member
  - to attend meetings of the Overview and Scrutiny Committee and Topic Groups to assist with scrutiny.
- c) The Leader of the Council shall notify the Director of Law & Governance in writing of the allocation of a portfolio to a member of the Executive, and of any change to a portfolio.
- d) Executive functions delegated to officers are set out in the Scheme of Delegation to Officers – Executive Functions in Annex 3.
- e) Without prejudice to the discharge of these functions by the Executive itself, the functions of the enforcement and the power of prosecution in relation to Part III of the Consumer Credit Act 1974 in Hertfordshire are delegated to Birmingham City Council.
- f) Without prejudice to the discharge of these functions by the Executive itself, the functions relating to the provision of welfare and independent living services via the supply and management of the community alarm services and associated assistive technology (telecare) are delegated to North Hertfordshire District Council in accordance with the Executive's decision of 26 November 2018.

7.4.2 Unless the Leader of the Council otherwise directs. Members of the Executive shall exercise their responsibilities under 7.4.1 (b) above on an advisory basis and shall not have power to take decisions as individual decision makers on behalf of the Council.

## 7.5 Deputy Executive Members

The Leader of the Council may appoint Deputy Executive Members. The provisions of paragraphs 7.2.6, 7.2.8 and 7.2.9 shall apply to Deputy Executive Members as they apply to Executive Members. The function of a Deputy Executive Member is to support the relevant Executive Member. A Deputy Executive Member may attend and, with permission of the Leader of the Council, speak at a meeting of the Executive, but may not vote.

**7.6 Cabinet Panels**

The Executive may establish Cabinet Panels (the rules of political proportionality shall apply to each Cabinet Panel but not across all Cabinet Panels) to assist it in drawing up proposals for policy development. Proceedings of Cabinet Panels shall take place in accordance with the Guidelines for Panels and Topic Groups set out in Annex 11.

**SECTION 8 - REGULATORY & OTHER COMMITTEES**

- 8.1** The Council establishes the following committees with the membership and the power to discharge the functions specified in Annex 3 (Responsibility for Functions):

**Development Control Committee**

**Employment Committee**

**Pensions Committee**

**Audit Committee**

**Standards Committee**

**8.2 Health and Wellbeing Board**

- 8.2.1 The Council establishes a Health and Wellbeing Board in accordance with Section 194 of the Health and Social Care Act 2012 with the membership specified in, and delegates to it the power to discharge the functions specified in, the Health and Wellbeing Board's Constitution (Annex 13).

- 8.2.2 Under Section 194 of the Health and Social Care Act 2012 the Health and Wellbeing Board is a Committee of the Council and is to be treated as established under Section 102 of the Local Government Act 1972. The Health and Wellbeing Board shall be treated as a Regulatory Committee of the Council and shall comply with the provisions of the Council's Constitution relating to Regulatory Committees except where these conflict with the provisions of the Health and Wellbeing Board's own Constitution which, subject to their lawfulness, shall prevail

**8.3 LGPS Access Joint Committee**

In conjunction with ten other authorities the Council has established the LGPS Access Joint Committee (the "Joint Committee") to ensure oversight of the arrangements that have been agreed between them to co-operate in the pooling of Local Government Pension Scheme investments. The participating authorities are set out in Section 1 of Annex 27. The functions of the Joint Committee are set out in Section 2 of Annex 27. The Constitution of the Joint Committee is set out in Section 3 of Annex 27. An Inter-Authority Agreement was entered into on 12 July 2017 and subsequently amended on 5 January 2021 (seal number 2114/2020) setting out the agreement between the authorities on the Joint Committee to co-operate in the pooling of Local Government Pension Scheme investments.

#### **8.4 Hertfordshire Growth Board**

The Council has established the Hertfordshire Growth Board (the “HGB”) in conjunction with the ten district and borough councils in Hertfordshire and the Local Enterprise Partnership (LEP), to provide strategic co-ordination around growth and place leadership in Hertfordshire. The HGB is a joint committee of the Councils, with a LEP co-opted non-voting member. It will be supported by a Scrutiny Committee. The constitution of the Hertfordshire Growth Board sets out the matters for which it is responsible and is to be found in Annex 29 to the Constitution, together with the terms of reference and standing orders of its Scrutiny Committee.

#### **8.5 Standing Orders**

Standing Orders for the Committees in this section are set out in Annex 12 (Standing Orders for Regulatory and other Committees).

**SECTION 9 – PENSION BOARDS**

- 9.1** The Council has established in respect of the Local Government Pension Scheme the Hertfordshire Local Pension Board in accordance with Section 5 of the Public Service Pensions Act 2013 with the membership and roles specified in its constitution (Annex 25).
  
- 9.2** The Council has established in respect of the Firefighters Pension Scheme the Hertfordshire Fire Pension Board in accordance with Section 5 of the Public Service Pensions Act 2013 with the membership and roles specified in its constitution (Annex 26).

**SECTION 10 - OFFICERS****10.1 Management Structure**

- a) The Council appoints a Chief Executive and Chief Officers as follows:

<b><u>Post</u></b>	<b><u>Principal areas of responsibility</u></b>
Chief Executive	Overall corporate management and operational responsibility, including overall management responsibility for all officers.  Lead policy adviser to the Council and Executive.
Executive Director Adult Care Services	Services for adults in need of support and assistance; adult safeguarding; commissioning for people; health and wellbeing, gypsy and traveller sites, money advice unit, relationships with NHS Trusts and commissioning groups serving Hertfordshire;  Except, in all cases, for the functions delegated to the Director of Public Health.
Executive Director of Children's Services	Children's social care, child protection, family placement, children's residential care, children's safeguarding, children with disabilities. School improvement and standards, special educational needs, school place planning and admissions, young people's services, early intervention, early years, family centres and childcare, thriving/troubles families initiative, youth offending.
Executive Director Community Protection	The Fire & Rescue Service; trading standards and community protection, emergency planning and business continuity; community safety; reduction of crime and disorder; requirements of Counter Terrorism and Security Act.
Executive Director of Environment and Transport	Highways management and maintenance; transport infrastructure planning & delivery, lead local flood authority, waste management and disposal passenger transport.

Executive Director of Sustainable Growth	Strategic planning, economic development, housing strategy and delivery, minerals and waste planning, securing County Council infrastructure needs
Executive Director of Public Health	The statutory functions of the Director of Public Health under the National Health Service Act 2006 (as amended)
Deputy Chief Executive (Executive Director of Resources)	. The Council's human, property and IT resources; Legal, Democratic Services and member support, Internal Audit, Scrutiny, risk management, health and safety, procurement, , communications, strategic partnerships, public libraries, archives, cultural services, customer services and the overall performance of the Council, registration and citizenship service, Coroner service, land charges, performance and management reporting, data quality, equalities.
Director of Finance	The proper administration of the Council's financial affairs (Section 151 Officer), Herts Full Stop

- b) The Council's Senior Management Structure is shown in Annex 21.

## 10.2 Statutory and Other Officers

The Council designates/appoints the following posts as shown:

<u>Post</u>	<u>Designation/Appointment</u>
Chief Executive	Head of Paid Service
Director of Finance	Section 151 Officer (Chief Finance Officer)
Director of Law & Governance	Monitoring Officer  Proper Officer of the Council except where legislation or the Constitution names another officer
Executive Director Adult Care Services	Returning Officer for County Council Elections  Director of Adult Social Services

Executive Director of Children's Services	Director of Children's Services
Executive Director of Public Health	Director of Public Health
Deputy to the Executive Director Environment and Transport	Traffic Manager
Head of Scrutiny	Scrutiny Officer
Data Protection Officer	Information Governance Unit Manager

### 10.3 Functions of the Head of Paid Service

To be responsible for, and report to the Council on, the manner in which the discharge of the Council's functions is co-ordinated; the number and grade of officers; and the overall management structure.

### 10.4 Functions of the Monitoring Officer

- a) To maintain the Constitution in an up-to-date form and ensure it is widely available.
- b) To ensure that decisions are lawful and fair and, after consultation with the Head of Paid Service and Section 151 Officer, report to the Council (or Executive in the case of Executive Functions) if any proposal or decision would give rise to unlawfulness or maladministration.
- c) To support the arrangements for dealing with complaints that Councillors have failed to comply with the Code of Conduct for Members.
- d) To ensure that the Access to Information rules are complied with.
- e) To advise whether executive decisions are in accordance with the budget and Policy Framework; and generally give advice on the scope of powers to take decisions, maladministration, financial impropriety, probity and budget & Policy Framework issues to all Councillors.

### 10.5 Functions of the Chief Finance Officer

- a) To be responsible for the proper administration of the Council's financial affairs.
- b) To ensure that decisions are financially prudent and, after consultation with the Head of Paid Service and Monitoring Officer, report to the Council (or Executive in the case of Executive Functions) if any proposal or decision would give rise to unlawful expenditure.



- c) To advise Councillors on the scope of powers to take decisions, maladministration, financial impropriety, probity and budget & Policy Framework issues.

**10.6 Conduct**

Officers must comply with the Protocol for Relationships Between Councillors and Officers and the Code of Conduct for Officers set out in Annexes 18 and 19.

- 10.7** The recruitment, selection and dismissal of officers will comply with Officer Employment Procedures Rules set out in Annex 16.

## **SECTION 11 - DECISION MAKING**

### **11.1 Responsibility for decision making**

The Council will issue and keep up to date a record of what person or body within the Council has responsibility for particular types of decisions. This record is set out in Annex 3.

### **11.2 Principles of decision making**

The Council observes the following principles of decision-making:

- a) compliance with the law;
- b) proportionality – the action taken must be proportionate to the desired outcome;
- c) due consultation and the taking of professional advice from officers;
- d) respect for human rights;
- e) compliance with the Council’s public sector equality duty;
- f) where required by law or this Constitution, describing options considered and giving reasons for decisions.

### **11.3 Types of Decision**

- a) Decisions made by the full Council are listed in Section 4.1 and will not be delegated except as indicated in that Section.
- b) Executive decisions which are made as set out in Section 7.4 above.
- c) Key Decisions which are executive decisions which are likely:
  - (i) to result in the Council incurring expenditure (or making savings) which are significant having regard to the Council’s budget for the service or function concerned; or
  - (ii) to be significant in terms of the effect on communities living or working within two or more electoral divisions.

The Council will regard a decision as being a Key Decision under (i) above if the expenditure or savings concerned exceeds £500,000.

A decision taker may only take a Key Decision in accordance with the Access to Information Rules set out in Annex 4.

**SECTION 12 - FINANCE, CONTRACTS AND LEGAL MATTERS****12.1 Financial Management**

The Council conducts its financial affairs in accordance with the Financial Regulations set out in Annex 14.

**12.2 Contracts**

The Council complies with the Contract Regulations set out in Annex 15 when entering into contracts.

**12.3 Legal Proceedings**

The Director of Law & Governance is authorised to institute, defend, withdraw or compromise any legal proceedings; and also to make payments to remedy maladministration.

**12.4 Authorisation of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council it may be signed by the Director of Law & Governance, or other person authorised by the Council or another officer or person authorised by the Director of Law & Governance.

**12.5 Common Seal**

The Director of Law & Governance has custody of the Common Seal. A decision of, or on behalf of, the Council is sufficient authority for sealing any document necessary to give effect to that decision. The Common Seal will be affixed (either in physical or electronic form) to those documents which in the opinion of the Director of Law & Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Law & Governance or another officer authorised by the Director of Law & Governance.

**SECTION 13 - REVIEW AND REVISION OF THE CONSTITUTION****13.1 Duty to Monitor and Review the Constitution**

The Director of Law & Governance will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

**13.2 Changes to the Constitution**

13.2.1 The Director of Law & Governance may make changes to the Constitution:-

- (a) which are necessary in order to comply with the law; or
- (b) which reflect changes in the responsibility for Executive Functions decided by the Leader of the Council;
- (c) with the approval of the Political Group Leaders, which in the reasonable opinion of the Director of Law & Governance are minor or which remove any inconsistency or ambiguity all of which shall be notified to the Council at its next meeting.

13.2.2 Other than as mentioned in 13.2.1 and 13.2.2 above changes to the Constitution may only be approved by the full Council after consideration of a report by the Director of Law & Governance which will identify whether any legal requirements need to be met before the changes can be made.

**SECTION 14 - INTERPRETATION AND PUBLICATION OF THE CONSTITUTION****14.1 Interpretation**

In relation to a meeting of the full Council the ruling of the Chairman of the Council on the interpretation of the Constitution or on any proceedings of the Council shall not be challenged at any meeting of the Council. Before giving any such ruling the Chairman shall have regard to any advice from the Director of Law & Governance. In all other cases the interpretation of the Constitution shall be a matter for the Director of Law & Governance to determine.

**14.2 Publication**

- (a) The Director of Law & Governance will ensure that a copy of the Constitution is available on the Council's website;
- (b) The Director of Law & Governance will ensure that a copy of the Constitution is available for inspection at County Hall and can be bought by the public for a reasonable fee;
- (a) The Director of Law & Governance will, if requested, give a printed copy of the Constitution to a Councillor on the Councillor's election to the Council.

**SECTION 15 – GLOSSARY OF EXPRESSIONS USED IN THIS CONSTITUTION INCLUDING THE ANNEXES TO THIS CONSTITUTION**

- 15.1 The expressions set out in 15.2 below are defined in the individual Annexes to which they relate and the meanings given to them are subject to any variance in their definition in those Annexes and to the context of the Annexes in which they appear.
- 15.2 Subject to 15.1 the following expressions have the meanings given to them below:
- “the 1972 Act”** means the Local Government Act 1972 (as amended);
- “the 1989 Act”** means the Local Government and Housing Act 1989 (as amended);
- “the 1992 Act”** means the Local Government Finance Act 1992;
- “the 1993 Regulations”** means the Local Authorities (Standing Orders) Regulations 1993 (as amended);
- “the 2000 Act”** means the Local Government Act 2000 (as amended).
- “the 2001 Regulations”** means the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended);
- “the 2007 Act”** means the Local Government and Public Involvement in Health Act 2007 (as amended);
- “the 2011 Act”** means the Localism Act 2011;
- “the Access to Information Regulations”** means the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended);
- “additional statutory member”** means a Parent Governor Representative, a Church of England representative or a Roman Catholic Church representative;
- “appointor”** means, in Annex 16 and in relation to the appointment of a person as an officer of the Council, the Full Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be;
- “budget decision meeting”** means a meeting of the Council at which the Council:

- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the 1992 Act;
- (ii) issues a precept under Chapter 4 of Part 1 of the 1992 Act; or
- (iii) considers the Council's budget,

and, in each case, includes a meeting where making the calculation, issuing the precept or considering the budget, as the case may, was included as an item of business on the agenda for that meeting;

**“the Chief Executive”** means the officer for the time being holding the post of the Council's Chief Executive who will also be the officer designated as the Council's Head of Paid Service under Section 4 of the 1989 Act.

**“Chief Officer”**, for the purposes of A16 Procedure Rule 2 in Annex 16, has the same meaning as in Regulation 1 of the 1993 Regulations, but, for all other purposes, means a statutory Chief Officer or a non-statutory Chief Officer;

**“Church of England representative”** means a person nominated by the Diocesan Board of Education for the Church of England Diocese of St Albans;

**“clear working day”**, in relation to something required to be done before a meeting means a working day that is neither the day of the meeting nor the day (or the latest day) on which the thing is required to be done;

**“the Code of Conduct”** means the Code of Conduct for Councillors set out in Annex 18;

**“Co-opted member”** means a voting member (whether or not the right of the member to vote is limited to certain matters) of a Committee or Sub-Committee of the Council who is not a councillor;

**“Councillor”** means a member of the Council and:

- (a) for the purposes of the terms of reference of the Standards Committee and any provision of Annex 3 relating to the Code of Conduct, includes a Co-opted member;
- (b) in the case of the HSC, includes a member of the HSC who is a district councillor;

**“Deputy Chief Officer”** has the same meaning as in Section 2(8), as qualified by Section 2(9), of the 1989 Act;

**“dismissor”** means, in Annex 16 and in relation to the dismissal of an officer of the Council, the Full Council or, where a committee, sub-committee or

another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be;

**“the Executive”** means the Council’s Executive appointed in accordance with the provisions of Part 1A of the 2000 Act and includes the Executive Leader;

**“Executive Function”** means a function which is the responsibility of a local authority’s executive under Part 1A of the 2000 Act and the Functions Regulations, or a Local Choice Function which the Council has decided should be the responsibility of the Executive;

**“the Executive Leader”** means the councillor elected by the Council to the office of Executive Leader in accordance with the provisions of Part 1A of the 2000 Act.

**“the Functions Regulations”** means the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

**“the HHIA”** means the Hertfordshire Home Improvement Agency.

**“the HHIA Partnership Agreement”** means the agreement relating to the HHIA dated 30 August 2017 and made between the Council (1), East Herts District Council (2), North Hertfordshire District Council (3), the Borough of Broxbourne (4) and the Borough of Watford (5) as the same may be varied from time to time;

**“the HSC”** means the Health Scrutiny Committee;

**“Independent Person”** means a person appointed under section 28(7) of the 2011 Act;

**“Key Decision”** has the meaning ascribed in paragraph 11.3 of Section 11 of the Constitution;

**“Lead Executive Member”** means the member of the Executive to whom the relevant Portfolio Responsibilities have been allocated;

**“Leader of the Council”** means the Executive Leader;

**“Local Choice Function”** means a function specified in Schedule 2 to the Functions Regulations as being a function which may, but need not be, the responsibility of a local authority’s executive;

**“Local councillor”** means, in relation to proposal, item on the agenda for a meeting or petition, the councillor representing an electoral division affected by the proposal, agenda item or petition;

**“member of staff”** means a person appointed to or holding a paid office or employment under the Council;



**“Mobile Device”** means a mobile phone, tablet, portable computer or other mobile electronic device;

**“Monitoring Officer”** means the Council’s Director of Law & Governance who is the officer designated by the Council as its Monitoring Officer under Sections 5 and 5A of the 1989 Act;

**“Non- Executive Function”** means a function which, under the Functions Regulations, may not be the responsibility of a local authority’s executive, or a Local Choice Function which the Council has decided should not be the responsibility of the Executive;

**“non-statutory Chief Officer”** has the same meaning as in Section 2(7), as qualified by Section 2(9), of the 1989 Act;

**“non-voting member”** means a member of a Committee or Sub- Committee of the Council who is not a member of the Council and is not entitled to vote on any matter coming before that Committee or Sub-Committee;

**“the Openness Regulations”** means the Openness of Local Government Bodies Regulations 2014 (as amended).

**“the OSC”** means the Overview and Scrutiny Committee;

**“the Panel”** means, in Annex 16, the Disciplinary (Statutory Officers) Panel, being a committee appointed by the Council from time to time as required 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;

**“Parent Governor Representative”** means a person elected under the Parent Governor Representatives (England) Regulations 2001 as a representative of parent governors of schools maintained by the Council;

**“Political Group”** means a political group of members constituted in accordance with the provisions of Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990.

**“Political Group Spokesman”** means the Spokesman for any Political Group represented on the Council or, as the case may be, on a Committee of the Council;

**“Portfolio Responsibilities”** means the responsibilities relating to an Executive Function or Executive Functions which have been allocated to a member of the Executive by the Leader of the Council in accordance with Section 7.4 of the Constitution;

**“proper officer”** means an officer appointed by the Council for the purposes of the provisions of Part II of Schedule 1 to the 2001 Regulations;

**“Roman Catholic Church representative”** means a person nominated by the bishop of the Roman Catholic Diocese of Westminster;

**“Section 151 Officer”** means the officer appointed under Section 151 of the 1972 Act to be responsible for the administration of the Council’s financial affairs

**“statutory Chief Officer”** has the same meaning as in Section 2(6), of the 1989 Act;

**“vote”**, in relation to a budget decision meeting, includes a vote on any decision related to the to the making of the calculation or the issuing of the precept, as the case may be;

**“working day”** means a day which is not a Saturday, a Sunday or a Public Holiday in England.