

# Luton Borough Council Constitution

## Section 2: Governance

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## Section 2: Governance

### Part 2 A: Articles of the Constitution

#### Article 1. Overview of the Articles and Definitions

##### 1.1 Status of this Constitution

1.1.1 This is Luton Council's Constitution, which is the 'Rule Book' of the Council governing the way in which the Council conducts its business.

##### 1.2 The Powers of the Council

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

##### 1.3 Purpose of this Constitution

1.3.1 The purpose of this Constitution is to:

- (1) provide clear leadership to the community, partners, citizens, businesses, voluntary and other organisations;
- (2) support citizens in getting actively involved in the process of local decision-making;
- (3) enable citizens to understand how the Council works and who is responsible for decisions;
- (4) enable the council to take decisions efficiently, effectively and transparently;
- (5) enable the council to hold decision-makers to account;
- (6) support the improvement of service delivery to the public;
- (7) support Councillors in representing their constituents in the most effective way; and
- (8) set standards of conduct for councillors and officers

##### 1.4 Definitions

1.4.1 In this Constitution the following expressions have the meanings assigned to them below:-

- (1) "**2000 Act**" means the Local Government Act 2000;
- (2) "**Budget Framework**" has the meaning given to it by Article 4.1.2 below;
- (3) "**Co-opted Member**" means a member of a Committee or Sub-Committee of the Council who is not a Member of the Council;
- (4) "**Councillor**" has the same meaning as "Member";
- (5) "**Executive Arrangements**" for the purposes of Part II of the 2000 Act means:-
  - (a) Article 6 below (Overview and Scrutiny) and Chapter 4 (Overview and Scrutiny Procedure Rules) of Part 3A of this Constitution (Standing Orders);
  - (b) Article 7 below (the Executive) and Chapters 2 and 3 (Access to Information Procedure Rules and Executive Procedure Rules respectively) of Part 3A of this Constitution (Standing Orders);
  - (c) Article 10 below (Petitions and Representations Board);
  - (d) Article 11 below (Joint Arrangements);

- (e) Article 13 below (Decision Making) and the provisions of Chapters 2 to 5 inclusive (Access to Information Procedure Rules, Executive Procedure Rules, Overview and Scrutiny Procedure Rules and Regulatory Committee Procedure Rules respectively) of Part 3A of this Constitution (Standing Orders); and
- (f) Part 2B of this Constitution (Responsibility for Functions);
- (6) "**Member**" means Member of the Council but does not include a Co-opted Member unless otherwise specified;
- (7) "**Officer**" has the meaning given to it by Article 12.1 below;
- (8) "**Policy Framework**" has the meaning given to it by Article 4.1.1 below;
- (9) "**Proper Officer**" in these Articles means, unless otherwise specified, for the purposes of Article 7 below the Chief Executive and for all other purposes the Monitoring Officer and
- (10) "**Standing Orders**" means the Council's Standing Orders as set out in Part 3A of this Constitution (Standing Orders).

## 1.5 Interpretation and Review of this Constitution

- 1.5.1 Where this 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.
- 1.5.2 The Council will monitor and review the operation of this Constitution in accordance with the provisions of Article 15 below.

## Article 2. Councillors

### 2.1 Composition

2.1.1 The Council consists of 48 Councillors.

2.1.2 The Borough of Luton currently has 20 Wards of either two or three Councillors. Councillors are elected from each of these Wards in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State:

- (1) Barnfield Ward - three Councillors
- (2) Beech Hill Ward - three Councillors
- (3) Biscot Ward - two Councillors
- (4) Bramingham Ward - three Councillors
- (5) Central Ward - two Councillors
- (6) Challney Ward - three Councillors
- (7) Dallow Ward - two Councillors
- (8) Farley Ward - three Councillors
- (9) High Town Ward - two Councillors
- (10) Leagrave Ward - two Councillors
- (11) Lewsey Ward - two Councillors
- (12) Northwell Ward - three Councillors
- (13) Poets Ward - two Councillors
- (14) Round Green Ward - two Councillors
- (15) Saints Ward - three Councillors
- (16) South Ward - two Councillors
- (17) Stopsley Ward - three Councillors
- (18) Sundon Park Ward - two Councillors
- (19) Vauxhall Ward - two Councillors
- (20) Wigmore Ward - two Councillors

### 2.2 Eligibility

2.2.1 Only registered electors of the Borough of Luton or those entitled to stand for election by virtue of their residence or work in the Borough are eligible to be elected to the office of Councillor.

### 2.3 Election and Term of Office of Councillors

2.3.1 Elections will be held of the whole Council every four (4) years on the first Thursday in May, or on such other date as the Secretary of State may appoint.

2.3.2 The term of office of each Councillor is four (4) years. It begins on the fourth (4th) day after the day of election. It ends on the fourth (4th) day after the date of the next regular election of Councillors.

### 2.4 Roles and Functions of Councillors

2.4.1 All Councillors will:-

- (1) collectively be the ultimate policy-makers and carry out a number of strategic and

- corporate management functions;
- (2) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (3) effectively represent the interest of their respective Ward and of individual constituents;
  - (4) respond to constituents' enquiries and representations fairly, impartially and in a timely manner;
  - (5) participate in the governance and management of the Council;
  - (6) be available to represent the Council on other bodies; and
  - (7) maintain the highest standards of conduct and ethics

## 2.5 Rights and Duties of Councillors

- 2.5.1 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 in accordance with the law.
- 2.5.2 Councillors will not make public, information which is confidential or exempt, or divulge information given in confidence to anyone other than a Councillor or Officer of entitled to know it, unless required to do so by law.
- 2.5.3 For these purposes, "Confidential" and "Exempt" information are defined in the access to information procedure rules at Chapter 2 of the Council's Standing Orders (Part 3A of this Constitution).

## 2.6 Conduct

- 2.6.1 Councillors will at all times observe the Council's Code of Conduct for Members and the Protocol for Member/Officer Relations set out in Parts 4 A and 4 C of this Constitution.
- 2.6.2 If in doubt, Councillors should seek advice from the Council's Monitoring Officer.

## 2.7 Allowances

- 2.7.1 Councillors will be entitled to receive allowances in accordance with the Scheme of Members' Allowances set out in Part 4 B of this Constitution, as varied from time to time.

## Article 3. Citizens and the Council

### Rights of citizens

#### 3.1 Voting and Petitions

- 3.1.1 Those whose names appear on the electoral roll for the Borough of Luton have the right to vote and to sign a petition to request a referendum for a new form of governance.

#### 3.2 Information

- 3.2.1 Citizens have the right to:-

- (1) attend meetings of the Full Council and the Council's Regulatory Committees, the Executive, the Overview and Scrutiny Committee and any Sub-Committee established by the Overview and Scrutiny Committee, the Petitions and Representations Board and other bodies except where these meet in private;
- (2) find out from the Executive's Forward Plan what key decisions will be considered by the Executive and when;
- (3) see reports and background papers, and any records of decisions made by the bodies set out at (1) above, except where these disclose private (exempt) or confidential information.
- (4) inspect the Council's accounts and make their views known to the Council's external auditors.

#### 3.3 Complaints

- 3.3.1 Citizens have the right to complain to:-

- (1) the Council itself under the Council's Complaints Procedure
- (2) the Local Government and Social Care Ombudsman or the Housing Ombudsman as appropriate, but this should only be done after using the Council's own complaints procedure; and
- (3) the Council's Monitoring Officer that there has been a breach of the Council's Code of Conduct for Members set out in Part 4 A of this Constitution

#### 3.4 Responsibilities of Citizens

- 3.4.1 Citizens must engage appropriately with councillors and officers in a mutually respectful way and must not be violent, abusive or threatening to councillors or officers or wilfully damage things owned by the Council, Councillors or Officers.
- 3.4.2 When attending meetings citizens may only speak if invited to do so, must behave in an appropriate manner and may be asked to leave if behaviour is disruptive to the meeting,

## Article 4. The Full Council

### Definitions

#### 4.1 Policy Framework

4.1.1 "**The Policy Framework**" means the following plans and strategies required by law to be included in the Policy Framework:-

- (1) Crime and Disorder Reduction Strategy maintained under Sections 5 and 6 of the Crime and Disorder Act 1998;
- (2) Development plan documents maintained under Section 15 of the Planning and Compulsory Purchase Act 2004;
- (3) Licensing Authority Policy Statement maintained under Section 349 of the Gambling Act 2005;
- (4) Local Transport Plan maintained under Section 108(3) of the Transport Act 2000;
- (5) Plans and alterations which together comprise the Development Plan maintained under Section 38 of the Planning and Compulsory Purchase Act 2004;
- (6) Sustainable Community Strategy maintained under Section 4 of the Local Government Act 2000; and
- (7) Youth Justice Plan maintained under Section 40 of the Crime and Disorder Act 1998.

#### 4.2 Budget Framework

4.2.1 "**Budget Framework**" means the Revenue and Capital budgets set by the Council, subject to Parts 3 A and 3 B of this constitution (Standing Orders and Financial Regulations respectively) and the Council's Scheme of Devolved Financial Management and any variations to either the Revenue or Capital budgets which are made in accordance with provisions in any of these documents, which variations shall be deemed to have been made within the Council's Budget Framework.

#### 4.3 Housing Land Transfer

4.3.1 "**Housing Land Transfer**" means the approval or adoption of an application (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of five hundred (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.

#### 4.4 Functions of the Council

4.4.1 Only the Full Council will exercise the functions set out in Table 1 to Part 2 B (Responsibility for Functions) of this Constitution.

#### 4.5 Council Meetings

4.5.1 There are three types of Council meeting:-

- (1) the Annual Meeting of the Council;
- (2) ordinary meetings; and
- (3) extraordinary meetings;

and they will be conducted in accordance with the Council's procedure rules in Chapter 1 of Part 3 A (Standing Orders) of this Constitution.

#### 4.6 Responsibility for Functions

- 4.6.1 Except for Executive functions, it is the responsibility of the Full Council, to ensure that Part 2 B (Responsibility for Functions) of this Constitution is kept up to date.
- 4.6.2 It is the responsibility of the Executive to ensure that Part 2 B (Responsibility for Functions) of this Constitution is kept up to date in relation to Executive functions.

## Article 5. The Mayor

### 5.1 Functions of the Mayor

5.1.1 The Mayor, or in his/her absence the Deputy Mayor, will have the following roles and functions:-

- (1) to take precedence and to be the first citizen of the Borough of Luton;
- (2) to represent the Council, the Borough of Luton and its inhabitants on civic and ceremonial occasions; and
- (3) to preside over meetings of the Full Council.

5.1.2 The Mayor and the Deputy Mayor will be elected at the Annual Meeting of the Full Council, or at an ordinary meeting immediately following any vacancy occurring.

5.1.3 The Mayor, or in his/her absence the Deputy Mayor, will have the following responsibilities:-

- (1) to uphold and promote the purposes of this Constitution;
- (2) to preside over meetings of the Full Council so that its business can be carried out effectively and with regard to rights of Councillors and the interests of the community;
- (3) to ensure that, at meetings of the Full Council, Members conduct themselves in a dignified and proper manner, with respect for one another and in accordance with the rules of debate set out in Part 3 A of this Constitution (Standing Orders);
- (4) to ensure that the Full Council provides an opportunity for Councillors to raise matters of concern to the local community and the place at which Members are able to hold each other to account
- (5) with the Executive Leader, to promote public involvement in the Council's activities;
- (6) to attend such civic and ceremonial functions as the Council and the Mayor determine appropriate.
- (7) to rule on the construction or application of any of the Standing Orders in Chapter 1 of Part 3 A of this Constitution (Standing Orders)

## Article 6. Overview & Scrutiny

### 6.1 General Framework

- 6.1.1 The Council will appoint an Overview and Scrutiny Committee with the responsibilities set out in Section 1 of Table 5 to Part 2 B of this Constitution to carry out the functions conferred by the relevant statutes.
- 6.1.2 The Overview and Scrutiny Committee may establish Sub-Committees for the purpose of carrying out any of its responsibilities. The provisions of this Article 6 apply to any Sub-Committee within its remit, as they apply to the Overview and Scrutiny Committee.
- 6.1.3 The Council will carry out its power under the Health and Social Care Act 2001 (“the 2001 Act”) to review and scrutinise matters relating to the health service (as defined in Section 7 of the 2001 Act):-
- (1) through the Overview and Scrutiny Committee and any Sub-Committee appointed by the Overview and Scrutiny Committee specifically for the purpose; or
  - (2) through such Joint Overview and Scrutiny Committees as the Council may from time to time establish with other local authorities as may be required by statute, by the direction of the Secretary of State or otherwise.
- 6.1.4 Any Joint Overview and Scrutiny Committee established as described in Article 6.1.3(2) shall exercise the powers and duties under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and the provisions of this Article 6 shall as far as is possible apply to any such Joint Overview and Scrutiny Committee, subject to those powers and duties.

### 6.2 Role of Overview and Scrutiny Committees and Sub-Committees

- 6.2.1 The Overview and Scrutiny Committee (and any Sub-Committee appointed by the Overview and Scrutiny Committee) will:-
- (1) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (2) make reports and/or recommendations to the Full Council and/or the Executive and/or to any Regulatory Committee and/or any Joint Committee and/or the Petitions and Representations Board in connection with the discharge of any of their functions;
  - (3) consider any matters affecting the area or its inhabitants;
  - (4) consider any matters, in relation to decisions made but not yet implemented by the Executive in accordance with the Call-In procedure set out in Standing Orders; and

### 6.3 Policy Development and Review

- 6.3.1 The Overview and Scrutiny Committee or any sub-committee appointed by it, may:-
- (1) assist the Council and the Executive in the development of the Council’s Policy Framework and the Council’s Budget Framework by in-depth analysis of policy issues;
  - (2) conduct research, community and other consultation in the analysis of policy issues as possible options;
  - (3) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

- (4) question Members of the Executive or the Members of any Regulatory Committee and/or Officers about their views on issues and proposals affecting the Borough of Luton; and
- (5) liaise with other external organisations operating in the Borough of Luton, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## 6.4 Overview and Scrutiny

6.4.1 The Overview and Scrutiny Committee or any sub-committee appointed by it may:-

- (1) review and scrutinise the decisions made by and performance of the Executive and any Regulatory Committee, and by Officers, but shall not review or scrutinise the decisions of any of the Council's Judicial Panels or any decision of a Regulatory Committee affecting the personal circumstances of an individual;
- (2) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (3) question Members of the Executive and the Members of any Regulatory Committee, and 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, but shall not question such Members or Officers about decisions affecting the personal circumstances of an individual;
- (4) make reports or recommendations to the Executive or to the Full Council or to any Regulatory Committee arising from the outcome of the overview and scrutiny process;
- (5) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and/or
- (6) question and gather evidence from any person (with their consent).

## 6.5 Annual Report

6.5.1 The Overview and Scrutiny Board will make an annual report to the Full Council on the workings of the overview and scrutiny process.

## 6.6 Officers

6.6.1 The Overview and Scrutiny Committee shall exercise overall responsibility for the work programme of the Officers employed to support the work of the scrutiny process.

## 6.7 Proceedings of the Overview and Scrutiny Committee and its Sub-Committees

6.7.1 The proceedings of the Overview and Scrutiny Committee and any Sub-Committee established by it will be conducted in accordance with Part 3A of the Council's Constitution.

## Article 7. Executive

### 7.1 Role

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

### 7.2 Form and Composition

7.2.1 The Executive will consist of the Executive Leader and at least two (2), but not more than nine (9), Members appointed to the Executive by the Executive Leader.

7.2.2 Neither the Mayor nor the Deputy Mayor may be appointed to the Executive.

7.2.3 The Executive Leader shall nominate another Member of the Executive (to be known as "the Deputy Executive Leader") to act in place of the Executive Leader if the Executive Leader is absent or otherwise unable to carry out her/his duties.

### 7.3 The Executive Leader

7.3.1 The Executive Leader will be a Member elected to the position of Executive Leader by the Full Council for a 4 year period from the Annual Meeting of the Council to be held following the whole Council election.

7.3.2 The Executive Leader will hold office until:-

- (1) (s)he resigns from the office; or
- (2) (s)he is removed from office by resolution of the Full Council passed in accordance with Article 7.3.3; or
- (3) Until the day of the first Annual Meeting of the Council to be held after the whole-Council elections every 4 years

7.3.3 The Full Council may by resolution remove the Executive Leader from office provided that:-

- (1) any such resolution is passed at a meeting of the Full Council specially convened for the purpose with the proposed resolution set out in the Summons for the meeting; and
- (2) the Full Council by the same resolution elects another Member of the Council to be the Executive Leader.

7.3.4 The Executive Leader may at any time by notice in writing to the Proper Officer resign from the office of Executive Leader and the resignation shall take effect from the date on which the Proper Officer receives the notice of resignation.

### 7.4 Other Executive Members

7.4.1 Each Member of the Executive other than the Executive Leader shall hold office until:-

- (1) (s)he resigns from office; or
- (2) (s)he ceases to be a Member of the Council; or
- (3) (s)he is removed from office by the Executive Leader.

7.4.2 The Executive Leader shall, as soon as practicable after appointing a Member of the Council to the Executive, notify the Proper Officer in writing of the appointment.

7.4.3 A Member of the Executive may at any time by notice to the Executive Leader, with a copy to the Proper Officer, resign from the Executive and the resignation shall take effect from the date when the Executive Leader receives the notice.

## 7.5 Proceedings of the Executive

7.5.1 Proceedings of the Executive shall take place in accordance with Part 3A of the Council's Constitution.

## 7.6 Responsibility for Functions

7.6.1 Subject to Articles 7.6.2 and 7.6.3 Executive Functions shall be discharged by the Executive Leader.

7.6.2 The Executive Leader may arrange for the discharge of any of the Executive Functions among the following:-

- (1) the Executive; or
- (2) another Member of the Executive; or
- (3) a Committee of the Executive; or
- (4) an Officer.

7.6.3 Where the Executive Functions under Article 7.6.2 are to be discharged by the Executive, unless the Executive Leader otherwise directs, any of those functions may be discharged by:-

- (1) a Committee of the Executive; or
- (2) an Officer.

7.6.4 Where the Executive Functions under Article 7.6.2 above are to be discharged by a Member of the Executive, then unless the Executive Leader otherwise directs, any of those functions may be discharged by an Officer.

7.6.5 Where the Executive Functions under Article 7.6.2 or 7.6.3 above are to be discharged by a Committee of the Executive, then, unless the Executive Leader otherwise directs, any of those functions may be discharged by an Officer.

7.6.6 Without prejudice to Articles 7.6.1 to 7.6.5 above the Executive Leader may arrange for any Member of the Executive to have special responsibility for and to advise the Executive in relation to any Executive Function without having power to discharge that function, and may vary any such arrangements at any time.

7.6.7 Any arrangements made under Articles 7.6.2 to 7.6.6 above by the Executive Leader, a Member of the Executive or a Committee of the Executive shall not prevent the person or body who made the arrangements from exercising the functions subject to the arrangements.

7.6.8 Where arrangements are made for the discharge of a function pursuant to Articles 7.6.2 to 7.6.6 above, the person making such arrangements shall notify and provide the Proper Officer with details of the arrangements, as soon as reasonably practicable after making them.

7.6.9 Article 7.6.8 above applies in the same way to any variation or revocation of any arrangements for the discharge of an Executive Function made under Articles 7.6.2 to 7.6.5.

7.6.10 Any arrangements made under Articles 7.6.2 to 7.6.5 above for the discharge of an Executive Function shall not have effect until the Proper Officer has been notified.

7.6.11 The Executive Leader has chosen to operate collective decision making arrangements with no individual member of the Executive having individual decision-making power.

## 7.7 Assistants to Executive Portfolio Holders

- 7.7.1 In order to provide an opportunity for non-Executive Members of the Council to gain knowledge of, and expertise in, Executive portfolios, assistants to Executive portfolio holders may be appointed by the Executive. Assistants will not be members of the Executive, will not receive a Special Responsibility Allowance under the Scheme of Members' Allowances and will be unable to exercise any of the functions of the portfolio holder or to receive confidential information intended only for the Executive portfolio holder.

## Article 8. Regulatory Committees, Judicial Panels and other bodies

### 8.1 Regulatory Committees

- 8.1.1 Regulatory Committees will be appointed by Full Council as set out in Table 1 to Part 2 B (Responsibility for Functions) of the Constitution for the purposes of discharging the functions set out thereunder.
- 8.1.2 An Independent Member (who shall not be a Member or Officer of the Council) shall, following public advertisement, be appointed by Full Council to the Audit & Governance Committee. A second Independent Member (who shall not be a Member or Officer of the Council) may, following public advertisement, be appointed by Full Council to the Audit & Governance Committee. Such Independent Member(s) shall serve a term of four years and may be re-appointed.

### 8.2 Appeal Panels

- 8.2.1 Judicial Panels will be appointed by Full Council as set out in Table 4 to Part 2 B (Responsibility for Functions) of this Constitution, or will appoint pools of Members from which the Members of those Judicial Panels will be appointed by the Proper Officer.

### 8.3 Additional Panels and Other Bodies

- 8.3.1 Additional Panels and Bodies set out in Table 1 to Part 2 B (Responsibility for Functions) of this Constitution will be appointed by Full Council, other than the Panels and Bodies set out in Table 7 to Part 2 B (Responsibility for Functions) of this Constitution which shall be appointed by the Executive.

## Article 9. The Standards Committee

### 9.1 Standards Committee

9.1.1 The Full Council will establish and maintain a Standards Committee.

### 9.2 Membership and Quorum

9.2.1 The Standards Committee will consist of five (5) Members of the Council and five persons ("Independent Members") who are not Members or Officers.

9.2.2 The Independent Members to serve on the Standards Committee shall be appointed by the Full Council following public advertisement for a four (4) year term of office but may be re-appointed.

9.2.3 Independent Members will not be entitled to vote at meetings of the Standards Committee.

9.2.4 No more than one member of the Executive may be a member of the Standards Committee and where a member of the Executive is a member of the Standards Committee that Councillor may not chair or preside over meetings of the Standards Committee.

9.2.5 The quorum for the meeting shall be five members of the Committee of which at least three must be Members of the Council and two independent members

### 9.3 Role and Function of Standards Committee

9.3.1 The Council has delegated to the Standards Committee powers to deal with conduct and ethical standards of elected members. Co-opted members and voting members of the Health and Wellbeing Board. The Council's Standards Committee has the following roles and functions:

- (1) promoting and maintaining high standards of conduct
- (2) assisting those subject to it to observe the Code of Conduct for Members ("the Code of Conduct");
- (3) advising the Council on the adoption or revision of the Code of Conduct and the Council's arrangements for dealing with complaints.
- (4) monitoring the operation of the Code of Conduct;
- (5) advising, training or arranging to train on matters relating to the Code of Conduct;
- (6) granting dispensations from the requirements relating to interests set out in the Code of Conduct;
- (7) holding, or appointing one or more Sub-Committees to hold hearings into allegations that a Member has breached the Code of Conduct;
- (8) considering allegations that a Member has breached the Protocol for Member/Officer relations, other local protocols or relevant parts of Standing Orders; and
- (9) such other functions as the Council from time to time determine as set out in Table 3 to Part 2 B (Responsibility for Functions) of this Constitution

## Article 10. Petitions and Representations Board

### 10.1 Petitions and Representations Board

10.1.1 The Council will appoint a Petitions and Representations Board as set out in Table 1 to Part 2 B (Responsibility for Functions) of this Constitution.

10.1.2 The Petitions and Representations Board will:-

- (1) receive and consider petitions which meet the criteria in the Council's Petitions Scheme (other than petitions which must be referred direct to the Council, Executive or a Regulatory Committee under the \*Scheme)
- (2) refer petitions which it has considered to the Executive (in relation to Executive functions) and to the Council and its Regulatory Committees (in relation to non-Executive functions) and to make recommendations, comment or give advice to the Executive, Council or Committee as the case may be in relation to any such petition.
- (3) consider any issue within the remit of the Board that addresses matters of concern to local communities within any area or areas of the town
- (4) receive references and recommendations from Members on issues relating to that Member's Ward and, if the Board considers it appropriate to do so, refer those issues to the Executive (in relation to Executive functions) and to the Council and its Regulatory Committees (in relation to non-Executive functions) and to make recommendations, comment or give advice to the Executive, Council or Committee as the case may be in relation to that issue, and
- (5) identify and invite representative(s) from other organisations to attend the P&RP Board as and when necessary to offer information or advise/address the Board on issues of concern in relation to petitions or representations that have been received by the Board.

## Article 11. Joint Arrangements

### 11.1 General

#### 11.1.1 The Council or the Executive, may:-

- (1) enter into arrangements or agreement with any person or body;
- (2) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (3) exercise on behalf of that person or body any functions of that person or body.

### 11.2 Detailed Provisions relating to joint arrangements

11.2.1 The Council may establish joint arrangements with one or more statutory bodies and/or their Executives to exercise functions which are not Executive Functions in any of the participating bodies, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other bodies.

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 in Article 11.2.4 below, the Executive may only appoint Members of the Executive to a Joint Committee and, where an Executive is politically balanced, those Members of the Executive need not reflect the political composition of the Council as a whole.

11.2.4 The Executive may only appoint to a Joint Committee Members who are not members of the Executive where the Joint Committee has functions for only part of the area of the Borough of Luton, and that area is smaller than two fifths (2/5) of the Borough 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 of the Borough where the Joint Committee has functions.

11.2.5 Where an appointment is made by the Executive in the circumstances set out in Article 11.2.4, the requirements that appointments reflect the political balance on the Council as a whole do not apply.

11.2.6 Details of any joint arrangements including any delegations to any Joint Committee are set out in the Appendix (Joint Arrangements and Arrangements under Section 101 Local Government Act 1972) to Part 2 B (Responsibility for Functions) of this Constitution).

### 11.3 Access to Information

11.3.1 The Access to Information Procedure Rules set out in Part 3 A (Standing Orders) 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 VA 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 statutory body, in certain circumstances, the Executive of another Local Authority or statutory body.

11.4.2 The Executive may delegate Executive Functions to another Local Authority or to the Executive of another Local Authority in certain circumstances.

11.4.3 The decision whether or not to accept a delegation in respect of Executive Functions from another Local Authority shall be reserved to the Full Council.

#### 11.5 Contracting Out

11.5.1 The Executive, in respect of Executive Functions, and the Full Council, in respect of Non-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 of the Council

### 12.1 Definitions

#### 12.1.1 In this Article 12-

- (1) "**Officer**" means any person employed by the Council under any indefinite, temporary or short term contract and agency or other non-employed situation;
- (2) "**Head of Paid Service**" means the Officer designated for the purposes of Section 4 of the Local Government and Housing Act 1989 ("the 1989 Act");
- (3) "**Chief Finance Officer**" means the Officer designated for the purposes of Section 151 of the Local Government Act 1972 ("the 1972 Act"); and
- (4) "**Monitoring Officer**" means the Officer designated for the purposes of Sections 5 and 5A of the 1989 Act.

### 12.2 Management Structure

12.2.1 The Full Council shall make arrangements to engage such Officers as are necessary to carry out the Council's functions.

### 12.3 Senior Officers of the Council

12.3.1 The Full Council shall be responsible for making arrangements for the appointments to those posts included in Appendix A (Senior Management Structure) to this Part 2 A (Articles) of this Constitution.

12.3.2 The Chief Executive will be the Council's Head of Paid Service.

12.3.3 The Director of Governance will be the Council's Monitoring Officer unless the Council shall, on the advice of the Chief Executive, have designated another officer as such.

12.3.4 The Director of Finance, Revenues and Benefits will be the Council's Chief Finance Officer.

### 12.4 Structure

12.4.1 The Head of Paid Service will determine and publicise on the council's website a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. The appointment of individual Officers other than those listed in Appendix A (Senior Management Structure) to this Part 2 A (Articles) of this Constitution will be made by Officers who have been designated by the Head of Paid Service for this purpose.

### 12.5 Functions of the Head of Paid Service:

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

12.5.2 The Head of Paid Service may not be the Monitoring Officer but may be designated, should the Council wish to do so, as the Chief Finance Officer, provided that the Chief Executive is professionally qualified to hold that post.

12.5.3 Where a Deputy Chief Executive is appointed by the Council, the Deputy Chief Executive shall (unless otherwise stated in the appointment), in the absence of the Chief Executive, exercise all the powers and functions of the Chief Executive as set out in this Constitution, unless specified otherwise.

## 12.6 Functions of the Monitoring Officer:

- 12.6.1 The Monitoring Officer will maintain an up-to-date version of this Constitution and will ensure that it is widely available for inspection by Councillors, officers and the public.
- 12.6.2 The Monitoring Officer will establish and maintain the Councils Register of Interests of Councillors and co-opted members as required by Section 29 (1) of the Localism Act 2011 and ensure that it is available for inspection and published on the Councils website as required by the Act.
- 12.6.3 After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to the Executive in relation to Executive Functions, if (s)he 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.
- 12.6.4 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support, advice and guidance to the Standards Committee and will undertake such functions of that Committee as are delegated to him/her by that Committee from time to time..
- 12.6.5 The Monitoring Officer will ensure that investigations are promptly conducted into matters referred to him/her and that reports or recommendations in respect of such investigations are made to the Standards Committee, or to any Sub-Committee appointed by the Standards Committee for the purpose.
- 12.6.6 The Monitoring Officer will ensure that there is in place a procedure for making decisions of the Executive, together with the reasons for those decisions and relevant reports of Officers and background papers, publicly available as soon as possible after each meeting of the Executive.
- 12.6.7 The Monitoring Officer, or her/his representative, will advise whether decisions of the Executive are in accordance with the Policy Framework and the Budget Framework.
- 12.6.8 The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the registration and declaration of interests.
- 12.6.9 The Monitoring Officer may not be designated as the Chief Finance Officer or as the Head of Paid Service.

## 12.7 Functions of the Chief Finance Officer:

- 12.7.1 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council, or to the Executive in relation to Executive Functions, and the Council's external auditor if (s)he 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.
- 12.7.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 12.7.3 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 12.7.4 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, and probity to all Councillors and will advise and support Councillors and Officers in their respective roles.

- 12.7.5 The Chief Finance Officer will provide financial information to the media, the public and the community.
- 12.7.6 The Chief Finance Officer cannot be the Monitoring Officer but may hold the post of Head of Paid Service.
- 12.8 **Duty to provide sufficient resources to the Monitoring Officer and the Chief Finance Officer**
- 12.8.1 The Council will provide the Monitoring Officer and the Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.
- 12.9 **Conduct**
- 12.9.1 Officers will comply with the Protocol on Member/Officer Relations and the Council's Code of Conduct for Employees set out, respectively, in Parts 4 C and 6 B of this Constitution
- 12.10 **Employment**
- 12.10.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules contained in Chapter 7 (Officer Employment Procedure Rules) of Part 3 A (Standing Orders) of this Constitution.

## Article 13. Decision making

### 13.1 Responsibility for Decision making

13.1.1 An up to date record of the responsibility for, and the types of decisions made, by the Council's committees, bodies and individuals will be set out in Parts 3 B (Responsibility for Functions) and 5 B (Scheme of Delegation) of the Council's constitution.

13.1.2 Decisions of the Council will be made in accordance with the following principles:-

- (1) proportionality, in that the action must be proportionate to the desired outcome and appropriate to the issue under consideration;
- (2) due consultation as appropriate and the taking of professional advice from Officers;
- (3) respect for human rights;
- (4) a presumption in favour of openness;
- (5) clarity of aims and desired outcomes;
- (6) where appropriate, an explanation of what options were considered and the reasons for the decision.

### 13.2 Decisions reserved to the Full Council

13.2.1 Decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.

### 13.3 Key Decisions

13.3.1 A "**key decision**" is:-

- (1) an Executive decision which, is likely:-
  - (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the Borough of Luton and in accordance with Section 38 of the 2000 Act, in determining the meaning of "significant" for these purposes regard shall be had to any guidance for the time being issued by the Secretary of State.
- (2) A decision maker may only make a key decision in accordance with the requirements of Standing Orders.

### 13.4 Decision making by Full Council

13.4.1 Subject to Article 13.8 the Council meeting will follow the Full Council Procedure Rules set out in Chapter 1 of Part 3 A (Standing Orders) of this Constitution when considering any matter.

### 13.5 Decision making by the Executive

13.5.1 Subject to Article 13.8 the Executive will follow the rules for publication and access to information set out at Chapter 2 and conduct of the meeting set out at Chapter 3 of Part 3 A (Standing Orders) of this Constitution when considering any matter.

### 13.6 Decision making by the Overview and Scrutiny Committee and Sub-Committees established by that Committee

13.6.1 The Overview and Scrutiny Committee and any Sub-Committee established by the Overview and Scrutiny Committee will follow the provisions of Chapter 4 (Overview and Scrutiny Procedure Rules) of Part 3 A (Standing Orders) of this Constitution) when considering any matter.

### 13.7 Decision making by other committees

13.7.1 Subject to Article 13.8 other Council Committees, together with any Sub-Committees, and the Council's Judicial Panels will follow the provisions of Chapters 5 and 6 (Regulatory Committee Procedure Rules and Standards Committee Procedure Rules respectively) of Part 3 A (Standing Orders) of this Constitution as they apply to them.

### 13.8 Decision making by council bodies or officers acting as Tribunals

13.8.1 Any other part of the Council or any 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 trial contained in Article 6 of the European Convention on Human Rights.

### 13.9 Decision making by officers

13.9.1 Officers will exercise their delegated authority for making decisions in accordance with the Scheme of Delegation to officers set out in Part 5 B (Scheme of Delegation) of this Constitution, and may authorise other officers to assist them in discharging those functions.

## Article 14. Finance, contracts and legal limits

### 14.1 Financial management

14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Council's Financial Regulations set out in Part 3 B (Financial Regulations) of this Constitution

### 14.2 Contracts

14.2.1 Every Contract made by the Council will comply with the provisions of Chapter 9 (Contracts Procedure Rules) of Part 3 A (Standing Orders) of this Constitution

### 14.3 Legal proceedings

14.3.1 The Principal Solicitors are individually 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 of the Executive, or of any part of the Council, or in any case where the any of the Principal Solicitors considers that such action is necessary to protect the Council's interest.

### 14.4 Authentication of documents

14.4.1 Where any document is necessary to any legal procedures or proceedings on behalf of the Council, it will be signed by one of the Principal Solicitors, 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

14.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services.

14.5.2 A decision of the Council, or of any part of the Council, or of an officer exercising delegated authority in accordance with the scheme of delegation to officers set out at Part 5 B (Scheme of Delegation) of this Constitution, where required by the provisions of Chapter 9 of Part 3 A (Standing Orders) of this Constitution or which, in the opinion of the Head of Legal Services in consultation with the Service Director, Citizen Engagement and Legal Services, should be sealed, will be sufficient authority for sealing any document necessary to give effect to the decision.

14.5.3 The affixing of the Common Seal will be attested in accordance with the provisions of Chapter 8 (Administration, Documents and Consultation) of Part 3 A (Standing Orders) of this Constitution.

## Article 15. Review and revision of this Constitution

### 15.1 Duty to monitor and review the Constitution

- 15.1.1 The Council's Monitoring Officer will monitor and review the operation of this Constitution to ensure that its aims and principles are given full effect.
- 15.1.2 A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of this Constitution and make recommendations on the ways in which it could be amended in order to meet the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:
- (1) Observe meetings of different parts of the member and officer structure
  - (2) Examine the audit trail relating to a sample of decisions
  - (3) Record and analyse issues raised by members, officers, the public and other relevant stakeholder; and
  - (4) Compare good practice with other comparable authorities or national examples of best practice
- 15.1.3 Before making any recommendations to amend the Constitution, the Monitoring Officer shall consult the Constitution Committee.

### 15.2 Approval of changes to this Constitution

- 15.2.1 Changes to this Constitution will only be approved by the Full Council, after consideration of a proposal by the Constitution Committee or by the Head of Paid Service or by the Monitoring Officer or, in respect of Part 3 B (Financial Regulations) of this Constitution by the Chief Finance Officer , with the following exceptions:-
- (1) the Scheme of Delegation to Officers which, in respect of Executive functions, may only be amended by the Executive or by the Council's Monitoring Officer under the powers conferred under Article 15.2.1 (10) below;
  - (2) the Scheme of Delegation to Officers which, in respect of non-Executive functions, may be amended in accordance with that Scheme by the relevant Regulatory Committee in respect of matters dealt with by that Regulatory Committee or generally by the Full Council or by the Council's Monitoring Officer under the powers conferred under Article 15.2.1 (10) below;
  - (3) changes to the Portfolios of Members of the Executive (as set out in Section 2 of Table 6 to Part 2 B (responsibility for Functions) to this Constitution which may be made by the Executive Leader in accordance with Article 7.6;
  - (4) an amendment made to Part 3 A of this Constitution (Standing Orders) where that amendment is made under a provision of that Part of this Constitution which authorises the amendment to be made otherwise than by the Full Council;
  - (5) an amendment to or replacement of the protocols and conventions set out in Part 6 A (Protocols and conventions) of this Constitution which may be amended or replaced by the body which originally approved them;
  - (6) an amendment to the Register of Members made to reflect a change to the details in the Register, which may be made by the Council's Monitoring Officer;
  - (7) any change or amendment to this Constitution made by the Council's Monitoring Officer pursuant to a resolution of the Full Council authorising her/him to make such changes or changes of a kind specified in the resolution;

- (8) any change or amendment to this Constitution made by the Council's Monitoring Officer to ensure compliance with the law or in the interests of clarity;
- (9) any change or amendment made by the Council's Monitoring Officer to one Part of this Constitution in consequence to a change or amendment to another Part of this Constitution;
- (10) any change or amendment made by the Council's Monitoring Officer as a matter of record or to reflect a factual or legislative change; and
- (11) any change or amendment to Appendix A to these Articles (Senior Management Structure) to reflect a change in the Senior Management Structure approved by the Council or a change in any job title(s) approved by the Full Council or a Committee acting under delegated powers, which change or amendment may in either case be made by the Council's Monitoring Officer.

### 15.3 Change of Form of Executive

- 15.3.1 The Council shall not approve a proposal to change the form of Executive from a Leader and Cabinet form of Executive to any other form of Executive without taking reasonable steps to consult with local electors and other interested persons in the area and shall, in any case where such action is required by law, hold a binding referendum.

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

### 16.1 Suspension of this Constitution

- 16.1.1 The Articles of this constitution may not be suspended. Standing Orders may be suspended in accordance with provisions contained in Standing Orders.
- 16.1.2 The Council shall, when considering any motion to suspend Standing Orders in accordance with the provisions of Standing Orders, have regard to the purposes of this constitution set out in Article 1 and shall ensure that the extent and any duration of any suspension is proportionate to the result to be achieved.

### 16.2 Interpretation

- 16.2.1 Except as otherwise provided in Standing Orders in relation to the interpretation of Standing Orders, any question or dispute as to the construction, application or interpretation of this Constitution, or of any Part of this Constitution, shall be referred to the Monitoring Officer, whose decision shall be final. In interpreting and construing this Constitution, the Council's Monitoring Officer shall have regard to the purposes of this Constitution contained in Article 1.

### 16.3 Publication

- 16.3.1 The Council's Monitoring Officer will:
- (1) provide a link to an electronic copy of this Constitution on the council's website as soon as practicable after the Member is first elected to the Council.
  - (2) on request provide that Member with a printed copy of the current version of this Constitution.
  - (3) ensure that this Constitution is published on the Council's website and is updated as necessary
  - (4) ensure that the summary of this Constitution set out in Part 1 of this Constitution (Summary and Introduction) is made widely available within the Borough of Luton and is updated as necessary.

## Appendix A. Senior Management Structure

### Chief Executive

#### Director of Governance and Monitoring Officer

- Democracy & Electoral Services
- Legal Services
- Business & Member Support
- Monitoring Officer

#### Director of Citizen Engagement

- Social Justice
- Community Safety Partnership
- Communications & Marketing
- Prevent
- Luton 2040
- Business Intelligence and Performance

#### Director of Finance, Revenues & Benefits

- Corporate Finance
- Exchequer Services
- Treasury Management
- Risk & Insurance
- Audit & Fraud
- Revenues & Benefits
- Section 151 Officer**

#### Director of Data, Digital and Technology

- Information Technology
- Information Governance

### Corporate Director, Luton Rising

#### Service Director, Luton Rising

- Airport Concession
- Business Management
- Commercial Development
- Strategic Asset Investment
- Programme Management
- Asset Creation

### Corporate Director, Children, Families & Education (DCS)

#### Director of Quality & Improvement

- Programme Improvement
- Business Support
- Youth Partnership Service
- Safeguarding & QA (PSW)
- Social Work Academy
- LADO
- Commissioning
- Placements
- Children's Finance
- Family Hubs (commissioning)

## Families First

### Director of Children's Operations

- Family Partnership
- MASH
- Assessment services
- Children with Disabilities
- Corporate Parenting Service
- Family Safeguarding
- Care Proceedings
- London Road/ Shared Care
- Education Welfare
- Family Help
- Family Hubs (operational)

### Director of Education

- Schools Improvement
- Schools Traded Services
- Access to Education
- Virtual School
- School Support
- SEND and inclusion
- YAS
- Education Psychology
- Early Years
- Safeguarding in Education
- PTU

## Corporate Director, Inclusive Growth

### Director of Neighbourhood Services

- Enforcement & Neighbourhood Delivery
- Special Operations
- Street Cleaning and Refuse Collection
- Parks and open spaces
- Licensing and regulatory services
- Register Office
- Cemeteries & Crematorium
- Private Sector Housing
- Waste Prevention
- Commercial team

### Director of Property & Housing Delivery

- Facilities Management
- Property Estate Management
- Design & Delivery
- Capital Programme
- BTS
- Housing Strategy & Development

### Director of Inclusive Growth

- Employability & Skills
- Economic Growth & Strategic Regeneration

Place Activation, Culture & Creativity  
Strategic Procurement

#### Director of Sustainable Development

Planning  
Building Control  
Net Zero  
Sustainable Transport (including BSIP)  
Highways

### **Corporate Director, Population Wellbeing**

#### Director of Adult Social Services (DASS)

ASC Operations (which includes the Prevention duty),  
Partnership with ELFT for Mental Health,  
Safeguarding  
Provider services  
Adults Commissioning  
Partnership with ICB – strategic health and care integration

#### Director of Housing

Housing operations  
Housing Needs

#### Director of Public Health

Public Health commissioned services (0-19, D&A, sexual health, integrated lifestyle/prevention)  
Start well – inc. early years, oral health, etc  
Healthy place, health inequalities, ill-health prevention  
Health protection  
Integration and healthcare (public health)  
Strategic delivery of Public Health priorities

#### Director of Customer & Organisational Development

Customer Services  
Strategic Change  
Digital  
HR and Occupational Health  
Staff Wellbeing