

Constitution Review

A case for change

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Executive Summary – Becoming Future Ready

1. The Future Ready Programme aims to equip our people with the right culture, values, and tools to help deliver our vision to become a highly productive and efficient organisation that supports everyone in playing their full part in achieving the strategic objectives and outcomes for Luton 2040.
2. To achieve this it's necessary to review our current organisational processes, practices and procedures including the rules we currently operate within, several of which form part of the Council's Constitution.
3. Against the backdrop of the COVID 19 pandemic we need to have a sharp focus on all of our processes and procedures and ensure they are as cost effective as possible.
4. This case for change highlights the opportunities and improvements that could be realised through a comprehensive evaluation and review of those organisational processes, practices and procedures.
5. The current Constitution is a collection of documents in 20 parts. Some parts of the Constitution form the 'rule book' for council meetings and the delivery of decisions through schemes of delegation to officers.
6. Some parts of the Constitution govern the financial framework within which the rules, including the schemes of delegation, currently operate.
7. Some parts relate to protocols that do not form part of the rulebook and could be removed to reduce volume.
8. Following a recent Peer Review, the opportunity exists to consider suggestions made in relation to Development Control Committee and planning matters.
9. Some organisational processes, such as the administrative process leading to decision making, do not feature in the Constitution, but form part of the Council's governance arrangements. It would be sensible to examine those areas also, as part of this project.
10. By doing so, there will be an opportunity to identify and highlight ways in which these processes can work seamlessly together, creating a framework that enhances and supports elected members and officers to make effective, lawful and timely decisions, implemented in a transparent and accountable way, in furtherance of our objective to be a 'Future Ready' modern, 21st Century Council.

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Introduction

11. The Future Ready programme aims to modernise the way the Council operates, making it a more efficient, productive and customer centric organisation.
12. This means optimising the council's processes, services, structure and culture, focusing on value added activities to deliver the 2040 vision. It is likely to require a major, organisation wide change programme with significant investment of time and resources to achieve its ambitions.
13. The COVID 19 pandemic has had an unprecedented impact on Council funding streams and will change the way frontline services are delivered. To balance the budget, savings of c£22 million have to be made this financial year.
14. To meet this challenge the Future Ready programme has been accelerated with a new Target Operating Model (TOM) under development that will support the Council to operate within this new cost envelop, to be more efficient, and continue to improve outcomes for Luton's citizens. This changed financial landscape will necessitate some very difficult decisions being made regarding service delivery with the onus being placed on ensuring we deliver critical services and those that will contribute to the 2040 vision.
15. The impact of the funding cuts will be felt across the Council, with all services affected, including Children's Services who following the recent Ofsted ILACs inspection are undertaking a significant programme of improvement while reducing spend to meet this new reality.
16. This project focusses on the current arrangements for the delivery of effective, timely and statutorily/financially robust formal and devolved decision making, which holds the confidence of elected members and provides transparency and accountability for members of the public.
17. It proposes to review the parameters within which the current arrangements exist, examine if they are still fit for purpose and to what extent they support efficient decision making and, if not, make evidence based best practice recommendations for change.
18. As part of the review, the collection of documents currently forming the Council's Constitution will be examined to ensure that the statutory elements are accurate and up to date and that the optional elements add value to the overall document, or need to be revised/removed.
19. It will also aim to highlight those existing practices that sit outside the Constitution document but contribute to the timeline for decision making that are either working well or could be improved.

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Context

20. It is a legal requirement for the council to have a Constitution.
21. Statutorily the Constitution must include the Council's 'Standing Orders', the 'Code of Conduct for Members' and 'such other information as the local authority considers appropriate'.
22. The Constitution sets out how decisions are made and the rules that must be followed to ensure decision making is statutorily compliant and financial decisions are robust. Our Constitution reflects the arrangements for an 'Executive' and 'Scrutiny' decision making system.
23. The council has a legal duty to publish an up to date constitution which should be reviewed regularly with any significant changes agreed by Full Council on a recommendation of Constitution Committee.
24. Councils have updated their Constitutions, usually by refreshing the document as new legislation has been enacted or in response to internal changes within the Council. It is necessary to review ours to ensure all of the legal updates and internal officer changes are reflected.
25. Luton's Constitution currently forms 20 parts, comprises 613 pages and three gigabytes of storage space to download. The oldest part of our constitution was issued over 14 years ago in January 2005.
26. Some elements do not need to form part of the statutory rules and could be removed to reduce volume.
27. Our current Constitution does not meet accessibility standards as set out in the Equality Act 2010, Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018. All organisations are expected to provide all documentation in the required accessible format no later than the 23rd of September 2020.
28. Currently it does not specify clearly how the public can access the democratic process. Public attendance at meetings is welcomed, encouraged and speakers permitted with the agreement of the Chair. However we have the chance to consider how public access can be improved.
29. In addition to the collection of documents that form the current Constitution, there exist organisational practices and procedures to deliver the outcomes of the decisions taken by members.

Scope of the Review

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- 30.** The objective of the review is not only to ensure our written documents forming the Constitution are up to date, easy to read (where possible) and accessible, but also to have a system of governance that:
- identifies and reduces organisational inefficiency,
 - allows timely decision making,
 - provides appropriate devolution to officers to take and implement decisions (within the schemes of delegation framework), that elected members are comfortable with and confident in.
- 31.** The scope of the review is therefore not only the 'Constitution' but also some of the administrative processes that give effect to the Scheme of Devolved Financial Management (example: procurement - Ordering and Paying for work, goods and services), the arrangements in place for managing executive reporting, the engagement of scrutiny and the specific rules applying to Development Control Committee which have been the subject of a recent Peer Review.

Approach to the Review

- 32.** The documents forming the current Constitution fall naturally into two groupings, shown below.
- 33.** It is proposed to review the 'Constitution' elements in the first instance and then the 'Protocol' documents, some of which might no longer need to form part of the Constitution at all.

The 'Constitution'

- Part 1 - Introduction
- Part 2 - Articles
- Part 3 – Responsibility for functions
- Part 4 – Standing Orders
- Part 5 – Scheme of Devolved Financial management
- Part 6 – Scheme of Delegation to officers (Executive)
- Part 7 – Scheme of Delegation to officers (Non-Executive)
- Part 8 – Joint Arrangements
- Part 9 – Code of Conduct for Members
- Part 16 – Re-named 'Committee Protocols and Conventions'

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Other 'Protocols'

- Part 10 – Protocol for Member/officer relations
- Part 11 - Code of Conduct for Employees
- Part 12 – Whistleblowing Policy
- Part 13 – Scheme of Members Allowances
- Part 14 – Arrangements for Registering Members Interests
- Part 15 – Register of Members
- Part 18 – Complaints Procedure
- Part 19 – Management Structure
- Part 20 – Grievance & Disciplinary procedure

34. Particular attention is to be given to the following and in particular their impact on timing and ability to reach decisions or deliver outcomes:

- Part 5 – Scheme of Devolved Financial management
- Part 6 – Scheme of Delegation to officers (Executive)
- Part 7 – Scheme of Delegation to officers (Non-Executive)

35. Alongside the review of Parts 5, 6 and 7, some of the administrative procedures that give effect to the processes set out in the Appendices to the Financial regulations, such as:

- Appendix E - Procurement, Ordering and Paying for work, goods and services,
- Appendix G - Scheme of Devolved Financial Management to be reviewed to establish if these steps add value or hinder timely decision making.

The arrangements in place for managing executive reporting through informal and formal decision making steps should be looked at to see if they add value or hinder timely decision making as will the engagement of scrutiny and the specific arrangements for Development Control Committee.

Initial Observations

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36. Greater explanation of the Council's decision making arrangements and how the public can access decision makers would provide more transparency than that provided by the Constitution currently.
37. The information appearing on the Council's website could be presented in a more accessible way so that specific sections or topics could be located more easily. The relevant landing page provides a list of links to all 20 parts of the Constitution but contains no additional supporting information.
38. Improving the limited search facility and introducing navigation links would make the Constitution content more accessible to the public, officers and Councillors and improve the web browsing experience.
39. Improving the language used in the Constitution by using plain English wherever possible would improve accessibility. Some areas (particularly the Councils Standing Orders in Part 4) are required to be lifted directly from statute and are not always easy to understand. However links to a plain English explanation could improve accessibility in those instances.
40. Terminology used throughout the constitution is inconsistent and there is no clearly defined glossary to help users interpret the text. For example, the Standing Orders (Part 4) refers 16 times to the 'Head of 'Paid Service' and 23 times to the 'Chief Executive'. There is an opportunity to create a clearly defined set of terms to help interpret the text, apply consistency and reduce duplication as well as reduce administration as documents require updating.
41. There is no list of 'proper officers' as required under the Local Government Act 1972 and therefore it is unclear who has such responsibilities. Further checks should be made to ensure that our Constitution is fully compliant with the regulations.
42. Over time the council has been subject to reorganisations but these structural changes have not always been consistently reflected in the constitution, to enable updates to take place quicker we propose to review the current notification process and develop a digital form to better support this.
43. All 20 parts of the Constitution are presented in PDF format and are not numbered consistently making it difficult to find and reference specific sections. For example the financial regulations (Part 5) has nine appendices, each using different styles and numbered lists making them inconsistent in style and difficult to navigate easily.
44. Anecdotally it appears that some of the current organisational practice and procedure is limiting manager's ability to make timely decisions.
45. Greater clarification of officer and member roles and the extent of their authority within the decision-making process is required for more effective and transparent governance.

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46. There could be benefit in focussing elected members on the key strategic issues facing Luton and the Council's long term ambitions for the town.
47. The current Schemes of Delegation to Officers should be revisited to see if they support strategic decision making and if not, identify changes.
48. Considering greater empowerment of officers by increasing delegated decisions within a culture that is accountable and supported by elected members should allow more timely actions to take place.

Areas of Particular Focus

Financial Thresholds

49. The Financial Regulations (Part 5, 4.13) require 'Chief Officers to establish a scheme of delegation identifying officers authorised to act upon the Service Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.' The Executive Functions and Non-Executive Functions (Part 6 & 7). These are lengthy and complex documents, there is an opportunity as part of the review to look at how they are written with the aim of making them more concise and easier to navigate.
50. Statutorily, Executive Key decisions must be identified for advance publication on an Executive Forward plan. This triggers scrutiny and oversight. Any decision can be made by an officer so long as it is within the agreed budget and is within the budgetary framework, but this is not always applied, if the matter for consideration is requested to go through members or the Chief Executive.
51. Clearing the financial implications in Executive reports are supported by Finance Business Partners with oversight from the Service Director, Finance and Audit, with whom the responsibility for ensuring proper administration (as per the Section 151 of the Local Government Act 1972) resides. However it is acknowledged that delays can take place at the clearance stage of reports by key officers, caused not just by volume but also by late submission of reports to the finance team, poor report quality in some cases and a lack of engagement at initial stages with the finance team.
52. The opportunity exists to:
 - review all our authorisation and approval procedures to confirm they continue to provide the assurance we require, ensuring we concentrate on activities that add value,

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- embrace our new values and empower the council to make faster decisions within clearly defined limits,
 - ensure an adequate level of scrutiny by Members without impacting productivity.
 - Where financial limits are available they are scattered throughout a number of parts of the constitution (Parts 4, 5, 6, & 7). This could be summarised and placed in an appendix.
- 53.** Some of the text is open to interpretation. For example the Financial Regulations (Part 5, Financial Management, 2.21) states that such ‘it is the responsibility of Corporate Directors and Service Directors to consult with the Service Director, Finance and Audit and seek advice on any matter liable to affect the Authority’s finances materially, before any commitments are incurred.’ As part of the review we would like to define the parameters around what is considered “material”.
- 54.** It is planned as part of this review to test our financial regulations and schemes of delegation to fully validate what Luton requires by establishing the following:
- Are all aspects of the scheme of delegation still applicable?
 - Is the level of delegation still appropriate?
 - What level of delegation are Members comfortable with?
 - What level of delegation are Officers comfortable with in practice?
 - What level of delegation are Officers comfortable with in terms of decision making?
 - What level of decision making maintains financial robustness?

Debt Write Off

- 55.** The Financial Regulations (Part 5, 4,23) state that it is the responsibility of the Service Director, Finance and Audit ‘to approve all debts to be written off in consultation with the relevant Service Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 1996’
- 56.** Providing assurance that every effort has been made to collect bad debt is a key challenge when writing off any debt. Services must have in place and follow the agreed procedures to chase and collect debt and if they are unable to collect the debt due to circumstances beyond their control they have to have clear evidential base to show that the prescribed procedures were followed.

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57. Not to follow this places the authority at risk of being challenged about how we utilise public funds, which would cause serious reputational damage to the council.
58. The Scheme of Delegation to Officers (Executive Functions) (Part 6, Schedule 1, 1/11) delegates authority to the Service Director, Finance and Audit to write off debts in accordance with Financial Regulations.
59. Information set out in the Financial Regulations has been compared against our debt write off policies and procedures to determine whether they provide adequate guidance to our operational teams.
60. There is an immediate need to improve guidance provided to staff around the workings of the Financial Regulations (Part 5) and Scheme of Delegation to Officers (Non-Executive Functions).

Procurement

61. Whilst the 'contract procedure rules' set out in Part 4 of the Constitution – Standing Orders (Chapter 9) are referenced on the procurement intranet page, the administrative processes managed through the 'AFP' system and in particular the financial thresholds applied to procurement to deliver this process would benefit from review to establish if they are organisationally efficient, effective and necessary.
62. A significant amount of work is underway by the central procurement team to update the guidance for staff and refresh policies and procedures are under review as part of this. A new five year procurement strategy (2019 to 2024) was approved in August 2019.
63. Clear instructions, updated request forms and guides for each level of expenditure are available on the intranet, however this content was not followed up by a corporate training programme which would have embedded the system. Despite support from the central team, staff have gone on to bypass the process which has led them to make use of exemptions for a range of reasons.
64. Luton Council has one of the lowest thresholds for triggering corporate procurement involvement compared to the 15 local authorities analysed as shown in Appendix 2 - Table1¹.

¹ Appendix 2, Table 1.

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65. Procurement rules and the permitted ways they can be waived (in limited circumstances), should be reviewed to ensure they continue to be appropriate.
66. In practice a number of purchases are completed outside of the Council's purchasing system (AFP).
67. Services cannot raise orders over £1,000 in AFP- have to place a request through the online form/process with the central team to do this. All orders are then approved by cost centre managers whatever the value limit set in AFP. If purchases are made outside of AFP, invoices will not get paid until they can demonstrate a contract or have an exemption in place.
68. In practice only 42% of orders raised over £1000 went to the Corporate Procurement Team in 18/19. The rest were raised in the Service feeder systems and went directly to suppliers (i.e. outside of AFP).
69. The new Prosperity through Procurement strategy sets out an action to increase the threshold at which procurement activity needs to be delivered by the Corporate Procurement Team to £5,000. This is contingent on there being compliant contracts in place for officers to use.
70. To note, if we were to move the threshold then the number of orders affected (18/19) would be around 5% by volume 8% by value- Procurement would get 2407 fewer orders to process/source - this assumes the pattern of purchasing remains the same in the future.
71. There is a need to review those elements of the current governance arrangements that impede rapid and compliant procurement of goods and services and look at those organisational practices that currently contribute to delays with a view to making recommendations for change.
72. In addition, whilst not in scope of this case for change, there is an opportunity to support procurement to continue to modernise corporate systems and processes.

Virements

73. Within the Scheme of Devolved Financial Management attached at Appendix G to the Council's Financial Regulations (Part 5 of the Constitution), reference is made to a scheme of Virement.
74. The scheme of virement is intended to enable Service Directors to manage budgets with a degree of flexibility within the overall policy and budget framework determined by Full Council, and therefore to optimise the use of resources.

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75. Two virements were approved during the last 12 months². However there are 40 separate references to the use of virements in the Financial Regulations (Part 5) and at least 6 pages outlining relevant rules.
76. It should be noted here that the over use of virements requires additional officer time to reconcile budgets. It is important to ensure, given budget pressures, how moving underspends around is utilised in the best way for the authority as a whole rather than at service level.
77. This review presents the opportunity to test the current virement system to establish how virements can be utilised in a way that supports departmental collaboration, Council expenditure and improves financial management.

Executive reporting process

78. Depending upon the complexity of the subject matter requiring an Executive decision, there are a number of steps that need to be followed currently, to ensure that Executive Members, Scrutiny Members and Corporate Directors are sighted on proposals coming forward and have the opportunity to contribute to the decision making process.
79. That process requires officers to identify at an early stage, the route that might need to be taken for the proposal to travel through the decision making process.
80. This could comprise of, officer level (DMT & CLMT), informal level (Joint Board and/or Policy Group) and *scrutiny (appropriate scrutiny body for the topic) prior to submission to the Executive. The longest time period for a report to travel through these processes is 10 weeks.
81. *The involvement of scrutiny is examined in the next section.
82. Planning begins with submission of an outline of the key issues to 'Leader's briefing' at which the Executive Leader, Deputy Executive Leader and Chief Executive consider and provide a steer on the direction of travel. The outcomes are updated on the Joint Board, Policy Group and scrutiny work programmes and the Executive forward plan.

² Appendix 3, Table 1.

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- 83.** Whilst aimed to maximize transparency and accountability, this aspect of the administrative process is time consuming and complex for the Democracy Team, particularly when changes are made subsequently, or items do not run to time and additional meetings of those bodies are requested to compensate. A review of this process to identify any alternative methods and/or technologies would be beneficial.
- 84.** Provided planning begins early and officers approach the process by drafting their Executive report to travel through the various stages, the process should not be overly cumbersome. It is appropriate and preferable for the Executive report to be prepared in the first instance and appended to a cover page for submission to various bodies and amended in response to the views expressed, rather than using a variety of report formats. However often reports are not drafted early enough to take advantage of this approach. Greater communication to report authors about this option might also add value.
- 85.** All Executive reports require 'sign off' by a number of professionals (financial, legal, environment, health). All reports require an IIA. This places additional burden on those colleagues and is exacerbated if their input is requested late in the process.
- 86.** Currently there is no automated process for report preparation (such as 'collaboration' in Word) as this is not supported by the Council's IT systems. That means multiple versions of reports are in circulation, bringing additional time pressure on report authors to 'cut and paste' comments into their master document prior to finalisation. This is an inefficient organisational process. Identifying alternative options could have a significant, positive impact on the workload of senior managers.
- 87.** The lead-in times for report preparation and completion are designed to allow adequate time for input by service professionals and to meet the statutory agenda dispatch requirements. This has sometimes been critiqued as being too long.
- 88.** However, there appears to be, in some areas, a lack of organisational discipline in drafting reports in good time and meeting deadlines which impacts directly and negatively both on legal/finance colleagues and the Democracy Team. This could be attributable to other factors and should be examined to establish the root cause so that the necessary mechanisms can be put in place to support report authors.
- 89.** This review could take the opportunity to understand what the barriers to early planning might be, examine how well the tools available to officers are understood and embedded, and explore how technology could support report creation and contribution by multiple contributors, to ensure the most time efficient systems are in place for our staff.

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Scrutiny

90. There is an opportunity to explore how scrutiny can contribute to policy development at the earliest stages to inform and influence options, bringing a broader range of views in a collaborative officer/member approach to policy formulation.

Development Control Committee

91. Recently, a Peer Review of the Council's development control function resulted in a number of recommendations for our consideration.
92. The areas of focus that were identified and could usefully be captured in this review are:
- The Council's 'Right to Speak' procedure (a Protocol set out in Part 16 of the Constitution) which allows applicants and objectors to address the Council's Development Control Committee
 - The 'calling in' of items to Development Control Committee by individual members
 - The Scheme of Delegation to officers (Non-Executive functions), specifically in relation to:
 - the categories of application that should be brought to Committee and
 - where modifications are made to applications following the granting of planning permission and updating the references to 'Development Control Manager'
 - practice of bringing planning applications recommended for refusal to Committee
 - The naming of the Committee to more accurately reflect its function
 - Consideration of processes to increase member engagement on strategic applications, such as:
 - Pre-application meetings with members and developers
 - Pre-committee briefings

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Right to Speak Procedure

93. Currently, all applicants, objectors and supporters have a right to speak at Committee regardless of the recommendation. A total time of 5 minutes is allowed for the right to speak, shared between speakers if there is more than one in attendance on the same item.
94. This has resulted on occasions where an application is acceptable in terms of planning policy, has been recommended for approval and there are no objections or objectors at Committee, but the right to speak for the applicant remains.
95. Other Authorities allow a right to speak to applicants only if the application has been recommended for refusal. In these Authorities, the period under the right to speak is reduced to no more than 3 minutes.
96. In addition, currently, the constitution imposes a time restriction on speaking on the applicants and members of the public, but not on Ward Councillors.
97. Consideration should be given to an equitable approach for everyone given the opportunity to speak.

Member 'Call In' to DC Committee (not to be confused with scrutiny Call in)

98. The current Constitution allows all members to "call-in" any planning application, irrespective of ward, at any time and without providing a reason.
99. This can result in a significant proportion of applications being considered at the Development Control Committee that are of a relatively minor nature and could be delegated to officers for a decision.
100. The practice has not been challenged to date, but could be perceived as being open to bias as the Member who has "called-in" the application does not attend or speak at the Committee when the application is being considered.
101. To ensure clarity of perception, the option of making all "call-ins" require seconding by a member of the Committee could be explored.
102. In addition, there would be greater transparency if a clear reason behind the need for consideration at Committee was specified and if the matter occurred within a defined period of time, for example, 21 days from the application being publicised (subject to impact on resources).
103. This would free up Committee time and resources to be spent on more strategic applications.

Referral to full Council

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104. Currently planning applications in the process of being considered at DC Committee can be referred up to Full Council by any Committee Member if the motion is seconded.
105. There is a risk that if the motion is not agreed at Full Council then the application is referred back down DC Committee. This process could be caught in a “perpetual loop”. While this is understood as a key right of members it would be useful to have an agreement in place that enables a final decision to be reached, e.g. individual applications can only be referred up to Full Council once.

Scheme of Delegation to Officers (Non-Executive Functions)

106. The current Scheme of Delegation pertaining to Development Control does not allow the Committee sufficient time to concentrate on strategic and or controversial applications. Currently, the Committee considers a large number of applications that do not fall into this category; including those recommended for refusal.
107. In comparison, some Authorities do not allow applications to reach Committee should it be a “non-major” application, which has also not been called-in and or recommended for refusal.
108. A further challenge in bringing non-major applications to Committee that are recommended for refusal is that by the time the Committee report is published (7 days in advance of Committee), often applicants will use this period to make amendments to their scheme in the hope of addressing the reasons for refusal.
109. This then necessitates the withdrawal of the scheme from the agenda as further assessment and consultation needs to be undertaken before preparing a new report. The scheme may still be unacceptable following this process, however the cycle can then be repeated.
110. The scheme of delegation also requires applications to be returned to Committee for consideration should they be modified after granting permission.
111. Particularly with large significant schemes, it is quite often the case that following grant of permission there may be some minor amendments that will be required to either the approved drawings, the conditions or the agreed S106 (legal agreement).
112. With other Councils these matters, if they are of a minor nature, are dealt with under delegated authority. Currently at Luton, these applications have to be returned to Committee for their consideration.

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- 113.** There was a recent example of a S106 being considered at Committee because of a proposal to delete a few words. The consequences of the amendment were both minor and acceptable, and took up Committee time, where it was eventually approved.

Pre-application member/developer meetings & Pre-Committee briefings

- 114.** In order to increase meaningful engagement with Members on strategic applications, consideration should be given in allowing the possibility of setting up additional meetings/briefing sessions.
- 115.** This could include Pre-committee briefings and Pre-application Members forums.
- 116.** The constitution could be amended to allow flexibility for these meetings to occur and for the Council to separately agree what format and frequency they should take.

Luton Young People's Council

- 117.** On 26th February 2020, the Luton Young People's Council held its inaugural meeting. Presented to that meeting were draft Terms of Reference that included options for a more meaningful engagement with the decision making process, to add value and status to the work of the Young Peoples' Council.
- 118.** We have the opportunity as part of this review, to include the following provisions in the new Constitution:

The ability for the Young People's Council to:

- submit and present an annual report on their work to a meeting of Full Council
- submit recommendations to the Executive on the outcomes of *project work and receive an explanation where recommendations are not accepted
- provide for the Chair of the Young People's Council or his/her representative to attend and speak at meetings of the Executive when those recommendations are considered

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- provide for the Chair of the Young People's Council or his/her representative attend and speak at meetings of the Scrutiny Children's Services Review Group, when items of interest to young people appear on that agenda
- provide for the Chair of the Young People's Council or his/her representative to be invited to sit as a non-voting co-optee on the Scrutiny Children's Services Review Group
- to provide for the annual report of the Young People's Council to be submitted to the Scrutiny Children's Services Review Group seeking support for recommendations for change, to the Executive."

* the topics identified for review as being most important to young people were:
(a) knife crime and gang violence/culture (b) mental health awareness and (c) social mobility and finance

Objectives and Outcomes

- 119.** Develop a clearer, more succinct, easier to read and accessible Constitution, fit to support a modern 21st century council.
- 120.** Re-draft the Constitution in plain English throughout and where statutory text must remain, provide simple and clear explanatory text and a single consistent glossary.
- 121.** Improve the layout and accessibility of the Constitution and its contents on our website to meet standards as set out in the Equality Act 2010.
- 122.** Increase the use of flow charts and diagrams, outlining decision-making bodies and where possible hyperlinks to enable easy navigation.
- 123.** Create a new introduction explaining how the council takes decisions and provide a simple overview of each part of the Constitution, including key aspects of policy that are required by law, such as the Policy Framework and the Budget Policy Framework.
- 124.** Consider which elements of the Constitution need to remain in place as the 'Rulebook' of the Council and the removal of those that are not necessary to reduce volume.
- 125.** Review the LGA 2000 direction checklist to ensure the requirements have been included in our Constitution (example: Proper Officers and their responsibilities) There may be other examples of non-compliance.
- 126.** Review access to decision makers by the public and how this can be embedded in the Constitution.

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- 127.** Examine in detail the Schemes of Delegation to Officers to see if they support strategic decision making and if not, identify recommendations for change with a view to:
- defining levels of authority and authorisation limits (financial or otherwise)
 - empowering managers to make timely decisions within agreed boundaries and creating a culture of accountability for decisions that are made
 - improving clarification of officer and member roles and the extent of their authority within the decision-making process to provide more effective and transparent governance
 - ensuring an adequate level of scrutiny by Members without impacting productivity
 - allowing members as a collective to focus on the key strategic issues facing Luton and the Council's long term ambitions for the town rather than operational issues
 - ensuring organisational changes are reflected
 - considering the recommendations of the recent Peer Review in relation to Development Control Committee.
- 128.** Benchmark other examples of best practice and make recommendations for levels of authority and authorisation limits (financial or otherwise) that could be challenging but are supported by appropriate checks and balances to ensure that risk is appropriately managed.
- 129.** Clearly define and review the financial limits scattered through the Financial Regulations (Part 5) and Standing Orders (Part 4) and in addition summarise and placed in an appendix.
- 130.** Reference these levels clearly in all other parts of the constitution to reduce the need to maintain multiple documents when levels/authorisation limits change.
- 131.** Ensure that there are robust mechanisms in place to maintain and update the Constitution as soon as changes are required, for example the creation of a digital updating process, enabling services to request updates to the constitution for consideration by the Constitution Review Group and onward approval by Members and the Monitoring Officer, as required.
- 132.** Consider the development of scrutiny to support policy development and decision making and have regard to the recent Peer Review recommendations in relation to Development Control Committee.

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- 133.** Review those administrative practices that give effect to the constitutional 'Rules', to ensure they add value, support decision making, are timely and resource efficient, in particular:

 - executive decision making and maximizing efficiency for report authors
 - procurement and the use of AFP
 - virements
 - debt write off
- 134.** Understand how we can better support report authors in navigating the decision making process, given capacity and work volumes.
- 135.** Wherever possible increase the use of technology to support our processes more effectively (example: single report creation facility).
- 136.** Survey all elected members to gain their views and establish a cross party group of interested members to look at what currently works well and what would benefit from improvement.

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Appendix 1: Benchmarking comparison of debt write off levels

Table 1

Local Authority	Debt write off levels	Level of authorisation (Luton equivalent)
Camden	£50,000	Service Director
Derby	£50,000	Service Director, Finance & Audit
Birmingham	£25,000	Service Director
Peterborough	£20,000	Service Director, Finance & Audit
Westminster	£10,000	Service Director
Luton	£10,000	Service Director, Finance & Audit
Blackburn and Darwen	£10,000	Service Director, Finance & Audit
Barking and Dagenham	£10,000	Corporate Director
Southwark	£5,000	Service Director
Oldham	£5,000	Service Director
Thurrock	£2,500	Service Director
Slough	£2,000	Service Director
Milton Keynes	£2,000	Service Director, Finance & Audit
Bradford	£1,000	Service Director
Waltham Forest	£100.00	Service Director

Observations:

1. Luton is mid table for debt write off
2. Nine council's listed do not require the Service Director, Finance and Audit (or equivalent) to approve all debt write off.

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Appendix 2: Procurement exemptions

Table 1: Benchmarking comparison of procurement exemption levels apply

Local Authority	Level of Purchasing before exemption less than:
Camden	£25,000
Southwark	£25,000
Birmingham	£25,000
Westminster	£10,000
Milton Keynes	£10,000
Oldham	£10,000
Bradford	£10,000
Blackburn and Darwen	£5,000
Barking and Dagenham	£5,000
Derby	£5,000
Slough	£1,000
Thurrock	£1,000
Waltham Forest	£999.99
Luton	£999.99
Peterborough	£500

Observations:

1. Luton limits for exemptions are low. The proposed increased to £5,000 would still only take us to mid-table
2. The scheme sets out officer levels of authority & Powers for procurement as follows:
 - a. £1m - Level 1: Chief Executive, Corporate Directors (equivalent)
 - b. £500,000 - Level 2: Service Directors (equivalent)
 - c. £250,000 - Level 3: Service Managers (equivalent)
 - d. £50,000 - Level 4: Team Managers (equivalent)
3. Exemption processing has been found to take between 11 and 20 days

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Appendix 3: Virements

Table 1: Benchmarking comparison of scheme of virement approval levels

Local Authority	Approval levels for revenue virements	Level of authorisation
Camden	£Any	Service Director
Milton Keynes	£Any	Service Director, Finance & Audit
Peterborough	£Any	Portfolio Holder
Bradford	£Any	Portfolio Holder
Luton	£Any Unless the virement is between services that are the responsibility of more than one Executive Portfolio Holder (then £25,000)	Corporate Director/Portfolio Holder
Westminster	£500,000	Corporate Director, Finance
Southwark	£250,000	Corporate Director
Derby	£100,000	Corporate Director
Birmingham	£100,000	Service Director
Slough	£100,000	Service Director
Barking and Dagenham	£100,000	Service Director, Finance & Audit
Oldham	5% of budget or £50,000 whichever less	Corporate Director
Thurrock	£25,000	Service Director
Waltham Forest	£10,000	Cost Centre Manager
Blackburn and Darwen	£5,000	Corporate Director

Observations:

1. There are 40 references to the scheme of virements and at least 6 pages dedicated to outlining relevant rules
2. There is potential to use virements to pool resources to deliver collaboration
3. The scheme would require simplification
4. Need to be careful not to start an industry of virements which could result waste

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Appendix 4: Constitution size comparison

Table 1

Local authority	Total number of pages	Total number of parts
1. Blackburn and Darwen	282	8
2. Milton Keynes	283	6
3. Bradford	294	6
4. Thurrock	301	12
5. Southwark	302	7
6. Birmingham	318	5
7. Barking and Dagenham	318	7
8. Oldham	342	8
9. Derby	364	8
10. Waltham Forest	406	12
11. Slough	444	7
12. Peterborough	486	7
13. Westminster	536	11
14. Camden	570	8
15. Luton	613	20

- 9 councils had less than 400 pages
- 3 councils had between 400-500 pages
- 3 councils had over 500 (including Luton)
- On average other councils had 8 parts, 380 pages

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Appendix 5: Policy inconsistencies

Example 1. Constitution – Part 5 – Financial Regulations - Anti-Fraud, Bribery & Corruption Policy - Appendix H Issue Date 6.11.15 states

“The Council’s Code of Conduct draws together in one Policy the following adopted policies and protocols:

1. Conflicts of Interests
2. Whistleblowing
3. Gifts & Hospitality
4. Political Restriction
5. **Elected Officer and Member Relations replaced by**
 - Relationships with members (27)
6. **Working outside the Authority replaced by**
 - (19) Undertaking Paid or Unpaid Work Outside of the Council and
 - (20) Undertaking Voluntary Work Outside of the Council
7. **Confidentiality replaced by**
 - Commercial Confidentiality / Data Protection
8. **Email and Internet Use” – not included in current code, however the following available**
 - Acceptable use policy for e-mail service users – last reviewed 2011
 - Acceptable use policy for Internet service users – last updated 2009

Example 2. Constitution - Part 11 - Code of Conduct for Employees - Issue Date 05.01.16 states

2. Scope

The Code covers the following areas:

- (3) General Principles
- (4) Responsibilities of Employees
- (5) Where to Obtain Further Advice
- (6) General Standards in Dealing with People
- (7) Equality of Opportunities for All
- (8) Intellectual Property
- (9) Security / ID Badges
- (10) Conflicts of Interest – mentioned in Part 5**
- (11) Commercial Confidentiality / Data Protection
- (12) Awarding Contracts
- (13) Recruitment of Friends or Relatives

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(14) Gifts and Hospitality – mentioned in Part 5

(15) Sponsorship

(16) Political Restrictions – mentioned in Part 5

(17) Criminal Charges and Convictions

(18) Driving Disqualification

(19) Undertaking Paid or Unpaid Work Outside of the Council – incorrectly named in Part 5

(20) Undertaking Voluntary Work Outside of the Council – incorrectly named in Part 5

(21) Senior Managers and those on Chief Officer Terms

(22) Directorships of Limited Companies

(23) Political, Professional and Trade Union Activity

(24) Whistleblowing – mentioned in Part 5

(25) Safeguarding

(26) Relationships with Vulnerable Clients or Service Users

(27) Relationships with Members – incorrectly named in Part 5

(28) Use of Council Facilities

(29) Sanctions for Breach of the Code

- There are 27 areas covered by our Code of Conduct. Part 5 only mentions 8, and out of these, 5 are listed correctly. The duplication of list is inconsistent – in Part 5, making reference to Part 11 would make updates efficient and accurate.
- The most up to date of the Internet and email use policies was last reviewed in 2011

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Appendix 6: Legal text comparison example

	Subject	Luton	Milton Keynes
Part 4 Exemptions (p38)	Information relating to any individual	<p>Information which is not prevented from being exempt by virtue of Category 3 hereof is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>(Highlighted information is provided for every exemption – MK makes it simpler by using once in a separate paragraph at start of Exemptions)</p>	<p>Reports which relate to: employees, a former employee, job applicants occupiers or former occupiers of council accommodation, applicants or recipients or former recipients of any service provided by the council applicants or recipients or former recipients of any financial assistance provided by the council protected informants in relation to civil matters</p>
Part 4 Exemptions (p38)	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Category 3 Information which is not prevented from being exempt by virtue of this paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>This information is not exempt information if it is required to be registered under.... (see MK list of acts)</p>	<p>Financial or business affairs are defined to include contemplated as well as past or current business activities This exemption covers the financial or business affairs of the Council itself It covers the financial or business affairs of individuals and companies, charities etc. registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act)</p>

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Subject	Luton	Milton Keynes
		<p>This covers reports about contracts and negotiations for the acquisition/disposal of property or supply of goods or services, the identity of the Council or any other person offering any particular tender for a contract for the supply of goods or services and the making of grants to external organisations</p> <p>Unless that information is required to be registered under</p> <ul style="list-style-type: none"> a) the Companies Acts (as defined in section 2 of the Companies Act 2006)¹ b) the Friendly Societies Act 1974; c) the Friendly Societies Act 1992; d) the Industrial & Provident Societies Acts 1965 to 1978; e) the Building Societies Act 1986; or f) the Charities Act 2011, g) information relating to the financial or business affairs of any particular person including the authority holding that information)
Part 4 Contract procedure rules (p75)	General provisions	Where the Council requires the supply of Goods and/or Materials or the carrying out of Works or the provision of Services and requires that the same shall be carried out, supplied or provided pursuant to a Contract with a Contractor which has been the subject of a tendering exercise with another person or Body then the provisions of this Chapter 9
		If a supplier has not previously been used by the Council, Officers should not make a commitment to purchase until the supplier has been approved by the Corporate Procurement Team. Officers should consider any requirement for quotations or tenders, along with any unusual terms and conditions requested by the prospective supplier. Appropriate advice should be obtained from

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	Subject	Luton	Milton Keynes
		will be deemed to have been complied with and further action under the same will not be required.	Legal Services and the Corporate Procurement Team prior to making any commitment.
Part 4 (p14)	Notice of Motion	Notice of every Motion, other than a Motion which under Standing Order 14 may be moved without notice, shall be given in writing, signed by the Member or Members of the Council giving the notice, and delivered at least seven (7) clear days before the next meeting of the Council at the Democracy Section office by whom it shall be dated, numbered in order of receipt and entered in a book which shall be open to inspection by any Member of the Council.	<p>Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Monitoring Officer not later than 12 noon eight clear working days before the date of the meeting. Receipt of the motion will be acknowledged by the Monitoring Officer.</p> <p>Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing before the commencement of the meeting to which the motion has been submitted, that he/she proposes to move it to a later meeting or withdraw it.</p>

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