PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its Appendices, is the Constitution of the Watford Borough Council.

1.03 Purpose of this Constitution

The purpose of this Constitution is to:

1) Make it clear who is accountable for leading and taking decisions about the future of the town
2) Keep our community better informed about when and why decisions are taken
3) To make faster decisions which involve the community more and respond better to ideas for improving the town
4) To enable the community to see more easily whether decisions and services are effective
5) To demonstrate high standards of conduct so that the community trusts the Council to do what is right for the town.

This is in the context of the Council's vision for Watford as a successful town in which people are proud to live, work, study and visit.

1.04 Interpretation and Review of the Constitution

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

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

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

a) **Composition**

The Council will comprise 36 Members (otherwise called Councillors) and the Mayor. Three Members will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. The Mayor will be elected in accordance with the provisions of Article 2.04.

b) **Eligibility**

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

2.02 Election and Terms of Councillors

The ordinary election of a third (or as near as maybe) of all Councillors will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth year thereafter there will be no regular election. The terms of office of Councillors will be four years starting on the 4th day after being elected, and finishing on the 4th day after the date of the regular election four years later.

2.03 Roles and Functions of all Councillors

a) **Key Roles**

All Councillors and the Mayor will:

i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions
ii) represent their communities and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities
iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
iv) balance different interests identified within the Ward and represent the Ward as a whole

v) contribute to the good governance of the area and actively encourage community participation and citizens' involvement in decision making.
vi) be available to represent the Council on other bodies
vii) participate in the governance and management of the Council
viii) maintain the highest standards of conduct and ethics

b) **Rights and Duties**

i) Councillors and the Mayor 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.
ii) Councillors and the Mayor 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
iii) for these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Election of the Mayor**

The term of office for the Mayor will be 4 years. He/she will take office on the 4th day after his/her election and will continue in office until the 4th day after his/her successor is elected, unless he/she ceases to be the Mayor.

2.05 **Conduct**

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

2.06 **Remuneration**

Councillors and the Mayor will be entitled to receive remuneration in accordance with the Members' Remuneration Scheme set out in Part 6 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

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

a) **Voting and Petitions**

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a Mayoral form of constitution.

b) **Information**

Citizens have the right to:

i) Attend meetings of the Council and its Committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.
ii) attend meetings of the Executive when key decisions are being considered.
iii) find out from the Notice of Executive Decisions what key decisions will be taken by the Executive and when
iv) see Reports and background papers, and any records of decisions made by the Council and the Executive
v) inspect the Council's accounts and make their views known to the External Auditor

c) **Participation**

Citizens have the right to petition the Council and the Executive and participate in the Council's question time, and contribute to investigations by Overview and Scrutiny Committees, and take part in their local Neighbourhood Forums

d) **Complaints**

Citizens have the right to complain to:

i) the Council itself under its Complaints Procedure

ii) the Local Government and Social Care Ombudsman after using the Council's own Complaints Procedure
iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct

3.02 **Citizens' Responsibilities**

In pursuing their rights under the Constitution citizens must not be violent, abusing or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

ARTICLE 4 – THE FULL COUNCIL

4.01 **Meanings**

a) **Policy Framework**

The Policy Framework means the following Plans and Strategies:

- The Council Plan
- The Crime and Disorder Reduction Strategy
- The Local Development Framework
- The Local Transport Plan
- The Housing Strategy
- Food Law Enforcement Service Plan
- The Plan or Strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue position

b) **Budget**

The Budget includes:

- The General Fund Revenue Budget
- Setting the level of Council Tax
- The Council Tax Base
- The Capital Programme and Budget
- The Treasury Management and Investment Strategies
- The use of balances, reserves and contingencies
- The Scheme of Virement

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 & 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.

4.02 **Functions of the Full Council**

Only the Council will exercise the following functions:

a) Adopting and changing the Constitution
b) Approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer
c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/not wholly in accordance with the Budget.
d) Agreeing and/or amending the Terms of Reference for Committees, deciding on their composition, and making appointments to them.
e) Appointing representatives to outside bodies, unless the appointment is an Executive function, or has been delegated by the Council
f) Adopting a Remuneration Scheme under Article 2.06
g) Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough
h) Confirming the appointment of the Head of Paid Service and Chief Officers
i) Making, amending, revoking, re-enacting or adopting Byelaws and adoptive legislation and promoting or opposing the making of local legislation or personal bills
j) All local choice functions set out in Part 3 of this Constitution which the Council decides shall be undertaken by itself rather than the Executive
k) All other matters which, by law, must be reserved to the Council

4.03 **Council Meetings**

There are three types of Council meeting:

a) The Annual Meeting
b) Ordinary Meetings
c) Extraordinary Meetings

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

4.04 **Responsibility for Functions**

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

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 **The Role and Function of the Chairman**

The Chairman and the Vice Chairman will be elected by the Council annually.

The Vice Chairman will by convention be elected as Chairman in the following Municipal Year (subject to being an elected councillor for that year)

Selection of Vice Chairman

- The Democratic Services Manager will write to all councillors in late January/early February asking for nominations to the role of Vice Chairman for the following Municipal Year. Nominations cannot include the Elected Mayor, current Vice Chairman or anyone standing for election at the following third elections. Nominations to be returned to the Democratic Services Manager by 5:00pm on 28 February.
- Any nomination received must be accompanied by a personal statement.
- The Democratic Services Manager will contact all nominees to seek confirmation that they are agreeable for their name being put forward for the role.

- At the Council meeting in March the Chairman will announce who has been nominated and ask for those nominees (and no others) to be formally proposed and seconded.
- If only one member is proposed and seconded, they will become the Vice Chairman for the forthcoming Municipal Year.
- If more than one member is proposed and seconded Council will be asked to vote for their preferred candidate. The candidate with the most votes will be elected as Vice Chairman. If there is a tie in the number of Votes for first place the Chairman will have a second or casting vote. The vote will be held by way of secret ballot.

The Chairman and in his/her absence the Vice Chairman will have the following responsibilities:

Overview

- To act as the Civic Representative of the Council
- To be first citizen of Watford
- To promote civic pride in Watford

Key Responsibilities

i) To preside over meetings of the Council so that its business can be carried out efficiently, and with regard to the rights of Councillors the Elected Mayor and the interests of the community and to ensure order and courtesy at all times

ii) To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive members to account

iii) To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary

iv) To employ a second, or casting vote in the event of an equality of votes on any question before the meeting

v) To be the conscience of the Council

vi) To promote public involvement in the Council's activities

vi) To attend functions as the Council determines appropriate in accordance with protocol that the Mayor will have first right of refusal of attending a civic event/accepting an invitation. Therefore, all invitations will go to the Elected Mayor in the first instance and the Mayor will decide whether to attend. In the event that the Mayor is unable to attend he/she will decide, depending

on the nature of the event and availability of office holders, whether to pass the invitation to:

- the Deputy Mayor
- a Portfolio Holder
- the Chairman

Alternatively, the Mayor may decide that no one on behalf of the Council should attend. It will be at the Mayor's discretion who to offer the invitation to, if they are unable to attend.

If having been passed the invitation, the Chairman cannot attend an engagement they may decide to pass the invitation to:

- the Vice Chairman
- The Freemen of the Borough or a Past Chairman

vii) To host fund raising events throughout the year to support their chosen charities. Though this should not be the main focus of the Chairman's year and officers should not be expected to spend a disproportionate amount of time arranging fundraising events and holding meetings with charities. The office of Chairman provides a higher profile for the charities in their year of office which is part of the benefit alongside any fundraising activities.

viii) To host other civic events within the constraints of the budget and subject to the agreement of the Elected Mayor

ix) To co-host the presentation of awards alongside the Elected Mayor at the Audentior Awards (or equivalent) event. The Elected Mayor will take precedence in making arrangements for any joint event.

x) To lead the Remembrance Sunday ceremony with the Elected Mayor.

xi) To work closely with officers in the organising of events and diary management and keep officers fully informed.

xii) To be a member or patron, ex officio, of organisations in Watford.

xiii) when undertaking their civic and ceremonial roles the Chairman and Vice Chairman should not:

- Bring the Council into disrepute through abuse of office
- Attend any function or otherwise give support to any organisation or person whose objectives are contrary to law and/or council policy
- Solicit engagements or visits at home or abroad or otherwise procure favours by virtue of office
- Overspend their budget

Skills Required

- The ability to chair meetings, to facilitate open discussion, to work in a cross-party environment and to ensure that the business on the agenda is dealt with properly and in accordance with the Council's Procedure Rules
- The ability to act in a non-political capacity during their term of office (especially during Council meetings). This includes not using the position for their own re-election and avoiding controversial political roles such as chairing major committees and standing for parliamentary and mayoral elections
- Strong interpersonal skills with the ability to communicate effectively and courteously with all sections of the community and maintain impartiality
- To be able to speak clearly and confidently in public settings
- To be able in public to work methodically and with discipline through an agenda or other similar prepared list or document

Vice Chairman

To act as the deputy to the Chairman in all of the above.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.01 The Council will appoint such Overview and Scrutiny Committees as is necessary to discharge the functions conferred by Section 21 of the Local Government Act 2000, or Regulations under Section 32 of the Local Government Act 2000. Such appointments will be made at every annual Council and the names and functions of those Committees will be annexed to this Constitution in a Table in Part 3.

The Council will appoint one Overview and Scrutiny Committee. This Committee will have the responsibility of hearing any decisions taken by the Mayor, members of the Executive, Officers which are called-in in accordance with the Procedure for call-in of Executive decisions set out in Part 4 of this Constitution.

6.02 **General Role**

Within their Terms of Reference, Overview and Scrutiny Committees will:

i) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions

ii) make reports and/recommendations to the full Council and/or the Executive and/or any Regulatory, Joint Committee or Neighbourhood Forum in connection with the discharge of any functions
iii) consider any matter affecting the area or its inhabitants
iv) exercise the right to call-in, for reconsideration, decisions made, but not yet implemented by the Executive

6.03 **Specific Functions**

a) **Policy, Development and Review**

Overview and Scrutiny Committees may:

i) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues
ii) conduct research, community and other consultation in the analysis of policy issues and possible options
iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
iv) question members of the Executive and Chief Officers about their views on issues and proposals affecting the area
v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

b) **Scrutiny**

Overview and Scrutiny Committees may:

i) review and scrutinise the decision made by and performance of the Executive and Council Officers, both in relation to individual decisions and over time
ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
iii) question members of the Executive and Chief Officers about their decisions and performance, whether generally in comparison with Service Plans and targets over a period of

time or in relation to particular decisions, initiatives or projects

iv) make recommendations to the Executive Committee and/or Council arising from the outcome of the scrutiny process

v) review and scrutinise 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

vi) question and gather evidence from any person (with their consent).

c) **Finance**

Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

d) **Annual Report**

Overview and Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

e) **Officers**

Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the Officers employed to support their work.

6.04 **Proceedings of Overview and Scrutiny Committees**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 7 – THE EXECUTIVE

7.01 **Role**

The Executive will exercise all of the Council's functions which are not the responsibility of any other part of the Council by Law or under this Constitution.

7.02 **Form**

The Executive will consist of:

- a Mayor (the Mayor); and
- at least two but not more than 9 Councillors appointed to the Executive by the Mayor

7.03 **The Mayor**

a) **Roles and Functions**

The Mayor will among other things carry out the following roles:

i) To be the Council's principal public spokesperson
ii) To give overall political direction to the Council
iii) To appoint the Executive and Deputy Mayor
iv) To decide on the scheme of delegation for Executive functions
v) To chair meetings of the Executive
vi) To represent the Council on such external bodies as the Mayor decides
vii) To have right of first refusal of attending a civic event

b) **Mayor as Member of the Council**

The Mayor will be treated as a councillor unless the law or context requires otherwise. In particular the Mayor:

i) is subject to the same rules about qualification and disqualification as any other Councillor
ii) must follow the rules about disclosure of interests and comply with the Councillors' Code of Conduct set out in Part 5 of this Constitution
iii) may be a member of, attend and speak at any meeting of the Council, its Committees and Sub-Committees, except the Overview and Scrutiny Committees. The Mayor may only speak at an Overview and Scrutiny Committee when invited to do so and may not vote at those meetings
iv) if a member of a political group, will be taken into account when calculating seat allocations on Committees and Sub-Committees of which he/she is a member if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989

v) is subject to the Members' Remuneration Scheme set out in Part 6 of this Constitution

vi) is subject to the same rules about casual vacancies as apply to all councillors

7.04 **Deputy Mayor**

a) **Appointment**

At the first annual meeting of the Council after his/her election, the Mayor will appoint one of the members of the Executive to act as Deputy Mayor.

b) **Term of Office**

The Deputy Mayor will hold office until the end of the Mayor's term of office unless he/she is no longer a Member of the Council or the Executive, resigns as Deputy Mayor or is removed by the Mayor from the office of Deputy Mayor.

c) **Duties of the Deputy Mayor**

If, for any reason, the Mayor is unable to act, or the office of Mayor is vacant, the Deputy Mayor will act in his/her place until a new Mayor is elected or again able to act. If the Mayor is unable to act or the office is vacant at the same time as the Deputy Mayor is unable to act, or the office of Deputy Mayor is vacant, then the Executive must act in the Mayor's place, or arrange for a member of the Executive to do so.

d) **Removal from Office**

The Mayor has the freedom to select or de-select the Deputy Mayor and his/her Executive. However, any changes to the composition of the Executive, including the position of Deputy Mayor, must be reported by the Mayor to the Monitoring Officer as soon as the change has been effected and must report the change to the next meeting of the Council.

7.05 **The Executive other than the Mayor**

a) **Composition**

Only Councillors may be appointed to the Executive. There may be no co-optees, deputies nor substitution of Executive members. Neither the Chairman nor the Vice Chairman of the Council may be appointed to the Executive. Members of the Executive may not be members of an Overview and Scrutiny Committee.

b) **Terms of Office**

Members of the Executive will hold office until their appointment is terminated by the Mayor, they resign from the Executive or are no longer a Councillor.

c) **Appointment by the Mayor**

Subject to Article 7.02, the size and composition of the Executive will be solely a matter for the Mayor to decide. He/she may choose to appoint Councillors from any political group on the Council or those not in a political group. The Executive need not reflect the political balance of the Council as a whole. The Council would wish any Mayor to consider offering places on the Executive to members from all groups on the Council. The Mayor will report his/her appointments to full Council and the Monitoring Officer as and when they are made.

d) **Removal from Office**

The Mayor will report changes to the composition of the Executive to the Monitoring Officer as soon as the change has been effected and will report the same to the next meeting of the Council.

e) **Standing Dispensation for the Executive**

The inclusion of a Portfolio Holder's position as a member of the executive on the member register of interests will not prevent them from taking part or voting on a subject which falls within their portfolio, unless they have declared a separate conflict of interest.

f) **Inability of Whole Executive to Act**

If all the members of the Executive are unable to act for any reason, then the Council will appoint an interim Cabinet to discharge the relevant Executive functions.

7.06 **Proceedings of the Executive**

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

7.07 **Responsibility for Functions**

The Mayor will maintain a list in Part 3 of this Constitution setting out whether the Executive itself, or which individual members of the Executive, Committees of the Executive, Officers or joint arrangements, or Neighbourhood Forums, are responsible for the exercise of particular Executive functions.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.01 The Council will appoint the Committees set out in the left-hand column of the Table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that Table.

ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 **Standards Committee**

The Council meeting will establish a Standards Committee.

9.02 The Standards Committee will have the following roles and functions:

a) Promoting and maintaining high standards of conduct by the Mayor, Councillors, and any co-opted members
b) Assisting the Mayor, Councillors and any co-opted members to observe the Members' Code of Conduct
c) Advising the Council on the adoption or revision of the Members' Code of Conduct

d) Monitoring the operation of the Members' Code of Conduct
e) Advising, training or arranging to train the Mayor, Councillors and co-opted members on matters relating to the Members' Code of Conduct
f) Dealing with any complaints received from members of the public, other Councillors or officers that a Councillor has breached the Member's Code of Conduct
g) That the Standards Committee recommends to Council criteria to be adopted for considering applications for the status of Honorary Freeman, or Honorary Alderman of the Borough of Watford.
h) That the Standards Committee receives all applications for either Honorary Freeman status, or Honorary Alderman title and vets such applications as it sees fit, in accordance with the adopted criteria and forwards any applications it deems meets the criteria to Council.

ARTICLE 10 – NEIGHBOURHOOD FORUMS

10.01 Neighbourhood Forums

The Council may appoint Neighbourhood Forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of value for money and more efficient transparent and accountable decision making.

10.02 Form, Composition and Function

a) **Table of Neighbourhood Forums**

The Council will appoint such Neighbourhood Forums as it sees fit as set out in the first column of the Table in Part 3 of this Constitution composed as set out in the second column of that Table, and with the Terms of Reference set out in the third column.

b) **Delegations**

The Council and the Executive will include details of the delegations to Neighbourhood Forums also in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Executive and which are not, the composition and membership of committees, budgets and any limitations on delegation.

10.03 **Conflicts of Interest - Membership of Neighbourhood Forums and Overview and Scrutiny Committees**

a) **Conflict of Interest**

If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Neighbourhood Forum of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee unless a dispensation to do so is given by the Monitoring Officer.

b) **General Policy and Reviews**

Where the Overview and Scrutiny Committee is reviewing policy generally, the member must declare his/her interest before the relevant agenda item is reached but need not withdraw.

10.04 **Neighbourhood Forums – Access to Information**

Neighbourhood Forums will comply with the Access to Information Rules in Part 4 of this Constitution. Agendas and notices for Neighbourhood Forums meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive, will state clearly which items are which.

10.05 **Executive Members on Neighbourhood Forums**

A member of the Executive may serve on a Neighbourhood Forum if otherwise eligible to do so as a Councillor.

ARTICLE 11 – JOINT ARRANGEMENTS

11.01 **Arrangements to Promote Wellbeing**

The Council or the Executive in order to promote the economic, social or environmental wellbeing of its area 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
c) exercise on behalf of that person or body any functions of that person or body

11.02 **Joint Arrangements**

a) The Council may establish joint arrangements with one or more Local Authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with those other Local Authorities.

b) 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 those other Local Authorities.

c) Except as set out below, the Executive may only appoint Executive members to a Joint Committee and those members need not reflect the political composition of the Local Authority as a whole.

d) The Executive may appoint members to a Joint Committee from outside the Executive in the following circumstances:

i) The Joint Committee has functions for only part of the area and that area is smaller than $^{2}_{5}$ths of the Authority by area or population in such cases the Executive may appoint to the Joint Committee any Councillor who is a Member for a Ward which is wholly or partly contained within the area.

ii) The Joint Committee is between Hertfordshire County Council and any of the Districts in Hertfordshire and relates to functions of the Executive of Hertfordshire County Council. In such cases the Executive of Hertfordshire County Council may appoint to the Joint Committee any Councillor who is a Member for an electoral division which is wholly or partly contained within the area.

iii) The Joint Committee is discharging a function in relation to five or more local authorities;

iv) The function which the Joint Committee is discharging is a function which is required by statute to be discharged by a Joint Committee.

In all these cases the political balance requirements do not apply to such appointments.

e) Details of any joint arrangements, including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 **Access to Information**

a) The Access to Information Rules in Part 4 of this Constitution apply.

b) If all 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 as applied to the Executive.

c) If the Joint Committee contains members who are not on the Executive of any participating Authority, then the Access to Information Rules in Part V(a) of the Local Government Act 1972 will apply.

11.04 **Delegation to and from Other Local Authorities**

a) The Council may delegate non-Executive functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority.

b) The Executive may delegate Executive functions to another Local Authority or the Executive of another Local Authority in certain circumstances.

c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

11.05 **Functions**

The Council (for functions which are non-Executive functions) and the Executive (for Executive functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the De-Regulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 – OFFICERS

12.01 **Management Structure**

a) **General**

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

b) **Chief Officers**

The full Council will engage persons for the following posts who will be designated Chief Officers:

Post
Chief Executive
Chief Operating Officer
Section 151 Officer
Monitoring Officer
Director of Regeneration and Growth
Director of Sustainability, Environment and Communities
Executive Head of HR and OD

c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

Post	**Designation**
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Section 151 Officer	Chief Finance Officer

Such posts will have the functions described in Articles 12.02 to 12.04 below.

d) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council, showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.

12.02 **Functions of the Head of Paid Service**

a) **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 the Officers required for the discharge of functions and the organisations of Officers.

b) **Restrictions on Functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified Accountant.

12.03 **Functions of the Monitoring Officer**

a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

b) **Ensuring Lawfulness and Fairness of Decision Making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will Report to the full Council, or to the Executive in relation to an Executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness, or if any decision or omission has given rise to maladministration. Such a Report will have the effect of stopping the proposal or decision being implemented until the Report has been considered.

c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

d) **Conducting Investigations**

The Monitoring Officer will conduct investigations into matters referred by the Standards Committee and make Reports and recommendations in respect of them to the Standards Committee.

e) **Proper Officer for Access to Information**

The Monitoring Officer will ensure that the Executive decisions, together with reasons for those decisions and relevant Officer Reports and background papers, are made publicly available as soon as possible.

f) **Advising whether Executive Decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether the decisions of the Executive are in accordance with the Budget and Policy Framework.

g) **Providing Advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and the Mayor.

h) **Restrictions on Posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 **Functions of the Chief Finance Officer**

a) **Ensuring Lawfulness and Financial Prudence of Decision Making**

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 an Executive function, and the

Council's external Auditor, if he or she considers that any proposal, decision or course of action would 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.

b) **Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

c) **Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

d) **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and the Mayor and will support and advise Councillors and Officers in their respective roles.

e) **Give Financial Information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 **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 reasonable resources as are in their opinion sufficient to allow their duties to be performed.

12.06 **Conduct**

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

12.07 **Employment**

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

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for Decision Making

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

13.02 Principles of Decision Making

All decisions of the Council will be 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
d) A presumption in favour of openness
e) Clarity of aims and desired outcomes
f) Giving reasons for the decision and detailing what alternative options were considered and rejected when the decision was made

13.03 Types of Decision

a) **Decisions Reserved to Full Council**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

b) **Key Decisions**

A key decision means an Executive 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.

b) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the Borough of Watford.

For the purposes of a) above decisions involving sums of £3,000,000 and above in relation to decisions relating to the Council's property investment portfolio or £250,000 and above in all other cases will be deemed to be key decisions, unless their purpose is to give effect to specific projects already approved by Council, a Committee, an officer under delegated authority or the Executive or the routine administration of the Council's business and for which budget provision exists.

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

13.04 **Decision Making by the Full Council**

Subject to Article 13.08, the Council meeting will follow the Council's Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 **Decision Making by the Executive**

Subject to Article 13.08, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.06 **Decision Making by Overview and Scrutiny Committees**

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

13.07 **Decision Making by Other Committees and Sub-Committees Established by the Council (except Neighbourhood Forums)**

Subject to Article 13.08 other Council Committees and Sub-Committees will follow those parts of the Council's Procedure Rules set out in Part 4

of this Constitution as apply to them, and the Standing Committee Procedure Rules set out in Part 4.

13.08 **Decision Making by Council Bodies acting as Tribunals**

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

13.09 **Decision Making by Neighbourhood Forums**

Subject to Article 13.08 Neighbourhood Forums will follow the Neighbourhood Forums Procedure Rules set out in Part 4 of this Constitution when considering any matter.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 **Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part 4 of this Constitution, and Financial Regulations and Guidance issued by the Chief Finance Officer.

14.02 **Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

14.03 **Legal Proceedings**

The Head of the Legal Shared Service is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Head of the Legal Shared Service considers such action is necessary to protect the Council's interests.

14.04 **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 the Legal Shared Service or the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

A contract with a value exceeding £150,000 or any contract for the sale or purchase of land or any interest in land, entered into on behalf of the Local Authority or in the course of the discharge of an Executive function, shall be made in writing. Such contracts must either be signed by at least two Officers of the Authority, or made under the Common or Electronic Seal of the Council, in accordance with 14.05.

14.05 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council or any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal or an Electronic Seal will be affixed to those documents which, in the opinion of the Monitoring Officer in consultation with the Head of the Legal Shared Service, should be sealed. The affixing of the Common or Electronic Seal will be attested by the Head of the Shared Legal Service, the Monitoring Officer or some other person authorised by them.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 **Duty to Monitor and Review the Constitution**

The Standards Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.02 **Changes to the Constitution**

a) **Approval**

Changes to the Constitution will only be approved by full Council with the exception of changes to the Scheme of Delegation for Executive Functions which can be made by the Mayor at any time, or changes required by law.

b) **Change within a Mayoral form of Executive**

Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the full Council to approve a change will have no effect without the written consent of the Mayor.

c) **Change from a Mayoral form of Executive to another form of Executive or to alternative arrangements or from alternative arrangements to a Mayoral Form of Executive**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.

d) **Change from a Leader and Cabinet form of Executive to alternative arrangements or vice versa**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 **Suspension of the Constitution**

a) **Limit to Suspension**

The Articles of this 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 16.01:

Council Procedure Rules 8, 14, 17, 27, the Budget & Policy Framework Procedure Rules, Overview and Scrutiny Procedure Rules, Executive Procedure Rules, Standing Committee Procedure Rules, Neighbourhood Forum Procedure Rules to the extent that they are not affected by the Access to Information Procedure Rules, or the Financial Procedure Rules and the Contractual Procedure Rules.

16.02 **Interpretation**

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

16.03 **Publications**

a) The Monitoring Officer will give a copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of Office on the Member first being elected to the Council.

b) The Monitoring Officer will ensure that copies are available to access at the Council offices and are available on the Councils website.

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