

# Constitution Review Feedback/ Proposed amendments 2015

Appendix A Council report 160715

Reference	Comment received	Raised by – full name @ end.	Response/ reason Reference to changes made to denote <i>proposal</i> unless statutory requirement.
General	Need to make changes flowing from <b>Deregulation Act 2015</b>		Add general delegation to Customer Services delegation waste-related enforcement under any enabling legislation, to: 14.6.6 (b) (i)(E) 6 14.8 14.8.9
General	<b>Functions and Responsibilities Regulations 2015 (currently still draft).</b>		Informed by DCLG on 2 July that no further movement on approving the Regulations. Informed previously that there will be consolidation Regulations. New Ministers may also decide to amend existing Regulations following the consultation back in Jan-March 2015. <b>Will therefore need to bring back further report once considered once/ if new Regulations passed (possibly in Autumn).</b>
General	Need to consider how deal with planning referenda, neighbourhood plans.	RK/DS/DM	No easy way as lots of potential steps. Some of the consideration can be by Cabinet with delegation of minor amendments/ typographical issues and administrative issues to relevant Director & where referenda applicable, with relevant RO/ DRO where applicable. Inclusion of Development plan in Local Development Plan Framework to be approved by Full Council.  Add <b>“Neighbourhood plans and orders”</b> defined at 2.2.2 to cover: <b>“Neighbourhood Plans, Neighbourhood Development Plans/ Orders, Community Right to Build Orders, Designation of Neighbourhood Area, Neighbourhood Forum or Business Area, including related referenda, Independent Examination (‘IE’) and incidental matters, or any other descriptions amending or replacing the same.”</b>  Add Neighbourhood plans and orders to Cabinet Terms of Reference (‘ToR’) @ 5.8.16: <b>“To exercise the Authority’s functions as Local Planning Authority and to receive reports on: strategic planning matters, applications for, approval/designation, revocation (or recommend revocation of) neighbourhood plans and orders (except to the extent that those functions are by law the responsibility of the Council or delegated to the Strategic</b>

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			<p>Director of Planning Housing and Enterprise).”</p> <p>Referenda reference or amendments to: 4.4.1 &amp;12.1.2.</p>
1.2.6	<p>Clarifying process for setting up of project boards/ consistent wording in Constitution at 1.2.6 and Section B Financial Planning 6.5.2.1 of Financial Regulations.</p> <p>Further amended wording included post Member workshop</p> <p>Make clear the approach is based on PRINCE2.</p>	<p>NA</p> <p>DLB</p>	<p>Relevant line is: “Membership is chosen by the project executive in consultation with the Leader of the Council, taking into account the skills and experience that will benefit the project”.</p> <p>Add / amend wording to 1.2.6 &amp; Financial Regulations 6.5.2.1. To read: “On larger projects the Council uses <b>an approach based on the PRINCE2.....</b></p> <p><b>The Chief Executive appoints the Lead Officer for the Project Board, who will chair and choose the membership in consultation with the Leader of the Council. Membership will, take into account the number of Members/ Officers, the risk and/or profile of the project and the skills and experience that will benefit the project (this list is non exhaustive). It may include external support....”</b></p> <p>Wording in 6.5.2.1 in Financial Regulations <b>to be deleted</b>, following wording above, i.e.: “Councillors shall be appointed to the Project Board, depending upon the risk and/or profile of the project, as agreed with the Leader of the Council. The Project Executive then has responsibility for appointing any additional members of the Project Board.”</p> <p>NB Financial Regulations to be re-numbers as part of Section19/ sub-numbered under Section 19.</p>
2.2.2	Update definitions		<p>To include a definition of “Legislation or Legislative” to means any Act, Regulation, order, instrument or rule and/ or statutory guidance under such provisions, however expressed.</p>
2.6 (& 2.4)	Formalise the suggestion at the September workshops that full Constitutional review every 3 years unless significant legislative changes that require an earlier review.	NA	<p>2.4 Add wording: <b>“The Constitution will be reviewed on an annual basis with a substantive review every 3 years.”</b></p>

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2.7.1	Limit to suspension of Constitutional Council rules to exclude the statutory requirement of a recorded vote for budget votes.	JT	Add budget recorded vote rule to 4.8.16(h) to this as cannot / should not be suspended.
3.1.3	Reference to FARC as a Scrutiny Committee removed. Post Member workshop, proposed approach – FARC decision making and Overview & Scrutiny will deal with any statutory scrutiny function related to that Committee.		As FARC not to be a Scrutiny Committee references to be removed.
3.2.1(c)(iii) and 4.8.23	Ability for formal questions to be asked at Full Council by the public, Cabinet and Committees. Clarify/ marry up wording in 3.2.1(c)(iii) 4.8.23.  <b>Group leaders asked to also include Committees and Sub-Committees</b>	AR	If restricting right should be to Full Council and Cabinet (as 4.8.10(a) gives this impression in any event). Wording at 3.2.1(c)(iii) and 4.8.10 to be clarified as “ <b>Full Council, Cabinet, Committees and Sub-Committees (section 4.8.10)</b> ”.”  Also suggest remove the word “ <i>formal</i> ” from 3.2.1(c)(iii) as 4.8.10 just refers to “questions”.  4.8.23 to exclude this from Committee & Sub-Committee, but include in Cabinet.
3.2.1(d)	Exclusion from meetings update to include reference to the Access to Information rules.	JT	Add reference to Section 15 – Access to Information.
3.3.1 (a)	References to FARC in Scrutiny section removed.	JT	Rename so have FARC (and decision making) and those issues that need to be referred to Scrutiny will be finalised post Group Leaders and workshop.  New section for FARC – with reference to Cabinet/ or Council or call-in to Overview & Scrutiny.
3.3.4 (a)	FARC references.	JT	Remove reference to FARC as no longer Scrutiny Committee.
4.2.1 (f)	Sustainable Community Strategy	JT	Remove reference to “ <i>Sustainable Community Strategy</i> ” – following on from Deregulation Act 2015, provision in force from 26 May 2015.
4.2.1(f)	(g) becomes (f) and add “Objectives” to include this with Priorities to cover approval of any new Corporate Objectives.	JT	

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4.4.1(c)	Council Tax referendum not covered.	JT	Add new (c) & renumber: <b>“Considering a referendum on Council Tax increases and associated matters.”</b>
4.4.1 (i)	Appointment of statutory officers	JT	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 – in force from 11 May, require Full Council approval of offer of appointment & notice of dismissal for CEx/ MO & CFO before given. Wording to be revised to comply with this and ensure that (as may be applicable) Staff Standing Orders are set out clearly: (i) becomes (j) amend:  <b>“the offer of <del>confirming the appointment or</del> notice of dismissal <del>of to the Head of Paid Service, Chief Finance Officer or Monitoring Officer,</del> prior to such action being taken (and in respect of dismissal, having taken into account any advice, views or recommendations, conclusions of any investigation from the Panel and representations of the Officer concerned);;”</b>
4.4.1 (k)	<b>“designating an officer as the MO”</b> Duplication of 4.4.1(i) & should be deleted.	JT	Delete as designation/ appointment effectively the same and already covered in (j).
4.4.1 (m)	Current wording only covers Returning Officer for parliamentary and European.	JT	Add wording to cover other elections – <b>“district, county, police commissioners and referenda”</b> .
4.4.1	Find a way to create community recognition.	LN	Add: <b>“4.4.1 (bb) To recognise exceptional contributions to the community by groups or individuals.”</b> [NB 4.4.1 will be (aa) – if (k) deleted, see above].
4.8.4(b)	Wording on substitute percentages (as per proportionality requirements) needs to be clearer.	JT	Current wording <b>“(b) For Committees or Sub-Committees listed at 4.8.4(c) below, but not the Cabinet, the Council will appoint a proportionate number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or sub-Committee <u>the number being a maximum of 40% of group’s full committee members</u> rounded up to the nearest whole number.”</b>  Suggest amending to underlined sentence above: <b>“.The number of substitutes shall be a maximum of 40% of the total of each group’s full committee membership rounded up to the nearest whole number.”</b>
4.8.5 (b)	Revise / clarify wording as to the circumstances when an item can be removed from an agenda.	LN	Amend so will read (revised wording in bold): <b>“(b) Responsibility for setting the agenda lies with the Chairman in consultation with the Proper Officer. It must, however, be recognised that in</b>

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			<p><i>some circumstances the proper conduct of business may require a particular matter to be included on the agenda. <b>The Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader and Chief Executive Officer.</b></i><sup>1</sup></p> <p>Footnote 1 added, that “<b>The right to remove does not apply to Statutory Officer reports (CFO &amp; MO) under ss114/114A Local Government Finance Act 1988 &amp; s5 Local Government and Housing Act 1989.</b>”</p>
4.8.9	<p>Extend the right to Members to ask questions of those making presentations.</p> <p>Can there be some regulation of public presentations, where they have been made to multiple committees (i.e. making the same point on numerous occasions).</p>	<p>Member workshop</p> <p>Various Councillors</p>	<p>Need to correct a cross reference at 4.8.9(b) to 9.9 – should be 9.8.3</p> <p>Create new (b):  <b>“Members of Council may ask points of clarification through the Chairman (up to a total of three on each presentation) of the member of the public making a presentation. The Chairman can decline to put a point of clarification if he/she considers this irrelevant or this has been covered during the presentation”</b></p> <p>Created new (c):  <b>“Public presentations on matters decided in the past 6 months or those already made to Cabinet, Committees/ Sub-Committees or Council on the same issue prior to a decision, will not be accepted without the agreement of the Chairman of the meeting.”</b></p>
4.8.9	<p>Mirror / tidy up the debating rules (where we cannot debate something that has been dealt with in the previous six months) and the general right of the public to address any committee on any matter without restriction.</p>	JC	See above.
4.8.10 and 4.8.11	<p>Helpful to offer scope for Chairman on questions, so as the same as public.</p>	LN	<p>4.8.10 – questions by the public – sanction is with DSM as proper officer, includes limitations on scope.</p> <p>4.8.11 – questions by members – urgent questions require approval of chairman or the member being asked; asking multiple questions requires chairman’s permission; order of questions is determined by chairman. There is no veto on questions by members within the Constitution (assuming the rules have been followed).</p> <p>Mirror the scope of questions for the public to Members. Add &amp; number post</p>

			<p>that.</p> <p><b>“4.8.11 (e) Scope of Questions</b>  <b>The Chairman may reject a question if it:</b>  <b>(i) is not about a matter for which the Council has a responsibility or which affects the District;</b>  <b>(ii) is defamatory, frivolous or offensive;</b>  <b>(iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;</b>  <b>(iv) requires the disclosure of confidential or exempt information.”</b></p>
4.8.11	Why are questions limited to three (4.8.11)?	JC	This is the number that has been agreed by Full Council. It probably originated from the model Constitution. The number could change if Council decided to, although time constraints would need to be considered.
4.8.11(d) & 4.8.12(c)	Wording on working days or clear days motion or question inconsistent. Express in a consistent way.	Group Leaders	Change to “clear working days”
4.8.11(f)	Clarify the Council’s approach to multi-part member questions.	Full Council	<p>Amend 4.8.11(e) (<i>nb would become renumbered 4.8.11 (f)</i>). To clarify how questions with multi-parts will be dealt with by the Chair.</p> <p><i>Comment:</i> may be a difficult one to manage. Would be better to restrict to one with Chairman’s discretion to limit after that (to avoid the necessity for a ballot for further questions).</p> <p>Suggested addition of wording in bold::  <b>“The maximum number of questions that may be asked at any meeting of the Full Council is three. If there are multiple parts, then each will be treated as an individual question for the purposes of this Rule and if the number of questions exceeds three the questions to be asked shall be determined by ballot to be conducted by the Proper Officer.”</b></p>
4.8.14 and 4.8.15	Consider exception to 6 month rule for budget resolutions or amendments	JBi/JC	<p>Add 4.8.15(c):  <b>“There shall be an exception to 4.8.15 (a) and (b) for motions moved as part of a Budget proposal at the Full Council meeting at which the annual budget is set. Such a motion must be made in accordance with the procedures set out in 4.8.14.”</b></p>

<p>4.8.16(h)</p>	<p>Recorded vote – issues following budget approval, need to clarify process and how this applies.</p>	<p>AR/JT</p>	<p>The budget decision recorded vote wording is statutory under The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (to amend 2001 Regulations).But can be re-worded to the “like effect”. So reword with footnote reference to the sections of the Local Government Finance Act.</p> <p>Added to 4.8.16 (e).  <b>“A recorded vote must be taken when a budget decision is made (under 4.8.16(h).”</b>  Proposed amendment::  <b><u>“(h) Voting on Budget Decisions “(a recorded vote is required)”</u></b>  <b>“A recorded vote must be taken when a budget decision is made. For the avoidance of doubt the application of this rule and necessity for a recorded vote will be set out in any relevant report.....from voting</b></p> <p><b>A “budget decision” means a meeting at which the Council:</b>  <b>(i) makes a calculation (whether originally or by substitute) of: council tax; basic amount of tax; additional calculations of special items to part only areas (precept or special expenses); different tax for different bands; amounts payable by each billing authority<sup>1</sup>; or</b>  <b>(ii) issues a precept<sup>2</sup> relating to (i) above and this includes a meeting where the calculation or issuing a precept is included as an item of business on the agenda.</b></p> <p><b>References to a vote means voting on any decision related to (i) and (ii) above.”</b>  <b>Footnotes to above:</b>  <b>1 As defined under sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992.</b>  <b>2 Under Chapter 4 of Part 1 of the Local Government Finance Act 1992.</b></p>
<p>4.8.20(c)</p>	<p>Can you clarify the process so any Member can move the motion that “a person shall not be heard”?</p>	<p>LN</p>	<p>To read (amended wording in bold):  (c)<b>“If a Member persistently disregards a ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, a motion may be moved that the Member may not be heard further. If seconded, the motion will be voted on without debate.”</b>  (d): <b>“If the Member continues to behave improperly after such a motion not to be heard further is carried, a motion may be moved that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If</b></p>

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			<i>seconded, the motion will be voted on without <b>debate</b>.</i>
4.8.23	Application of Council rules to Cabinet, Committees or Sub-committees.		Add: 4.8.10, 4.8.11, 4.8.13(n) 4.8.14(j)(vii), 4.8.19 to Cabinet. 4.8.5 – 4.8.9, 4.8.11-4.8.13 to Committees and Sub-Committees (as consequential amendments to rules in 4).
5.6.12	Cabinet appears to be required at 5.6.12 to receive reports from external auditors. I thought that this was a power exercised by FARC.	JC	The consideration of reports is not an Executive function under the Local Audit and Accountability Act 2014 (LAAA) & Regulations 2015. The only other situation External auditors also need to be involved is the auditing of the accounts/ their certification. The SoA must then be considered and approved by a Committee or Full Council. Transitional rules apply under the new Regulations but FARC needs to be the main Committee to reviews and approves as per the current proposals. So suggest reword: 5.6.12 <b><i>“To be kept informed of any issues raised by the Local (External) Auditor.”</i></b> <b><i>“Local Auditor”</i></b> is the legal terms under the LAAA.
5.6.18	Neighbourhood strategic planning.	JT	Add: <b><i>“.. applications and referenda in respect of neighbourhood plans and orders, to consider and approve..”</i></b>  Currently cannot be a role exercised solely by Cabinet as the neighbourhood plan will form part of the Development Plan documents which must be approved by Full Council.
5.6.30	Car Park charges, Cabinet’s responsibility, make it clearer in the Constitution.	LN	Currently: “To determine charges for car parking”. May need to be revised post below.  Officers are currently considering the external Auditors report relating to N.Dorset (Grant Thornton May 2015), that the Council does not seek to raise revenue from off street (as well as on street) car parking charges, and only does so in the light of the revenue and capital costs of providing the service and the level of surplus achieved in previous years.
5.6.30	I am puzzled by the very specific requirement for Cabinet to approve car parking charges but no other specific fee changes. With normally only six meetings a year this could lead to delays in implementing otherwise	JC	Setting fees and charges was specifically flagged in the 2013 review and reflects the financial regulations adopted by Council in December 2012.  The approach adopted is that officers set fees and charges in consultation with the relevant portfolio holder (14.6.4(a) (viii)). The one exception to this is car



	<p>agreed changes. Many other decisions are delegated to portfolio holders but not this one. Why is this?</p>		<p>parking charges, as this was recognised as being a politically sensitive issue which it was more appropriate for Cabinet to determine. <b>These may, however have to be changed to state that they be set within the overall costs of the service. See above.</b></p>
<p>5.9.2(d)</p>	<p>Whilst it is probably not a “tidying up exercise” the Constitution does require that reports indicate (5.9.2 (d)) the nature of any consultation that has taken place. The most recent Cabinet meeting had two instances where those alleged to have been consulted denied that this had happened. Is there anyway in which the Constitution can tie this down e.g. by making it mandatory for any response (or non response) to be noted? Or this a matter for the executive?</p> <p>SMT view – ask Group Leaders on 16/6 whether to delete the word “Ward” in the above guidance.</p> <p>GpL said to change to “appropriate”</p> <p>Member workshop preferred the word “relevant”</p>	<p>JC</p>	<p>The Constitution references “The level of consultation required will be appropriate to the nature of the matter under consideration”. This is considered the right approach to take in the Constitution and should not be tied down further.</p> <p>However the guidance issued to report writers has been updated and now reads as follows:-</p> <p><b>5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS</b></p> <p><i>Relevant Members must be consulted on proposals. Consultation must be undertaken when proposals will or are likely to have an impact on external organisations.</i></p> <p>5.1 <i>State the external organisation/ <b>relevant</b> member(s) consulted on the proposals in the report including the nature and timing of that consultation e.g. whether it was in meetings, workshops, via email etc.; when the consultation took place and how long a response period was provided; and</i></p> <p>5.2 <i>The views of those organisations/member(s) should be listed here, including if no response was received; or state</i></p> <p>5.3 <i>No consultation has been carried out (enter reasons)</i></p> <p>Constitution - NFA at present.</p>
<p>5.10</p>	<p>Consideration of how to make decisions on minor matters rather than hold Charities Sub-Committee meeting</p>	<p>24/3/15 Sub-Com</p>	<p>Suggest delegate minor matters to Chairman in consultation with relevant lead Officer for the Trust concerned and Trust lawyer, with emergency/ urgency power delegated (to cover inquorate meeting/ if declarable interest etc. of Sub-Committee Member)?</p> <p><b>“To authorise the entering into any agreement, contract, lease, consent</b></p>

			<p><i>or deed to surrender or termination for administrative or minor matters (including minor amendments)."</i> Sub-Committee Chairman in consultation with lead Officer for the Trust concerned and Trust lawyer.</p> <p><i>"In cases of emergency or urgency to carry out any of the Sub-Committee functions, powers or duties."</i></p> <p>Lead Officer for the Trust concerned in consultation with the Chairman of Sub-Committee where possible.</p>
Section 6	<p>FARC need to consider and crucially approve SoA and AGS/ (External) Local Auditors reports as per LAAA 2014 &amp; Regulations 2015. Consequential changes to removal of scrutiny functions and ToR, as cannot be both a Scrutiny Committee and formal Policy/ decision making Committee (Council must appoint a "Committee" or Full Council to do this under the legislation).</p>	AR/JT	<p>Overview &amp; Scrutiny Committee to be the only Scrutiny Committee.</p> <p>Amend this section to remove references to FARC and more than one Committee. 6.1.3; 6.2.1(a); delete 6.3; (subsequent renumbering - 6.4)</p> <p>Move FARC to section 10 and first of those Committees &amp; set out as follows: <b>"Role &amp; Functions</b> <b>The Role and functions of the Finance, Audit and Risk Committee shall be as follows:</b></p> <p>(a) <b>Finance, Audit and Risk</b> (b) <b>The oversight and approval of Financial, Audit and Risk Management matters (not otherwise the responsibility of the Cabinet, Full Council or Standards Committee) as set out in the Terms of Reference.</b></p> <p><b>Membership</b> (a) <b>No more than seven members shall be appointed to the Finance, Audit and Risk Committee. The Chairman shall be appointed at the annual meeting of the Council.</b></p> <p><b>Quorum</b> <b>The Quorum for a meeting of the Finance, Audit and Risk Committee shall be three voting members of that Committee.</b></p> <p><b>Proceedings of the Finance, Audit and Risk Committee.</b> <b>There shall be five regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it</b></p>

		<p><i>is necessary or appropriate.</i></p> <p><b>Terms of Reference:</b></p> <p><b>Finance</b></p> <p>(a) <i>To review and approve the Statement of Accounts.</i></p> <p>(b) <i>To review and recommend the Medium Term Financial Strategy to Cabinet (including, although not limited to consideration of associated procedures, policies and process).</i></p> <p>(c) <i>To consider the Council's policy in relation to Treasury Management and make recommendations on the Annual Treasury Management and Investment Strategy, and Treasury Management Code of Practice.</i></p> <p>(d) <i>Assist the Council and the Cabinet in the development of its Budget and Policy Framework process by in-depth analysis of policy issues pertaining to finance, audit and risk.</i></p> <p>(e) <i>To consider mechanisms to encourage participatory budgeting and enhanced community participation in the budget process.</i></p> <p>(f) <i>To review the financial performance of the Council in relation to its policy objectives, and budgetary amounts, and to make recommendations to Cabinet (unless legally reserved to Full Council) on any matter arising out of the finance monitoring and review process within the terms of this Committee.</i></p> <p>(g) <i>To maintain an overview of the Council's Constitution in respect of Contract Procurement Rules and Financial Regulations, consider any major changes and make recommendations to Council for approval.</i></p> <p><b>Audit &amp; Governance</b></p> <p><b>Internal</b></p> <p>(h) <i>To ensure that an annual review of the effectiveness of internal control (accounting records, supporting records and financial) systems is undertaken and this review considered before approving the Annual Governance Statement.</i></p> <p>(i) <i>To consider the Shared Internal Audit Service ('SIAS') annual report and opinion, summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements (including, although not limited to agreed high level recommendations not implemented).</i></p> <p>(j) <i>To review the SIAS arrangements, including performance, effectiveness, consideration of any associated reports and approve/</i></p>
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		<p><i>make recommendations as appropriate.</i></p> <p><i>(k) To consider and approve the Annual Audit Plan, Code of Audit Practice and Statement of Responsibilities (including any drafts, where appropriate).</i></p> <p><i>(l) To approve the Code of Corporate Governance.</i></p> <p><i>(m) To review and comment on the development of anti-fraud and anti-corruption strategies, 'Raising Concerns at Work' and Whistleblowing Policy.</i></p> <p><i>(n) To review the Shared Anti-Fraud Service ('SAFS') arrangements, including performance, effectiveness, consideration of any associated reports and approve/ make recommendations as appropriate.</i></p> <p><b>External Audit</b></p> <p><i>(o) (Subject to enabling legislation) to appoint the Council's Auditor Panel (if expedient, with one or more other relevant authority).</i></p> <p><i>(p) To appoint (when this requirement arises) the Council's external Local Auditor, having consulted and taken into account the advice of the Council's Auditor Panel.</i></p> <p><i>(q) To consider (and to approve where required) the Annual Audit letter to Members, Annual Audit and Inspection Fee Letter.</i></p> <p><i>(r) To comment on the scope and depth of external audit work and to ensure it gives value for money.</i></p> <p><i>(s) To receive reports or recommendations from the external Local Auditor, other than public interest reports (which shall be direct to Full Council).</i></p> <p><b>Risk</b></p> <p><i>(t) To monitor the effective development and operation of risk management and corporate governance, agree actions (where appropriate) and make recommendations to Cabinet.</i></p> <p><b>General</b></p> <p><i>(u) To review any issue referred to it by the Chief Executive, Statutory Officer or Director, or any Council body and undertake such other functions that may be delegated to it from time to time by Council.</i></p> <p><i>(v) To bring to the attention of Council financial, audit or risk concerns, with recommendations as to how these matters should be remedied.</i></p>
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			<p><b>(w) When undertaking any of the afore-stated functions to consider compliance with Council policies, other public standards, controls and best practice.</b></p> <p>[NB Consequential changes elsewhere see schedule].</p>
6.2.7(a)	Local Government Act 2000 Revocations under Localism Act 2011.	JT	Revocation 21C, E & 22A.
6	Review call in points raised by JR	JR	<p>16.4.1 – In the light of the fact that FARC is supposed to review decisions/ these not be implemented if contrary to Budget Framework.</p> <p>Scrutiny Committee to be finalised post Group Leaders/ Member Workshop.</p>
6	FARC terms of reference need to be amended to reflect creation of Shared Anti Fraud Service and shared internal audit.	FT	<p>See new draft FARC ToR.</p> <p>Also updated delegations at 14.6.7(b)(i) J, and 14.8.3(k)</p>
7.3	Frequency and number of Standards Committee meetings. Due to lack of business, in the last couple of years meetings have either been cancelled or postponed	AR	Amend to reflect decision of Council on 9/4/15 to go to 2 regular meetings
7.6	Replace work programme with more general standards matters	AR	<p>Amend to reflect decision of Council on 9/4/15 to replace paragraph 7.6 to be re-named “Standards Matters” – and to now read:</p> <p><b><i>“The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues.”</i></b></p>
Section 8..2.3(b)	Added “gambling” to Licensing ToR so clearer on legal remit.	JT	(b) to read: <b><i>“to make recommendations to Council on the statements of licensing and gambling policy under the Licensing Act 2003 and the Gambling Act 2005.”</i></b>
Section 8 Planning Control Committee	Right to refer in a decision under 8.4.5(c). May have allowed Parish meetings to do this as well – even though these are not included. It has caused some concern, as a Parish meeting is not set up in the same legal way and members of that meeting do not have to comply with a Code of conduct.	JT	<p>Proposed footnote to re-iterate not Parish Meetings to 8.4.5(c) (ii) &amp; (iii).</p> <p>Also footnotes regarding Members with any declarable interest not being involved in referrals to Committee.</p>

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8.4.5	Make clear referral to Committee does not apply to Permitted Development under the Town and Country Planning (General Permitted Development) (England) Order 2015. As timescales for determination mean that going to Committee will not be practicable.	MC	Add Footnote (NB exact wording to be finalised): <b><i>“This does not apply to notifications to the Council for development that would fall under the Town and Country Planning (General Permitted Development) (England) Order 2015.”</i></b>  The planning department will include in MIS notifications any decisions taken under the above provision.
Section 8 Planning Control Committee	Appendix 1 to Section 8 participation. One of the issues raised by Members at PCC was about right to ask questions of applicant/ objectors. It is very unusual not to have this right. The proposed new Planning Code (below) indicates that if they are unsure of anything, then they should clarify/ seek adjournment (but they are currently unable to ask questions of applicants/ objectors) so inconsistent with that approach.	JT Amended wording post Member workshop restricting to total of 3 per application	Suggest new 2.6: <b><i>“The Members of the Committee may ask points of clarification through the Chairman (up to a total of three on each application) of the objector(s), applicant, applicant’s agent or representative. This limit does not apply to points of clarification asked of the planning officer (see 2.7 below). The Chairman can decline to put a point of clarification if he/she considers this irrelevant in planning term or that this has been covered in the planning officer’s report or during any of the representations.”</i></b>
Section 8 Appendix 2	Reference to 1995 Order		Replaced by Town and Country Planning (Development Management Procedure) (England) Order 2015/595 – in force 15 April 2015. <i>Definition remains the same.</i>
Section 8 Appendix 3	Review of Planning Code of Good Practice		New Code based on LLG 2014 model – to be considered later in year, once through PLB/ Standards Committee and then to Council 3 September 2015.
9.8.2(a)	There is reference to the community strategy under Area committees (question at TownTalk recently what that enabled the committee to do) – the Deregulation Bill in its final course through Parliament/Lords proposes to remove that statutory duty, so we may need to just put a marker on ‘pending’ final assent.	LG	Was a requirement under s4 LGA 2000 to prepare a “Community Strategy”. This wording was changed to “Sustainable Community Strategy” in 2007 by the Sustainable Communities Act. Council had to approve the Sustainable Community Strategy. This has been removed by the Deregulation Act 2015 <b>as from 26 May 2015.</b> To also remove 4.2.1 (f). Delete 14.6.7(b)(L)1 reference.
Section 9	Review area committee quorum numbers.  Amend 9.7.2 to make it in consultation with the Leader	SMT	Amend 9.1 to add at the end: <b><i>“Area Committees must operate within Council policy and decisions must be consistent with the Budget and Policy framework and service specific policies.”</i></b>

	<p>For consistency conduct extraordinary meetings in the same way that extraordinary Council meetings are conducted</p> <p>Review ToR – to include reference to Council policy and being consistent with it</p> <p>Amend 9.7.1 “no fewer than”</p>		<p>Amend 9.6.1 to read:  <b>“The quorum for meetings of Area Committees will be as follows:                  Baldock and District Committee 3                  Hitchin Committee 7                  Letchworth Committee 7                  Royston and District Committee 3                  Southern Rural Committee 5”</b></p> <p>Amend 9.7.1 to read: <b>“There will be a maximum of four (4) regular meetings of each Area Committee per year.”</b> [Note this amendment to take effect from start of civic year 2016/17]</p> <p>Amend 9.7.2 to read: <b>“Extraordinary meetings can be called by the Proper Officer, in consultation with the Leader of the Council, following a request from the Chairman, giving due notice as required by the Access to Information Procedure Rules.”</b></p> <p>Add 9.7.3: <b>“At an extraordinary meeting of an Area Committee the only business to be transacted will be that included within the summons to attend the meeting.”</b></p> <p>Amend 9.8.3(b) to read: <b>“There is no intention to be prescriptive about the management of meetings, but rather to let local members run their business in ways that best reflect their local areas, provided that decisions are consistent with the Council’s budget and Policy framework and service specific policies.”</b></p>
10.1.1(a)	<p><b>Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012/2914</b> replaced 1992.</p>	JT	<p>Amendment to new Regulations in (a) and amend to (b) to refer to Chapter III &amp; IV. Add full term of NNDR1 to this (<b>“non-domestic rating income”</b>).</p>
	<p><b>NB Employment Committee becomes 10.3. Number below currently represents existing number.</b></p>		
10.2.4(h)	<p>Does the Employment Committee have to appoint the IRP members, or could this be done by officers.</p>	Employment Committee.	<p>The relevant regulations and guidance do not specify who makes the decision to appoint. Options are to leave as presently set up (MO and s.151 recommend to EC), or change to CFO having consulted MO and Group Leaders (latter on basis that not independent) as IRPs are not employees.</p>

	<p>If changing approach build in consultation with Group Leaders – as to any reason why person not independent.</p>	<p>LN</p>	<p>Delegate appointment in in new section 14.6.7(viii) and delete (h).</p>
<p>10.2.4 &amp; 10.2.5</p>	<p>Amendment – recommendation of appointment and dismissal of the statutory officers, following The Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015.</p>	<p>JT</p>	<p>Employment Committee terms to be amended to reflect SO requirements (as have to adopt new SOs first ordinary Council meeting after May). If subsequent guidance available on wording/approach, to consider changing post July Council meeting.</p> <p>Add new 10.2.1(b): <b>“The Independent Person and Reserve Independent Person (or Deputy Reserve Independent Person as alternative for either) to attend any meeting of the Employment Committee convened to consider whether to recommend to Council the dismissal of a relevant officer as per 12.8.7 – 12.8.14 of the Officer Employment Procedure Rules. When sitting for this purpose the Committee shall be considered a Panel as defined by The Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015.”</b></p> <p>10.2.2 delete “...Employment...” as unnecessary.</p> <p>10.2.4 (d) to reword with wording in bold:  <b>“(d) To consider any alleged misconduct and take any necessary disciplinary action against the Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Strategic Directors in accordance with the Officer Employment Procedure Rules including the appointment of external investigators and the Designated Independent Person. When considering whether to recommend to Council the dismissal of a relevant officer, 10.2.1(a) and (b) shall apply. and the remit of that meeting will include whether to recommend issuing a notice of dismissal or deciding whether to impose all other disciplinary action except dismissal .”</b></p> <p>Delete (e) &amp; (f) as duplicates (d).</p> <p>Amend 10.2.5(a) – wording in bold to match wording in current 12.8.5 (a) &amp; obligation under Regulation 2015 for CFO and MO:  <b>“(a) The appointment and dismissal of the Head of Paid Service (Chief Executive), Chief Finance Officer or Monitoring Officer prior to any offer or notice being issued.”</b></p>



# Constitution Review Feedback/ Proposed amendments 2015

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12.1.2	Heading is statutory one which needs to change to more general one.	JT	<p>Change to: "<b>Officer delegation</b>" &amp; reword following paragraph – bold additional wording:  <i>"The Full Council will engage persons for the following posts <del>who will be designated Chief Officers</del> (as set out in the table below), which designation includes persons acting temporarily in such capacity. <b>These Officers have the power to delegate further under their schemes of delegation.</b>"</i></p> <p>Amend/ add: to Chief Executive:  <ul style="list-style-type: none"> <li>• <i>Returning Officer for <del>District and Parish Council Elections</del> <b>and Officer responsible for referenda.</b></i></li> </ul> <p>To Strategic Director of Planning, Housing &amp; Enterprise:  <ul style="list-style-type: none"> <li>• <i>The Local Plan, <b>community infrastructure, Neighbourhood plans and orders (and related referenda with Returning Officer);</b></i>"</li> </ul> </p></p>
12.8	Officer Employment Procedure Rules (OER). Amend to reflect changes to the disciplinary Designated Independent Person procedure.	KS	<p>The OER will need to be amended to reflect the mandatory Staff standing Orders in the Local Authorities (Standing Orders) Regulations 1993 and Local Authorities (Standing Orders) (England) Regulations 2001(as amended)</p> <p>Add under 12.8 heading:  <b><i>"The Council is legally obliged under the Local Government &amp; Housing Act 1989 (the '1989 Act') and consequential Regulations to adopt mandatory Standing Orders relating to members of staff. These are contained in the Officer Employment Procedure Rules detailed under this rule 12.8."</i></b></p> <p>Add to 12.8(a) "<b><i>... Save for 12.8.1(b) and Deputy Chief Officers as detailed under 12.8.5(d) below,...</i></b>"</p> <p>Add new 12.8(b)::  <b><i>"(b) Nothing in 12.8.1 and 12.8.6 (a) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—</i></b>  <b><i>(i) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or</i></b>  <b><i>(ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff."</i></b></p>

		<p>12.8.4 amend (a) &amp; (b): with wording in bold  “(a) <i>The Full Council shall decide whether <b>to approve the appointment of the candidate(s) for Head of Paid Service, following the recommendation of the Employment Committee and before the offer of appointment is made.</b></i>  (b) <i>The Full Council may only <del>make or</del> approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet <b>(via the procedure set out in 12.8.5 below).</b></i>”</p> <p>Amend 12.8.5 – heading with bold to comply with SI:  “Appointments and Dismissals of Chief Officers <b>(Head of Paid Service, Chief Finance Officer, Monitoring Officer, Strategic Directors) and Deputy Chief Officers</b>”. Added Deputy Chief Officer – as SI 2001 3384 requirement.</p> <p><i>Committee – change to “the <b>appointor</b>” “means the relevant decision making body or officer as per the Terms of Reference or delegation to Full Council, Committee or the Head of Paid Service or as in the case of the initial notification to the Proper Officer – on behalf of ”</i></p> <p>Add “<b>dismissor</b>” <i>means the relevant decision making body or officer as per the terms of reference or delegation to Full Council, Committee or the Head of Paid Service”.</i></p> <p>Add to (a) <i>Where the <del>Committee</del> <b>appointor or dismissor</b> is proposing to appoint or dismiss..”</i></p> <p>Add to (b) <i>“The <del>Committee</del> <b>appointor</b> shall not make an offer..”</i>  Reword:  (i) A. <i>the name of the person to whom the <del>Committee</del> <b>appointor</b> wishes to make the offer (or, in the case of the Head of Paid Service, subject to approval of the Council);</i>  B. <i>any other particulars relevant to the appointment which <b>have been the</b> <del>Committee has notified to the Proper Officer; and”</del></i></p> <p>D-F to substitute refer to Committee with “<b>appointor</b>” and remove reference to Full Council, as already covered in definition of appointor.</p> <p>(c) (i)(ii) A-F to include “<b>Deputy Chief Officer</b>”. Added Deputy Chief Officer – as SI 2001 3384 requirement. Substitute Committee with “dismissor” and</p>
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		<p>reference to Full Council – as already covered in definition.</p> <p>(d) to be deleted as this goes beyond the 2001 provisions and would negate the requirement to give full notice to any Cabinet Member.</p> <p>Chief Officer to be updated to reflect statutory definition section 2 of the Local Government and Housing Act 1989.</p> <p>12.8.6 (a) to be amended: <i>“Appointment and dismissal <b>and taking disciplinary action against a member of staff</b> <del>of officers below Chief Officer...</del>”</i></p> <p>Add new (c) <b>“The Council’s policies in relation to recruitment, selection, appointment, disciplinary action and dismissal shall otherwise apply.”</b></p> <p>Disciplinary action 12.8.7 replaced in full with The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 mandatory Regulation 6(a), Schedule 3 provisions:  <b>“12.8.7 The Local Authorities (Standing Orders) (England) Regulations 2001(as amended) (the “Regulations”) sets out the legal requirement for an authority to incorporate these provisions on disciplinary action in their standing order relating to certain “relevant officers” (defined below) They set out the basis of how disciplinary action is taken against these relevant officers. The Employment Committee is the relevant Committee for the purposes of the Regulations. When interpreting 12.8.7 -12.8.15 -</b></p> <p><b>“the 2011 Act” means the Localism Act 2011(1);</b>  <b>“chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(2);</b></p> <p><b>“independent person” means any person appointed under section 28(7) of the 2011 Act; by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.</b></p> <p><b>“local government elector” means a person registered as a local</b></p>
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		<p><i>government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;</i></p> <p><i>“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(3) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority, in this authority the Employment Committee</i></p> <p><i>“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and</i></p> <p><i>“relevant officer” means the Head of the authority’s paid service, Chief Finance Officer or Monitoring Officer, as the case may be.</i></p> <p><i>12.8.8 A relevant officer may not be dismissed by the authority unless the procedure set out in the following Rules is complied with.</i></p> <p><i>12.8.9 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.</i></p> <p><i>12.8.10 Subject to Rule 12.8.11, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 12.8.9 in accordance with the following priority order—</i></p> <ul style="list-style-type: none"> <li><i>(a) a relevant independent person who has been appointed by the authority and who is a local government elector;</i></li> <li><i>(b) any other relevant independent person who has been appointed by the authority;</i></li> <li><i>(c) a relevant independent person who has been appointed by another authority or authorities.</i></li> </ul> <p><i>12.8.11 An authority is not required to appoint more than two relevant independent persons in accordance with 12.8.10 but may do so.</i></p> <p><i>12.8.12 The authority must appoint any Panel at least 20 working days before the relevant meeting.</i></p>
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	<p>Consider whether anything in pay policy statement ('PPS') needs including (e.g. around 100k pay offs and appointments).</p>		<p><b>12.8.13</b> Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—</p> <p>(a) any advice, views or recommendations of the Panel;</p> <p>(b) the conclusions of any investigation into the proposed dismissal; and</p> <p>(c) any representations from the relevant officer.</p> <p><b>12.8.14</b> Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act."</p> <p>12.8.16 becomes 12.8.15 – leave, save include “, except as set out in <b>12.8.1(b)</b> and where such involvement is necessary.</p> <p>PPS – appears to be covered already:</p> <p>4.4.1 (aa) remit of Council “Agreeing any award which would exceed the financial limits set out in the Council's Pay Policy Statement.”</p> <p>10.2.4 (f) powers for termination under limits of PPS.</p> <p>10.2.5 (b) recommendations to Council for those above limits set in PPs.</p> <p>3.9 &amp; 3.10 of PPS state referrals to Council for payments of &gt; £100K.</p>
<p>14.4.1(b)(ii) &amp; add new (e)</p>	<p>Delete reference to FARC &amp; add to (e).</p>		
<p>General</p>	<p>Amend “Portfolio Holder” to “<b>Executive Member</b>”</p>	<p>LN</p>	<p>LN confirmed that all Cabinet in favour of this change.</p>
<p>14.5.1</p>	<p><b>Anti-Social Behaviour, Crime and Policing Act 2014.</b> Ensure delegations are clear as to who is responsible for the powers under this legislation</p>	<p>JT</p>	<p>Add: “Public Spaces Protection Orders” replaces Designated Protection Orders (which just covers Alcohol). These PSPOs wider - &amp; cover alcohol/ dogs / restrictions on public use. Same sort of consultation process for making [Chapter 2 Anti-social Behaviour, Crime and Policing Act 2014].</p> <p>Closure Notice of premises associated with nuisance or disorder – s76,77,78..The “local authority” can issue one up to 24 Hours, but if beyond that/ or varied beyond The Chief Executive has to sign off the Notice as per</p>

			<p>s77– although the he/she can “designate” this power to another Officer. Variations and cancellations of closure notices as per s78. Service of these Notices is an employee or person acting on behalf of the Council (s79). So delegations will be both Chief Executive above and with Strategic Director of Planning Housing and Enterprise under 14.6.8(K).</p> <p>14.6.5(a) add (xx) with footnote.  <b>“To authorise, issue vary or cancel Closure Notices to deal with nuisance or disorder or designate a person to do so under relevant legislation.1”</b>  <i>1 S77(2)(b) Anti-Social Behaviour, Crime and Policing Act 2014 Power to issue Closure Notice up to 48 hours must be signed by Chief Executive or person designated by him/her</i></p> <p>Community protection notices/ fixed penalty notices / seizure of goods– need to delegate to key officer first under s53 (1) (b) / specific officers, as government not yet issued a specific designated persons order for s53(c). 14. Amend 14.6.8(b) new K to cover both.  <i>Amend 14.6.8 K to cover both of above</i>  <b>“K to Officers to deal with antisocial behaviour, nuisance or disorder, including (although not limited to) Closure Notices<sup>1</sup>, Community protection (notices, fixed penalty notices, seizure of goods) and high hedges under any relevant legislative powers.”</b>  Foot note:  <i>1 Not including authorising/ signing Closure Notices up to 48 hours unless designated by Chief Executive to do so.”</i></p> <p>Add antisocial and nuisance behaviour to relevant portfolio see below.</p>
14.6.5(ii)	Make amendment to Head of paid services delegation to marry up with Employment Committee and OER requirement.		<p>Amend in bold:  <i>“(iii) To dismiss any member of staff including Strategic Directors, Heads of Service and Corporate Managers (<b>unless otherwise reserved to Committee or Full Council</b> and excluding Statutory Officers) either by way of redundancy or any other appropriate use of the Council’s staff related policies. (unless otherwise reserved to Employment Committee or Full Council...”</i></p>
14.6.8	Provide specific reference to authorisation of s.106/CIL payments, which is currently implicit within scheme of delegation to SD of PHE	MC	<p>Amend 14.6.8(b)(i)(A) to read (bold is proposed amendment):  <i>“All functions of the Local Planning Authority primarily Planning Policy and Development Control (including enforcement functions, <b>authorising expenditure of planning obligation monies</b> and Environmental Impact Assessment functions other than matters reserved to the Planning Control</i></p>

			Committee;"
14.6 and 14.8	<p>Ensure approach to delegated officer decision publication/ recording of decisions is compliant with the 2014 Regulations.</p> <p>Consider whether 6.4.11 (Call-In rules) will need updating</p>	AR	<p>Add reference to Guidance to 14.6.2(d) and 14.8.1</p> <p><b><i>"Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance (or any policy) on the statutory requirements and procedures."</i></b></p> <p>This is now 6.4.10 on amended version. Amend (a)(i) – remove restriction to referrals to "Key Decisions", and reference to delegated authority "from Cabinet or an Area Committee" Reason: Not restricted to call in of Key decision of Officers, can be any executive decision of an Officer. Record of decision template and guidance does not distinguish this call in power. <i>Will need to update Record of Decision template to deal with emergency provisions.</i></p> <p>Also add: <b><i>"In the case of Individual Executive decisions, the Record of Decision will be forwarded to the Chairman of Overview &amp; Scrutiny Committee at the same time as this is forwarded to the Proper Officer (unless the urgency provisions apply – see below)."</i></b></p>
14.6.6 E 2 & 14.8.9(e)	Cemeteries.	JT	<p>Suggest add to E 2: <b><i>"..crematoria, burials and related services"</i></b> To allow Council to proceed with this, should it wish to do so. &amp; 14.8.9(e) add <b><i>"..crematoria, <del>and</del> burials and related services"</i></b></p>
Section 14	<p>Look at portfolio holder responsibilities and compare to officer delegations to ensure consistency.</p> <p>14.8 Update as titles do not quite match up for DL &amp; ph for Finance (? IT) Policy Transport &amp; Green issues (this is still split in Constitution under 14.8.7 14.8.8 Planning, Transport and Enterprise &amp; 14.8.8 Policy and Green Issues) Planning &amp; Enterprise not reflect their delegations.</p>	SMT	<p>The biggest problem is that the officer delegations are presented as non-exhaustive, whereas the portfolio holder ones are presented as an exhaustive list. Suggest that post senior management restructure we start again from scratch and where possible use the same terminology in both sets of lists (as the expressions used for the same thing are often different). <b>Therefore flag this for comprehensive future review.</b></p> <p>Suggested interim changes to tidy up a bit:- Officer delegations: 14.6.6 SD Customer Service At (b)(i)4 5 <b><i>"Tourism and visitor management."</i></b></p>

	<p>Leader: Marry up with decision in June 2014 to change portfolio.</p>		<p>14.6.7 SD FPG 14.6.7(i) E, 10-15 add/ amend to:  <b>“10 Maintenance of Council’s assets/ buildings;”</b>  <b>11 Equalities and diversity;</b>  <b>12 CCTV;</b>  <b>13 Health and well being;</b>  <b>14 Safeguarding of children, young people and vulnerable adults;</b>  <b>15 Climate change and green issues.”</b></p> <p>14.6.8 SD of PHE                  (b)(i)A add TPO and conservation in the bracket part                  (b) (i) E add <b>“and oversight of the Council’s involvement in Hertfordshire Community Meals.”</b>                  F 1 add <b>“and private water supplies;”</b>                  F 2 add <b>“and loans”</b>                  F7 add <b>“and hygiene”</b>                  G new 11 <b>“Unlawful encampments;”</b>                  New N <b>“Economic development”.</b>  <b>14.6.9</b> move (j) to (i) as similar function &amp;                  Add new (p) <b>“(p) Certify (or authorise Officers to certify) documents on behalf the authority”</b>                  14.8.2.5 (l) add : <b>“..anti-social and nuisance behaviour,.”</b>                  14.8.3 should have Insurance and risk management                  Added to (k) <b>“audit, financial probity, insurance and risk management;”</b>                  14.8.7(n) (car parking) moved to new 14.8.8(j) Policy and Green issues.</p>
<p>Section 14</p>	<p>Be explicit as to responsibilities for waste enforcement, including where responsibility for littering and graffiti lies.</p>	<p>Various &amp; SMT</p>	<p>Amend at: 12.1.2, 14.6.6E 6, 14.8, 14.8.9(a): Add to Waste Management <b>“.. (including waste-related enforcement)..”</b></p> <p>Re-word/ add to 14.6.6 E 6 in bold:  <b>6 Waste collection (including waste-related enforcement: littering, graffiti, fly-posting, unauthorised distribution of free literature on designated land, waste receptacle offences), recycling and waste minimisation under any enabling legislation;”</b></p> <p>14.8 add:  <b>“..(including waste-related enforcement)”</b></p> <p>NB 14.8.2.5 (u) Human Resources needs to be renumbered – as confusing a-f</p>



			<p>under that. Suggest numbers – roman numerals.</p> <p>14.8.9(a):Add bold  <i>“..(including waste-related enforcement: littering, graffiti, fly-posting, unauthorised distribution of free literature on designated land, waste receptacle offences under any enabling legislation), waste minimisation and recycling.”</i></p>
Section 14	Delegations for AG’s services – ensure covered, e.g. ASB & Care Act 2014	AG	<p>14.6.8(b)(i)                  Amend F 1 sewers and drains and private water supplies                  Add F10 communicable diseases                  Amend E to add: <i>“Housing, homelessness and care functions... and oversight of the Council’s involvement in Hertfordshire Community Meals”</i>.</p>
Section 14	Delegations to deal with Counter Terrorism requirements.	AR	<p>Add 14.6.8(b)(i) M &amp; 14.8.4 (s)  <i>“Responsibilities in respect of Counter Terrorism and Security.”</i></p>
Section 14	Delegations to deal with Health and Safety Prosecutions (also need to amend section 13 potentially)	AR	<p>Add 14.6.13(c) <i>“To authorise Officers to act as an Inspector under the Health and Safety at W etc. Act 1974, such Inspectors are authorised to institute proceedings and prosecute under the Health and Safety at Work etc. Act 1974 following consultation with the Corporate Legal Manager.”</i></p> <p>Amend 14.6.9(f) to read <i>“(other than for Health and Safety proceedings, Council tax...),”</i></p> <p>Amend 13.3.1 to include footnote <i>“save for proceedings under the Health and Safety at Work etc. Act 1974”</i>.</p>
Section 14	Delegations required to deal with community rights e.g. Assets of Community Value (AoCV)/ community rights to challenge.	JT	<p>With HoFPAM, with reviews &amp; compensation with Strat Director FPG @ 14.6.7(a)(vii):  <i>“(vii) To consider and determine applications for Reviews of: the decision to list an Asset of Community Value, whether compensation should be paid and of payment of associated costs.”</i>                  &amp; HoFPAM @ 14.6.11:  <i>“(d) To consider and determine applications to: list and removal Assets of Community Value (in consultation with Officers nominated by the Strategic Director), whether compensation should be paid and of</i></p>

			<p><i>payment of associated costs.</i>"</p> <p>Community Rights to Challenge (for Services) to Corporate Legal Manager. Amalgamate (i) &amp; (j) and put this under (j). Add:  <b>"(j) To oversee the Community Right to Challenge Policy or Protocol and to process any Expression of Interest in accordance with the Council's Policies and procedures."</b></p>
Section 14	There are a number of out of date service descriptions, sports and children's for example, which is now going to be active communities, we still refer in numerous documents to children and young peoples' development, which we do not specifically do now but will do more generic activity going forward, and financial assistance and grant aid should simply be 'grants', etc.	LG	<p>Amendments :-</p> <p>14.6.7(b)(i) M 1 "<i>grants aid.</i>"</p> <p>14.6.7 (b) (i) N delete 1 &amp; 2 and replace with "<b>1 Active communities;</b>"</p> <p>14.8.4 (q) Delete and put "<b>Active communities</b>".</p>
Section 14	There are large areas which whilst they appear in portfolios do not appear in the delegations – and I know that some which are reserved in regard to decision making by Cabinet and the Council, but equalities, climate change, and safeguarding are quite specific responsibilities with associated legislation which I suggest should go in?	LG	See above.
Section 14	Safeguarding – under the County S11 Audit, and underpinning legislation, we are required to have a named officer with specific responsibility for the Council's safeguarding function, which by default has become me as the owner of both strategies for children/young people and adults at risk from harm. That would therefore I suggest need to be identified in the delegations too?	LG	See above.
14.7	Add Police Commissioner's elections.		<p>Chief Executive: Police Reform and Social Responsibility Act 2011</p> <p><b>"S.54 To act as police area Returning Officer or local Returning Officer for police and crime commissioner elections (if so designated)."</b></p>

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14.8.1(g)	Remove reference to FARC.		
Section 15	Working practice is that the chairman of O&S receives all committee papers, in order to assist ability to create agendas, deal with call ins etc. This is not explicit within the Constitution	AR	Amend 15.6 (supply of copies) to add a new para: <b>"15.6.4 The Chairman of Overview and Scrutiny Committee will receive on request copies of all reports for every Committee and individual delegated decisions whose business can be scrutinised by Overview and Scrutiny Committee and any individual Executive delegated decision that could be subject to call-in."</b>
15.15	I cannot see anything that defines what or when items go onto the Forward Plan. Given that this is an important part of the way in which the Council operates can you have a look at this.	JC	Forward plan defined under 15.15 with reference to the Notice of Key Decision and Private Meetings which together are the Forward plan.  Add this to definition under 2.2.2.
15.8 / 15.22	Overview and Scrutiny references.		Update.
16.2.2	Amend references to Overview and Scrutiny and make clear that certain matters reserved to FARC.		<i>"...If the matter is one where the Overview and Scrutiny Committee has carried out a <b>statutory Scrutiny function</b> <del>or Finance, Audit and Risk Committee has carried out a review of policy</del>, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals. <b>Finance, Audit and Risk Committee has specific functions reserved to it under its Terms of Reference and shall deal with these matters accordingly.</b>"</i>
16.3.1	Clarify Overview & Scrutiny power to make decisions on budget and policy framework.		Add to 16.3.1 "...Overview and Scrutiny Committee <b>(to the extent that it makes such decisions)</b> ,..."
16.4.2	Add wording to cover delegated decisions.		Add at 16.4.2: <b>"The Chairman of Overview and Scrutiny Committee should receive copies of any individual Executive delegated decision that could be subject to call-in. Delegated decisions must be taken, recorded and published in accordance with the Council's Guidance on the statutory requirements and procedures."</b>
16.7	Change call in to Overview and Scrutiny.		
Section 17	Consider extending Code of Conduct to cover non-voting co-optees.	JT	The logic of extending it is that the Parish co-optees on the Standards Committee would be covered by our Code of Conduct when advising on standards matters. Amend title so that it reads (AND CO-OPTees)

# Constitution Review Feedback/ Proposed amendments 2015

## Appendix A Council report 160715

			Amend 1.2 to read " <b><i>The Code of Conduct applies to all elected Councillors, (voting and non-voting) co-opted and appointed members.</i></b> "  JT – slight tweak suggested to 1.2 above.
Section 18	Consequential amendment in relation to removing items from agenda – 6.2		Add / amend to 6.2:  <i>"The Leader of the Council, <del>Portfolio Holder</del> Executive Member or Chairman will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. <b>The Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless s/he is not the requester) and Chief Executive Officer . and that the Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda...</b></i> "
Section 19	Financial Regulations were approved by Council on 12 February 2015. New version needs inserting and update contents page with date new version adopted	AC	JT: copy obtained ready for insertion. Will check/ marry up any wording. Seek general authority to do this post approval in July.
Section 20	Contract and Procurement Rules being reviewed separately due to new procurement Regulations.	RC/JW	See report on Contract Procedure Rules. Also authority, to the extent required, where any amendments made above, require consequential amendments to ensure consistency and compliance.

### Legislation considered (alphabetical order):

Anti-social Behaviour, Crime and Policing Act 2014; Care Act 2014; Deregulation Act 2015; Health & Safety at Work etc. Act 1974; Local Audit and Accountability Act 2014; Local Authorities (Members Allowances) England Regulations 2001; Local Authorities Functions and Responsibilities Regulations 2000 (as amended); Local Authorities (Standing Orders) Regulations 2001 (as amended); Local Authorities Standing Order (England) (Amendment) Regulations 2014; Local Authorities (Calculation of Council Tax Base) Regulations 2012; The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015; Local Government Act 1972; Local Government Act 2000 (Constitutions) (England) Directions Order 2000; Localism Act 2011; Police Reform and Social Responsibility Act 2011; Representation of the Peoples Act 1983; The Accounts and Audit Regulations 2015; The Anti-social Behaviour (Authorised Persons) Order 2015; The Local Government (Electronic Communications)(England) Order 2015; The Local Authorities (Standing Orders) Regulations 1993.  
Drafts: Draft Local Authorities (Functions and Responsibilities) (England) Regulations 2015.

### Key – initials (alphabetical order – last name left to right in columns):

NA – Norma Atlay;	JBi – Cllr Judi Billing;	JC – Cllr Julian Cunningham;	RC – Rachel Cooper;	AG – Andy Goodman;	LG – Liz Green;
RK – Richard Kelly;	DLB – Cllr David Leal-Bennett	DM – David Miley;	LN – Cllr Linda Needham;	JR – John Robinson	AR – Anthony Roche;
FT –Fiona Timms;	JT – Jeanette Thompson;	DS – David Scholes;	KS – Kerry Shorrocks;	JW – Janis Wilderspin;	SMT – Senior Management Team;