



# Report of the Constitution and Governance Working Group

12 February 2009





# Report of the Constitution and Governance Working Group Document Index

No.	Document	Page Nos
1.	Executive Summary	1-4
2.	Recommendations	5
3.	Report of the working group	6-29
4.	Terms of reference of the working group	30-31
5.	Summary of consultations and responses	32-74
6.	Schedule of proposed governance arrangements during the second transitional period (1 April – 7 June 2009)	75-94
7.	Draft Constitution	Separate Index
8.	Draft Ethical Handbook	Separate Index



**Report of the Constitution and Governance Working Group  
January 2009**

**Executive Summary**

1. The Corporate Resources Transitional Task Force established the Constitution and Governance Working Group to formulate the new Constitution for Central Bedfordshire and to recommend a draft document to the Council for approval. The terms of reference of the working group are attached at document no. 4.
2. The report of the working group is attached at document no. 3
3. The working group established at an early stage that it was minded to follow the proposals set out in the Joint Proposal for Unitary Local Government in Central Bedfordshire unless good evidence could be provided to justify why a departure from those proposals was in the best interest of the Authority.
4. The report outlines the methodology used by the working group in undertaking its task which included a series of five consultations sent to all Members of the Council on the key principles under consideration, namely:
  - Format of the Constitution
  - Initial proposals for governance arrangements
  - Full Council meetings
  - Executive meetings
  - Rules for decision making
  - Overview and Scrutiny
  - Budget and Policy Framework and Procedure Rules
  - Responsibility for Functions
  - Times of Council meetings
  - Development Management
  - Ethics and Standards

The responses to each consultation were considered by the working group at its next meeting and taken into account in determining how to proceed in respect of the principles.

5. The draft Constitution now before the Council has been developed over an eight month period. The accompanying report highlights the key principles considered by the working group now embodied within the draft Constitution.

6. In line with the provisions within the Joint Proposal for Unitary Local Government in Central Bedfordshire, the draft Constitution provides for an indirectly elected "strong" leader model. Under the "strong" leader model, the leader has power to appoint and remove executive members, determine portfolios and delegate executive functions. The working group has therefore been mindful of the need to ensure that appropriate checks and balances are in place to counter the increased power of the executive through the strong leader model. The working group has also taken the view that establishing a governance structure in which decisions can be taken quickly and with minimum of bureaucracy, should be balanced by the need to ensure clear accountability for decision making and to preserve the role of elected councillors in determining matters of policy and strategy and being consulted in respect of decisions which clearly impact on or significantly affect their ward.
7. The working group's report sets out its proposals in more detail but in summary, the draft Constitution now before Members provides for:-
- An indirectly elected leader (initial 2 year term to 2011 with a four year term thereafter)
  - Provision for the Council to dismiss the leader on the basis of a notice of motion to Council submitted by 10 members (if the motion is approved)
  - Adoption of the statutorily required "strong leader" model whereby the leader has the power to:-
    - Determine the size and composition of the Executive (ie; appoint (and dismiss) the deputy leader and other members to serve upon the Executive)
    - Determine the portfolio structure and to vary that structure at any time and allocate portfolios to individual members of the Executive
    - Delegate executive functions to an individual Portfolio holder, committees of the Executive or an officer.
  - The right for all members of the Council to speak once on any item being considered by the Executive with further speaking being at the discretion of the Leader

- Enhanced opportunities for Member participation in full Council meetings including:-
  - Written questions
  - Oral question time for questions to the leader, portfolio holders, chairman of any committee or representative on the Police and Fire Authorities
  - Ward presentations
  - Strategic policy debates
  - Notices of motion
- Budget and Policy Framework comprising strategic plans and policies most closely related to the Council's identified aims and priorities and sufficient to provide checks and balances to the increased power of the Executive.
- Full Council responsibility for adopting and amending the Constitution with a Constitution Advisory Group in place to review and make recommendations thereon to full Council.
- Five overview and scrutiny committees aligned to the organisational structure as follows:-
  - Business Transformation Overview and Scrutiny Committee
  - Children, Families and Learning Overview and Scrutiny Committee
  - Corporate Resources Overview and Scrutiny Committee
  - Social Care, Health and Housing Overview and Scrutiny Committee
  - Sustainable Communities Overview and Scrutiny Committee
- An Overview and Scrutiny Management Panel comprising the chairmen and vice-chairmen of each of the above committees to co-ordinate the work of the committees
- A comprehensive call-in procedure allowing call in by either:-
  - An individual member where a decision has particular significance for that member's ward; or
  - The chairman of the relevant overview and scrutiny committee; or
  - Any two members of the relevant overview and scrutiny committee; or
  - Any three non-executive members of the Council.

- The establishment of a range of regulatory and other committees including:-
    - Development Management Committee
    - Regulation Committee
    - Licensing Committee
    - Standards Committee
    - Appeals Committee
    - Audit Committee
  - A Scheme of Officer Delegation which includes general limitations and conditions and sets out the circumstances in which officers are expected to consult with/or inform members.
  - A public participation scheme providing for:
    - Public questions and statements, (both general and specific to agenda items)
    - Deputations; and
    - Petitions (including provision for petitions to be debated, for the relevant body to decide the course of action to be taken to respond to the petition and for the lead petitioner to request that the adequacy of the response be reviewed by the relevant overview and scrutiny committee)
    - A separate scheme of public participation for Development Management Committee
  - A Protocol on Member/Officer Relations which defines the timescales within which officers will endeavour to provide a substantial response to a Member's enquiry.
8. The draft Constitution has been subject to an external "health check" by Clear Lloyd-Jones of Rockpools who was able to offer an assurance that the document meets statutory requirements and is fit for purpose for a unitary authority of the size and nature of Central Bedfordshire.
9. In addition to considering the draft Constitution, it is necessary for the Council to determine the governance arrangements which will operate in the period from 1 April to the elections in June 2009. DCLG has indicated that its policy intention is that the Shadow Executive shall continue in its current form during this second transitional period. This is due to be confirmed by amendment order shortly. However the Council will be exercising full local authority powers from 1 April and therefore needs to establish certain regulatory committees. The proposals for governance during the second transitional period are set out in paragraph 8 of the working group's report.

**Recommendations**

1. That the draft Central Bedfordshire Constitution, as now submitted at document no. 7, be approved and implemented either with effect from 1 April 2009 or 8 June 2009, as appropriate, as provided in recommendation 3 below.
2. (a) That the Ethical Handbook, now submitted at document 8, be approved and implemented with effect from 1 April 2009; and  
  
(b) That in so doing, the Council specifically resolves to adopt the Indemnity for Members and Officers of the Council, as set out in Part 6 of the Ethical Handbook.
3. That the interim governance arrangements for the period 1 April to 7 June 2009, as set out in the Schedules attached at document no. 6, be adopted.
4. That a Constitution Advisory Group be established to advise the Council upon any amendments required to the Constitution.
5. That in the period 1 April to 7 June, the Monitoring Officer, in consultation with the Advisory Group, be authorised to amend the Constitution to reflect any urgent, statutory consequential or other necessary changes which may be required in the light of experience of operation, and which will not admit of delay to the Annual meeting of the Council in June 2009.
6. That the principle of establishment of a small number of positions (up to 5) of Assistant Portfolio holders, whose role is to support the Portfolio holder workloads but not to substitute in any Executive decision making capacity, be supported.

## Report of the Constitution and Governance Advisory Group

### 1. *Introduction*

- 1.1 The Corporate Resources Task Force, at its meeting held on 2 May 2008, agreed to appoint a working group to formulate the draft Constitution for Central Bedfordshire.
- 1.2 The working group comprises Cllr Steve Male (Chairman), Cllrs Maurice Jones (Corporate Resources Portfolio holder), Cllr David Jones and Cllr Paul Record. Cllr David Lawrence has acted as substitute for Cllr Record. Cllr Alan Shadbolt has also attended the majority of meetings.
- 1.3 The terms of reference of the working group are attached at document no 4. Whilst the terms of reference provide for the Working Group to report via the Corporate Resources Transitional Task Force in view of time constraints it was agreed that the Working Group's recommendations would be submitted direct to the Council.
- 1.4 The working group has met on 9 occasions and the agenda and notes of its meetings can be inspected on the Library section of the public committee system area of the Central Bedfordshire website at <http://committees.midbeds.gov.uk:9071/ecCatDisplay.asp?sch=doc&cat=12865&path=0>

### 2. *Methodology*

- 2.1 At its first meeting the working group considered the mechanism for development and approval of the constitution. The working group noted that whilst ordinarily in developing or reviewing the constitution the opportunity would be taken to seek the views of a range of Council bodies such as the Executive and Scrutiny Committee, the situation in Central Bedfordshire was unique and given the very short timescales available before vesting day and the vast amount of work to be undertaken, the Shadow Executive and Scrutiny Committee would be required to adopt a very strategic approach to their duties.
- 2.2 The working group recognised however that it was essential that all members of the Council should be given an opportunity to make an input into the formulation of the draft Constitution. It was therefore concluded that the working group should develop proposals in relation to the key principles to be considered in respect of the Constitution and that a consultation upon those principles should then be sent to all members of the Council. The working group would then revisit those principles at its next meeting in the light of the responses received from members to that consultation.



2.3 Accordingly consultation took place upon the following areas:-

*First Consultation – 6 August 2008*

- Format of Constitution
- Initial proposals for governance arrangements

*Second Consultation – 27 August 2008*

- Full Council meetings
- Executive meetings
- Rules for decision making

*Third Consultation – 6 October 2008*

- Overview and Scrutiny function
- Budget and Policy Framework Procedure Rules
- Responsibility for Functions
- Times of Council meetings

*Fourth Consultation – 4 November 2008*

- Development Control

*Fifth Consultation – 7 November 2008*

- Ethics and Standards
- Budget and Policy Framework

2.4 Copies of the consultation, the comments received from Councillors and the response of the Working Group are attached at document no 5.

2.5 The working group also agreed that for maximum transparency the agenda, reports and notes of its meetings should be published on the Central Bedfordshire website.

2.6 The working group established at its first meeting that it was minded to follow the proposals set out in the Joint Proposal for Unitary Local Government in Central Bedfordshire unless good evidence could be provided to justify why a departure from those proposals was in the best interests of the Authority.

The working group noted that the proposal provided for:-

- An indirectly elected leader (initial 2 year term to 2011 with a 4 year term thereafter).

- The adoption of the “strong leader” model with the leader having the power to appoint the executive and determine their portfolio responsibilities. Under such a model the leader also has the power to delegate functions.
- An executive comprising 8 members (leader, deputy leader and 6 executive members).
- Portfolios in the following areas:-
  - Sustainable Communities
  - Children, Young People and Families
  - Social Care, Health and Housing
  - Customers and Community Engagement
  - Corporate Resources
  - Safer and Stronger Communities
- Major decisions being taken by the executive collectively but delegation to individual executive members being part of the structure, to ensure efficient decision making.
- A strategic overview and scrutiny committee plus 5 committees aligned to the themed executive portfolios.
- Regulatory and other committees such as planning committee, licensing and regulation committee and audit committee.
- No formal structure of area committees at this time.
- Full Council enabling all members to participate in determining the budget and policy framework and also providing enhanced opportunities for public involvement and participation.
- Enhanced role for community input into decision-making via community networks and role of front line councillors etc.

### 3. *Structure and Format of the Constitution*

- 3.1 The working group considered the structure and format that should be adopted for the Central Bedfordshire Constitution. In so doing they noted that the Mid and South Bedfordshire Constitutions mirrored the structure and format of the former DETR Modular Constitution which all authorities are required to have regard to in preparing their own Constitutions.

3.2 It was noted that Bedfordshire County Council had recently completed a fundamental review of its Constitution. Part of that review had included a re-working of the format of the document to try to simplify it and make it more user friendly. Whereas in the Modular Constitution provisions relating to, for example, the Executive may be found in Parts 2, 3 and 4, the County Council Constitution grouped together common areas so that they were all located in one place.

3.3 The working group therefore concluded that they should build upon the significant work already undertaken by the County Council in developing its Constitution but should seek to simplify the document even further.

#### 4. *Review of Best Practice*

4.1 At the outset of its task, the working group received a review of the three constitutions of each of the constituent authorities to establish any areas of consistency or best practice.

4.2 A review of the constitutions of those authorities within Central Bedfordshire's Audit Commission Family Group was also received, again to try to identify any best practice principles in operation in those unitary authorities.

#### 5. *The Draft Constitution*

5.1 The Draft Constitution is now presented for Members' consideration (enclosed separately as document no 7). The document is split into 11 parts. Document no. 5 sets out the key principles considered by the working group and, which, with some adjustments, are embodied within the draft Constitution. However the key provisions are highlighted for the Council's attention below:

#### 5.2 PART A THE CONSTITUTION

##### Part A.4 Citizens and the Council

5.2.1 In line with the aims in the Joint Proposal for Unitary Government in Central Bedfordshire, the working group was firmly of the view that the Constitution should provide enhanced opportunities for public involvement and participation in meetings of the Council.

Section A.4 of the Constitution therefore provides the following opportunities for public engagement in meetings of the Council, Executive and committees:-

- Public questions and statements (both general and specific to agenda items)
- Deputations; and
- Petitions

5.2.2 A separate scheme is also proposed for public participation in meetings of the Development Management Committee.

5.2.3 Since the working group originally considered its proposals relating to receipt and consideration of petitions, the Local Democracy, Economic Development and Construction Bill has been introduced into Parliament. This Bill sets out specific requirements for local authorities in terms of receipt and handling of public petitions. The Petitions Procedure has been re-drafted to take account of, as far as is practicable at this time, the requirements of the Bill. The scheme therefore provides that petitions can be submitted and discussed by the Council, Executive or any committee and that the body considering the petition must consider the steps it will take to respond to the petition. Where the petition organiser is dissatisfied with the response, he or she has the right to ask that the matter be referred to the relevant overview and scrutiny committee in order that the adequacy of the response may be reviewed.

5.2.4 It should be noted that further guidance and a model petitions scheme is to be produced by the Government once the Bill is enacted and thus the Council's scheme will need to be reviewed in the light of that guidance and to reflect the requirement for provision of an e-petitions facility. This review will need to be conducted as a wider corporate review of the new duty to promote public involvement in local democracy.

Part A5 Review and Revision of the Constitution

5.2.4 The working group strongly advocate that a standing advisory group of the Council (the Constitution Advisory Group) should be established to review the constitution and to make recommendations thereon to the Council. The Monitoring Officer, after consultation with the Constitution Advisory Group, should be authorised to make urgent amendments, amendments to give effect to any decision of the Council or changes in the law and minor amendments such as to correct errors.

### 5.3 Full Council

#### 5.3 PART B THE COUNCIL

##### Part B2 The Budget and Policy Framework

5.3.1 Throughout the process of its review, the working group has been careful to ensure that the appropriate checks and balances are in place in the Council's decision making structures. It recognises that the Policy Framework is a key mechanism for ensuring that all Members of the Council can influence the strategic direction of the Council. It therefore asked to receive a full list of expected Central Bedfordshire high-level plans, policies and strategies, with an indication of their importance and impact. The working group's rationale therefore has been to select those plans, policies and strategies which are sufficiently high level and strategic in nature, most closely related to the council's identified aims and priorities and sufficient to provide sufficient checks and balances to the increased power of the Executive through the strong leader model. Those plans and strategies which form part of the Policy Framework will be developed via the overview and scrutiny process and will be subject to approval by the Full Council.

##### Part B5 Full Council Procedure Rules

5.3.2 In line with the Joint Proposal for Unitary Government in Central Bedfordshire and the provisions of the Local Government and Public Involvement in Health Act 2007, the draft constitution provides for an indirectly elected Executive Leader whose initial term of office will run until May 2011, thereafter reverting to a four year term. The working group considered that a provision should be included for the dismissal of the Executive Leader by the Council. Council Procedure Rule No. 2.4 therefore provides that dismissal of the Leader can be made on the basis of a motion signed by 10 Members of the Council which will then be debated by Full Council.

5.3.3 A key principle adopted by the working group was that there should be extended opportunities at Full Council meetings for engagement by all Members of the Council and to hold Executive members and other office holders to account.

5.3.4 The Council Procedure Rules therefore provide for:-

- Written questions to the Chairman, an Executive member, the chairman of any committee or representative on the Police or Fire Authorities with 7 clear working days notice.
- An oral question time of 30 minutes for questions to the Leader or an Executive member
- An oral question time of 15 minutes for questions to a committee chairman or a member representing the Council on the Police or Fire Authority.
- Provision for ward presentations of 10 minutes duration by members of the Council
- Provision for Strategic Policy Debates, called by the Leader after consultation with the Chairman, Portfolio holders, Chairmen of Overview and Scrutiny Committees and Group Leaders, of a duration not exceeding 45 minutes.
- Notices of motion with 7 clear working days notice; and
- A requirement for an annual report of the Leader outlining policy priorities for the coming year.

5.3.5 The working group has taken the view that the Full Council should be a forum for holding Executive members and other office holders to account and that therefore in the normal course of events, officers should not be called upon to speak at Council meetings, save for the Monitoring Officer to provide procedural advice to the Council or the Chief Finance Officer or Head of Paid Service in exercise of their statutory roles.

## 5.4 THE EXECUTIVE

### Part C1 Executive Arrangements

5.4.1 As indicated earlier, the working group has adhered to the proposals contained in the Joint Proposal for Unitary Government in Central Bedfordshire except where it has good evidence to divert from those proposals.

5.4.2 Part C of the Constitution therefore provides for the adoption of a strong leader model in advance of the requirements of the Local Government and Public Involvement in Housing Act 2007. The leader will be elected by the Council for an initial two year term to May 2011 and will thereafter be elected for a four year term.

5.4.3 In accordance with the provisions of the “strong leader model” the leader will be permitted to:-

- Determine the size and composition of the Executive (ie; appoint (and dismiss) the deputy leader and other members to serve upon the Executive)
- Determine the portfolio structure and to vary that structure at any time and allocate portfolios to individual members of the Executive
- Delegate executive functions to an individual Portfolio holder, committees of the Executive or officers

5.4.4 It should be noted that the working group has not considered any functions which might be delegated to individual members of the Executive as it is considered that this is a matter for the leader to determine.

## Part C2 Key Decisions and the Forward Plan

5.4.5 The working group has recognised that the determination of the thresholds for key decisions (ie: those significant decisions which must be included on the Executive’s forward plan and either decided collectively in a meeting of the Executive, or if delegated to a committee, Portfolio holder or officer, which must be formally recorded and subject to call-in) is another major mechanism for providing a check and balance on the power of the Executive.

5.4.6 The statutory definition of a Key Decision is an Executive decision which is likely:-

- (a) To result in the Council incurring expenditure which is or the making of savings which are significant, having regard to the Council’s budget for the service or the function to which the decision relates.
- (b) To be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Council.

5.4.7 With reference to the definition of “significant” in 5.4.6 (a) above, research has been conducted into the financial thresholds used by other unitary authorities within Central Bedfordshire’s Audit Commission family group which indicated an average threshold figure of £250,000.

5.4.8 The working group has concluded that the threshold for key decisions under 5.4.6 (a) above, should initially be set at £200,000 or 10% of the budget for the cost centre concerned, whichever is the smaller. The definition set out in Part C2 of the Constitution provides certain exclusions (for example in respect of any expenditure already identified in the budget or service plan for the service concerned, implementation of an approved capital project etc).

5.4.9 With regard to part (b) of the definition above, the working group takes the view that a decision can be significant for one ward (eg: closure of a village school) and is therefore proposing that key decisions include decisions significant in terms of their effect on communities living or working in an area comprising one or more wards in the area of the Council.

#### Part C4 Executive Procedure Rules

5.4.10 The working group strongly believe that all members of the Council should be able to speak at meetings of the Executive. Rule 8.2 of the Executive Procedure Rules therefore provides for any member to speak once on any item being considered by the Executive with further speaking being at the discretion of the leader

5.4.11 Consideration has also been given to the establishment of a small number of positions (up to 5) for assistant portfolio holders whose role would be to support the portfolio holder workloads but not to substitute in any Executive decision making capacity. The working group believes that this scheme which appears to be operating well at Bedfordshire County Council should be introduced in Central Bedfordshire and would increase the number of members with experience of Executive procedures and functions. Whilst, as an informal arrangement, provision for assistant portfolio holders is not specifically provided for in the Constitution (save in the Overview and Scrutiny Procedure Rules to exclude an assistant portfolio holder from sitting upon the corresponding overview and scrutiny committee for the portfolio which they are supporting), the Member Development Champions group has developed a role definition to provide a description of the proposed role and remit of assistant portfolio holders.



## 5.5 PART D OVERVIEW AND SCRUTINY

### Part D1 Overview and Scrutiny Arrangements and Terms of Reference

5.5.1 At its first meeting the working group noted that the Joint Proposal for Unitary Government in Central Bedfordshire provided for a strategic overview and scrutiny committee supported by the following themed overview and scrutiny committees: -

- Social Care, Health and Housing
- Children, Young People and Families
- Sustainable Development
- Safer and Stronger Communities
- Corporate Resources

5.5.2 The working group recognised that the organisational structure approved by the Shadow Executive no longer followed the themes set out above and following careful consideration concluded that, notwithstanding the provisions in the bid document, it was more logical for the overview and scrutiny structure to follow the organisational structure and that the following five overview and scrutiny committees should be established:-

- Social Care, Health and Housing
- Children, Families and Learning
- Sustainable Communities
- Business Transformation
- Corporate Resources

5.5.3 The scope for working in partnership with Bedford Borough Council to jointly exercise the Council's NHS scrutiny duty was considered. However the working group took the view that Central Bedfordshire should conduct its own integrated health and social care scrutiny aligned to the needs of Central Bedfordshire residents and the new authority's proposed organisational structure and inviting representatives of the new LINK arrangements for Central Bedfordshire to attend meetings as observers.

5.5.4 The proposal for a strategic parent overview and scrutiny committee was also considered. However this proposal was discounted on the basis that it could potentially “water down” the role of the themed committees. Instead the working group preferred to support the structure of 5 themed overview and scrutiny committees each with the power to consider call-ins relating to their terms of reference.

5.5.5 Recognising the need for co-ordination of the work of the overview and scrutiny committees however, the working group concluded that this role should be conducted informally by Overview and Scrutiny Management Panel consisting of the chairmen and vice-chairmen of the overview and scrutiny committees.

#### Part D2 Overview and Scrutiny Procedure Rules

5.5.6 The draft call-in provisions are set out in Rule No. 10 of the Overview and Scrutiny Procedure Rules. The working group again recognised that this provision is a key mechanism in holding the Executive to account and therefore felt that there should be as few barriers to call-in as possible.

5.5.7 The Working Group values the role of task forces in undertaking in depth investigations and Part D1 (Overview and Scrutiny Arrangements) therefore provides for overview and scrutiny committees to appoint task forces to conduct such investigations as required.

5.5.8 The scheme provides that any valid call-in should be automatically referred to the relevant overview and scrutiny committee with the Monitoring Officer’s powers to reject call-in as invalid being confined to call-ins that are frivolous, vexatious or clearly outside the call in scheme, if the decision is urgent, if a similar decision has been called in before or if the correct procedure has not been followed.

5.5.9 Decisions can be called in by either:-

- An individual member where a decision has particular significance for that member’s ward; or
- The chairman of the relevant overview and scrutiny committee; or
- Any two members of the relevant overview and scrutiny committee;
- Any three non-executive members of the Council.

5.5.10 The working group believes that meetings of overview and scrutiny committees should be scheduled on the same frequency as meetings of the Executive to enable call-ins to be dealt with expeditiously but that meetings can be cancelled where there is a lack of business.

## 5.9 PART E REGULATORY AND OTHER COMMITTEES

### Part E2 Committee Terms of Reference

5.9.1 The working group recommends the establishment of the following committees:-

- Development Management
- Licensing (and Licensing Sub Committee)
- Regulation
- Audit
- General Purposes (and Appointments Sub Committee)
- Appeals
- Standards (and Standards Sub Committees)

5.9.2 The following bodies are also proposed for the purposes of consultation with employees:-

- Employee Partnership Committee
- Joint Consultative and Negotiating Committee for Primary and Secondary Education

5.9.3 The terms of reference of these committees are set out in part E2 of the Constitution. The Terms of Reference of the Standards Committee are set out at part F1 of the Constitution, and the principles for which are outlined at paragraph 5.10 of this report.

5.9.4 Particular discussion and consultation took place around the proposals for development management in terms of numbers and functions of committees, number of meetings, location of meetings, membership etc. The working group was guided by the detailed consideration already given to this matter by the Sustainable Communities Transitional Task Force and the Chairman of the Task Force and Sustainable Development Portfolio holder were invited to attend the working group's meeting when this matter was discussed and to put forward their views. The TTF produced a series of proposals which the working group agreed to use as a basis of consultation with all members and can be viewed at document no. 5.

- 5.9.5 Additionally, in view of the considerable divergence of views which existed upon this matter, a workshop for all members of the Council was held on 13 November at which the Director of Sustainable Communities and his staff put forward various options for consideration and discussion by members.
- 5.9.6 The views of members expressed at the workshop and the responses to the consultation were taken into account by the group in reaching their view that on the basis of all the evidence presented, there should be one Development Management Committee for Central Bedfordshire. Whilst the majority of members of the working group initially supported a proposal for the committee to meet at one venue on a three weekly basis, one member of the group maintained the view that meetings should rotate between Chicksands and Dunstable. In the light of further evidence of dissatisfaction amongst many Members at the proposal for meetings to be held at a single venue and in line with the commitment in the Unitary Bid document to be closer to our communities, the working group have concluded that meetings should rotate between Dunstable and Chicksands and that to ensure adherence to necessary targets for processing applications, meetings should be scheduled twice-monthly. Business, should as far as practicable, be scheduled according to the venue at which the meeting is to be held. There should also be provision for the Chairman of the Committee and the Monitoring Officer to vary the venue according to particular circumstances. Whilst not within their remit, the working group also supported the concept of web casting meetings and have requested officers actively to investigate this.
- 5.9.7 It will be noted that the structure provides for separate Licensing and Regulation Committees. Following the transfer to local authorities of liquor licensing, there has been some ambiguity as to whether a Licensing Act 2003 committee can also exercise other regulatory functions. However legal advice and guidance from the Department of Media Culture and Sport has indicated that separate committees should be established to discharge the liquor licensing and Gambling Act 2005 functions (Licensing Committee) and the regulatory functions such as hackney carriage and private hire licensing and other business related licensing. Authorities are advised to get round the inconvenience and inefficiency this causes by making the membership of both committees the same and convening meetings of the committees concurrently. The working group has therefore adopted this position.

## 5.10 PART F ETHICAL GOVERNANCE

### Part F.1 The Standards Committee

5.10.1 Following consultation with the existing members of the Central Bedfordshire Shadow Standards Committee, the working group is recommending that a Standards Committee of 15 be appointed comprising 5 elected members, 5 independent persons and 5 parish members. This size and composition will give sufficient flexibility to form the pool from which to appoint the Standards Sub Committees required to fulfil the Council's new duty to assess, review and hear complaints that a member or co-opted member of Central Bedfordshire Council or a Town and Parish Council has failed or may have failed, to comply with the Code of Conduct.

5.10.2 The Chairman of the Standards Committee must be one of the independent members. The working group has considered the role of that Chairman at Council meetings and has concluded that, as a co-opted member, the Chairman of the Standards Committee should not have a constitutional right to present reports or respond to questions at meetings of the Full Council, although the Council Chairman may on occasion wish to seek a suspension of Council Procedure Rules for this purpose. Instead a Deputy Chairman, to be an elected member of Central Bedfordshire, should present reports and recommendations of the Standards Committee at meetings of the Council. The working group recognises that there is also an argument for allowing the Chairman to present reports at Council but feels that, at this time, this option should not be pursued although this should perhaps be reviewed in the light of experience.

### Parts F2 Codes of Conduct and Protocols – F6

5.10.3 The working group received a number of codes and protocols which it was recommended should be considered for inclusion in the Constitution. Members concluded that only the key codes and protocols (eg: Code of Conduct for Members and Protocol for Member Officer Relations) should be included in the main Constitution and that the remaining documents should be included in a separate "Ethical Handbook" which is also now submitted for Member approval at document no. 8

5.10.4 Particular attention is drawn to the Protocol for Member/Officer Relations (Part F4) which, at paragraphs 6.2 – 6.9 sets out the standards of service which members are entitled to expect in receiving responses to their enquiries. Specifically every effort is to be made to provide a substantive response to a Member's enquiry within 2 working days. If a substantive response cannot be provided, officers will be expected to acknowledge receipt of the enquiry and if it is not possible to provide a substantive response within 5 working days, officers must explain:-

- the reason for the delay;
- what action is being taken to pursue the enquiry; and
- the timescale within which a substantive response will be sent, which must be within 15 days unless agreed otherwise by the member and officer.

## 5.11 PART G DECISION MAKING AND ACCESS TO INFORMATION

### Part G1 Decision Making

5.11.1 Members' attention is particularly drawn to paragraph 2 of Part G1 – Decision Making. Responding to comments from members as part of the consultation, the working group have emphasised that there is a presumption in favour of openness and an expectation that committee reports will be drafted so that wherever practicable, any exempt information will be extracted and placed in an appendix so that the remainder of the report can be considered in public. A provision has also been included in the principles of decision making to require all decisions to be evidence-based.

### Part G2 Access to Information Procedure Rules

5.11.2 The law requires that the forward plan of key decisions should be prepared to cover a period of 4 months. It is proposed in Rule 14.1 of the Access to Information Procedure Rules that in Central Bedfordshire, the forward plan should cover a period of 12 months. This proposal will assist the Executive in forward planning and will also assist the overview and scrutiny committees in preparing their work programmes.

## 5.12 PART H OFFICERS OF THE COUNCIL

### Part H3 Scheme of Delegation to Officers

5.12.1 The working group together with members of the Management Team gave particular consideration to the general conditions and limitations around the Scheme of Delegation, recognising the need to balance efficiency of decision making against accountability for decision making and the requirement to ensure that relevant Members (eg: ward members, portfolio holders, group leaders and committee chairmen) are consulted or informed as appropriate. The working group was particularly concerned to ensure that the Scheme of Delegation specifies the circumstances in which officers exercising delegated powers would be expected to consult with or inform relevant Members (for example to consult with the relevant ward members where a decision is required in relation to a matter which has a clear impact on or significantly affects a ward). The general conditions and limitations of the Scheme of Delegation are set out at paragraph 2 of that scheme.

5.12.2 It is recognised that the scheme is detailed in some areas (particularly in respect of the regulatory functions delegated to officers) and will almost inevitably require review in the light of experience.

## 5.13 PART I FINANCE, CONTRACTS AND LEGAL MATTERS

### Parts 12 Codes of Financial and Procurement Governance and 13

5.13.1 Having initially received very detailed and operational Financial and Procurement Procedure Rules, the working group concluded that only strategic documents should be included in the Constitution. These documents would be supported by more detailed and operational procedure rules which would be available on the intranet, but would not form part of the Constitution.

5.13.2 The working group therefore proposes that the Codes of Financial and Procurement Governance, which are high-level, strategic documents should be included in the Constitution.

5.13.3 With reference to the Code of Financial Governance, particular consideration was given to the virement levels to be approved. These levels are set out in paragraph 4.6 of the Code. The working group has noted the concerns of the Director of Corporate Resources that given the complex task which has been undertaken in constructing budgets for Central Bedfordshire, the virement provisions, given that they are cumulative sums, may be unworkably restrictive. The working group holds the view that firm controls should be in place to manage virements but is mindful of the concerns of the Director and therefore propose, as set out in paragraph 6.3 of the Code, that during the period 1 April – 7 June 2009, the revenue budget allocations can be transferred outside the scheme of virement with the agreement of the Director (Chief Finance Officer) and the relevant Portfolio holder.

## 5.14 PART J PARTNERSHIP ARRANGEMENTS

### Part J2 Joint Arrangements

5.14.1 Details of the joint arrangements to be established for Central Bedfordshire are set out in Part J2 as follows:-

- Luton and South Bedfordshire Joint Planning and Transportation Committee
- Wixams Joint Development Control Committee
- Houghton Regis Town Centre Management Committee
- Dunstable Town Centre Management Committee
- Leighton-Linslade Town Centre Management Committee
- Joint Waste Disposal Project Board (joint officer arrangement established under Section 101 (5) of the Local Government Act 1972 and approved by Shadow Executive on 30 September 2008.)



5.14.2 In recommending the list above, the working group was aware that different arrangements are in place for town centre management in South and Mid Bedfordshire. In Mid Bedfordshire, town centre partnerships are treated as “outside bodies”, whilst in South Bedfordshire, formal joint committees between the District and Town Councils are constituted albeit that they are essentially advisory bodies. The working group considered a recommendation that for a number of reasons, including the Audit Commission’s requirement for separate accounting, audit and risk procedures for joint committees, the three South Bedfordshire Management Committees should, with effect from 1 April 2009 be treated as outside bodies. The views of local ward members and the relevant Town Councils were sought on this proposal and in the light of their responses and in the absence of any clear direction at this time on proposals for Community Area Networks, the working group felt it had no option but to continue the present arrangements and to retain the South Bedfordshire Town Centre Management Committees as formal joint committees. The working group does however wish to address the clear anomaly which exists in the way in which town centre partnerships operate between South and Mid Bedfordshire and have requested the Director of Business Transformation, in conjunction with the Director of Sustainable Communities, to conduct a review of the arrangements for market town management and town centre partnerships in Central Bedfordshire as a whole in the wider context of the proposals for Community Area Networks.

Part J3 Partnerships Protocol

5.14.3 Members will be aware that the Citizens’ Services Partnership (CSP) Joint Authority Scrutiny reported its conclusions and recommendations to the three constituent authorities (South Bedfordshire and Mid Bedfordshire District Councils and Bedfordshire County Council). The scrutiny report highlighted a number of governance, project management and organisational issues concerning partnership working. The recommendations were referred to the working group for consideration.

5.14.4 The working group has proposed the approval of a Partnerships Protocol which not only embodies the recommendations of the joint scrutiny but also provides general principles for the governance of present and future partnerships. By being a part of the Constitution for Central Bedfordshire, the protocol will also be visible and accessible to officers, members, partner organisations and the public.

5.14.5 The first recommendation made by the CSP joint scrutiny required that arrangements for all existing partnerships be reviewed. The working group therefore suggests that within 12 months of the inception of Central Bedfordshire, all partnership arrangements are reviewed in the light of the Partnerships Protocol and that a report be prepared for the relevant overview and scrutiny committee on the outcomes of the review.

#### 5.15 PART K MEMBERS' ALLOWANCES

5.15.1 The Scheme of Members' Allowances will be included in Part K of the Constitution following approval of the Scheme by the Council.

#### 6. *Time and Location of Meetings*

6.1 The working group as part of its third consultation with all Members put forward a proposal with regard to timing of meetings. It proposed that all formal meetings of the Council should be held during the day, except full Council meetings which should be held in the evening, subject to the committee chairman having discretion to change the time of a meeting to suit the issues involved on the agenda.

6.2 Responses were received from some Members who were concerned at the proposal to hold day time meetings which it was felt would be a bar to attendance by councillors and members of the public in employment. The working group discussed the effect of meeting times on the public and elected members, including consideration of the performance of members and officers at evening meetings and that some members of the public were equally disenfranchised by evening meetings as other members of the public might be by day time meetings. One member of the working group registered his strong opposition to the principle of day time meetings but the majority of the working group confirmed that, on balance, day time meetings appeared to be the most effective and efficient method of conducting business in a unitary authority of the nature of Central Bedfordshire.

6.3 Other than in the case of the Development Management Committee (see paragraph 5.9.4 – 5.9.6 above) the working group did not specifically address the question of location of meetings. The Constitution as drafted broadly provides for meetings to be held at the venues agreed<sup>[aa1]</sup> in the Annual Calendar of Meetings unless the chairman or committee agrees otherwise.

## 7. *External “Health Check” of the draft Constitution*

7.1 Claer Lloyd-Jones of Rockpools solicitors was requested to undertake a “health check” of the Constitution. Whilst Ms Lloyd-Jones suggested some minor amendments (which have now been incorporated), she was pleased to be able to give the working group her assurance that the draft Constitution complied with statutory requirements and was “fit for purpose” for a unitary authority of the size and nature of Central Bedfordshire.

## 8. *Interim Governance Arrangements – April – June 2009*

8.1 The working group has also considered the interim governance arrangements to apply from 1 April to the June elections.

- 8.2 The Shadow Constitution adopted by the Shadow Council at its inaugural meeting in April 2008 was designed to provide governance arrangements initially until 31 March 2009, thereafter to be reviewed in the light of whatever arrangements were required to cover the “second transitional” period from 1 April until the full constitutional arrangements are put in place for the new Authority after the elections.
- 8.3 With elections to the new authority now to be held on 4 June 2009, the period concerned is essentially the two months of April and May.
- 8.4 The Bedfordshire (Structural Changes) Order 2008 made on 27 March 2008 established the basis for the operation of the shadow authority in preparation for unitary status, including the appointment of its 124 councillors until the fourth day after the 2009 election (defined in the Order as the “shadow period”); the creation of a leader and cabinet executive; the appointment of the leader and deputy leader of the shadow authority and a specific provision that the shadow authority’s functions under the order would be delegated to and discharged by the Shadow Executive unless otherwise required by law.
- 8.5 Implicit in the Order was that the shadow arrangements, and in particular the shadow executive arrangements, would broadly continue until the new 66-member authority took office four days after the election. DCLG has confirmed that this is indeed its policy intention and that an amendment order will be made imminently to confirm the continuation of the shadow period and the shadow executive arrangements in their current form until after the elections.
- 8.6 The schedules attached at document no. 6 sets out the working group’s proposals for operation of the governance arrangements in the two month interim period, recognising that in view of the continuation of the shadow executive in its present form, it is not possible to simply implement the full Constitution from 1 April 2009. Essentially therefore, what is proposed is a hybrid arrangement applying parts of the full Constitution or Shadow Constitution as appropriate, as detailed in the schedules.

8.7 Any Member who wishes to confirm which part (Full or Shadow) applies in a particular circumstance should begin with the relevant section in the Full Constitution (listed from Part A to Part K) and cross-refer to Schedule 1, where each of those Parts from A to K is listed under a heading to the left of the page. Reading across in that same row, the **right hand column** shows which wording should apply between April and June 2009 – whether the Full Constitution or the Shadow Constitution. In some cases the right hand column shows that the Shadow Constitution should apply with amendments or additions, and the detail in those cases can be seen in the cross-referenced notes in Schedule 2.

8.8 In summary Schedule 1 provides for:-

8.8.1 Shadow Council

The Council's most important task constitutionally is to approve the Budget and Policy Framework which the Executive is then charged with implementing. The overall framework for 2009/10 is before the Council for approval at this meeting.

The Structural Changes No. 2 Order, made on 5 November 2008, provides that the statutory plans forming part of the Budget and Policy Framework need not be in place until March 2010 (March 2011 in the case of the Sustainable Communities Plan). Decisions on policies, strategies and budget issues will therefore be for the new Council to take later in the year. The shadow constitutional provisions relating to the Budget and Policy Framework will therefore suffice in the interim period.

The Constitution will need to recognise the Chairman of the Council's ceremonial as well as constitutional role from 1 April 2009.

Whilst no provision has been made for the Council to meet in April/May, the working group recommends that the full public participation procedures set out in part A4 of the full Constitution should apply from 1 April, in the event that it is necessary to convene a meeting.

### 8.8.2 Shadow Executive

The composition of the Shadow Executive will continue in accordance with current arrangements. However, the Executive will be exercising full local authority powers from 1 April 2009.

Schedule 1 proposes that the new definition of a key decision should be applied from 1 April and that the full provisions in relation to public participation and the ability for any member of the Council to speak once on an agenda item should likewise apply from 1 April.

### 8.8.3 Overview and Scrutiny Committee

The working group was persuaded that to constitute the 5 overview and scrutiny committees before the new 66-member council has been elected would be unproductive as there would be little continuity into the new authority and the new committees established at the first annual meeting would wish to design their own work programmes and operating styles.

The schedule therefore proposes that the current terms of reference of the Shadow Scrutiny Committee be amended to include scrutiny of any executive or non-executive function and other statutory powers of overview and scrutiny committees. Co-opted members (up to three parent governors and two diocesan representatives) will need to be appointed in case education matters are to be scrutinised.

Additionally it is felt that in addition to the general Scrutiny Committee, it will be necessary to establish the Social Care, Health and Housing Overview and Scrutiny Committee for the specific purpose of reviewing and scrutinising health services, in particular NHS provision in Central Bedfordshire as it is anticipated that NHS scrutiny matters will remain on-going during the transitional period.

The schedule provides for the full public participation arrangements to apply from 1 April. It additionally provides for the wider call-in scheme set out in the full Constitution to apply during the transitional period, to ensure that there is full provision for scrutiny of the Executive's decisions during this period.

#### 8.8.4 Other Committees

Schedule 1 provides for a number of committees (including the Development Management, Audit, Licensing and Regulation Committees) to be constituted and fully operational from 1 April.

The schedule further proposes that the new Committee Procedure Rules (including provision for substitutes) as set out in the full Constitution should apply from 1 April.

#### 8.8.5 Other Arrangements

The following parts of the full Constitution are proposed in the schedule for application from 1 April:-

- Part F – Ethical Governance
- Parts H2 – H3 (including new Scheme of Delegation to Officers)
- Part I – Finance, Contracts and Legal Matters (including new Codes of Financial and Procurement Governance)
- Part J – Joint Arrangements
- Part K – Members' Allowances





## Constitution and Governance Member Working Group

### Terms of Reference

1. To formulate the draft Constitution and democratic structures for Central Bedfordshire Council for recommendation to the Corporate Resources TTF and full Council, having regard to:-
  - (i) Statutory requirements and restrictions (including the new provisions within the Local Government and Public Involvement in Health Act 2007);
  - (ii) The proposed governance framework and principles set out in the proposal bid for unitary local government in Central Bedfordshire;
  - (iii) Performance, effectiveness and any particular strengths of the existing Constitutions of the constituent authorities;
  - (iv) Innovations or best practice which can be identified from the Constitutions of any of the authorities falling within the Council's Audit Family group;
  - (v) The following key principles:-
    - (i) Structures and Constitution that are simple to understand and operate;
    - (ii) Processes which are open and transparent – clarity as to who is responsible for decisions;
    - (iii) Decisions are taken quickly and responsively with maximum use of delegation opportunities, processes are streamlined, bureaucracy is minimised and unnecessary duplication removed to enable business to be dealt with more efficiently, balanced by the need to preserve the role of elected councillors to:-
      - determine matters of policy and strategy;
      - make decisions in respect of matters which may be publicly or politically contentious; and
      - be consulted in advance in respect of key decisions having a significant or permanent impact on their ward.
    - (iv) Decision making structures focus on the Council's priorities;

- (v) Effective Overview and Scrutiny driving service improvement;
  - (vi) Opportunities are available for involvement by all members;
  - (vii) Opportunities are available for public involvement and community and partner engagement.
2. To consider the mechanism and timetable for the approval of the draft Constitution, including any consultation with Members of the Shadow Council.
  3. To consider governance arrangements during the period 1 April 2009 to the local elections in 2009.
  4. To provide periodic updates to the Corporate Services TTF in respect of progress in respect of its task.

# Creating Central Bedfordshire

## CONSTITUTION AND GOVERNANCE MEMBER WORKING GROUP

### CONSULTATION ON PRINCIPLES FOR THE CENTRAL BEDFORDSHIRE COUNCIL CONSTITUTION

#### CONTENTS

Section		Page
1.	<u>First Consultation</u> – 6 August 2008 <ul style="list-style-type: none"> <li>• Format of the constitution</li> <li>• Initial proposals for governance arrangements</li> </ul> Shadow Authority Member comments on first consultation and Working Group responses.	<u>2</u>      5
2.	<u>Second Consultation</u> – 27 August 2008 <ul style="list-style-type: none"> <li>• Full Council meetings</li> <li>• Executive meetings</li> <li>• Rules for decision making</li> </ul> Shadow Authority Member comments on second consultation and Working Group responses.	<u>9</u>      13
3.	<u>Third Consultation</u> – 6 October 2008 <ul style="list-style-type: none"> <li>• Overview and Scrutiny function</li> <li>• Budget and Policy Framework Procedure Rules</li> <li>• Responsibility for Functions</li> <li>• Times of Council meetings</li> </ul> Shadow Authority Member comments on third consultation and Working Group responses.	<u>15</u>      20
4.	<u>Fourth Consultation</u> – 4 November 2008 <ul style="list-style-type: none"> <li>• Development Control</li> </ul> Shadow Authority Member comments on fourth consultation	<u>28</u>    36
5.	<u>Fifth Consultation</u> – 7 November 2008 <ul style="list-style-type: none"> <li>• Ethics and Standards</li> <li>• Budget and Policy Framework</li> </ul> Shadow Authority Member comments on fifth consultation	<u>40</u>    42

## 1. FIRST CONSULTATION – 6 AUGUST 2008

### 1. Introduction

This document is a summary of the current thinking of the Constitution and Governance Member Working Group. It is intended that these decisions and principles be maintained and circulated to Members to ensure they are kept apprised of the development of the new Central Beds Constitution for the new Council effective after 1 April 2009. This will allow for Members to monitor the development of the new Constitution and input their thinking as appropriate.

### 2. Format of the constitution

Bedfordshire County Council recently undertook a fundamental review of its constitution, with a view to making the document more 'user-friendly' and accessible to Members and the public. The new revised County Council constitution provides for all the information on a particular decision making body to be found in one chapter, rather than having to look through several chapters. The recommendations being drawn up will use this format and look for opportunities to further improve the document's usability.

### 3. Following the principles outlined in the Joint Proposal

The principles for governance and strategic leadership set out in the Joint Proposal for Central Bedfordshire will broadly be followed. However, where alternatives to those in the Joint Proposal are recommended, evidence will be provided in support of these departures.

### 4. Governance

The Working Group broadly supports the development of the Constitution on the basis of the following principles, subject to further consideration at future meetings:-

- 4.1 Indirectly elected Leader model (initial 2 year term to 2011 with a four year term thereafter).
- 4.2 Adoption of strong leader model with power to appoint cabinet, determine portfolios and delegate functions subject to the provision for suitable powers for removal of the Leader.
- 4.3 A cabinet comprising as many members as the leader sees fit up to the statutory maximum of 10 (including the Leader and Deputy Leader).

- 4.4 Specific portfolio responsibilities determined by the Leader, in line with the strong Leader model, having due regard to the working groups views that executive member portfolios would reflect the organisation structure, along with some cross-cutting portfolios where appropriate.
- 4.5 Major decisions should be taken by the cabinet collectively but delegation to individual cabinet members may be part of the structure where appropriate to assist efficient decision making.
- 4.6 The constitution should provide adequate checks and balances to the extended powers of the Leader.
- 4.7 Overview and Scrutiny committee structure should be aligned to the Authority's organisational structure.
- 4.8 Inclusion of a suitable structure of regulatory and other committees.
- 4.9 No formal structure of area committees initially in Central Bedfordshire.
- 4.10 Extended opportunities for Full Council to monitor the Executive and Strong Leader and fulfil its remit as the primary body of the Council
- 4.11 Enhanced opportunities for public involvement and participation.
- 4.12 Enhanced role for community input into decision-making.

## 5. Further proposals

Provision for: -

- 5.1 A reporting process that makes absolutely clear that where decisions were taken by elected members which were, for example, against the professional advice of officers, reasons are given.
- 5.2 A mechanism that secures regular debate on matters of local concern, for example an annual report of the Leader followed by debate.
- 5.3 Members' questions at Council without notice.
- 5.4 Ward presentations at Council.
- 5.5 Member discussion of Notices of Motion received at Council.

- 5.6 Members' questions that allow questions to be addressed to cabinet members on any relevant matter.
- 5.7 Debate at Council on petitions received, before being passed to Executive or other relevant committees.
- 5.8 A public questions process that provides as few barriers to participation as is reasonable.

**SHADOW AUTHORITY MEMBERS' COMMENTS ON FIRST CONSULTATION AND WORKING GROUP RESPONSES**

Councillor	Issue	Comments from Councillor	Response from Working Group
1. Fiona Chapman (MBDC)	Confidential papers	I have no quarrel with the outline proposed at present. Would it be wise to put in something now about "confidential" matters, and that these should be kept to the minimum?	The working group discussed minimising the need for confidential reports, and agreed to include an additional principle of decision making that makes specific reference to the expectation that reports must be drafted so that only the confidential aspects of them would be held as confidential, allowing the rest of the report to be considered in open session. The working group believe that this additional principle, alongside the public interest test (that the public interest in maintaining the exemption outweighs the public interest in disclosing the information), should help to ensure that decisions are taken in open session wherever possible.

Councillor	Issue	Comments from Councillor	Response from Working Group
2. Adam Fahn (SBDC)	Executive structure	<p>I like openness and most of this helps.</p> <p>My big idea is to have the full set of 8 portfolio holders but I think we need to ensure more involvement from “back benchers” who were elected on exactly the same terms as their “executive colleagues”.</p> <p>I would suggest we need to have 8 deputy portfolio holders or assistants and I would even like to see those 2 each have 2 selected councillors as sounding boards. So now a small team of 4 attached to each portfolio. This gives 32+2, i.e. 34 people more active involvement. Add to that say 8 on planning and 8 on licensing you have 50 people with some role, assuming no overlap, which could be a condition.</p> <p>This way you have more people feeling empowered themselves and then able to empower the residents. Also those still not “connected” would at least have a large number of people to go to, to get the point across or get information.</p>	<p>Whilst the working group did not agree in full with your suggestions regarding more full Executive involvement and engagement, it did see merit in introducing Executive Member Assistants, whose role it would be to support Executive Portfolio workloads, to provide for member development and succession planning, increased engagement and develop a larger pool of skilled members, subject to the need for clear direction that these roles will not involve substituting for Executive members in their decision-making capacity. Such a scheme has recently been introduced at the County Council, and is working well.</p> <p>As the working group is consulting on all major principles for the Central Bedfordshire constitution, this has formed part of the second member consultation.</p>



Councillor	Issue	Comments from Councillor	Response from Working Group
3. Ken Matthews (MBDC)	Debate on petitions	I'm broadly content with the principles although I do have reservations about petitions being debated at Full Council before being passed to relevant Committee. Grateful if you will pass this to the Sub-Group.	Noting your concerns (echoed by Councillor Turner) about petitions being debated at full Council before passed to the relevant committee, the working group feel that this is an important method for ensuring that petitions attain higher visibility. However, in order to ensure that any debate at council is better informed, the working group is recommending that a notice period of seven working days is to be required for submission of a petition. The debate at Council would not, at any rate, constitute the Council's substantive response to the petition, which would be provided by the Executive or relevant committee.
4. Julian Murray (SBDC)	Call-In	Already we are notified of the Shadow Executive's decisions, with the opportunity given for a call-in within a time limit.  What opportunity is to be given to call in a portfolio-holder's decision?	Regarding your question about call-in of individual portfolio holder's decisions, the working group can confirm that all Executive decisions, including those taken under delegated powers by individual portfolio holders, will be subject to the Access to Information rules and will be subject to call-in in the same way as Executive decisions.

Councillor	Issue	Comments from Councillor	Response from Working Group
5. Tricia Turner (MBDC)	Debate on petitions	<p>A petition arriving 'cold' to a Council meeting by the nature of its arrival is likely to produce an uninformed debate and could be in danger of achieving a one-sided argument. The interested public present may leave with an impression of a certain way forward, and be surprised if following a more informed discussion at Exec. a different outcome ensues.</p> <p>I suppose the plus could be the fact that certain specific information is flagged up as a requirement for the Exec. to have a properly informed debate.</p>	<p>Noting your concerns (echoed by Councillor Matthews) about petitions being debated at full Council before passed to the relevant committee, the working group feel that this is an important method for ensuring that petitions attain higher visibility. However, in order to ensure that any debate at council is better informed, the working group is recommending that a notice period of seven working days is to be required for submission of a petition. The debate at Council would not, at any rate, constitute the Council's substantive response to the petition, which would be provided by the Executive or relevant committee.</p>
6. Robin Younger (BCC)	Drafting the constitution	<p>Very recently, a small working group at County under the Chairmanship of Councillor Male, and including myself, went through the old County Council Constitution with our Monitoring and legal officers. We came up with a new and now published constitution.</p> <p>I would suggest it could be readily and speedily be adapted into a new Central Bedfordshire Constitution. Why re-invent the wheel.</p>	<p>Thanks for your response. You will be pleased to know that the working group (chaired by Cllr Male) are using the revised format of the BCC constitution and the good work undertaken in its preparation as the starting point for the Central Bedfordshire constitution. The working group are very much of the same view as you that there is no need to re-invent the wheel.</p>

## 2. SECOND CONSULTATION – 27 AUGUST 2008

### 1. Introduction

This is the second part of the ongoing consultation with all shadow authority members on the development of the new constitution for the Central Bedfordshire authority.

The working group is now considering the more detailed operation the constitution. Most recently, it has considered Full Council and Executive meetings and rules for decision making. The working group has agreed a number of principles in relation to this, which are outlined below, and invite members' comments and suggestions.

### 2. Full Council

#### (a) Review and revision of the constitution

That officers' ability to make revisions to the constitution be limited to urgent amendments, and that these changes are subject to consultation with the Chairman of the Council and the appropriate member group and subsequently reported for information to that member working group. Minor amendments that do not change the sense of the constitution, or are to correct textual errors, should be collected together for approval at a scheduled meeting of the appropriate member body.

#### (b) Dismissal of the Executive Leader

The working group, observing that recent legislation has increased further the powers of the Executive Leader, wished there to be a clearly outlined process for dismissal of the leader, which has been drafted as follows: -

"Dismissal of the Leader can only be made on the basis of a motion signed by 10 Members of the Council and included on the agenda for a Council meeting in accordance with the normal rules for notices of motion. The motion shall indicate the reasons for the proposed dismissal except in cases where the political control of the Council has changed. If approved, the dismissal will take immediate effect."

#### (c) Member engagement at Full Council

- Written questions to the Chairman, an Executive member, the Chairman of any committee or sub-committee, or representative of the police or fire authority, with 7 clear working days notice.
- An Executive question time of 30 minutes, with questions on any issue asked without notice of the Leader or any Executive member.

- An oral question time of 15 minutes, with questions asked without notice of the Chairman of any council committee with regulatory or quasi-judicial powers;
- Provision for Ward Presentations of 10 minutes duration by members of the council.
- Provision for Strategic Policy Debates, called by the Leader after consultation with the Chairman, Portfolio Holders, Chairman of the overview and scrutiny committees and the Group Leaders, of duration not exceeding 45 minutes.
- Notices of motion with 7 days notice.
- The requirement of an annual report of the Leader, presented to and debated at full Council.

(d) Petitions

- 15 minutes debate on petitions at full Council before referral to the Executive or appropriate committee.
- 7 days advance notice of the submission of petitions.
- Requirement that the council responds to all petitions.
- Council to receive an annual report at its autumn meeting upon the action taken in respect of petitions.
- The overview and scrutiny function to have a clear role in relation to determining the adequacy of responses to petitions.
- That petitions may also be submitted directly to the Executive or Committee.

(e) Receiving reports at Council

- Recommendations requiring decision should be submitted to the Council in the form of the minutes containing the recommendation requiring approval and a suitable preamble, subject to the requirement that easy access is provided to all reports submitted to the body making the recommendation.
- Committee minutes should not be submitted to full Council meetings for information subject to the requirement that easy access is provided to all committee minutes.
- Reports on the Police and Fire Authorities should be submitted to the full Council in a manner which makes their receipt concise and useful to the Council.

(f) Public participation

In line with the principle that the public should experience as few barriers to participation at meetings as possible, to have a minimal notice period for questions and statements of 15 minutes before the start of the meeting.

3. Executive

- (a) With regard to the extent of any delegation to Executive portfolio holders, Key Decisions should only be taken by the full Executive, with other Executive decisions able to be taken by individual Executive members, subject to compliance with Access to Information Rules.
- (b) Any member of the Council should have the right to speak once on any item being considered by the Executive, with further speaking being at the discretion of the Leader.
- (c) A full scheme of public participation be included in line with the arrangements for public participation at full Council meetings.
- (d) A small number of positions (up to 5) for 'Executive Member Assistants' whose role would it be to support Executive Portfolio workloads, but not to substitute in any Executive decision-making capacity. The working group believes that this scheme, which appears to be operating well at Bedfordshire County Council, should be a part of Central Bedfordshire also, and would create succession and progression development and increase the pool of skilled members.

4. Accountable Decision Making

The proposed definition of a Key Decision be: -

A Key Decision means an executive decision which is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are significant (namely more than £200,000 per annum, or 10% of the budget for the cost centre concerned per annum, whichever is the less) having regard to the Council's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the area of the Council.

The financial threshold defined in above excludes:-

- (a) The day to day activity of the Council's treasury management functions, which are covered by the Treasury Management Strategy Statement approved separately by the Council;
- (b) Decisions to invite tenders, sign contracts or acquire or dispose of land or any interest in land, where the purpose of the decision is to:-
  - (i) fulfill the policy intention of a key decision;
  - (ii) implement an explicit policy within the approved Budget and Policy Framework;
  - (iii) implement a capital project named in the approved Capital Programme;
  - (iv) provide for the continuation of an established policy or service standard

subject in any case to the agreement of the Monitoring Officer and Chief Finance Officer as appropriate.

- (c) expenditure which is identifiable in either the approved Capital Programme or Revenue Budget.

For the purposes of the above, a decision will be regarded as "significant" if the outcome of the decision will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Authority to a significant number of people living or working in the wards affected.

**SHADOW AUTHORITY MEMBERS' COMMENTS ON SECOND CONSULTATION AND WORKING GROUP RESPONSES**

	Councillor	Issue	Comments from Councillor	Response from Working Group
1.	Fiona Chapman (MBDC)	Removal of the Leader	<p>On a quick glance at the next tranche, "getting rid of the Leader" - isn't 10 members far too little a number? Could one not have a variable number, say, 4 more than the total membership of the main opposition party? This would mean that the main opposition party couldn't just instigate a leadership challenge to hold up business but would have to persuade members of another party to join them in challenging the leader.</p>	<p>The working group do acknowledge that there was a risk that this rule could be abused by persistent or vexatious motions, but noted that the current method at some of the existing authorities involved a smaller threshold of members to initiate action, and this had not resulted in abuse of the rule. In addition the working group commented that the suggested number of members required for a motion to remove of the leader contributed to the overall checks and balances required under the strong leader model.</p>
2.		Declarations of interest available on website	<p>I don't know when you will be getting to declarations of interest but I have had comment from members of the public that the interests of South Beds members (unlike those of Mid Beds and County members) are not available on the website. As this is public information, I believe it should be available.</p>	<p>The working group received confirmation from officers that the register of the new Central Bedfordshire Council Member's interests would be available on the Central Bedfordshire website.</p>

Councillor	Issue	Comments from Councillor	Response from Working Group
3. Ken Matthews (MBDC)	Debate on petitions	<p>Having considered the reply I am still of the opinion that debate at Full Council is both unnecessary and wasteful of time and resource (unless, of course, the matter in question is capable of being determined by Full Council). The reason I say this is because there is a high potential for the same arguments/points to be made in two forums, one of which will have no "teeth" to implement/take action. In my view it also provides an opportunity for "grandstanding" which adds absolutely nothing to smooth and businesslike transmission of council business. I can't see the added value of going over the same ground twice!!</p> <p>Additionally, surely the time for the debate to be "better informed" is when it comes to the Executive or other committee for determination?</p>	<p>The working group maintained their position, underlining that it allowed the public to see that issues raised via petitions were taken seriously. However, the working group agreed that the public participation scheme should be reviewed at a suitable time by the Constitution Advisory Group, to ensure that it is operating adequately.</p>



### 3. THIRD CONSULTATION – 6 OCTOBER 2008

#### 1. Introduction

This is the third part of the ongoing consultation with all shadow authority members on the development of the new constitution for the Central Bedfordshire authority. This part of the consultation deals with principles for the Overview and Scrutiny function, the Budget and Policy Framework Procedure rules, responsibility for functions, and times of council meetings.

#### 2. Overview And Scrutiny

- (a) Constitutional provisions relating to overview and scrutiny should take account of: -
- (i) the full range of existing powers available under legislation;
  - (ii) the commitment in the December 2007 unitary bid to improve and develop Overview and Scrutiny in Central Bedfordshire Council and develop further opportunities for public engagement; and
  - (iii) the new powers contained within the Local Government and Public Involvement in Health Act 2007, particularly regarding external scrutiny and the Councillor Call for Action.
- (b) Five themed Overview and Scrutiny Committees should be established, each conducting both scrutiny and overview, with terms of reference broadly aligned with the organisational structure agreed at the Shadow Executive meeting on 10 June 2008, i.e.:
- Business Transformation
  - Corporate Resources
  - Children, Families and Learning
  - Social Care, Health and Housing
  - Sustainable Communities
- (c) A single standing task group of the Sustainable Communities Overview and Scrutiny Committee should be established with responsibility for overview and scrutiny of the two local development frameworks and the Luton and South Beds major growth area proposals, subject to careful drafting of this group's remit.
- (d) Co-ordination of the Overview and Scrutiny function should be conducted informally by the chairman and vice-chairman of the Overview and Scrutiny committees, and that an overarching strategic, or management, Overview and Scrutiny committee is not required.
- (e) Hearing of call-in should be exercised by all Overview and Scrutiny committees, within the remit of their respective terms of reference.

- (f) Any valid call-in should be automatically referred to the relevant Overview and Scrutiny Committee; with the proper officer's powers to reject any call-in as being invalid confined to call-ins that are frivolous, vexatious, clearly outside the call-in scheme, or if the correct procedure has not been followed.
- (g) Decisions should be able to be called-in by either 2 members of the relevant Overview and Scrutiny committee, the chairman of the relevant Overview and Scrutiny committee, any three non-executive members of the council, or an individual ward member on a ward issue; with no further restriction on members' ability to call-in.
- (h) Each of the Overview and Scrutiny committees should comprise 9 elected members and up to 5 substitutes, with the addition of the statutory appointments to the Overview and Scrutiny committee dealing with education matters (3 parent governors and 2 diocesan representatives); and the quorum be 3 elected members except for the committee dealing with education matters where the quorum whenever it considers education matters should be 5 (comprising 3 elected members and two co-opted members).
- (i) There should be no formal co-options to Overview and Scrutiny committees, other than the statutory appointments to the committee dealing with education matters.
- (j) Chairmen and vice-chairmen of Overview and Scrutiny committees should be determined at full council, with the constitution not prescribing that these be selected from any specific political group.
- (k) Overview and Scrutiny meetings should be scheduled as often as meetings of the Executive, which would allow responsive scrutiny, and ease of hearing call-in requests, with the presumption that meetings can be cancelled if there is insufficient business.
- (l) Any member of the council should be entitled to ask for an item to be placed on an overview and scrutiny agenda and to speak to it at that meeting; and that a standing member request for agenda items be included on agendas for Overview and Scrutiny committees for this purpose, with no prior notice being required.
- (m) A scheme for Councillor Call for Action, as envisaged by the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006, should be included in the constitution, subject to later amendment to reflect any government guidance on the issue.
- (n) The principles for the public participation scheme agreed for Council and Executive be applied similarly to all Overview and Scrutiny committees.

- (o) The Executive or Council, as appropriate, should be required (i) to include any formal report or recommendations from an Overview and Scrutiny Committee on its agenda at the next available meeting for consideration; (ii) to respond to the report or recommendations in writing within two months; and (iii) in addition to constitutional provision on the above, that a pro forma for Overview and Scrutiny recommendations and Executive responses be used in the decision making process for Central Bedfordshire.
- (p) Central Bedfordshire Council should conduct its own integrated health and social care scrutiny, aligned with the needs of Central Bedfordshire residents and the new authorities' proposed organisational structure and inviting representatives of the new LINk arrangements for Central Bedfordshire to attend meetings as observers.
- (q) The constitution should provide for both voluntary and statutory health scrutiny to be conducted jointly with other local authorities through one or more joint health overview and scrutiny committees, as required.
- (r) The Council's representatives on any joint health Overview and Scrutiny committee should normally be appointed by the Monitoring Officer in consultation with the relevant OSC chairman and vice-chairman and subject to report to the next Council meeting; and subject to the proportionality rules.
- (s) Any coordination required between the Overview and Scrutiny committees dealing with health and adult social care and children's services should be a role for the informal meeting of the chairs of the Overview and Scrutiny committees.
- (t) In accordance with (m) above, crime and disorder Overview and Scrutiny should be included within the constitution, subject to any later amendments required as a result of further government guidance.
- (u) External scrutiny, including scrutiny of how LAA partners are achieving their local improvement targets, is included within Overview and Scrutiny Committees' terms of reference in respect of the functions that they are responsible for scrutinising; with further consideration given to any regulations or guidance received within the timeframe of this draft constitution.
- (v) Continuation of task and finish arrangements as currently operated in the three authorities, working outside the formal committee structure, subject to all findings being reported to the parent Overview and Scrutiny Committee.

- (w) Any duties related to external or cross-authority scrutiny that require the regular and continuing involvement of any Overview and Scrutiny Committee member are included in the constitution as part of the committee's informal working arrangements.

### 3. Budget and Policy Framework Procedure Rules

- (a) The Budget and Policy Framework Procedure Rules should provide that plans and strategies within the Budget and Policy Framework should normally be developed, revised or renewed via the Overview and Scrutiny committees, subject to flexibility to enable an Overview and Scrutiny committee the option of not considering such a plan or strategy according to individual circumstances. Decisions as to which plans, policies and strategies are in the Policy Framework are made by Council, advised by the Constitution Advisory Group.
- (b) The exceptions to the general rule that "no changes to any policy and strategy which make up the policy framework may be made by the Executive", should be limited to: -
- those changes necessary to incur expenditure where an emergency or disaster involving destruction or danger to life or property occurs or is imminent; and
  - such other in year changes which are agreed specifically by the Council in approving the plan or strategy in question.

### 4. Responsibility for Functions

- (a) The following outline committee structure is recommended, subject to consideration of detailed terms of reference at a future meeting: -
- Licensing Committee (plus sub-committees)
  - Regulation Committee
  - Standards Committee
  - General Purposes Committee (plus Appointments Sub Committee)
  - Audit Committee
  - Appeals Committee
  - Joint Consultation and Negotiation Committee for Primary and Secondary Education
  - Employees' Joint Consultative and Negotiating Committee

*(Please note that discussions relating to the number of Development Control Committees proposed for Central Bedfordshire are ongoing and any proposals in relation to Development Control will be consulted on with all Shadow Authority members in due course.)*

(b) The establishment of the following informal working groups is recommended:-

- Member Development Champions Group
- Constitution Advisory Group

(c) Local choice functions should be allocated according to the principle that those functions relating to matters of detail be Executive functions and those that are likely to have a high public profile, be politically contentious, or that are within the usual remit of a committee of the Council, be Council functions.

#### 5. Times of Meetings

All formal meetings of the council should be held in the day, except full council meetings which should be held in the evening, subject to a committee Chairman's discretion to change the time of a meeting to suit the issues involved on the agenda.

SHADOW AUTHORITY MEMBERS' COMMENTS ON THIRD CONSULTATION AND WORKING GROUP RESPONSES

Councillor	Issue	Comments from Councillor	Further information from officers	Response from the Working Group
1. Cllr Mark Smith	Overview and Scrutiny	<p>Having read the Overview &amp; Scrutiny part of the Constitution &amp; being part of the Community Engagement Taskforce I'm wondering if there is scope to write in to the role of the proposed Community Area Networks as a route into overview &amp; scrutiny, because as far as I could see from an initial reading there is no mention of these new proposed networks.</p>	<p>It is not envisaged that the Community Area Network forums would have a direct link into O&amp;S at this time. However, the Communities in Control White Paper (Chapter 5, Challenge, section 5.6, page 91) introduces a possible new role for scrutiny: -</p> <p>"If enough people served by a local service or agency sign a local petition then, senior officers working for a local public body should be required to attend a public hearing such as overview and scrutiny."</p> <p>Therefore, if a Community Area Network organises a petition on a particular subject and gets local support this may in the future be able to be tabled at Overview and Scrutiny. At any rate, there is already a clear route to Council, Executive and Committees via the petitions procedure.</p>	<p>The Working Group learned that the proposed structure for Community Area Networks (CANs) involved reporting to and influencing the policy of the Local Strategic Partnership.</p> <p>Local and community issues will be able to be brought to overview and scrutiny through ward members' ability to request an overview and scrutiny agenda item, and the public are able to present petitions, to which a response is required (although raising issues through petitions may well be more usefully directed to the Executive or decision making committee to which the petition relates).</p> <p>The working group also decided to invite an officer along to the next meeting of the working group to discuss the matter further.</p>

2.	Cllr Mark Smith	Times of Development Control Committee meetings	With regards the timing of meetings. I'm of the view that Development Control Meetings should be held in the evening as a 2pm start disenfranchises members of the public & members that work.		This issue and issue 3 were considered together: The working group and other members in attendance at the meeting discussed again the effect of meetings times on the public and elected members, including consideration of the performance of members and officers at evening meetings; and that some members of the public are equally disenfranchised by evening meetings as other members of the public are disenfranchised by day time meetings. In relation to Development Control, members considered that given the relatively few instances of the public needing to attend meetings of Development Control Committees (perhaps once or twice in a lifetime) and the importance of planning applications to the attending member of public, it was not thought that they would be overly affected by a day time meeting.
3.	Cllr Mark Chapman	Times of Meetings	My first comment is the defacto position of all meetings to be held in the day. We seem hell bent to exclude people from top tier local government, and holding all day time meetings is a SERIOUS deterrent for many people standing for council.		Cllr David Jones voiced concerns, as at previous meetings, at this approach. However the majority of working group members confirmed that on balance, day time meetings would be the most effective and efficient method of conducting business.

4.	Cllr Mark Chapman	Overview and Scrutiny	Scrutiny needs a high profile in the organisation, and I believe that there should be an officer Scrutiny Champion in EACH Directorate.	Suggest that this could be referred to the Director of Business Transformation.	The working group considered it important that a senior officer be identified in each directorate with responsibility for attending overview and scrutiny meetings. The working group thought it best that it was made clear that both the Director and Portfolio Holder should attend and contribute regularly to meetings, and that this would have the effect of raising the profile of overview and scrutiny throughout the directorates. This would therefore be reflected in the working practices of the overview and scrutiny function.
5.	Cllr Mark Chapman	Overview and Scrutiny	The support for the scrutiny committees needs to be able to cope with the volume of work, and to be able to access all aspects of the councils operations. To do this we should look to the number of posts for officers, and I think the minimum for Central Bedfordshire should be an Overview and Scrutiny Manager plus 3 support officers (with each officer allocated clearly to look after 2 committees).	Suggest that this could be referred to the Director of Business Transformation.	The working group observed that a similar comment had been received from Cllr Bastable (MBDC) and although officer support for the overview and scrutiny function was not with its remit, resolved to forward its strong view to the Director of Business Transformation that the overview and scrutiny function must be suitably resourced by dedicated officers in order to be effective, highlighting the proposed overview and scrutiny committee structure, terms of reference and the increased powers for overview and scrutiny brought in by recent legislation.



6.	Cllr Mark Chapman	Overview and Scrutiny	The function needs to be more flexible than we have been before, regularly scrutinising external partners, and holding meetings out in the community as well as in house. I recently attended a Scrutiny meeting at another authority, and because of the issue 120 residents attended!	The new scrutiny powers outlined in the Local Government and Public Involvement in Health Act 2007 (pending further regulation and guidance and due to come into force 1 April 2009) allows for more extensive scrutiny of other local organisations. The working group has already agreed to include these powers in the Central Bedfordshire constitution, when they are finalised by government.	The working group were of the view that the new overview and scrutiny powers introduced in the Local Government and Public Involvement in Health Act 2007 (due to come into force 1 April 2009) would improve scrutiny of local partners. The working group confirmed their principle to improve and develop overview and scrutiny and develop further opportunities for public engagement.
7.	Cllr Mark Chapman	Overview and Scrutiny	Overview and Scrutiny Task groups have done a lot of good work outside of committees, and should be encouraged as best practice.	The proposed overview and scrutiny procedures provide for Overview and Scrutiny Task groups to conduct detailed reviews.	The working group agree with Cllr Chapman, and the overview and scrutiny arrangements would continue to utilise Task groups to conduct in-depth investigations.
8.	Cllr Mark Freeman	Scrutiny of growth area and LDF	The scrutiny of development should be separated for the two types of development area – the South Bedfordshire Growth Area should not be mixed with the non-growth area in the rest of Central Bedfordshire as the challenges and objectives are very different. There would, therefore, be required two groups not one.		The working group confirmed its view formed at the last meeting, but also observed that the setting of Task groups to consider scrutiny of development would be for the Sustainable Communities Overview and Scrutiny Committee to determine.

9.	Cllr Mark Freeman	Call-In	It should be a requirement of any call-in that the Member(s) who ask for the call-in should attend the O&S Committee when the item is discussed.	Suggest that this could be added to the overview and scrutiny procedure rules in relation to call-in.	The working group agreed with this suggestion and requested that the draft constitution be amended to the effect that it be made clear that there would be an expectation that member(s) requesting a decision be called-in should attend the overview and scrutiny committee meeting at which it is heard. At any rate, the working group believed that there was a strong imperative for a member to attend to present any call-in request.
10.	Cllr Mark Freeman	Chairing overview and scrutiny committees	If the Executive is single party, O&S Committee should be chaired by a member of the main opposition party.		The working group confirmed its principle that full council should determine chairmanships for overview and scrutiny committees, and that this did not disbar opposition group chairs, which was conventional for the existing authorities.

11.	Cllr Mark Freeman	Licensing Committee terms reference	Licensing Sub-Committees should be area based and meet in the locality concerned. Membership should be predominantly, but not totally, from the area covered by the Sub-Committee.	<p>For similar reasons to the preferences for a single Development Control Committee, especially in relation to consistency of decision making, it is officers view that there should be one Licensing Committee, and that although there may be some specific local issues that will need to be considered, as is the case now, one committee can adequately cover these and additionally provide consistency in decisions.</p> <p>In addition, it is intended to work on a Central Bedfordshire licensing framework and review all associated policies for all licensing functions during 2009 in line with current guidance.</p>	The working group agreed with the views provided by officers that there were no obvious benefits from having area-based licensing committees, as this could have the effect of eroding consistency of decision making, and that special 'local' knowledge was not a necessary requirement for determining licensing applications.
-----	-------------------	-------------------------------------	--	---	---

12.	Cllr Mrs Rita Drinkwater	Appeals Committee	It would be useful to ensure there is clarity as to which appeals this applies to.	<p>Appeals Committee terms of reference are currently drafted as: "To exercise the powers and duties of the Council where there is a right to make representations about, or appeal against, decisions made by or on behalf of the Council in relation to any of its functions, including but not limited to: -</p> <ul style="list-style-type: none"> <li>• appeals by employees under their conditions of service or otherwise;</li> <li>• appeals by people pursuant to any statutory provision;</li> <li>• appeals in connection with the provision of school or college transport;</li> <li>• representations made in connection with a decision to remove a governor from a governing body to which he/she was appointed by the Council."</li> </ul>	The working group received an explanation of the wide variety of appeals that can be heard by a local authority, which necessitates a suitably worded terms of reference for the Appeals Committee.
13.	Cllr Mrs Rita Drinkwater	Fostering and adoption and other panels	At this stage have you considered the Corporate Parenting Panel, Adoption Panel, Fostering Panel and Permanence Panel? The later three are a big commitment normally once a month.	These issues are not to be included in the constitution. Officers will liaise with new Director of Children, Families and Learning to ensure arrangements for these panels are being considered.	The working group received confirmation that although it was not intended to include these Panels within the constitution, a report should be received by the working group at its next meeting in order to consider how these functions will be exercised by Central Bedfordshire Council.

14.	Cllr Bob King	Number of Members on Committees	<p>My only real concern is the level of member's involvement in Central Bedfordshire. There will be 66 Councillors. Allowing for Executive appointments, I wonder if we are not pitching the numbers on Overview and Scrutiny Committees too high. On top of Overview and Scrutiny there will be statutory bodies as well as representation on Charities and other Organisations that want support from Central Bedfordshire.</p> <p>There will always be Councillors who cannot or will not want to devote a large amount of time to their role.</p>	<p>The working group acknowledged the comments, and agreed that the requirements from Central Bedfordshire Councillors would be high. The working group observed that there would not be a restriction on a member sitting on more than one overview and scrutiny committee.</p>
-----	---------------	---------------------------------	---	--

#### 4. **FOURTH CONSULTATION – 4 November 2008**

##### 1. Introduction

This is the fourth part of the ongoing consultation with all shadow authority members on the development of the new constitution for the Central Bedfordshire authority. This part of the consultation deals with principles for the Development Control Committee.

##### 2. Development Control Committee

2.1 Both the Sustainable Development Transitional Task Force (TTF) and the Constitution and Governance Member Working Group have considered at length the various alternatives for Development Control Committee(s), in terms of numbers and functions of committees, number of meetings, location, membership and so on.

2.2 The TTF has produced a series of proposals, which the Constitution and Governance Working Group has agreed to use as the basis of consultation with all shadow authority members. Under some of the proposals, the Working Group has highlighted some specific alternatives, that shadow authority members may wish to consider: -

- A single committee is created;
- A single venue is identified.

The Working Group suggested that other options could include meeting at two venues in Central Bedfordshire, and either considering items specific to the area in which the meeting is being held (which would necessitate more meetings and potentially more committee Members), or considering all items from across Central Bedfordshire but at alternating venues.

- The Committee comprises between 18-20 Members plus substitutes;
- The Committee sits on a 3 weekly cycle;
- Options for all-day meetings;
- Adoption of the Mid Beds model for public speaking at Committee, and subject to clear powers for the Chairman to vary the public participation procedure where necessary;

The Working Group considered that the time allowed for public speaking could usefully be 5 minutes rather than 3 minutes, although it may be that Members would be content with the

Committee Chairman having discretion to extend the time allowed where appropriate.

- Organised site visits.

- 2.3 Although it is not directly relevant to the constitution, there is an additional proposal that Development Control meetings are broadcast via the internet.
- 2.4 The Working Group is aware that there are a wide variety of views on how Central Bedfordshire could discharge its new development control functions and invites comments, supported by evidence where possible, on alternatives to, or in support of, the proposals outlined above.
- 2.5 In order that Members may follow the discussions that have already taken place, the minutes of the TTF meeting and the working group meeting are provided below. The reports received by the working group and the TTF are also enclosed as separate documents.

# Creating Central Bedfordshire

## SUSTAINABLE DEVELOPMENT TRANSITIONAL TASK FORCE (TTF)

Extract of the Action Notes from the meeting on 6 October 2008

		Action	
		By	Date
4.	<p><b>Options for the operation of Development Control Committee</b></p> <p>Andrew Davie presented members with information and statistics relating to the current Development Control and Planning Committees within the three existing authorities. (attached at Appendix A).</p> <p>Several options were then put forward regarding the number of, location, membership and responsibilities of the Development Control Committee within Central Bedfordshire.</p> <p>Members were asked to consider whether they wished there to be one, two or four committees. They were advised of the advantages and disadvantages of each of these options.</p> <p>Members commented that the data within the presentation reflected applications for 2007-2008 and, if a later period had been considered, the average number of applications would have reduced. However, officers felt that, long term, the numbers presented would be reasonably accurate.</p> <p>Some Members expressed the opinion that there should be one committee based at one location. It was felt that, if members of the public had an interest in an item or application, they would be prepared to travel to attend the meeting. Further comment was made that most people would only make one or two applications ever and that therefore they would be interested enough to attend the relevant meeting.</p> <p>It was felt that having only one committee would aid consistency of decision-making and using only one venue would avoid confusion.</p> <p>A counter-argument was made that the issue of consistency needed to be balanced against community knowledge/local input and accessibility for the public. Consistency would be maintained with reference to local plans and decisions would be made on merit.</p>		



	Action	
	By	Date
<p>There was some concern expressed regarding the acceptance of meetings that would last in excess of four hours. It was felt that, at this planning stage, a shorter duration should be worked towards.</p> <p>There was some discussion about current arrangements, but Members agreed that this was an opportunity to move away from South Beds/Mid Beds and start Central Bedfordshire with effective and efficient systems in place.</p> <p>The point was raised that Scrutiny had already stated that they did not support a single DC committee and, if the majority view was not considered, there was the likelihood of Scrutiny raising the issue again for debate.</p> <p>Some Members felt that, although they agreed that there should be 1 committee, they felt that it should be held at alternate venues as this would help the public who wished to attend.</p> <p>It was commented that, if efforts were made to hold meetings at different venues to be "Closer to the People", there could be as many as 4 or even 8 committees at as many venues.</p> <p>There was comment made that many of the issues considered at County Council Planning Committee were very different to those at district councils as they dealt with large applications such as the Nirah Project; footpaths; petitions and minerals, etc. As such, consideration should be given to using a different forum or holding separate meetings for these types of applications.</p> <p>It was felt that the expertise to consider all of the issues for which each of the existing committees received applications could be gained by a membership of approximately 20 Members with a comprehensive training programme. It was also likely that some existing Members would be re-elected and that therefore some knowledge would be retained. It was felt that these Members should sit on very few other committees.</p> <p>Good management and best practice at committee meetings could ensure that time was used effectively. There was not the need for repetition of the facts of an application via a report, a presentation and orally by the officer.</p> <p>A suggestion was made that meetings should start in the mornings with County type applications being considered in the morning session and other planning applications being considered in the afternoon.</p>		

	Action		
	By	Date	
<p>Members felt that the Town and Parish Councils could play a bigger part in filtering some of the applications so ensuring that only applications with significant planning reasons from their council would be considered by committee. A further filter would be by way of a cross-member review group.</p> <p>Councillor Johnstone asked that the minutes reflect his opinion that the workload of the DC Committee would be very heavy and that there should be and would eventually be the need of a separate committee to consider highways matters.</p> <p>It was agreed that officers would put forward a proposal for a system where Town and Parish Councils and Ward Members could propose items for the agenda.</p> <p>It was agreed that petitions regarding Highways matters would be presented to Council.</p> <p>It was agreed that there would be, at each meeting, a report updating Members on enforcement issues.</p> <p>Members were advised that the recommendations that had been agreed during the voting process at this meeting would be presented, by the Portfolio Holder, to the Shadow Executive and then on to Scrutiny.</p> <p>After further discussion into which various view points were made, it was decided to vote on the recommendations within the presentation, as follows:</p>			
	For	Against	Abstain
Single DC Committee	7	4	
Single venue	6	5	
18-20 Members	7	2	2
3-weekly cycle	9		2
10am start	8		3
Public speaking as per MBDC	6	4	1
Organised site visits	9		2
X-party review panel	5	6	
Broadcasting of meetings			
Only to consider planning applications			
Special meetings to consider significant schemes	11		

# Creating Central Bedfordshire

## CONSTITUTION AND GOVERNANCE MEMBER WORKING GROUP

Extract of Action Notes from Meeting 5, held on 23 October 2008

		Action	
		By	Date
<b>6.</b>	<b>Development Control Committee(s) discussion</b>		
6.1	Planning officers introduced the report, which summarised the discussions and proposals from the Sustainable Development Transitional Task Force (TTF) for the conduct of the development control committee functions for the Central Bedfordshire authority.		
6.2	The TTF Lead Member presented the views of the TTF, which were formed over the course of several meetings and which flowed from consideration of the relative merits of a variety of options for exercising Development Control functions. Attention was drawn to the votes cast by TTF members in relation to each proposal.		
6.3	The Chairman of the working group outlined that the meeting would determine only principles on which to consult with shadow authority members, and consider responses to this consultation at its meeting on 20 November, before drawing up final proposals for the draft constitution, which would be considered by the full Shadow Council on 26 February 2009.		
6.4	In full consideration of the individual proposals put forward by the TTF, and in addition to the various views expressed and relative merits for different options discussed at that meeting, the working group and other members present made the following points in relation to the proposals: -  <u>A single committee is created</u>		
6.5	The TTF lead member highlighted that a single committee approach would encourage a more professional and skilled approach from the members involved. Having several committees would require more members to have the required knowledge and skills, which would be counter productive to the aim of high quality decisions. A single committee would create greater consistency across the new authority's area.		

		Action	
		By	Date
6.6	A number of alternative views were expressed, which included the use of more than one committee, operating on an area basis, or by separating out functions in terms of what are now county council planning functions (including highways, transport and waste issues) and district council planning functions, or by dealing with 'rural' and 'urban' issues separately.		
6.7	<p><u>A single venue is identified</u></p> <p>The TTF Lead Member highlighted that a single venue would avoid confusion in the public mind and would have benefits in terms of efficiency of resourcing meetings. Alternative views expressed by other members included alternating the meeting between two locations, either dealing with locality based items relevant to the venue, or simply meeting at alternating locations, with the advantages of accessibility and being 'closer to the community'. Officers warned that dealing with locality based issues at different meetings would necessitate more frequent meetings, which would create large pressures on the service, and risk not meeting government targets and deadlines for determining planning applications.</p> <p><u>Adoption of the Mid Beds model for public speaking at Committee</u></p>		
6.8	<p>The working group and other members present agreed that subject to suitably flexible powers for the committee chairman to vary the scheme dependent on the nature of the application or item under consideration, the Mid Beds scheme should be used as the basis for consultation.</p> <p><u>Organised site visits</u></p>		
6.9	Members commented that site visits may become more of a burden, and stressed that it was important that these were well organised.		
6.10	In summing up, the working group agreed that it would be sensible to consult with shadow authority members on the proposals outlined by the TTF, but to ensure that the various alternatives were clearly highlighted to members, especially those that were a close vote. It was also agreed that the notes from the meeting of the TTF should accompany the consultation as background information.		

		Action	
		By	Date
	<p><b>RESOLVED –</b></p> <p><b>(1) To consult with shadow authority members on the principles for the development control function as outlined by the Sustainable Development Transitional Task Force and set out below, subject to clearly highlighting to members that there are various alternatives to the TTF's proposals: -</b></p>		
	<ul style="list-style-type: none"> <li>- <b>A single committee is created;</b></li> <li>- <b>A single venue is identified;</b></li> <li>- <b>The Committee comprises between 18-20 Members plus substitutes;</b></li> <li>- <b>The Committee sits on a 3 weekly cycle;</b></li> <li>- <b>Options for all-day meetings;</b></li> <li>- <b>Adoption of the Mid Beds model for public speaking at Committee;</b></li> <li>- <b>Organised site visits;</b></li> </ul> <p><b>(2) That the proposal that 'options for broadcasting meetings be investigated' be referred to in the member consultation, though will not be reflected in the draft constitution.</b></p> <p><b>(3) That the proposal that 'meetings only consider development management issues', be further investigated by officers and discussed by the working group, due to the need for petitions relating to development control matters to be dealt with in line with the general principles for member participation in the draft constitution.</b></p>		

## SHADOW AUTHORITY MEMBERS' COMMENTS ON FOURTH CONSULTATION

### Cllr Nigel Young (SBDC)

1. Planning is a local issue and needs to be seen as a local issue.
  2. Alongside this there needs to be consistency of decision making but surely that is driven by planning policy guidelines.
  3. To achieve this there could be one committee made up of two area committees one for the East/South sitting in Dunstable and one for the North/West sitting in Chicksands with, perhaps, a common Chair, area vice chair and single lead officer.
  4. The whole committee would sit together for major matters effecting the entire district.
  5. Members would be free to attend both area committees if they desired, meetings 2 weekly on alternate (eg) Wednesdays.
  6. To reduce agenda size smaller applications could be delegated to a member/officer panel. This could also involve Town Councils where they have been an objector and have, as now happens in SBDC, 'called in' an otherwise un-contentious application.
- 

### Cllr Budge Wells (MBDC)

I was part of the TTF that considered this issue on 6th October last, and I have not changed my views since then. I would support the following DC construction :

- A Single DC Committee
- A single venue - preferably at Priory House, as it is geographically central to Central Beds
- 18 Members
- Sitting at a three weekly cycle
- Meetings to start at 0930, dealing with major items eg Highways, Gravel Pits, Hospitals etc in the morning, a decent interval for lunch and residential matters in the afternoon.
- Site visits to be requested by a member(s) of the DC Committee after representations made from any interested party, but accompanied by a strong planning reason
- Special meetings to consider significant schemes e.g. NIRAH or Center Parcs
- Suitable training given for both residential matters and also for the big issues such as Center Parcs

I firmly believe that one committee would give consistency of decision making across the whole of Central Beds, and using one venue would avoid any confusion about where meetings are to be held, both for Committee members, residents and other interested parties.

Finally, if this construction is found to be faulty after a suitable trial period, then Central Beds Council can review it and change it accordingly.

---

Cllrs David Lawrence (MBDC and BCC) and Mrs Jane Lawrence (MBDC)

We believe that taking decisions away from Local Knowledge is already causing more damage to the area than the £600,000 a year or so grant. Thus the wrong target is being addressed, Quality is the issue not cost/effectiveness.

We believe that individual objectives will exist for each market town. They are not metropolitan areas with all general functions measured on a single standard, they are not truly rural parishes where again some commonality can apply.

Instead each market town carries out some of the general functions but not all e.g. fire station, police station, library, hospital etc and has a differing retail, leisure and professional service balance. No two market towns will be the same.

Inconsistency between towns is a benefit not a disadvantage and each town must be defined to avoid giving ground to appeals. It is however the quality statement that should create the defence to appeals not the sameness.

Initially a 2 committee structure with a North South or an East West divide (i.e. A1 and M1 corridor) would seem to be a sensible way to start until the new council is bedded in with the possibility of change at a later date. Growth areas should have a priority of places on the committee. 10 to 12 on each committee should be adequate.

---

Cllr John Kane (SBDC)

Having read the attached documents and listened to the presentation and debate last night. Please see below my comments:

- I agree that a single committee should be formed. This will allow all members to be trained to the high standard needed.
- Highway and Large developments should have the attention of the whole committee with one meeting
- Local planning matters should be dealt with locally with a meeting for the east one for the west parts of Central Beds. This will provide the local knowledge that is intrinsic in arriving at the correct planning decision for each application. The whole DC committee does not need to attend both meetings.
- Efficiencies often mean a reduction in service, we need to show our customers this is not the case, by providing a planning service they can see and attend when needed.

- Local planning meetings should also be held in the evening, the majority of customers work for a living therefore attending a meeting is more convenient.

We must remember that we are here to provide a service to the rate payers who contribute to the new Unitary council. Not here for the connivance Officers, Councillors and central government who work and represent them. Centralisation works in Luton as it is within a tight geographical area, Central Beds is spread over a much larger area.

---

Cllr Mrs Fiona Chapman (MBDC)

I would really like to see Area Committees with Planning powers but I do not believe that we can do this now. I think therefore that there should be one committee meeting every 2 weeks in alternate venues (Chicksands & Dunstable) if possible. However, I suspect that will not be the answer that most members will come up with. One thing I cannot go along with is all day meetings. I do not believe that my fellow councillors can, or should, be expected to cope with these.

---

Cllr Peter Blaine (MBDC and BCC)

I and, as far as I can tell, the overwhelming majority of members of my group oppose the idea of a single Development Control Committee.

Any solution should provide ready access to the decision-making process for citizens from all parts of Central Bedfordshire.

Notions of consistency seem to make little sense when we are anyway dealing with different Local Plans or Local Development Frameworks.

No evidence from practical situations in the various authorities which do have more than one committee appears to have been provided as to negative situations resulting from any alleged lack of consistency.

Speed, rather than good decision making seems to be a fixation when these matters are considered or the government or its quangos advise on these matters. This seems to be primarily a developer interest. Our greater concern should be for the citizens on Central Bedfordshire, whether personal applicants or objectors, to whom we are responsible and who pay our council tax.

---

Cllr Nigel Aldis (MBDC)

I think after attending the presentation last week at Chicksands I would like to see 2 D C Committees for the first two years at least with meetings in the respective locations - Dunstable & Priory House.



I do not think the committees need to be as large as some would anticipate 13 maximum but with a good representation as far as possible from across the appropriate area. I do not think there should be a limit on say "one per division".

From a meeting with Simon Redmore yesterday it appears that the respective planning teams may be staying in their current location so would be available to service their committee especially as the Local Plans & LDF are so different.

As for deterring DC issues of a County nature then feel there should be a joint committee composed of members from each DC.

---

Cllr Ken Matthews (MBDC)

Having listened to all the pros and cons of the various options I'm more than happy to support the recommendations of the TTF - i.e. one committee, one venue etc. etc.

I was, of course, part of the TTF and therefore supportive of those recommendations. However, nothing I've heard subsequently has caused me to change my views.

---

Cllr Carole Hegley (SBDC)

I would support a single committee, single venue approach, on a 3-weekly cycle.

From experience I believe anyone wishing to attend a meeting to speak would make the effort to attend, irrespective of location of the meeting. I chaired Planning for a number of years and many meetings did not even attract any members of the public. The public have many ways to lodge comments and objections, by letter, fax, phone, email and at a meeting, there is a facility for Parish councils to feed comments in and Town Councils to do likewise and these were done in the past by written representation to officers and included in the Agenda report. The public also have this opportunity and even more so now with access to on-line applications. I think 1 committee would enable a consistent, efficient approach and give the customers a clear steer as to when they were being held and where. If we are to embrace the concept of Central Bedfordshire as one authority, we need to think centrally and not still in 2 halves.

## 5. FIFTH CONSULTATION - 7 NOVEMBER 2008

### 1. INTRODUCTION

This is the fifth part of the ongoing consultation with all shadow authority members on the development of the new constitution for the Central Bedfordshire authority. This part of the consultation deals with principles for the Standards Committee and Ethical Governance Framework and the Budget and Policy Framework.

### 2. STANDARDS COMMITTEE AND ETHICAL FRAMEWORK

#### 2.1 *Composition*

- 5 Independent members
- 5 Central Bedfordshire Council members
- 5 Town-Parish Council members

#### 2.2 *Remit*

That the remit of the Standards Committee be confined to the ethical framework and the local assessment and determination of complaints about the conduct of councillors, and that no additional functions therefore be included in the terms of reference of the Committee.

#### 2.3 *Ethical Framework*

The Ethical Framework is proposed to include: -

- Code of Conduct for Members
- Code of Conduct for Officers
- Planning Code of Good Practice
- Licensing Code of Good Practice
- Protocol for Member/Officer Relations
- Monitoring Officer Protocol
- Protocol for the Use of IT at home

### 3. BUDGET AND POLICY FRAMEWORK

3.1 The working group proposes that the following policies, plans and strategies should form the initial budget and policy framework for Central Bedfordshire Council: -

#### Statutory (these by law must be included)

- Annual Library Plan
- Children and Young People's Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Local Transport Plan
- Plans with Development Plan Document status, which together

comprise the Local Development Framework and the Waste and Minerals Development Framework

- Youth Justice Plan
- Statement of Licensing Policy under section 5 of the Licensing Act 2003
- Licensing Authority Policy Statement under section 349 of the Gambling Act 2005

#### Other

- Medium Term Financial Strategy, Treasury Management Strategy and Fees and Charges Policy – as part of annual budget setting at full council
- Corporate Strategic Plan (including Directorate Development Plans)
- Older People's Strategy
- Cultural Strategy (to include the Leisure Strategy)
- Revenue and Capital Budget and the Capital Programme
- Housing Strategy / Housing Investment Programme
- Sustainability Policy suite (including environmental policy, climate change strategy and sustainability strategy)
- Customer Service Strategy, Communication Strategy, Consultation Strategy and Community Engagement Strategy
- MKSM sub-regional strategy (including Luton and South Bedfordshire growth area strategy documents, unless formally delegated by the Council to a joint committee)
- Equality and Diversity Strategy
- Joint Economic Development Strategy for Bedfordshire

SHADOW AUTHORITY MEMBERS' COMMENTS ON FIFTH CONSULTATION

Councillor	Issue	Comments from Councillor
1. Cllr Bob King (BCC)	Policy Framework	Working Group agreed an included LAA in budget and policy framework.
2. Cllr Alison Graham (MBDC)	Policy Framework	<p>The Policy Framework is a list of the plans, policies and strategies that the Council, rather than the Executive must approve. All the individual policies, plans and strategies in the policy framework will originate from the various Directorates of the council, so you are not mistaken if you have heard that the Climate Change Strategy will be within the remit of the Business Transformation Directorate. That Directorate will initially prepare the strategy and have responsibility for its successful execution, but by virtue of its inclusion in the policy framework, Council would be required for final approval and adoption.</p> <p>Having just read the ethical governance, etc., framework, I have a question. I see the following under 'other': 'sustainability policy suite (including environmental policy, climate change strategy and sustainability strategy'.</p> <p>I was under the impression that the climate change strategy was within the remit of the Business Transformation Directorate - am I mistaken? As the LibDem spokesperson for the environment, I don't want to lose sight of an important issue for the new authority!</p>

Councillor	Issue	Comments from Councillor	
3. Cllr Peter Hollick (BCC)	Ethical Framework	<p>15 Members creates a large committee. I would have thought 3 or 4 people from each grouping would have been sufficient? (I appreciate there are a (large) number of Town-Parish Councils and many may be vying (vying?) for a position on the Committee.)</p> <p>Paragraph 2.2 of the consultation document refers to the remit of the Standards Committee to include conduct of councillors but 2.3 refers to conduct of Officers (as well). Should the word 'Officers' be included in 2.2?</p>	<p>The remit of the Standards Committee includes the Ethical Framework and determination of complaints about members. Although the ethical framework includes the Code of Conduct for Officers, it should be made clear that determination of allegations of misconduct of Officers is not, nor can it be, within the remit of the Standards Committee.</p>



**Central Bedfordshire Constitution:  
Second Transitional Period 1 April 2009 to 7 June 2009 Inclusive**

The following table shows which sections of the Shadow Constitution and which sections of the Full Central Bedfordshire Council Constitution the Member Working Group has recommended should apply during the 2<sup>nd</sup> transitional period from 1 April 2009 to 7 June 2009 inclusive (the newly elected councillors will take office on 8 June 2009).

Please refer initially to the relevant Part of the Full Constitution (listed from Part A to Part K) and cross-refer to the relevant heading in the left hand column below. Reading across the page, the RIGHT HAND COLUMN shows which wording should apply between April and June 2009. Where the right hand column shows that the Shadow Constitution should apply with amendments or additions, please see the detail of those changes in the cross-referenced note in Schedule 2.

Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
Section	Provision	Section	Provision	
<b>Part A – The Constitution</b>				
A1 Summary	66 elected councillors 5 themed overview & scrutiny committees	Summary	124 shadow councillors 1 scrutiny committee	Shadow Shadow as amended <b>SEE PART D BELOW</b>
	Full public participation at meetings	“	No public participation at meetings	Full
A2 Purpose of the Constitution	-	Pt 2, Article 1	-	Shadow

<b>Full CBC Constitution (in draft)</b>		<b>Shadow Constitution</b>		<b>Recommend Apr-Jun 09</b>
A3 Members of the Council	66 elected councillors	Pt 2, Article 2	124 shadow councillors	Shadow
A4 Citizens and the Council	Full public participation at meetings	Pt 2, Article 3	No public participation at meetings	Full
A5 Review & Revision of the Constitution	MO reports to Constitution Advisory Group which recommends any changes to full Council	Pt 2, Article 15	IMO, in consultation with Council Chairman/Leader may amend to achieve aims of Implementation Order	Shadow, as amended <sup>1</sup> <b>SEE NOTE 6 OF SCHEDULE 2</b>
A6 Suspension, Interpretation & Publication of the Constitution	-	Pt 2, Article 16	-	Full
<b>Part B – The Council</b>				
B1 Functions of the Full Council	-	Pt 2, Article 4	-	Shadow, as amended <sup>2</sup> <b>SEE NOTE 1 OF SCHEDULE 2</b>

<sup>1</sup> Amendment required to enable MO, in consultation with the Constitution Advisory Group, to make any necessary revisions to the constitution during this period..

<sup>2</sup> The Council's functional responsibilities and delegations to officers will be as set out in the relevant parts of the Full Constitution



Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
B2 The Budget and Policy Framework	List of named plans/strategies to be specified (statutory & discretionary). Most statutory plans are required by March 2010 (sustainable communities strategy March 2011).	Pt 2, Article 4	Statutory plans/strategies + any others adopted in preparation for 1 April 2009	Shadow <sup>3</sup>
B3 Budget & Policy Framework Procedure Rules	Details the annual process for developing the budget & policy framework (as defined in B2) and procedures for decisions outside the framework.	Pt 4, Budget & Policy Framework Procedure Rules	Details the process for developing the first CBC budget and policy framework that will be implemented from 1 April 2009.	Shadow <sup>4</sup>
B4 Chairing the Council	Chairman's role includes ensuring Council meetings are a forum for debating community concerns, holding Executive & chairmen to account & promoting public involvement in the Council's activities	Pt 2, Article 5	Role confined to presiding over Council meetings & upholding/interpreting the constitution	Full

<sup>3</sup> We would not expect any new statutory plans or strategies to be recommended to Council in advance of the election.

<sup>4</sup> We would not expect the budget & policy development process for 2010/11 to require member decisions before the 2009 election.

<b>Full CBC Constitution (in draft)</b>	<b>Shadow Constitution</b>	<b>Recommend Apr-Jun 09</b>
<p>B5 Full Council Procedure Rules</p> <p>Includes annual meeting business, appointment &amp; dismissal of Leader, appointments to committees.</p> <p>Members' questions without notice on agenda items, with Chairman's urgency consent or in allocated 45 minute period, otherwise at 7 days' written notice. Up to 10 minutes allowed for member ward presentations (max. 30 minutes total).</p> <p>Motions on executive functions can be debated before referral to Executive if Council consents.</p> <p>Leader can call strategic policy debates.</p> <p>Ordinary meetings include up to 15 minutes for public questions &amp; up to 30 minutes for petitions. Public participation procedure applies.</p> <p>Provision for reports from police &amp; fire authorities and on joint arrangements and/or external organisations.</p>	<p>Pt 4, Council Procedure Rules</p> <p>Provisions on annual meeting, public questions, external reports etc. are not included.</p> <p>Members' questions without notice on agenda items or with Chairman's urgency consent, otherwise at 3 days' written notice. No ward presentations.</p> <p>No prior debate on motions on executive functions.</p> <p>No ability to call strategic policy debates.</p> <p>No public participation procedure.</p> <p>No reports from police or fire authorities, or on joint arrangements/ external organisations.</p>	<p>Shadow + full provisions on public participation and substitute members <b>SEE NOTES 7 AND 8 OF SCHEDULE 2</b></p>

Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
B6 Local Choice Functions	All functions allocated to Executive except for appeals, questions on police matters, appointments to police authority, obtaining information on interests in land, agreements for highways works & appointments to outside bodies.	Pt 3, para 4	All transition functions allocated to Shadow Executive except for appeals.	Shadow
<b>Part C - The Executive</b>				
C1 Executive Arrangements	Covers all local authority powers and functions which are not the responsibility of any other part of the Council.  Leader to be elected by Council; Deputy Leader & other Executive members (between 2 & 9 in total) to be appointed by Leader.	Pt 2, Article 7	Covers transition functions under the Implementation Order. These include preparing for the assumption of full local authority powers and functions on 1 April 2009 and ensuring continuity of service delivery on and after that date.  Leader & Deputy Leader as appointed by Implementation Order + 10 other Executive members representing MBDC (3), SBDC (3) & BCC (4).	Shadow, as amended <sup>5</sup> <b>SEE NOTES 3 AND 9 OF SCHEDULE 2</b>

<sup>5</sup> Amendment to confirm that Executive has full powers from 1/4/09 to carry out any function which is not the responsibility of any other part of the Council.

<b>Full CBC Constitution (in draft)</b>	<b>Shadow Constitution</b>	<b>Recommend Apr-Jun 09</b>
<p>C2 Key Decisions and the Forward Plan</p> <p>Key decisions are above £200,000 financial threshold, or significantly affect communities in one or more wards. Financial threshold does not apply to expenditure already identified in the approved revenue budget/ service plan or capital programme; or fulfilling an explicit approved policy, strategy, service standard, etc.</p>	<p>Pt 2, Article 13</p> <p>Key decisions are above £500,000 financial threshold, or significantly affect communities in two or more wards.</p>	<p>Full</p>
<p>C3 Executive Functions</p>	<p>Pt 2, Article 7, para 9 and Pt 3, para 6</p> <p>Leader may delegate powers to individual Portfolio Holders (but none are currently delegated).</p>	<p>Shadow as amended <sup>6</sup> <b>SEE NOTE 3 OF SCHEDULE 2</b></p>
<p>C4 Executive Procedure Rules</p> <p>Public participation procedure applies, including public questions &amp; petitions. Any Council member may speak once on an agenda item, further speaking at Leader's discretion. Any Executive member can put an item on the agenda; and any Council member may ask the Leader (with 7 days' notice) to put an item on the agenda. Voting provisions include ballots, recorded votes, etc.</p>	<p>Pt 4, Executive Procedure Rules</p> <p>Public may not participate. Only Executive members may speak. Only the Leader can put items on the agenda.</p>	<p>Shadow + full provisions on public participation and ability for any Council member to speak once on an agenda item, etc. <b>SEE NOTE 9 OF SCHEDULE 2</b></p>

<sup>6</sup> The Executive's functional responsibilities and delegations to officers will be as set out in the relevant parts of the Full Constitution

Full CBC Constitution (in draft)	Shadow Constitution		Recommend Apr-Jun 09
<p><b>Part D – Overview and Scrutiny</b></p> <p>D1 Overview and Scrutiny Arrangements and Terms of Reference</p> <p>Five O&amp;S Committees of 9 members each. Terms of reference aligned with directorate structure, all covering policy development/review, Executive scrutiny &amp; community call for action. All able to exercise call-in powers.</p> <p>Provides for statutory co-optees on Children, Families &amp; Learning OSC.</p> <p>O&amp;S Management Panel (informal) to coordinate O&amp;S work programmes.</p> <p>Provision for health scrutiny (Social Care, Health &amp; Housing OSC) incl. reports to NHS bodies; also provision for joint health OSCs if required.</p>	Pt 2, Article 6	One Scrutiny Committee to review preparations for assuming full local authority powers on 1 April 2009.	Shadow, as amended <sup>7</sup> <b>SEE NOTE 2 OF SCHEDULE 2</b>

<sup>7</sup> Four of the five themed Overview and Scrutiny Committees (OSCs) will be appointed at the annual meeting after the June election. The existing single Scrutiny Committee will meanwhile continue in order to meet statutory requirements and in case of a call-in; the constitution will need to provide it with full powers to scrutinise any executive or non-executive function. Statutory education co-optees will be required if education matters are to be scrutinised and recruitment is currently in progress. Any new scrutiny powers brought into force under the Local Government etc Act 2007, e.g. Councillor Call for Action will need to be included. NHS scrutiny needs to continue during the April to June period as there are various ongoing tasks and reviews currently in progress; the Social Care, Health and Housing Overview and Scrutiny Committee will therefore be appointed for that specific purpose, with full powers brought in concurrently with the other four OSCs in June.

<b>Full CBC Constitution (in draft)</b>	<b>Shadow Constitution</b>	<b>Recommend Apr-Jun 09</b>
<p>D2 Overview and Scrutiny Procedure Rules</p> <p>OSC meetings at same frequency as Executive meetings.</p> <p>Any Council member may submit an agenda item <sup>8</sup> and speak to it.</p> <p>Public participation procedure applies, including public questions &amp; petitions.</p> <p>Duty on Executive to respond to OSC reports &amp; recommendations within two months saying what action it proposes to take or, if none, giving reasons.</p> <p>Includes LAA and crime &amp; disorder scrutiny reports (awaiting government regulations).</p> <p>Call-in requests by a ward member (where the decision is significant for their ward), chairman, two members of the relevant OSC, or any three non-executive members.</p>	<p>Pt 4, Scrutiny Procedure Rules</p> <p>Meetings determined by Shadow Council.</p> <p>Any member of an OSC or any five Council members may submit an agenda item. Any Council member may speak with Chairman's consent.</p> <p>Shadow Executive to consider OSCs' reports within one month of submission or at next meeting.</p> <p>Call-in requests by three members of the relevant OSC, including members of at least two different party groups, on grounds that the principles of decision-making (G1 in the new constitution) have not been followed.</p>	<p>Shadow, as amended + full provisions on public participation and Call-in Procedure.</p> <p><b>SEE NOTE 10 OF SCHEDULE 2</b></p>

<sup>8</sup> May be a statutory requirement under the Councillor Call for Action from 1 April 2009.

Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
<b>Part E – Regulatory and Other Committees</b>				
E1 Appointment of Committees	-	Article 8	-	Full, ensuring appropriate committees
E2 Committee Terms of Reference	<b>Committees:</b>	Pt 3, para 5		
"	<i>Development Management Committee</i>	"	<i>Not required until 1/4/09.</i>	<i>Full</i>
"	<i>Licensing Committee</i>	"	<i>Not required until 1/4/09.</i>	<i>Full</i>
"	<i>Licensing Sub-Committee</i>	"	<i>Not required until 1/4/09.</i>	<i>Full</i>
"	<i>Regulation Committee</i>	"	<i>Not required until 1/4/09.</i>	<i>Full</i>
"	<i>Audit Committee</i>	"	<i>Not required before June 2009</i>	<i>Full</i>
"	<i>General Purposes Committee (+ Appointments Sub-Committee)</i>	"	<i>General Purposes Committee (Staffing Committee is an Executive Committee)</i>	<i>Shadow</i>
"	<i>Appeals Committee (any Council function where there is a statutory right of appeal)</i>	"	<i>Appeals Committee (employees only)</i>	<i>Full</i>
"	<i>Joint Consultative and Negotiating Committee for Primary &amp; Secondary Education</i>	"	<i>Not required until 1/4/09 (or June 2009, to be confirmed).</i>	<i>Full</i>
"	<i>Employee Partnership Committee</i>	"	<i>Not required until 1/4/0 (or June 2009, to be confirmed).</i>	<i>Full</i>

<b>Full CBC Constitution (in draft)</b>		<b>Shadow Constitution</b>		<b>Recommend Apr-Jun 09</b>
E3 Committee Procedure Rules	Specific rules for committee meetings, including member substitutions.	Pt 4, Council Procedure Rules, para 22	Council Procedure Rules apply to committees "as appropriate".	Full
<b>Part F – Ethical Governance</b>				
F1 Standards Committee	15 members: 5 CBC members, 5 independents + 5 town/parish who will be required to assess any complaints against town/parish members.	Article 9 & Pt 3, para 5	19 members: 10 shadow CBC members + 9 independents, no town/parish.	Full <sup>9</sup>
F2 The Councils Code of Conduct for Members	As shadow	Pt 5, Code of Conduct for Councillors	National Model Code, preambled by ten general principles of public life.	Full
F3 Code of Conduct for Officers	New code	-	Not required in shadow	Full
F4 Protocol for Member/ Officer Relations	Based on BCC protocol	Pt 5, Protocol for Member/ Officer Relations	Based on MBDC protocol.	Full

<sup>9</sup> From 1 April 2009 the Standards Committee will have responsibility for towns & parishes as well as CBC and must include town & parish members.



Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
F5 Monitoring Officer Protocol	New code	-	Not included	Full
F6 Interim Protocol on the Use of IT at Home	New code	-	Not included	Full
<b>Part G – Decision Making and Access to Information</b>				
G1 Decision Making	Refers to full committee structure and new definition of key decisions.	Article 13	Refers to shadow arrangements and shadow definition of key decisions.	Shadow + new definition of key decisions <b>SEE NOTE 5 OF SCHEDULE 2</b>
G2 Access to Information Procedure Rules	Standard statutory provisions. Includes principle that reports containing exempt or confidential information are drafted so that non-exempt/confidential information may be considered in public session.	Pt 4, Access to Information Procedure Rules	Standard statutory provisions.	Full

Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
<b>Part H – Officers of the Council</b>				
H1 Officers	Will need to refer to Monitoring Officer and Chief Finance (S.151) Officer + Head of Paid Service when post filled after election.	Pt 2, Article 12	Sets out functions of Interim Head of Staff, Interim Monitoring Officer & Interim Chief Finance Officer	Shadow, as amended <sup>10</sup> <b>SEE NOTE 4 OF SCHEDULE 2</b>
H2 Management Structure	Full CBC management structure.	Pt 2, Article 12	Includes only (Interim) Head of Paid Service/Staff, Monitoring Officer and Chief Finance Officer	Full
H3 Scheme of Functions Delegated to Officers	Part C5 requires Leader to report to annual Council on delegations made.	Pt 3, Sections A & B	Delegation so far only to Interim Head of Staff (but Leader may amend at any time).	Full scheme of delegation of executive and non-executive functions to Interim Chief Executive and Directors <sup>11</sup>
H4 Officer Employment Procedure Rules	Appointment and dismissal of Head of Paid Staff reserved to full Council. Appointment of Chief Officers by Appointments Sub-Committee (General Purposes Committee).	Pt 4 Officer Employment Procedure Rules	Appointment and dismissal of Head of Paid Staff reserved to full Council. External appointments of Chief Officers by Staffing Committee (Shadow Exec function).	Shadow

<sup>10</sup> Wherever shadow constitution provisions are adopted, references to the Interim Monitoring Officer and Interim Chief Finance Officer should be read as references to the Monitoring Officer and Chief Finance Officer. References to the Interim Head of Staff shall also be read as referring to the Interim Chief Executive.

<sup>11</sup> References to the Chief Executive in the scheme of delegation shall be read as references to the Interim Chief Executive.

Full CBC Constitution (in draft)		Shadow Constitution		Recommend Apr-Jun 09
<b>Part I – Finance, Contracts and Legal Matters</b>				
I1 Finance, Contracts and Legal Matters	-	Pt 2, Article 14	-	Full
I2 Financial Procedure Rules	New CBC rules	Pt 4, Financial Procedure Rules	Shadow rules	Full
I3 Procurement Procedure Rules	New CBC rules	Pt 4, Procurement Procedure Rules	Shadow rules	Full
<b>Part J – Partnership Arrangements</b>				
J1 Area Committees and Forums	(None envisaged)	Article 10	(None)	Full
J2 Joint Arrangements		Article 11		
“	Introduction	“	Introduction	Full

<b>Full CBC Constitution (in draft)</b>		<b>Shadow Constitution</b>		<b>Recommend Apr-Jun 09</b>
"	Luton & South Beds Joint Committees (planning and transportation)	"	Not required until 1/4/09.	Full
"	Wixams Joint DC Committee	"	Not required until 1/4/09.	Full
"	Town Centre Management Committees (Dunstable, Houghton Regis, Leighton-Linslade)	"	Not required until 1/4/09.	Full (subject to further discussion)
"	Joint Waste Disposal Project Board (new partnership body)	"	-	Full
J3 Partnerships Protocol	New protocol	-	-	Full
<b>Part K – Members’ Allowances</b>				
K1 Scheme of Members’ Allowances	Full 2009/10 allowances scheme to be approved by full Council 26/02/09 (special responsibility allowances for committee chairmen to apply from the date when the new committees are formally established).	Pt 6	2008/09 transitional scheme	Full

**Central Bedfordshire Constitution:  
Second Transitional Period 1 April 2009 to 7 June 2009 Inclusive**

The following amendments shall apply to the Shadow Constitution during the Second Transitional Period: (please also refer to Schedule 1 showing which sections of the Shadow Constitution or the Full Constitution will apply)

Cross-Reference to Schedule 1	Section of the Shadow Constitution	Amendment(s) Required to the Shadow Constitution Between 1 April and 7 June 2009
<b>NOTE 1</b>	Part 2, Article 4 – the Full Shadow Council	Amend paragraph 4 to read:  “The Shadow Council will maintain the lists in Parts B1, B6 and H3 of the Full Constitution setting out the responsibilities for the Shadow Council’s functions which are not the responsibility of the Shadow Executive.”
<b>NOTE 2</b>	Part 1, Summary and Explanation – Scrutiny (page 5)	Delete all below heading ‘Scrutiny’ and replace by:  “There are two overview and scrutiny committees which support the work of the Executive and the Council as a whole.”
	Part 2, Article 6 – Scrutiny Arrangements (page 18)	Delete paragraphs 1 and 2 and replace by:

		<p>“1. The Shadow Council shall appoint a Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 (except for the health scrutiny powers in Section 7 of the Health and Social Care Act 2001 which will be discharged by the Social Care, Health and Housing Overview and Scrutiny Committee); by Section 19 of the Police and Justice Act 2006; and by Part 5, Chapter 2 of the Local Government and Public Involvement in Health Act 2007.</p> <p>2. The following sections of Part D1 of the Full Constitution, Overview and Scrutiny Arrangements and Terms of Reference, shall apply and be read as referring specifically to the Scrutiny Committee:</p> <p style="padding-left: 40px;">Section 2, General Role Section 3, Specific Functions Section 4, Membership, Substitutes and Quorum, paras 4.2 and 4.3 Section 7, Task Forces and Other Informal Working Section 8, Proceedings of Overview and Scrutiny Committees.</p> <p>3. The membership of the Scrutiny Committee shall be 12 councillors plus 5 co-opted members, being up to 3 parent governors and 2 diocesan representatives of the Church of England and Roman Catholic Church.</p> <p>The quorum shall be 4 councillors and 2 co-opted members (either parent governors or diocesan representatives) whenever considering education matters, and 4 councillors at all other times. The co-opted members shall have a vote on education matters only.</p>
--	--	---

		<p>4. The Shadow Council shall also appoint the Social Care, Health and Housing Overview and Scrutiny Committee for the specific purpose of reviewing and scrutinising health services and in particular NHS provision in Central Bedfordshire, in pursuance of powers under Section 7 of the Health and Social Care Act 2001.</p> <p>5. The following sections of Part D1 of the Full Constitution, Overview and Scrutiny Arrangements and Terms of Reference, shall also apply to the Social Care, Health and Housing Overview and Scrutiny Committee:</p> <p style="padding-left: 40px;">Section 4, Membership, Substitutes and Quorum, paragraphs 4.1.4, 4.2 and 4.3</p> <p style="padding-left: 40px;">Section 5, Joint Health Overview and Scrutiny Committees</p> <p style="padding-left: 40px;">Section 7, Task Forces and Other Informal Working</p> <p style="padding-left: 40px;">Section 8, Proceedings of Overview and Scrutiny Committees (insofar as relevant to the conduct of health scrutiny).</p> <p>6. Section 6, Overview and Scrutiny Management Panel, of the Full Constitution shall not apply."</p>
<p><b>NOTE 3</b></p>	<p>Part 2, Article 7 - The Shadow Executive, (pages 19-21)</p>	<p>Add below the existing paragraph 1 Role:          "The Shadow Executive will also exercise all the functions of the Council except in so far as reserved to the Council by legislation, or as defined in Schedule 1 and the applicable sections of the Shadow Constitution or the Full Constitution to which it refers."</p>

		<p>Replace paragraph 9 by:</p> <p>“The Leader will notify the Monitoring Officer of any amendments to the lists in Parts C3 and H3 of the Full Constitution setting out which individual members of the Shadow Executive, committees of the Shadow Executive, officers or joint arrangements are responsible for the exercise of particular executive functions. The Monitoring Officer will report thereon, via the Constitution Advisory Group, to the next ordinary meeting of the Council.”</p>
<b>NOTE 4</b>	Part 2, Article 12 – Officers (pages 28 – 30)	All references to the Interim Monitoring Officer and the Interim Chief Finance Officer shall be read as ‘Monitoring Officer’ and ‘Chief Finance Officer’ respectively.
<b>NOTE 5</b>	Part 2, Article 13 - Decision Making, Section 3, Types of decision (page 31)	<p>Under the sub-heading “(b) Key decisions”:</p> <p>Delete sub-paragraph (i) “A key decision means an executive decision which is likely ... etc.” and replace by paragraphs 1.1, 1.2 and 1.3 under Section C2, Key Decisions and the Forward Plan, of the Full Constitution.</p> <p>Sub-paragraph (ii) continues to apply.</p>
<b>NOTE 6</b>	Part 2, Article 15 – Review and Revision of the Constitution (page 35)	<p>Amend first sentence of paragraph 2 to read:</p> <p>“The Monitoring Officer shall, after consultation with the Constitution Advisory Group, make urgent amendments, amendments to give effect to any decision of the Council or changes in the law, and minor amendments such as to correct errors or to ensure that the constitution is up-to-date.”</p>



<p><b>NOTE 7</b></p>	<p>Part 4, Council Procedure Rules, section 21, Committees: Appointment and Constitution (page 66)</p>	<p>Add a new paragraph 5:           “Paragraph 2.7 of Part B5 of the Full Constitution, headed ‘Substitute Members’, shall apply.” (Note: this is only relevant to the allocation of seats on committees, which is unlikely to occur during the second transitional period).</p>
<p><b>NOTE 8</b></p>	<p>Part 4, Council Procedure Rules (page 67)</p>	<p>Add a new section 23:   <b>“PUBLIC PARTICIPATION</b>           Public participation in Council meetings, including asking questions, making statements and presenting petitions, will operate on the basis of the Public Participation Procedure set out in Part A4 (Citizens and the Council) of the Full Constitution.”           (Note: At the time of writing there is no proposal for Full Council to meet during the second transitional period)</p>
<p><b>NOTE 9</b></p>	<p>Part 4, Executive Procedure Rules, Section 2, How Are Shadow Executive Meetings Conducted? (pages 87 – 89)</p>	<p>Add a new paragraph 6 on page 89:           “ 6. Who may speak?           6.1 Public participation in meetings of the Executive or its committees shall be governed by the Public Participation Procedure set out in Part A4 (Citizens and the Council) of the Full Constitution.           6.2 Any Member of the Council may speak once on any item being considered by the Executive, with further speaking being at the discretion of the Leader.</p>

		<p style="text-align: center;">6.3 The mover of a Motion which has been referred to the Executive shall be entitled to attend the meeting to which it has been referred and to introduce the Motion.”</p>
<b>NOTE 10</b>	Part 4, Scrutiny Procedure Rules (pages 91 – 96)	Delete all and replace by D2, Overview and Scrutiny Procedure Rules as set out in the Full Constitution.