

## **PART 2**

### **Article 1 The Constitution**

#### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### **1.2 The Constitution**

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

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

1.3.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;

1.3.2 support the active involvement of citizens in the process of local authority decision-making;

1.3.3 help councillors represent their constituents more effectively;

1.3.4 enable decisions to be taken efficiently and effectively;

1.3.5 create a powerful and effective means of holding decision-makers to public account;

1.3.6 ensure that no one will review or scrutinise a decision in which they were directly involved;

1.3.7 ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and

1.3.8 provide a means of improving the delivery of services to the community

#### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **Article 2 Members of the Council**

### **DEVELOPING ROLES FOR COUNCILLORS**

#### **2.1 Composition and eligibility**

2.1.1 The Council will comprise 44 members called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

2.1.2 Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

#### **2.2 Election and terms of councillors**

The regular election of councillors will be held on the first Thursday in May every four years. The next election is due to be held on 5 May 2011. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### **2.3 Roles and functions of all councillors**

All councillors will:

2.3.1. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

2.3.2 contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;

2.3.3 represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;

2.3.4 deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

2.3.5 balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;

2.3.6 be involved in decision-making;

2.3.7 be available to represent the Council on other bodies; and

2.3.8 maintain the highest standards of conduct and ethics

## **2.4 Rights and duties**

2.4.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

2.4.2 Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## **2.5 Conduct**

Councillors will at all times observe the Members Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 Citizens and The Council

### 3.1 Citizens rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

**3.1.1 Voting and petitions** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution. Citizens also have a right to petition under the Council's petition schemes (see below).

**3.1.2 Information** Citizens have the right to:

3.1.2.1 attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

3.1.2.2 attend meetings of the executive when key decisions are being considered;

3.1.2.3 find out from the forward plan what key decisions will be taken by the executive and when;

3.1.2.4 see reports and background papers, and any records of decisions made by the Council and the executive; and

3.1.2.5 inspect the Council's accounts and make their views known to the external auditor.

**3.1.3 Participation** Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.

### 3.1.4 Petitions

3.1.4.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition. Paper petitions can be sent to: Democratic and Electoral Services, Uttlesford District Council London Road, Saffron Walden, Essex CB11 4ER.

The Council will be able to offer an online petition system by the end of 2010, which means citizens will be able to create a petition via the council's website. Petitions can also be presented to a meeting of the council. Dates and times of meetings can be found here:

<http://ggpweb.uttlesford.gov.uk/CmiswebPublic/CommitteeDetails.aspx?committeeID=3186>

- 3.1.4.2 Citizens who wish to present their petition to the council, or would like their councillor or someone else to present it on their behalf, should contact Peter Snow, Democratic and Electoral Services Manager, on 01799 510430 or by email at [psnow@uttlesford.gov.uk](mailto:psnow@uttlesford.gov.uk) at least 10 working days before the meeting and he, or one of his staff, will explain the process.
- 3.1.4.3 Petitions submitted to the council must include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the council to take and the name and address and signature of any person supporting the petition. Petitions should also be accompanied by contact details, including an address, for the petition organiser. This is the person the council will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be publicised. If the petition does not identify a petition organiser, the council will contact signatories to the petition to agree who should act as the petition organiser.
- 3.1.4.4 In order to be properly constituted, a petition must satisfy one or more of the following conditions:
  - 3.1.4.4.1 be signed by no fewer than 50 individuals who are electors of the district of Uttlesford
  - 3.1.4.4.2 Be signed by the chairman of no fewer than five councils of parishes within the Uttlesford district
  - 3.1.4.4.3 Be signed by no fewer than half the electors of any single parish within the district of Uttlesford whether or not the parish has a parish council
  - 3.1.4.5 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum the Council may need to deal with petitions differently – if this is the case the Council will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not

to do anything further with it. In that case the Council will explain the reasons in writing.

- 3.1.4.6 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again.
- 3.1.4.7 If the Council can do what the petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell the organiser when and where the meeting will take place. If the petition needs more investigation, the Council will tell you the steps it plans to take.
- 3.1.4.8 Petitions may not be used to call into question decisions relating to planning or licensing matters and decisions relating to individuals or legal bodies where there is a statutory right of appeal.
- 3.1.4.9 Statutory petitions are the subject of different procedures. These relate, for example, to a petition calling for a referendum on having an elected mayor or petitions for which there may be other statutory provision. Further information is available from Michael Perry, Assistant Chief Executive: Legal, on 01799 510416 or by emailing [mperry@uttlesford.gov.uk](mailto:mperry@uttlesford.gov.uk).
- 3.1.4.10 To ensure that people know what we are doing in response to the petitions the Council receives the details of all the petitions submitted will be published on the Council's website, except in cases where this would be inappropriate. Whenever possible the Council will also publish all correspondence relating to petitions (all personal details will be removed).
- 3.1.4.11 The Council's response to a petition will depend on what a petition asks for and how many people have signed it. The Council will consider all the specific actions it can potentially take on the issues highlighted in a petition but its response may include one or more of the following:
  - 3.1.4.11.1 taking the action requested in the petition

- 3.1.4.11.2 considering the petition at a Council meeting
- 3.1.4.11.3 holding an inquiry into the matter
- 3.1.4.11.4 undertaking research into the matter
- 3.1.4.11.5 holding a public meeting
- 3.1.4.11.6 referring the petition for consideration by the Council's Scrutiny Committee
- 3.1.4.11.7 writing to the petition organiser setting out the Council's views about the request in the petition
- 3.1.4.12 If a petition is about something over which the Council has no direct control (for example Stansted Airport, the local railway or hospital or services run by the county council such as schools, social services or road repairs) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to a petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then it will set out the reasons for this to the petition organiser. More information on the services for which Uttlesford District Council and Essex County Council are responsible is available here: [http://www.uttlesford.gov.uk/template\\_a\\_z\\_whole.cfm](http://www.uttlesford.gov.uk/template_a_z_whole.cfm). If a petition is about something that a different council is responsible for, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps.
- 3.1.4.13 If a petition contains more than 3,600 signatures it will be debated by the Full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors. The Council will decide how to respond to the petition at

this meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

- 3.1.4.14 A petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. If a petition contains at least 1,800 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny Committee. The senior officers are the Chief Executive, the Directors, the Assistant Chief Executives (who are the Council's chief legal officer and the chief financial officer). Details are available on [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk) in the "Your Council" section. Petitioners must be aware that it may not be possible for senior officers to answer questions about particular petitions if, for example, doing so would breach commercial confidentiality or professional legal privilege. Petitioners should also be aware that the Scrutiny Committee may decide that it would be more appropriate for a different senior officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but petition organisers will be able to suggest questions by contacting Peter Snow, Democratic and Electoral Services Manager, on 01799 510430 or at [psnow@uttlesford.gov.uk](mailto:psnow@uttlesford.gov.uk) up to three working days before the meeting.
- 3.1.4.15 A petition organiser has the right to request that the Council's Scrutiny Committee review the steps that the Council has taken in response to a petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate. The committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine that the Council has not dealt with the



petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation or arranging for the matter to be considered at a meeting of Full Council. Once the review has been considered the petition organiser will be informed of the results within 10 working days. The results of the review will also be published on the Council's website. If, however, the Council had already sent the petition to the Scrutiny Committee for consideration and the petitioner is unhappy with the outcome, then the review will be conducted by the Standards Committee, which is chaired by a person independent of the Council.

### 3.1.5 **Complaints** Citizens have the right to complain to:

- 3.1.5.1 the Council itself under its complaints scheme;
- 3.1.5.2 the Ombudsman after using the Council's own complaints scheme;
- 3.1.5.3 the Information Commissioner after using the Council's own complaints scheme;
- 3.1.5.4 the Standards Committee of the Council about a breach of the Councillors Code of Conduct.

## 3.2 **Citizens' responsibilities**

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully damage things owned by the Council, councillors or officers.

## Article 4 The Full Council

### 4.1 Meanings

4.1.1 **Policy Framework** The policy framework means the following plans and strategies:

- The Council's Corporate Plan;
- Strategies relating to leisure and culture
- Community Strategy;
- Strategies relating to the reduction of crime, disorder and anti-social behaviour;
- The Local Development Framework;
- Policies relating to licensing which the Council is legally required to have in place
- Strategies to enforce food safety and health and safety at work legislation;
- Plans and strategies relating to the Housing Investment Programme; and
- Strategies relating to the management of waste

4.1.2 **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 decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.1.3 **Housing Land Transfer** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.2 Functions of the Full Council

Only the Council will exercise the following functions:

4.2.1 adopting and changing the Constitution;

- 4.2.2 approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- 4.2.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget 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;
- 4.2.4 appointing the Leader;
- 4.2.5 agreeing and/or amending the terms of reference for committees of the Council, deciding on their composition and making appointments to them;
- 4.2.6 appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- 4.2.7 adopting an allowances scheme under Article 2.6;
- 4.2.8 changing the name of the area;
- 4.2.9 conferring the freedom of the district;
- 4.2.10 appointing Honorary Aldermen;
- 4.2.11 confirming the appointment of the Head of Paid Service;
- 4.2.12 making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- 4.2.13 all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- 4.2.14 all other matters which, by law, must be reserved to Council.

#### 4.3 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings,

and they will be conducted in accordance with the Council Procedure Rules in

Part 4 of this Constitution. The annual meeting of the Council is an ordinary meeting of the Council as it is a scheduled meeting but it is one at which business required by statute must be undertaken.

#### **4.4 Responsibility for functions**

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

## **Article 5 Chairing the Council**

### **5.1. Election of Chairman and Vice-Chairman**

- 5.1.1. The Chairman and Vice-Chairman will be elected by the Council annually.
- 5.1.2. Nominations for the posts of Chairman and Vice-Chairman for the Council year shall be made at the last ordinary meeting of the Council prior to the annual meeting and at the annual meeting the Chairman and Vice-Chairman shall be elected from those so nominated. If any person nominated as Chairman or Vice-Chairman shall no longer be a Member of the Council at the date of the annual meeting or informs the Chief Executive that he or she no longer wishes to be considered for such office at or before the annual meeting then alternative candidates may be proposed at the meeting.
- 5.1.3. Any casual vacancy in the office of Chairman or Vice-Chairman shall be filled at the first ordinary meeting of the Council after such vacancy occurs.

### **5.2. Role and function of the chairman**

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

- 5.2.1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.2.2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- 5.2.3. 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 executive are able to hold the executive to account;
- 5.2.4. to promote public involvement in the Council's activities;
- 5.2.5. to be the conscience of the Council; and
- 5.2.6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

# Article 6 Performance and Audit and Scrutiny Committees

## 6.1 Terms of reference

The Council will appoint the committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Performance and Audit Committee	To monitor the performance of the Council and progress against improvement plans; to oversee the Council's internal audit and risk functions; to receive and approve external audit reports; to scrutinize and approve the annual statement of accounts; to make reports and recommendations to the executive, committees and the Council as a whole on its performance management and corporate governance as appropriate.
Scrutiny Committee	To monitor decisions of the executive and committees; to scrutinise the performance of outside bodies and to make reports and recommendations as appropriate; to receive public petitions when appropriate in accordance with the Council's petitions scheme

## 6.2 General role

Within their terms of reference, the Performance and Audit and Scrutiny committees will:

- 6.2.1 make reports and/or recommendations to the Full Council and/or the executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- 6.2.2 consider any matter affecting the area or its inhabitants;

## 6.3 Specific functions – Performance and Audit Committee

- 6.3.1 consider the Internal Audit Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;
- 6.3.2 consider summaries of specific internal audit reports as requested;
- 6.3.3 consider reports dealing with the management and performance of the providers of internal audit services;

- 6.3.4 consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;
- 6.3.5 consider the external auditor's Annual Letter, relevant reports, and reports to those charged with governance;
- 6.3.6 consider specific reports as agreed with the external auditor;
- 6.3.7 comment on the scope and depth of external audit work and to ensure it gives value for money;
- 6.3.8 liaise with the Audit Commission over the appointment of the Council's external auditor and to be responsible for appointing the external auditor under any successor arrangements;
- 6.3.9 commission work from internal and external audit;
- 6.3.10 maintain an overview of the Council's contract procedure rules and financial regulations and to monitor compliance therewith;
- 6.3.11 review any issue referred to it by the Chief Executive or a Director, or any Council body;
- 6.3.12 monitor the effective development and operation of risk management and corporate governance in the Council;
- 6.3.13 monitor council policies on whistleblowing and the anti-fraud and corruption strategy and the Council's complaints process;
- 6.3.14 oversee the production of the authority's Annual Governance Statement and to recommend its adoption;
- 6.3.15 oversee the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- 6.3.16 monitor the Council's compliance with its own and other published standards and controls;
- 6.3.17 review and approve the annual statement of accounts for publication. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council; and
- 6.3.18 consider the external auditor's report to those charged with governance issues arising from the audit of the accounts.

#### **6.4 Specific Functions – Scrutiny Committee**

- 6.4.1 conduct research, community and other consultation in the analysis of

policy issues and possible options;

- 6.4.2 consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- 6.4.3 question members of committees and chief officers about their views on issues and proposals affecting the district;
- 6.4.4 liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- 6.4.5 assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- 6.4.6 review and scrutinise the decisions made by and performance of the executive, committees and council officers both in relation to individual decisions and over time;
- 6.4.7 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- 6.4.8 question members of the executive, committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- 6.4.9 make recommendations to the executive, committees and/or Council arising from the outcome of the scrutiny process;
- 6.4.10 review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
- 6.4.11 question and gather evidence from any person (with their consent); and
- 6.4.12 exercise the right to call-in for reconsideration decisions made but not yet implemented by the executive or committees

## 6.5 **Annual report**

The Performance and Audit and Scrutiny committees must report annually to Full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## 6.6 **Proceedings of overview and scrutiny committees**

The Performance and Audit and Scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules



set out in Part 4 of this Constitution.

## **Article 7 The Executive**

### **7.1 Role**

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **7.2 Form and composition**

The executive will consist of the Leader together with at least two, but not more than nine, councillors appointed to the executive by the Leader.

### **7.3 Leader**

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

7.3.1 the annual meeting of Full Council immediately following an ordinary council election; or

7.3.2 he/she resigns from the office; or

7.3.3 he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

7.3.4 he/she is no longer a councillor; or

7.3.5 Full Council passes a resolution of no confidence in the leader in accordance with the provisions of paragraph 7.4 of this Article.

### **7.4 Vote of no confidence**

7.4.1 Notice of a motion of no confidence in the leader must be given in writing signed by at least one Member no later than 10 days before the date of the meeting at which it is intended that the motion will be proposed or (if it is intended to propose a vote of no confidence at an extraordinary meeting of the Council called for that purpose) at the time a request for an extraordinary meeting is made to the Chief Executive.

7.4.2 In the event that a motion of no confidence is passed by a majority of the Members present at the meeting, the appointment of a councillor to the position of Leader of the Council shall be immediately determined.

7.4.3 In the event of a vacancy arising in the office of Leader by virtue of paragraph 7.4.1 above nominations to fill the post shall be received from the floor and in accordance with the provisions of Council Procedure Rule 13 in Part 3 of this Constitution shall apply.

## **7.5 Deputy Leader**

7.5.1 The Leader shall appoint a member of the executive to be the Deputy Leader.

7.5.2 The Deputy Leader shall hold office until:

7.5.2.1 the Leader ceases to be Leader of the Council in the circumstances referred to in either paragraphs 7.3.1 or 7.3.5 above; or

7.5.2.2 he/she is removed from office by the Leader; or

7.5.2.3 he/she resigns from the office; or

7.5.2.4 he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

7.5.2.5 he/she is no longer a councillor.

7.5.3 If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his place.

## **7.6 Other executive members**

Other executive members shall hold office until:

7.6.1 they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer; or

7.6.2 they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

7.6.3 they are no longer councillors; or

7.6.4 they resign from office

## **7.7 Proceedings of the executive**

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

## **7.8 Responsibility for functions**

7.8.1 The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the

executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

- 7.8.2 In the event that for any reason both the Leader and Deputy Leader are unable to act in their respective offices or both offices are vacant then the functions of the Leader shall be performed by the executive as a whole or by one member of the executive appointed by the executive for that purpose.

## Article 8 Regulatory committees

The Council will appoint the committees set out in the left hand column of the table below to discharge the functions described in the right hand column of that table.

<b>Development Control</b>	The Council's regulatory functions under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Highways Act 1980 and related legislation.
<b>Licensing Committee</b>	The functions of the Council in the control of services, persons, vehicles and premises requiring to be licensed or registered.

## **Article 9 The Standards Committee**

### **9.1 Standards Committee**

The Council will establish a Standards Committee.

### **9.2 Composition**

The Standards Committee will be composed of at least four councillors who may not include the Leader, three people who are not councillors or officers of the Council (the independent members) and three members of town or parish councils within the district (the town and parish representatives). Each of the political groups represented on the Council shall have at least one member on the Standards Committee. Where there are less than four political groups represented on the Council each group shall nominate up to two of its members. The Council will then appoint one member from each group and such additional members as may be necessary from the nominees. In the event that there are only two political groups represented on the Council each shall have two members on the Standards Committee. Independent members and town and parish representatives will be entitled to vote at all meetings of the Standards Committee. At least one town and parish representative must be present when matters relating to parish councils or their members are being considered.

### **9.3 Chairing the Committee**

An independent member of the Standards Committee must chair the committee and any sub-committee.

### **9.4 Role and Function**

The Standards Committee will have the following roles and functions:

- 9.4.1 promoting and maintaining high standards of conduct by councillors and any co-opted members;
- 9.4.2 assisting councillors and any co-opted to observe the Members Code of Conduct;
- 9.4.3 advising the Council on the adoption or revision of the Members Code of Conduct;
- 9.4.4 monitoring the operation of the Members Code of Conduct;
- 9.4.5 advising, training or arranging to train councillors and any co-opted members on matters relating to the Members Code of Conduct;
- 9.4.6 granting dispensations to members from requirements relating to interests set out in the Members Code of Conduct;

- 9.4.7 determining whether complaints regarding alleged breaches of the Members Code of Conduct should be referred to the Monitoring Officer or the Standards Board for investigation;
- 9.4.8 dealing with any reports from an ethical standards officer or from the Monitoring Officer;
- 9.4.9 the exercise of the roles and functions above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils;
- 9.4.10 conduct reviews of petitions considered by the council's Scrutiny Committee when requested by the petition organiser to do so

# Article 10 Area Forums

10.1 The Council will appoint the Area Forums set out in the left hand column of the following table to be responsible for the functions set out in the remaining parts of this Article in respect of the wards listed in the right hand column.

<p><b>North Area Forum</b></p>	<p>Ashdon, Clavering, Littlebury, Newport, Saffron Walden Audley, Saffron Walden Castle, Saffron Walden Shire, Thaxted, The Chesterfords, The Sampfords, Wenden Lofts and Wimbish and Debden.</p>
<p><b>South Area Forum</b></p>	<p>Barnston and High Easter, Birchanger, Broad Oak and the Hallingburies, Elsenham and Henham, Felsted, Great Dunmow North, Great Dunmow South, Hatfield Heath, Stansted North, Stansted South, Stebbing, Stort Valley, Takeley and The Canfields, The Eastons and The Rodings.</p>

10.2 There shall be 20 members of the North Area Forum and 24 members of the South Area Forum. Only those members of the Council representing wards designated to an Area Forum shall be eligible to be appointed. In addition the Area Forums will be attended by other agencies including (by way of illustration not limitation) the police, the fire and rescue service, the Highways Authority and the PCT.

**Area Forums are and shall operate as consultative bodies of the Council. They are not committees of the Council and have no decision-making or advisory functions.**

10.3 The Chairman and Vice-Chairman of the Area Forums shall be appointed annually at Full Council. The Chairman if present shall preside at meetings of the Area Forums. In the absence of the Chairman the Vice-Chairman of the Area Forum shall preside if present. In the absence of the Chairman and Vice-Chairman those members of the Forum who are present shall elect one of their number to be the Chairman for the purposes of the meeting.

10.4 Rules 2.1, 4–6, 8, 15 and 17–18 of the Council Procedure Rules in Part 3 of this Constitution shall apply to Area Forums. Subject thereto the procedure to be adopted at meetings of the Area Forums shall be in the discretion of the Chairman but in adopting a procedure the Chairman shall have regard to the desirability of permitting outside agencies attending the meetings sufficient opportunity to present information to the community on services and proposed initiatives and to enable the community to express its views to the Area Forum to be reported back to the executive or an appropriate committee of the Council.



- 10.5 The Area Forums shall:
- 10.5.1 consult with town and parish councils, local community representatives and the general public on all matters relating to services provided by the participating agencies, in particular to seek views to inform the Local Strategic Partnership of the community's requirements.
  - 10.5.2 agree that agency representatives and council officers pursue matters arising from the meetings through the appropriate formal channels.
  - 10.5.3 provide information to the community on services and proposed initiatives.
  - 10.5.4 provide an open forum for the community to identify requirements and provide feedback on success or otherwise of services and initiatives.
  - 10.5.5 develop a co-ordinated agency working approach to resolve problems and to contribute to future planning policy developments.
  - 10.5.6 facilitate round table discussions between parish and district councillors on relevant matters.
- 10.6 Following meetings of Area Forums officers will report back when necessary to the next available meeting of the executive or appropriate committee or committees of the Council as to the issues discussed, the consensus of the meeting and other views expressed at the meeting.

## **Article 11 Joint Arrangements**

### **11.1 Arrangements to promote well being**

The Council or the executive, in order to promote the economic, social or environmental well-being of its area, may:

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

### **11.2 Joint arrangements**

- 11.2.1 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 these other local authorities.
- 11.2.2 The executive 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 these other local authorities.
- 11.2.3 Except as set out below, the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole. The executive may appoint members to a joint committee from outside the executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- 11.2.4 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **11.3 Access to information**

- 11.3.1 The Access to Information Rules in Part 4 of this Constitution apply.
- 11.3.2 If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information

regime is the same as that applied to the executive.

11.3.3 If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part 12A of the Local Government Act 1972 will apply.

#### **11.4 Delegation to and from other local authorities**

11.4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

11.4.2 The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

11.4.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **11.5 Contracting out**

The Council for functions which are not executive functions and the executive for executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

## **Article 12 Officers**

### **12.1 General**

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

### **12.2 Chief Officers**

The Council will engage a Chief Executive Officer and such Directors and other officers reporting directly to the Chief Executive, as it considers necessary to carry out its functions, who will be designated chief officers. The current corporate management structure is set out in Part 7 of this constitution.

### **12.3 Statutory Officers**

The Council is obliged to appoint a Head of Paid Service, a Monitoring Officer and a Chief Finance Officer. The Council will designate the post of Head of Paid Service to the Chief Executive. The Council shall appoint such persons who appear to the Council to be best qualified and able to undertake the statutory roles to be Monitoring Officer and Chief Finance Officer. The Chief Finance Officer shall be a qualified accountant. Such posts will have the functions described below.

### **12.4 Functions of the Head of Paid Service**

- 12.4.1 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 performance level that is expected to be achieved and the resources necessary to achieve the work plan of the Council.
- 12.4.2 The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 9 of this Constitution.
- 12.4.3 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### **12.5 Functions of the Monitoring Officer**

- 12.5.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- 12.5.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council 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.

- 12.5.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee and Members.
- 12.5.4 The Monitoring Officer will receive and act on decisions of the case tribunals.
- 12.5.5 The Monitoring Officer will conduct or arrange investigations into matters referred by the Standards Committee Assessment Sub-Committee and make reports or recommendations in respect of them to the Standards Committee.
- 12.5.6 The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 12.5.7 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all councillors.
- 12.5.8 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## **12.6 Functions of the Chief Finance Officer**

- 12.6.1 After consulting with the head of paid service and the monitoring officer, the Chief Finance Officer will report to Full Council 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.
- 12.6.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 12.6.3 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 12.6.4 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity to all councillors and will support and advise councillors and officers in their respective roles.
- 12.6.5 The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**12.7 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will provide the Head of Paid Service, Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their respective opinions sufficient to allow their duties to be performed.

**12.8 Conduct**

Officers will comply with the Officers Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

**12.9 Employment**

The recruitment, selection and dismissal of officers will comply with the officer Employment Rules set out in Part 4 of this Constitution.

## **Article 13 Decision-Making**

### **13.1 Responsibility for decision-making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **13.2 Principles of decision-making**

All decisions of the Council will be made in accordance with the following principles:

13.2.1 proportionality (i.e. the action must be proportionate to the desired outcome);

13.2.2 due consultation and the taking of professional advice from officers;

13.2.3 respect for human rights;

13.2.4 a presumption in favour of openness; and

13.2.5 clarity of aims and desired outcomes

### **13.3 Types of decision**

13.3.1 Decisions reserved to Full Council - decisions relating to the functions listed in Article 4.2 will be made by the Full Council and not delegated.

13.3.2 Key decisions - “key decisions” are decisions of the executive which are likely to result in expenditure or savings which are significant having regard to the budget for the service or function to which the decision relates or are significant in terms of the effects on communities living or working in an area comprising two or more wards in the district. A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### **13.4 Decision making by the Full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.5 Decision making by the executive**

Subject to Article 13.8, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.6 Decision making by overview and scrutiny committees**

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.7 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

### **13.8 Decision-making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing contained in Article 6 of the European Convention on Human Rights.



## **Article 14 Finance, Contracts and Legal Matters**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in the Annex to this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in the Annex to this Constitution.

### **14.3 Legal proceedings**

The Assistant Chief Executive: Legal is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

### **14.4 Authentication of documents**

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

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Chief Executive: Legal. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which in the opinion of the Assistant Chief Executive: Legal should be sealed. The affixing of the Common Seal will be attested by anyone from any of the following list:

14.5.1 Members of the Council.

14.5.2 The Chief Executive

14.5.3 Directors

14.5.4 The Assistant Chief Executives

## **Article 15 Review and Revision of the Constitution**

### **15.1 Duty to monitor and review the constitution**

The Council will appoint a Constitution Working Group made up of members of the Council to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **15.2 Changes to the Constitution**

15.2.1 Changes to the constitution may only be made by the Full Council after consideration of the proposal by the Constitution Working Group.

15.2.2 In the event that the Council considers amending the constitution to provide for a mayor and cabinet form of executive it 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.

# **Article 16 Suspension, Interpretation and Publication of the Constitution**

## **16.1 Suspension of the Constitution**

16.1.1 The Articles of this Constitution may not be suspended. Procedural Rules (save for rules 13.6, 16 and 17.2) may be suspended by the Full Council or committees (during committee meetings) to the extent permitted within those Rules and the law.

16.1.2 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## **16.2 Interpretation**

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## **16.3 Publication**

16.3.1 The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

16.3.2 The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

16.3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.