

# PART 2

## ARTICLES OF THE CONSTITUTION

|            |  | <b>Page</b> |
|------------|--|-------------|
| Article 1  | The Constitution   | 2(2)        |
| Article 2  | Councillors  | 2(2)        |
| Article 3  | Citizens and the Council   | 2(5)        |
| Article 4  | The Full Council   | 2(5)        |
| Article 5  | Chairing the Council   | 2(7)        |
| Article 6  | Cabinet  | 2(8)        |
| Article 7  | Scrutiny   | 2(10)       |
| Article 8  | Audit and Standards Committee  | 2(11)       |
| Article 9  | Other Committees, Sub-Committees, Working Groups, Parties and Panels | 2(11)       |
| Article 10 | Joint arrangements   | 2(11)       |
| Article 11 | Officers   | 2(12)       |
| Article 12 | Decision-making  | 2(15)       |
| Article 13 | Finance, contracts and legal matters                                 | 2(17)       |
| Article 14 | Review and revision of the Constitution                              | 2(17)       |
| Article 15 | Suspension, interpretation and publication of the Constitution       | 2(18)       |

## **Article 1 – The Constitution**

This article sets out the fundamental provisions of the Constitution. It confirms that the Council will act within the law and the provisions of the Constitution. It defines those documents that comprise the Constitution.

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

### **The Constitution**

- 1.2. This Constitution is the Constitution of Harlow Council.

- 1.3. The purpose of the Constitution is to:

- a) enable the Council to provide clear leadership to the community in partnership with citizens, business and other organisations;
- b) support the active involvement of citizens in the process of the Council's decision making;
- c) help Councillors represent their constituents more effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision makers to public account;
- f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services to the community.

### **Interpretation and review of the Constitution**

- 1.4. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.
- 1.5. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## **Article 2 –Councillors**

This article sets out the composition of the Council, eligibility to stand for election as a Councillor and the form of election to be used.

It also deals with the rights and duties of Councillors, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.

## 2.1. Composition and eligibility

### a) Composition

The Council will comprise 33 Councillors representing 11 wards. Three (3) Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

### b) Eligibility

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

## 2.2. Election and terms of office of Councillors

The ordinary election of a third (or as near as may be) of all Councillors was held on the first Thursday in May in each year beginning in 2006 except that in 2009 and every following fourth year there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

## 2.3. Key roles of Councillors

All Councillors will:

- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions in addition to monitoring and scrutinising the delivery of services and operation of the Council;
- b) represent their communities and bring their views into the Council's decision making process as the advocate of and for their communities;
- c) contribute to the good governance of the district and actively encourage community participation and citizen involvement in decision making;
- d) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances; and respond to constituents' enquiries and representations, fairly and impartially;
- e) balance different interests identified within the Ward and represent the Ward as a whole;

- f) be involved in decision-making as well as the governance and management of the Council;
- g) be available to represent the Council on other bodies; and
- h) maintain the highest standards of conduct and ethics.

#### 2.4. Rights and duties

- a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- b) Councillors will not make public, information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- c) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of the Constitution.
- d) Every Councillor shall have the right to attend and speak at all meetings of Committees, Sub-Committees, Working Groups, Parties and Panels appointed by the Council and Cabinet whether or not the Councillor is a member of the particular body, except for the Licensing and Development Management Committees (save for the ability to represent their constituents before the latter two bodies).

#### 2.5. Conduct

Councillors will at all times observe the Councillor Code of Conduct and the Officer/Councillor protocol set out in Part 5 of the Constitution.

#### 2.6. Allowances

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

#### 2.7. Co-opted Persons

Certain Committees, Sub-Committees, Working Groups, Parties and Panels may from time to time co-opt non-Councillors on to those bodies. Such co-optees will be expected to observe the provisions of the Councillor Code of Conduct where appropriate and other relevant rules, will be required to observe the rules on confidentiality and will be required to make declarations of interest but will not have voting rights on such bodies.

## **Article 3 – Citizens and the Council**

3.1. Citizens have the right to information and to participate in the democratic process. How this is achieved is explained below and in more detail in the Access to Information Procedure Rules in Part 4 of the Constitution.

- a) Voting and petitions: Citizens on the electoral roll for the district have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution.
- b) Information: Citizens have the right to:
  - i) attend meetings of the Council, Cabinet and their Committees, Sub-Committees, Working Groups, Parties and Panels (except where confidential or exempt information is likely to be disclosed and that part of the meeting is therefore held in private);
  - ii) see reports and background papers and any record of decisions made by the Council, Cabinet and their Committees, Sub-Committees, Working Groups, Parties and Panels (except where confidential or exempt information is likely to be disclosed); and
  - iii) inspect the Council's accounts and make their views known to the external auditor.
- c) Participation: Citizens have the right to submit questions to the Council, Cabinet and its Committees and contribute to investigations by the Council's Overview and Scrutiny function.
- d) Complaints: Citizens have the right to complain to the:
  - i) Council itself under its Complaints Procedure;
  - ii) Local Government Ombudsman after using the Council's Complaints Procedure; and
  - iii) Monitoring Officer about alleged non observance of the Councillor Code of Conduct.

3.2. Citizens' responsibility

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

## **Article 4 – The Full Council**

4.1. Policy Framework

- a) The policy framework means the following plans and strategies:-

- i) those required by regulations under the Local Government Act 2000 (as amended):
    - Sustainable Community Strategy
    - Crime and Disorder Reduction Strategy
    - The Corporate Plan
    - Local Development Framework
    - Housing Strategy and Business Plan
    - Medium Term Financial Strategy
    - Homelessness Strategy
    - Licensing Policy
  - ii) together with such other plans and strategies as the Council may decide from time to time should be adopted by the Council as a matter of local choice.
- b) The budget means the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, the setting of virement limits and the retention of reserve funds.
  - c) Housing Land Transfer: Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 4.2. Functions of the Full Council

- a) adopting and changing the Constitution;
- a) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- b) agreeing and/or amending the terms of reference of those Committees, Sub-Committees, Working Groups, Parties and Panels reporting to Council, deciding on their composition and making appointments to them;

- c) resolving disputes between the Cabinet and the Scrutiny Committee on whether a decision accords with a policy or budget agreed by the Council;
- d) appointing the Leader of the Council;
- e) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- f) adopting an Allowances Scheme for Councillors under Article 2.6;
- g) changing the name of the electoral area of Harlow;
- h) making decisions relating to the appointment and employment of the Chief Executive/Head of Paid Service, the Monitoring Officer and the Section 151 Officer;
- i) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills (Personal/Local Bills are Parliamentary Bills but are not part of the legislative programme of Parliament. They normally relate to a specific local issue and are proposed in pursuit of local interests);
- j) appointing Member Champions;
- k) appointing Honorary Aldermen; and
- l) all other matters which by law must be reserved to Council.

#### 4.3. Council meetings

There are three types of Full Council meetings:

- a) the annual meeting;
- b) ordinary meetings; and
- c) special meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of the Constitution.

### **Article 5 – Chairing the Council**

5.1. The Chair of the Council will have the following particular roles and functions, together with those otherwise specified in the Constitution:

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

- b) to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c) to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the Leader and Cabinet to account;
- d) to promote public involvement in the Council's activities;
- e) to be the conscience of the Council; and
- f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.2. The Vice-Chair shall have authority to exercise all the powers of the Chair however expressed in the Constitution when acting in the absence of the Chair.

## **Article 6 – Cabinet**

The Cabinet 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.

### **6.1. Form and composition**

The Cabinet will comprise the Leader and at least two (2), but not more than nine (9) voting Councillors appointed to the Cabinet by the Leader. Neither the Chair nor the Vice Chair of the Council may be appointed to the Cabinet. No Cabinet Member may also be a member of the Scrutiny Committee or its Call-In Sub-Committee. There will be no co-option to the Cabinet and substitution arrangements will not apply.

### **6.2. Leader**

The Leader will be a Councillor elected at an Annual Meeting to the position by the Full Council for a period equivalent to their remaining term of office. The Leader will hold office until:

- a) he/she resigns from the office; or
- b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended); or
- c) he/she reaches the normal date of their retirement/re-election as Councillor; or
- d) he/she is removed from office by a majority vote of the Full Council.



If the Leader position becomes vacant, the Full Council will elect a successor at its next meeting or at the same meeting if the Leader is removed from office by a vote of Council.

### 6.3. Other Cabinet Members

Other Cabinet members, drawn from any of the Councillors serving on the Council and subject to the limitations in 6.1 above, will be appointed by the Leader and shall be identified by the Leader at the meeting at which the Leader is appointed.

### 6.4. They shall hold office until:

- a) they are removed from office by the Leader; or
- b) they resign from the office; or
- c) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended); or
- d) they are no longer a Councillor.

The Leader will allocate responsibility for functions to such Cabinet Members as he/she thinks appropriate. Those Cabinet Members with such responsibilities will be known as a 'Portfolio Holders'.

The Leader has discretion to appoint non-portfolio holding Councillors from the Administration as attendees, allowing them to speak, but not vote, on any business being considered at the meetings of Cabinet.

### 6.5. Deputy Leader

The Leader will appoint a Deputy Leader from among the Cabinet Members. In the absence of the Leader, the Deputy Leader will take on the responsibilities of that position.

Each Portfolio Holder shall, with the approval of the Leader, nominate one other Portfolio Holder to deputise for them in their absence or when otherwise unable to perform their duties. In the absence of both the Portfolio Holder and the Portfolio Holder deputising for him/her, responsibility for a portfolio will pass to the Leader. Where the Leader is unable to perform the duties of others, responsibility for those duties shall pass to the Deputy Leader.

### 6.6. Non-Cabinet Councillors

Each political group not forming part of the Administration shall be entitled to nominate Councillors to speak on specific Portfolio Holder functions at meetings of the Cabinet. Nominations shall be reported to the Cabinet. Those spokesmen shall be entitled to nominate deputies from amongst themselves to speak in their absence. At the discretion of the Leader (or Deputy Leader in his/her absence), the nominated persons may contribute to discussion on items on which they are spokesmen.

Spokesmen shall not have the right to vote. All relevant rules on the disclosure of interests shall apply to those Councillors.

At the discretion of the Leader (or Deputy Leader in his/her absence), other non-Cabinet Councillors shall be entitled to contribute to discussion on items at Cabinet meetings that relate specifically to their Wards or constituents. All relevant rules on the disclosure of interests shall apply to those Councillors.

#### 6.7. Proceedings of the Cabinet

Proceedings of the Cabinet will take place in accordance with the Cabinet Procedure Rules in Part 4 of this Constitution.

#### 6.8. Responsibility for Functions

The Cabinet may delegate any of its functions to a Committee, Portfolio Holder (subject to the Portfolio Holder Scheme of Delegation) or to Officers. The Cabinet can create and instruct Overview Working Groups to carry out reviews and research into issues that will help it formulate policy.

### **Article 7 – Scrutiny**

#### 7.1. Within its terms of reference the Scrutiny Committee and its Call-In Sub-Committee where appropriate will:

- a) make reports and/or recommendations to Full Council or the Cabinet in connection with the discharge of any functions of the Council or Cabinet or on matters that affect the Council's area or the inhabitants of the area;
- b) exercise the right to call-in for review or scrutinise decisions made by the Cabinet, Leader, Portfolio Holder or Officer but not yet implemented and may recommend that the decision be reconsidered by the original decision maker or Full Council;
- c) to scrutinise other external organisations operating in the district, whether national, regional or local, to improve outcomes for local people and communities by collaborative working;
- d) make recommendations to Full Council or the Cabinet arising from the outcome of the scrutiny process; and
- e) question and gather evidence from any person (with their consent).

#### 7.2. Proceedings of the Scrutiny Committee

The Scrutiny Committee and the Call-In Sub-Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of the Constitution.

## **Article 8 – Audit and Standards**

8.1. The Council will establish an Audit and Standards Committee.

8.2. Composition

The Committee will be composed of such number of Councillors as determined by the Full Council.

8.3. Role and functions

The Committee will have the following role and functions:-

- a) promoting and maintaining high standards of conduct by Councillors and co-opted persons;
- b) assisting the Councillor and co-opted persons to observe the Councillor Code of Conduct;
- c) advising the Council on the adoption or revision of the Councillor Code of Conduct;
- d) monitoring the operation of the Councillor Code of Conduct;
- e) to advise and/or censure a Councillor or co-opted person (or former Councillor or co-opted person) of the Council;
- f) advising, training or arranging to train Councillors and co-opted persons; and
- g) granting dispensations to Councillors and co-opted persons from requirements relating to interests set out in the Councillor Code of Conduct.

## **Article 9 – Other Committees, Sub-Committees, Workings Groups, Parties and Panels**

The Full Council or the Cabinet may establish such other Committees, Sub-Committees, Working Groups, Parties and Panels as it deems necessary to support them in carrying out their functions as they deem appropriate.

## **Article 10 – Joint arrangements**

10.1. The Council, in order to promote the economic, social or environmental well-being of the Council's area and its surroundings, may:

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and

- c) exercise on behalf of that person or body any functions of that person or body.

## 10.2. Joint arrangements

The Council may establish joint arrangements with one or more Councils and/or their Executives to exercise functions in any of the participating Councils or provide advice to the Council. Such arrangements may involve the appointment of a Joint Committee with these other Councils.

10.3. Details of any joint arrangements including any delegation to Joint Committees will be found in Part 3 (Responsibility for Functions) of the Constitution.

10.4. The Access to Information Procedure Rules in Part 4 of the Constitution apply to any joint arrangements.

10.5. If the Joint Committee contains Councillors who are not in the Executive of any participating Council then the access to information rules in Part V A of the Local Government Act 1972 will apply.

10.6. The Council may delegate functions to another Council or, in certain circumstances, the Executive of another Council.

10.7. The decision whether or not to accept such delegation from another Council shall be reserved to the Full Council.

## Article 11 – Officers

11.1. The use of the word “Officers” means all employees and staff engaged by the Council to carry out its functions including those engaged under short term, agency or other non-employed situations.

11.2. The Council may engage such Officers as it considers necessary to carry out its functions.

11.3. The Council must appoint persons for the following statutory posts: Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer). The Council will normally designate the following posts as shown, subject to alternative arrangements applying as may be deemed appropriate by the Council from time to time.

| Post               | Designation                                 |
|--------------------|---|
| Chief Executive    | Head of Paid Service                        |
| Head of Governance | Monitoring Officer                          |
| Head of Finance    | Chief Finance Officer (Section 151 Officer) |

11.4. The Chief Executive will be designated “Chief Officer”. Such statutory posts will have the functions described below.

## 11.5. Functions of the Head of Paid Service

- a) Structure: The Head of Paid Service will determine and publicise a description of the overall management structure of the Council showing the management structure and deployment of Officers and responsibility for functions. This is set out at Part 7 of the Constitution.
- b) Discharge of functions by the Council: The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- c) Restrictions on functions: The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 11.6. Functions of the Monitoring Officer

- a) The duties of the Monitoring Officer shall be performed by him/her personally, but can be carried out by a deputy appointed by him/her to act in circumstances of sickness or absence.
- b) The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Councillors, Officers and the public.
- c) After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposals or decision being implemented until the report has been considered by Full Council.
- d) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.
- e) The Monitoring Officer will conduct investigations into complaints about alleged misconduct by Councillors and make reports or recommendations in respect of them to the Committee.
- f) The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- g) The Monitoring Officer shall have access, as necessary, to meetings and be available to be consulted by Councillors as required.

#### 11.7. Functions of the Chief Finance Officer (Section 151 Officer)

- a) The duties of the Chief Finance Officer shall be performed by him/her personally, but can be carried out by a deputy appointed by them to act in circumstances of sickness or absence.
- b) After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- c) The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- d) The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- e) The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors and will support and advise Councillors and Officers in their respective roles.
- f) The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- g) The Chief Finance Officer shall have access, as necessary to meetings and be available to be consulted by Councillors as required.

#### 11.8. Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer.

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

#### 11.9. Conduct

Officers will comply with the Officers' Code of Conduct and the Officer/Councillor Protocol set out in Part 5 of the Constitution.

#### 11.10. Employment

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

## Article 12 – Decision-making

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

### 12.1. Principles of decision-making

In order to give effect to and promote the policies, plans and strategies of the Council contained in the Policy Framework (Article 4) all decisions of the Council will be made in accordance with the following principles:

- a) proportionality (i.e. the action must be proportionate to the desired outcome);
- b) due consultation and the taking of professional advice from Officers;
- c) respect for human rights (see below for further details);
- d) a presumption in favour of openness; and
- e) clarity of aims and desired outcomes.

### 12.2. Key Decisions

A 'Key Decision' means a Cabinet decision which is likely:

- a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates.

For the purpose of this article expenditure or savings are deemed to be significant if they exceed £50,000.

- b) to be significant in terms of its effects on communities living in an area comprising two or more wards or electoral divisions in the area of the local authority.

A decision-taker may only make a key decision in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

### 12.3. Decision-making by the Full Council

Subject to Article 11.6, Council will follow the Council Procedure Rules set out in Part 4 of the Constitution when considering any matter.

#### 12.4. Decision-making by the Cabinet

Subject to Article 12.6, Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of the Constitution when considering any matter.

#### 12.5. Decision-making by Scrutiny

The Scrutiny Committee and Call-In Sub-Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of the Constitution when considering any matter.

#### 12.6. Decision-making by Committees and Sub-Committees

Subject to Article 12.9 Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of the Constitution as apply to them.

#### 12.7. Decision-making by Joint Partnership Committee(s)

Decision-making by a Joint Partnership Committee will follow the Joint Partnership Committee Procedure Rules set out in Part 4 of the Constitution

#### 12.8. Decision-making by Council bodies acting as tribunals

The Council, a Councillor or an Officer acting as a tribunal or in 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.

#### 12.9. Urgent decisions

- a) Where urgent matters need to be dealt with and time does not allow for convening a meeting of Council, Cabinet or a Committee, executive power is and shall be vested in the Chief Executive (or in his/her absence the Chief Operating Officer) in consultation with the Leader of the Council and/or relevant Chair.
- b) No decision shall be made or instructions issued under this Article which are contrary to an expressed resolution of the Council or an established practice except where it is believed, acting in good faith, that the context requires such decision or instruction.
- c) A report of all decisions taken under this Article shall be made to the next meeting of Full Council, Cabinet or the relevant Committee as appropriate.



## **Article 13 – Finance, contracts and legal matters**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of the Constitution and be subject to independent review by Internal Audit in accordance with the Internal Audit Charter adopted by the Council as set out in Part 5 of the Constitution.

### 13.1. Contracts

Every contract made by the Council will comply with the Standing Orders relating to Contracts set out in Part 4 of the Constitution.

### 13.2. Legal proceedings

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

### 13.3. Authentication of documents

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

### 13.4. Common Seal of the Council

- a) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Governance should be sealed.
- b) The affixing of the Common Seal will be attested by the Head of Governance or some other person authorised by him/her.
- c) An entry of every sealing of a document shall be made, and consecutively numbered, in a book provided for this purpose and shall be signed by the person(s) who have attested the Seal.

## **Article 14 – Review and revision of the Constitution**

The Head of Governance as Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### 14.1. Protocol for monitoring and review of Constitution by the Monitoring Officer:

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:-

- a) observe meetings of different parts of the Councillor and Officer structure;
- b) undertake an audit trail of sample decisions;
- c) record and analyse issues raised with him/her by Councillors, Officers, the public and other relevant stakeholders; and
- d) compare practices in this Council with those in other comparable Councils, or national examples of best practice.

#### 14.2. Changes to the Constitution

Changes to the policy aspects of the Constitution can only be approved by the Full Council following receipt of a report from Cabinet or a relevant Committee appointed by Council. However, the Head of Governance has the authority to make editing and consistency changes after discussion with the Chair of the Constitution Panel.

### **Article 15 – Suspension, interpretation and publication of the Constitution**

#### 15.1. Suspension

- a) Limit to suspension: The Articles of the Constitution may not be suspended. The Rules specified below may be suspended by the Full Council to the extent permitted within those rules and the law.
- b) Procedure to suspend: A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- c) Rules capable of suspension: The following rules may be suspended in accordance with Article 14:

Council Procedure Rules (Part 4 of the Constitution) all, except Rules 22.5 and 23.2.

#### 15.2. Interpretation

The ruling of the Chair of the Council, Leader at a Cabinet meeting or Chair of a Committee at a Committee meeting as to the construction or application of the Constitution or as to any proceedings of the Council, Cabinet or Committee, shall not be challenged at any such meeting. Such

interpretation will have regard to the purposes of the Constitution contained in Article 1.

### 15.3. Publication

- a) The Head of Governance will make available a copy of the Constitution to each Councillor upon delivery to him/her of that individual's declaration of acceptance of office on the Councillor first being elected to the Council. This may be in electronic or paper format.
- b) The Head of Governance will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations and on the Council's website; and can be purchased by the local press and the public on payment of a reasonable fee.
- c) The Head of Governance will ensure that the Summary and Explanation of the Constitution is made widely available within the Harlow area and as necessary on the Council website and ensure that it is updated.