

PART 2
ARTICLES OF THE CONSTITUTION

ARTICLE 1 - THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution and all its supporting policies, procedures, guidance etc. is the Constitution of **The Dartford Borough Council**.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- provide a means of improving the delivery of services to the community; and
- ensure that the governance arrangements deliver efficient, transparent and accountable decision-making.

1.04 Interpretation and review of the Constitution

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

The process for the review of the Constitution, is set out in [Article 15](#).

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

(a) Composition

The Council will comprise forty two (42) Councillors (also called Members). [The Local Government Boundary Commission for England](#) conducts electoral reviews with aim to deliver electoral equality for voters in local elections, and recommend ward boundaries

that ensure all councillors represent approximately the same number of electors. Reviews also aim to deliver effective and convenient local government, and ensure that ward boundaries reflected the interests and identities of local communities.

(b) Eligibility

Only registered voters of the Borough or those living or working in the Borough (or such other persons as may be qualified under legislation), will be eligible to hold the office of Councillor. Owning or leasing land in the Borough is not in itself a sufficient qualification and neither can mere political activism be considered as 'work'.

2.02 Election and terms of Councillors

Election of the whole Council every four years

The regular election of Councillors will be held on the first Thursday in May every 4 years (beginning in 2003). The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all Councillors

1. All Councillors represent their constituents and play an important role in consulting their communities on the development of policy and leading on the community planning process and other local initiatives for example, on community safety and local cultural strategies.
2. In accordance with [section 2.7](#) of this Constitution, Councillors can “feed-in” the views of the community they represent on matters such as policy development, decision-making, the setting up of new performance targets etc.

2.04 Key roles

Councillors:

- (a) collectively, be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the Council, be involved in decision-making and actively encourage community participation and citizen involvement in decision-making;
- (c) represent their communities including the interests of their ward and of individual constituents;
- (d) respond to constituents' enquiries and representations fairly and impartially;
- (e) deal with individual casework and act for constituents in resolving particular concerns or grievances;
- (f) balance different interests identified within their ward and represent their ward as a whole;
- (g) represent the Council on other bodies in accordance with [section 2.6](#) of this Constitution; and

(h) maintain the highest standards of conduct and ethics.

2.05 Rights and duties

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence, to anyone other than a Councillor or Officer entitled to know it.

‘Confidential’ and ‘exempt’ information are defined in the Access to Information Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

2.06 Conduct

Councillors and [voting] Co-opted Members will at all times, observe the [Member Code of Conduct](#), the [Member/Officer Relations Protocol](#) and other codes and protocols which may be agreed from time to time, set out in [Part 5 of this Constitution](#).

2.07 Allowances

Councillors and Co-opted Members will be entitled to receive allowances in accordance with the [Members’ Allowances Scheme](#) [Part 7 of this Constitution].

The Council is obliged to establish and maintain an Independent Remuneration Panel which will broadly have the functions of providing the Council with advice on its Members’ Allowances Scheme, the amounts to be paid and the pensionability of allowances, where relevant, in accordance with the Panel’s [Terms of Reference](#) [Part 3 of this Constitution].

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens’ Rights

Citizens have the following rights;

- Vote at local elections if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of this Constitution;
- Attend meetings of the General Assembly of the Council, Cabinet, Committees, Boards and Panels, except where confidential/exempt information is likely to be disclosed and the meeting is therefore held in private;
- Inspect agendas, reports and minutes of meetings of the General Assembly of the Council, Cabinet, Committees, Boards and Panels, but excluding confidential/exempt related information;

- Submit statutory petitions, for example, to request a referendum on Council Tax increases or in relation to whether the Council should operate a certain form of governance arrangements;
- Submit non- statutory Petitions/ePetitions in accordance with the [Petitions Guidelines](#), for a response on any matter relating to a function of the Council or, to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partners contribute;
- By invitation and/or at the Chairman's discretion, attend meetings of the Policy Overview Committee, Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee or at the Chairman's discretion to contribute to investigations or reviews undertaken by the Committees, in accordance with the Committees' Protocols in [Part 3 of this Constitution](#);
- Participate in Development Control Board meetings in accordance with the [Board's Public Speaking Protocol](#);
- Participate in Licensing Sub-committee hearings in accordance with the [Sub-committee's Rules of Procedure](#);
- Find out, from the [Cabinet's Regulation 9 Notice](#), what key decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and attend meetings of the Cabinet when key decisions are being considered except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- Complain to the Council about Council services – the Council encourages its customers through its [Corporate Complaints Procedure](#) to voice their concerns as an opportunity to put things right for the customer and to improve services;
- Complain to the Local Government & Social Care Ombudsman, Housing Ombudsman or local ward members if they think the Council has not followed its procedures;
- [Complain to the Monitoring Officer](#), if they have evidence which they think shows that a Councillor or [voting] Co-opted Member has breached the [\[Member\] Code of Conduct](#);
- Inspect the Council's accounts and to make their views known to the external auditor;
- When vacancies are advertised, apply to become an Independent Person;
- When vacancies are advertised, apply to become a member of the Council's Independent Remuneration Panel or Co-opted Member of the Deed, Trust and Obligations Committee;
- Request and receive information held by the Council subject to the exemptions in Freedom of Information Act 2000 or exceptions in the Environmental Information Regulations 2004.

3.02 Citizens' responsibilities

Citizens must observe the law and not be violent, abusing or threatening to Councillors, Co-opted Members or Officers and must not wilfully harm property (including chattels) owned by the Council, Councillors or Officers.

ARTICLE 4 - THE GENERAL ASSEMBLY OF THE COUNCIL

4.01 Meanings

(a) Policy Framework

The '**policy framework**' means the following policies, plans and strategies to be adopted by the General Assembly of the Council:

NB: In accordance with Standing Order 55, the Cabinet may formulate the policies, plans and strategies for approval by the General Assembly of the Council.

Statutory

- Approval to designate an area within the Borough of Dartford as a Neighbourhood Area
- Approval of Local Plan documents, from the publication stage onwards (excluding SPDs)
- Decision to make or refuse to make a Neighbourhood Development Plan
- Gambling Policy Statement
- Pay Policy Statement
- Statement of Licensing Policy

Local choice

Statutory or non-statutory policies, plans and strategies, which the General Assembly of the Council may decide, should be adopted by it, as a matter of local choice:

- Corporate Plan
- Environmental Health Enforcement Policy

(b) Budget Framework

The '**budget framework**' means and includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits and more specifically, the:

- Annual Budget, including:
 - i. Capital Strategy;
 - ii. Investment Strategy;
 - iii. Capital Programme Strategy;
 - iv. Treasury Management Strategy,
- Medium Financial Plan,

approved by the General Assembly of the Council.

NB: In accordance with Standing Order 55, following the required consultation, the Cabinet will put forward its firm proposals on the budget, for decision by the General Assembly of the Council.

[See the list of documents comprising the Policy and and Budget Frameworks](#)

(c) **Council Tax base and setting of Council Tax**

The council tax base is set by the General Assembly of the Council and relates to the estimated revenues generated by residential properties. Council tax is set based on the net level of costs to be borne, after all costs and revenue are taken into account.

(d) **Housing Land Transfer**

Excepting 'Housing Land Transfers', all housing functions are the responsibility of the Cabinet, as delegated, in accordance with table 3, [Responsibility for Functions](#) [Part 3 of this Constitution].

'Housing Land Transfer' means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

Applications to the Secretary of State respectively, to join the annual disposals programmes and transfer housing land, must be authorised by the General Assembly of the Council, before being sent to the Secretary of State.

4.02 Functions of the General Assembly of the Council

Leader and Cabinet form of local governance

Only the General Assembly of the Council will exercise the following functions:

- To appoint the Leader of the Council for a four [4] year term and remove (through a vote of no confidence) the Leader;
- To receive and note the size of the Cabinet, note the appointments to the Cabinet made by the Leader of the Council, allocate executive functions to the Cabinet; and determine the Terms of Reference of the Cabinet;
- To receive and note the establishment of committee(s) of the Cabinet;
- To consider and establish Committees, Sub-committees, Boards, Panels and other bodies, except where the power to appoint a sub-committee is vested by law in a committee;
- To confirm the size and membership of the political groups on the Council;

- To adopt the Rules of Substitution for Committees, Sub-committees, Boards and Panels;
- To note the appointment of representatives to Outside Bodies and liaison groups unless the appointment is a Cabinet function or has been delegated by the General Assembly of the Council;
- To make, amend or revoke [Standing Orders \(Procedural\)](#), [Contract Standing Orders](#) and [Financial Regulations](#), unless the function has been delegated by the General Assembly of the Council;
- To agree and/or amend the [Scheme of Delegations to Officers](#), unless the function has been delegated by the General Assembly of the Council, or in relation to Cabinet functions, delegated by the Cabinet;
- To adopt, amend or revoke the Members' Allowances Scheme under [Article 2.07](#) of this Constitution;
- To change the name of the area, confer the title (by a resolution passed by not less than two-thirds of the Members present and voting) of Honorary Alderman or Freedom of the Borough;
- To determine the levels and pensionability of Councillors' allowance;
- To authorise applications to the Secretary of State for housing land transfers of housing stock;
- To adopt the Council's [\[Member\] Code of Conduct](#);
- To make or confirm the appointment of the Head of Paid Service and other Statutory Officers;
- To dismiss the Head of Paid Service and other Statutory Officers;
- To make appointments to Boards, Committees, Panels, Sub-committees, Joint and Area Committees, unless the appointment is a Cabinet function or where the power to appoint a sub-committee is vested by law in a committee and the membership of the sub-committee is taken from the membership of the parent committee;
- To deal with functions relating to electoral matters and change in governance arrangements;
- To make, amend, revoke, re-enact or adopt bylaws and promoting or opposing the making of local legislation or personal Bills;
- To deal with resolutions of maladministration (on an Ombudsman report), unless the function has been delegated by the General Assembly of the Council;
- On the recommendation of the Audit Board, to adopt and amend this Constitution, unless the function has been delegated, as detailed in [Article 15](#);
- To consider any matters referred to the General Assembly of the Council for decision, in accordance with its [Terms of Reference](#);
- To consider other matters reserved by law to the General Assembly of the Council.

4.03 Council meetings

There are three types of Council meetings:

- (a) The Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings,

and they will be conducted in accordance with the Council Procedure Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

4.04 Responsibility for functions

The General Assembly of the Council will maintain the [Responsibility for Functions](#) tables [Part 3 of this Constitution], setting out the responsibilities for its functions which are not the responsibility of the Cabinet.

The Cabinet will maintain the [Responsibility for Functions](#) tables [Part 3 of this Constitution], setting out the responsibilities for its functions which are not the responsibility of the General Assembly of the Council.

ARTICLE 5 – CHAIRING THE GENERAL ASSEMBLY OF THE COUNCIL

5.01 Mayor - making

The person entrusted with authority to regulate the General Assembly of the Council meetings, is usually styled the 'chairman of the council' or the mayor, in the case of those councils that have been permitted to retain their borough status.

The title of 'mayor' was derived through the Council being granted borough status on 21 June 1977⁴ and falls to a Councillor who is elected annually to the office of Mayor.

Mayor making is regarded as an important civic and ceremonial event. The election of the Mayor is not decided by the electorate, but by a majority of the Councillors present and voting at the Annual Meeting of the Council in May.

At the Annual Meeting, the Mayor appoints his/her Deputy Mayor. The appointment is noted by the Council.

The Mayor is addressed as 'The Worshipful the Mayor of Dartford'. The Deputy Mayor is addressed as 'The Deputy Mayor'.

5.02 Role and function of the Mayor

The Mayor is the **First Citizen** of the Borough of Dartford.

The Mayor and in his/her absence, the Deputy Mayor have the following roles and functions;

1. To uphold and promote the purposes of this Constitution and to interpret the Constitution where necessary;
2. To preside over meetings of the General Assembly of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. To ensure that meetings of the General Assembly of the Council are forums for the debate of matters of concern to the local community and the place at which

⁴ Borough status was initially granted in 1933

- Members who are not on the Cabinet or hold office of committee Chairmen are able to hold Cabinet members and committee Chairmen to account;
4. Together with all members of the Council, to promote public involvement in the Council's activities;
 5. To be the conscience of the Council;
 6. To attend such civic and ceremonial functions as the Council and the Mayor determines appropriate.

The Mayor and Deputy Mayor are de facto, 'chairman and vice chairman' of the Council. In accordance with sections 3(1A) and 5(1A) of the Local Government Act 1972, the Mayor and Deputy Mayor cannot be appointed to the Cabinet.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.01 Terms of Reference and Protocols

The General Assembly of the Council will appoint overview and scrutiny committees set out in the left hand column of the table below, to discharge the functions conferred by legislation in relation to the matters set out in the right hand column of the same table and as more detailed in the Committees' [Terms of Reference](#) [Part 3 of this Constitution].

To achieve enhanced accountability and transparency of the decision making process, effective overview and scrutiny is essential. Therefore, the Scrutiny Committee, Policy Overview Committee and the Crime and Disorder (Overview and Scrutiny) Committee are key elements of the Council's executive arrangements and the main way by which Cabinet, partner organisations etc. are held to account in public, for the discharge of their functions. These Committees are also key mechanisms for enabling Councillors to represent the views of their constituents and other organisations, to the Council and/or Cabinet and hence, to ensure that these views are taken into account in policy development.

The rules for how the overview and scrutiny committees set out in the left hand column of the table below operate, are as set out in the Committees' Protocols [Part 3 of this Constitution].

| Committee | Scope |
|---|--|
| <p>Policy Overview Committee</p> <p>Policy Overview Committee Protocol</p> | <p>The review of any matter in accordance with the following overarching principles:</p> <p>(a) relating to the provision of and/or delivery of Council services to the local community;</p> <p>(b) in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;</p> <p>(c) which has an adverse impact on</p> |

| | |
|--|--|
| | the delivery of Council services. |
| Scrutiny Committee Scrutiny Committee Protocol | <p>To scrutinise and monitor the performance of the Cabinet, Officers and partner authorities in implementing decisions in line with the Council's policy and budget framework, in accordance with the following overarching principles:</p> <p>(a) relating to the provision of and/or delivery of Council services to the local community;</p> <p>(b) in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;</p> <p>(c) which has an adverse impact on the delivery of Council services.</p> |
| Crime and Disorder (Overview and Scrutiny) Committee Crime and Disorder (Overview and Scrutiny) Committee Protocol | <p>Scrutiny inter alia of:</p> <ul style="list-style-type: none"> • decisions and/or actions of the Dartford Community Safety Partnership (DCSP) and its partners; • any other local crime and disorder matter related to the Cabinet's crime and disorder/community safety functions; • community safety related local improvement targets; • the DCSP's annual strategic assessment; • the DCSP's partnership plan; • Councillor Calls for Action (on crime and disorder/community safety matters only). |
| | |

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, support the work of the Council and Cabinet as a whole. The Committees take an independent role (through Terms of Reference agreed by the General Assembly of the Council and Protocols agreed by the Committees) in the Council's efforts to improve continuously the performance of its services and functions and the policies and strategies within which the Council operates, including the functions of partner organisations, such as the DCSP. The Policy Overview Committee may be consulted by the General Assembly of the Council or Cabinet on forthcoming issues and the development of policy.

6.02 The Policy Overview Committee – in accordance with its [Terms of Reference](#), can only discharge the overview functions and no other functions of the Council.

6.03 The Scrutiny Committee – in accordance with its [Terms of Reference](#), cannot discharge any other function of the Council other than the scrutiny function. This is to ensure there is a clear separation between the discharge of functions and the scrutiny of functions.

6.04 The Crime and Disorder (Overview and Scrutiny) Committee – in accordance with its [Terms of Reference](#), can only discharge overview and scrutiny functions relating to crime and disorder/community safety.

‘Crime and disorder’ is defined as including forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol and other substances.

The ‘core’ responsible authorities comprising the DCSP include local authorities, fire and rescue authorities, police authorities, the police force and clinical commissioning groups and probation service. Other partners may also sit on the DCSP.

The Crime and Disorder (Overview and Scrutiny) Committee must meet at least once in a twelve month period.

Overview and scrutiny roles

6.05 Community and stakeholder involvement in scrutiny and review

Policy development, scrutiny and review, benefit from input from all key stakeholders including the local community and other local public, private and voluntary organisations. The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, pay particular attention to obtaining views from “hard to reach” groups such as minority, ethnic communities and people with disabilities.

The General Assembly of the Council may appoint co-opted members to committees [\[Standing Order 58\(6\)\]](#) – people from the community with specific expertise and knowledge to advise the committees and/or assist the committees with specific tasks e.g. co-opting a police authority member onto the Crime and Disorder (Overview and Scrutiny) Committee when policing matters are being considered.

The views of tenants may also be sought through a variety of consultation mechanisms, for example by inviting tenants (or their representatives) to attend to answer questions and discuss issues or by co-opting tenants’ representatives (without voting rights) onto the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee.

6.06 Health scrutiny/review

The NHS is made up of multiple organisations (e.g. clinical commissioning groups, primary care organisations and community trusts) and is a key partner with local government in shaping and delivering public services. The Council’s overview and scrutiny processes may review and scrutinise any matter relating to the planning,

provision and operation of the health service in the Borough of Dartford, in accordance the scope referred to in [Article 6.01](#) above.

6.07 Councillor Calls for Action

Councillor Calls for Action (CCfAs), are designed as a formal means whereby any Councillor:

- (a) through the Scrutiny Committee, can raise on behalf of a constituent, or on their own initiative, any local government matter (other than a crime and disorder/community safety matter), relevant to the Council's functions;
- (b) through the Crime and Disorder (Overview and Scrutiny) Committee, can raise on behalf of a constituent, or on their own initiative, a crime and disorder/community safety matter, relevant to the functions of the DCSP or any other local crime and disorder matter relevant to the Council's/Cabinet's functions.

Issues raised under a CCfA must be genuine, significant and persistent community concerns and where the usual channels for raising the concern e.g. Council Officers, Cabinet etc. have been unsuccessful. As such, a Member's agreement to championing a CCfA through the scrutiny process, is generally seen as a measure of last resort, once other approaches have been exhausted.

Within their Terms of Reference, the Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will consider (as a measure of last resort), Councillor Calls for Action, in accordance with their respective Protocols [\[Part 3 of this Constitution\]](#).

6.08 Requirement to attend before overview and scrutiny committees

Subject to reasonable notice, and within the limits referred to in their respective Protocols, the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, may require the attendance of Cabinet members, Council Officers and representatives from responsible authorities⁵ and other organisations, in order to answer questions.

6.09 Duty to consider and respond to overview and scrutiny reports and recommendations

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may report and make recommendations to the General Assembly of the Council, Cabinet and the responsible authorities.

Responsible authorities are under a duty to consider and respond to information requests from the Committees and under a further duty, to have regard to the Committees' reports and recommendations.

⁵ As defined in the Committees' Protocols

6.10 Membership

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are appointed by the General Assembly of the Council, with each Committee comprising a number of Councillors (with an appropriate political balance in membership) who hold office for a municipal year, commencing with the Annual Meeting of the Council in May.

No Members may be involved in scrutinising or reviewing a decision in which they have been directly involved – see the rules detailed in Articles [11.04.1](#) and [11.04.2](#).

Cabinet members may not be members of the Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. No more than one Cabinet member may be a member of the Policy Overview Committee.

Within the rules defined in [Standing Order 58](#) and/or [Terms of Reference](#), the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may appoint sub-committees and delegate any of their functions to their sub-committees. Sub-committee membership (usually taken from the membership of the parent committee) will normally reflect the political balance of the Council.

On the recommendation of the Policy Overview Committee, Scrutiny Committee, the General Assembly of the Council may appoint persons (other than members of the Council) to these Committees or their sub-committees. Such persons are referred to as co-opted members and have no voting rights and are also excluded from discussions and decision making on matters before the Committees which are considered confidential or exempt.

The Crime and Disorder (Overview and Scrutiny) Committee may, subject to the General Assembly of the Council's agreement, co-opt additional members to serve on the Committee or its sub-committee, subject to the following:

- (i) a person co-opted to serve on the Committee/sub-committee will not be entitled to vote on any particular matter, unless the Committee so determines.
- (ii) a co-opted person's membership may be limited to the exercise of the Committee's/sub-committee's powers in relation to a particular matter or type of matter.
- (iii) the Committee may only co-opt an employee, officer or member of the responsible authorities or co-operating body comprising the DCSP to serve on the Committee/sub-committee, providing this person:
 - (a) is not the chairman or vice chairman of the DCSP or the nominated representative/member or substitute of the responsible authorities and/or co-operating body; and
 - (b) is not a Cabinet member (or an executive member of Kent County Council).

The membership of a person co-opted to serve on the Committee/sub-committee, may be withdrawn at any time by the Committee.

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee must meet in public except where confidential and/or exempt matters are being discussed. The Committees report annually to the General Assembly of the Council on their workings.

6.11 The Party Whip

The Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are required to hold decision makers to account. Whipping is incompatible with the scrutiny functions and whipping is discouraged see [\[refer to Standing Order 58\(8\)\]](#) [Part 4 of this Constitution], for the rules on declaring the existence of a whip etc.

ARTICLE 7 - THE EXECUTIVE

7.01 The Role of the Executive (the Cabinet)

The Cabinet (meaning the Leader of the Council and such other Members of the Council as the Leader may appoint) will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Cabinet may however, make arrangements to delegate some matters to a Cabinet Committee or to Officers.

The Cabinet and its members have wide ranging leadership roles in;

- Leading the community planning process and the search for best value with input and advice from the Policy Overview Committee and any other persons as appropriate;
- Leading the preparation of the Council's policies and agreeing the detailed budget i.e. spend against the agreed budget envelope;
- Taking in - year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the General Assembly of the Council;
- Being the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs;
- Ensuring that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole, with input and advice from the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee and any other persons or advisory bodies as appropriate;
- Ensuring that the Council and its partners have a strong understanding of the local economy;
- Contributing to an economic vision and strategy for the Borough;
- Playing a part in community and business engagement; Ensure effective partnership structures are in place; and
- Providing strong civic leadership to drive economic development.

The Cabinet responds to any recommendations and reports from the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. Where recommendations differ from the Cabinet's policy, the Cabinet must justify the differences and its actions and or change its policy, where necessary, seeking approval from the General Assembly of the Council. The Cabinet aims to respond to the needs and aspirations of local communities, seeking to resolve conflicts through clear leadership.

7.02 Leader with Cabinet

7.02.1 Form and Composition

The Council has adopted⁶ a Leader and Cabinet form of local governance. The Cabinet consists of the Leader of the Council together with at least two but no more than 9 Councillors appointed to the Cabinet by the Leader⁷. The size of the Cabinet is determined by the Leader⁸.

The Council at its Annual Meeting in May, notes the size of the Cabinet and notes the appointments to the Cabinet by the Leader.

7.02.2 Leader of the Council

The Leader will be a councillor of the Borough of Dartford elected by the Council to the position of Leader, at the first Annual Meeting of the Council following Borough whole-Council elections or, if not elected at the Annual Meeting, at the first ordinary meeting of the Council following the Annual Meeting or, the next ordinary meeting of the Council following the resignation, dismissal or vacation of office by the Leader. The Leader will hold office until:

- (a) he/she resigns from office; or
- (b) he/she is no longer a councillor except where the Leader fails to be returned as a Councillor following an ordinary election of all Councillors, when unless the Leader resigns, is disqualified or is otherwise removed from office he/she will continue as Leader until the day of the Annual Meeting;
- (c) he/she is removed from office by resolution of the General Assembly of the Council; or
- (d) he/she is otherwise disqualified by law.

7.02.3 Deputy Leader of the Council

The Leader will appoint a member of the Cabinet to the position of Deputy Leader of the Council. The Deputy Leader will hold office until the end of the term of office of the Leader or until:

- (a) he/she resigns from office; or
- (b) he/she is no longer a councillor; or

⁶ General Assembly of the Council - 13 December 2010 Min.No.85

⁷ Section 11(3) Local Government Act 2000 (as amended)

⁸ Not to exceed 10 Councillors (including the Leader and Deputy leader)

- (c) the Leader in his/her absolute discretion, removes him/her from office, upon written notice to the Chief Officer and Director of Corporate Services; or
- (d) he/she is otherwise disqualified by law.

The Deputy Leader will have authority to exercise the Leader's powers only in the event that the Leader is unable to act at any time or the office of Leader is vacant.

7.02.4 Other Cabinet members

Only Councillors may be appointed to the Cabinet by the Leader of the Council. There may be no co-optees and no deputies or substitutes for Cabinet members (refer to [Article 7.02.6](#)).

Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader of the Council) may not be members of the Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. The membership of the Policy Overview Committee may not consist of more than one Cabinet member.

Cabinet members will hold office until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office, either individually or collectively, by the Leader, upon written notice to the Chief Officer and Director of Corporate Services; or
- (e) they are otherwise disqualified by law.

7.02.5 Absence of Leader and/or Deputy Leader/and or Cabinet members

If, for any reason, the Leader is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant, the Cabinet will either collectively act in the Leader's place or must arrange for a member of the Cabinet to act in his/her place.

If, for whatever reason there is a vacancy in the office of Deputy Leader, the Leader will appoint another Deputy Leader from among the Cabinet members.

In the event of there being no Leader, Deputy Leader or Cabinet members, Cabinet functions will in the interim, be discharged by the Chief Officer and Director of Corporate Services, subject to the Access to Information Procedure Rules in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

7.02.6 Filling vacancies in the Cabinet

If a vacancy occurs in the office of a Cabinet member, the Leader of the Council will fill the vacancy and report the appointment to the Chief Officer and Director of Corporate Services for report to the next ordinary meeting of the General Assembly of the Council.

7.02.7 Substitution/Co-option

Allowing for substitution of Cabinet members would reduce transparency and blur accountability. The Cabinet is therefore not able to have formal substitute or deputy members who are not themselves members of the Cabinet. For the same reason, the Cabinet has no powers to co-opt other Councillors or anyone else onto the Cabinet.

The Cabinet may invite anybody it considers appropriate to attend meetings and to speak on behalf of an absent member of the Cabinet. However, that person would not be able to take formal decisions. It is considered that such a role would help provide an effective link between the Cabinet and other Councillors and could be an effective development role for some Councillors. It would obviously be inappropriate for a Councillor assisting the Cabinet in such circumstances, to also be a member of the Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee dealing with matters on which he/she has assisted the Cabinet.

The Cabinet takes an inclusive approach to its work, particularly policy development, by consulting with other Councillors, the Policy Overview Committee, Scrutiny Committee, the Crime and Disorder (Overview and Scrutiny) Committee and the wider local community.

7.02.8 Portfolios allocated to Cabinet members

Portfolios (i.e. roles and responsibilities but excluding decision making) are allocated by the Leader to individual Cabinet members to facilitate the day-to-day management and/or operational activities of the Cabinet. The list of portfolios is received (and noted) by the General Assembly of the Council at the Annual Meeting and is open to public inspection. The Leader may alter the portfolios and allocations/distribution of portfolios within the Cabinet at any time, but subject to the alterations being reported to the General Assembly of the Council and the amended list of portfolios being open to public inspection.

7.02.9 Delegation outside the Cabinet

The Cabinet may delegate any of its functions to Officers. Such delegations are a way of ensuring more efficient decision-making and of preventing the Cabinet from becoming overwhelmed by a large volume of very detailed managerial, operational and professional matters. It is essential that Cabinet members have sufficient time to focus on broad strategic issues.

The Cabinet may make arrangements for its functions to be discharged by area committees, forums or another local authority or discharged jointly with one or more other local authorities.

The [Scheme of Delegations to Officers](#) [Part 3 of this Constitution] is agreed by the General Assembly of the Council (for Council functions) and Cabinet (for executive functions). Delegations to Officers (both by the General Assembly of the Council and

by the Cabinet), set out the functions and relevant financial thresholds (where applicable), within which delegations are exercised.

Where functions, which are the responsibility of the Cabinet, are delegated to Officers or other structures outside of the Cabinet, the Cabinet remains accountable to the Council through the Scrutiny Committee, for the discharge of those functions and to the Crime and Disorder (Overview and Scrutiny) Committee, for the discharge of the Council's crime and disorder/community safety functions. The Cabinet is therefore accountable for both its decisions to delegate a function and the way that the function is being carried out.

The Cabinet will appoint the Committees, Sub-committees, Boards and Panels set out in table 3, '[Responsibility for Functions](#)' [Part 3 of this Constitution], to discharge the Cabinet functions described in column 3 of that table.

Decisions of the Cabinet and its appointed committees etc. will be in public, except where confidential and/or exempt matters are being discussed.

Charitable land holdings

The Council has a number of charitable land holdings (Kidd Legacy at Central Park, Hesketh Park and the Children's Playing Field and Recreation Ground at Savoy Road). As sole trustee, the Council has overall control of these charities and the charities' property and funds. Under the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (as amended) and Section 13(2) of the Local Government Act 2000 (as amended), **a local authority's charity function is discharged by Cabinet.**

To avoid inherent conflicts of interest between the Council's role as local authority and its role as trustee of the charities and to safeguard the charities' Objects, the Council has established a trustee committee known as 'The Deed, Trust and Obligations Committee' (comprised of elected councillors and [voting] co-optees (lay persons)) to operate and manage the charities' affairs (reporting to Cabinet). This Committee has adopted a [Conflicts of Interest Policy](#) (approved by the Charity Commission) which is intended to assist the Committee in identifying conflicts, to avoid conflicts arising at all and, where conflicts do arise, to assist the Committee to manage those conflicts in order to avoid perceived and actual problems occurring.

7.02.10 Decision making by the Cabinet

Executive functions are exercised by the Cabinet collectively or by a committee of the Cabinet or by Officers under delegated authority or by any area committee, forum or under joint arrangements.

No individual Cabinet member has the authority to take decisions on behalf of the Council and/or the Cabinet.

Decisions of the Cabinet are subject to rigorous public scrutiny through the Scrutiny Committee and in relation to crime and disorder/community safety, through the Crime and Disorder (Overview and Scrutiny) Committee. These Committees, (in accordance with their [Protocols](#) [Part 3 of this Constitution]) are able to require Cabinet members and Council Officers to attend before the Committee to answer questions about decisions (before and after implementation) taken by the Cabinet and/or Officers under delegated authority.

7.02.11 Officer Support

Officers work for and serve the Council as a whole. The Cabinet will respect the political neutrality of Officers.

7.02.12 Conflict resolution

The Leader of the Council and members of the Cabinet will not be removed from office as part of normal procedures for resolving conflicts between the Council and the Cabinet.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.01 Regulatory committees

Local authorities are not just service providers – they also act as regulators. This involves Councillors in regulatory roles (e.g. Development Control Board) being appointed to membership of the regulatory committees, by the General Assembly of the Council.

The General Assembly of the Council will appoint the regulatory committees set out in table 2.1, '[Responsibility for Functions](#)' [Part 3 of this Constitution], to discharge the functions described in column 3 of that table.

The Monitoring Officer arranges training for Councillors undertaking regulatory responsibilities. In these roles, Councillors are required to act independently and are not subject to party group whip.

8.02 Other committees, sub-committee, boards and panels

The General Assembly of the Council will appoint the Committees, Sub-committees, Boards and Panels set out in table 2.2, '[Responsibility for Functions](#)' [Part 3 of this Constitution], to discharge the non-Cabinet functions described in column 3 of that table.

Decisions of regulatory and other committees etc. will be in public, except where confidential and/or exempt matters are being discussed.

ARTICLE 9 – THE STANDARDS FUNCTIONS

9.01 Ethical framework

The Council has a lead responsibility for its own standards and must have in place arrangements to deal with this responsibility.

The Council is required to adopt a code of conduct for its Councillors and [voting] Co-opted Members which, when viewed as a whole, must be consistent with the following principles — (a) selflessness; (b) integrity; (c) objectivity; (d) accountability; (e) openness; (f) honesty; (g) leadership' (i.e. the Nolan principles of standards in public life). This code contains a set of provisions that guides Members towards the standards of behaviour expected of them when in office. The Council has scope to tailor its adopted code to meet its own local circumstances.

The Council's ethical framework provides clear rules for Councillors and [voting] Co-opted Members and puts in place a rigorous mechanism for tackling any infringements.

9.02 [Member] Code of Conduct

Confidence in local democracy is essential to an open and inclusive society. This can only be achieved when those serving their communities adhere to – and can be held accountable for the high standards expected of them.

The Council's adopted [\[Member\] Code of Conduct](#)⁹ describes, in a clear and simple way, how Members should conduct themselves when acting in their capacity as a Member or [voting] Co-opted Member of the Council.

9.03 Audit Board

As standards have numerous linkages with the wider scope of corporate governance, the Audit Board's [Terms of Reference](#) include the discharge of the Council's standards functions.

The Audit Board provides independent assurance of the adequacy of the Council's control and risk management framework and the associated control environment. The Board undertakes independent scrutiny of the Council's financial and non-financial performance and oversees the financial reporting process. The Board receives reports from both internal and external audit, approving the audit programmes and ensuring sufficient resources to deliver the internal audit service.

The Audit Board has an important role in strengthening and maintaining high standards of conduct within the Council.

⁹ GAC 16 July 2012 [Min.No.35] as amended from time to time

9.04 Roles and functions of the Audit Board

The Audit Board will have the roles and functions relating to ethical governance as set out in its [Terms of Reference](#) [Part 3 of this Constitution]. In summary, the Audit Board, with the support and guidance of the Monitoring Officer:

- promotes and maintains high standards of conduct by Councillors (Borough and Parish/Town) and [voting] Co-opted Members;
- monitors and reviews the ethical governance framework;
- through the Monitoring Officer's Annual Report, supports the assurance statements included or to be included, in the Annual Governance Statement;
- through the Board Chairman's Section 56B Local Government Act 2000 (as amended) Annual Report to the General Assembly of the Council, provides the Council with confidence that robust arrangements are in place and that the Board continues to develop and improve management and reporting arrangements to satisfy itself that its approach to ethical governance is both adequate and effective in practice;
- advises, trains or arranges training for Councillors and [voting] Co-opted Members on matters relating to the [Member] Code of Conduct;
- advises, trains or arranges training for Parish/Town Councillors on matters relating to their codes of conduct;
- grants dispensations in accordance with its Terms of Reference.

9.05 Sub-committee of the Audit Board

Hearing Panel - established by the Audit Board for the purposes of determining [Member] Code of Conduct and Parish/Town Council code breach complaints, following an investigation. The Hearing Panel will have the [Terms of Reference](#) [Part 3 of this Constitution].

Membership of the Hearing Panel - There is no requirement for fixed membership or a fixed Chairman of the Hearing Panel. Subject to ensuring no conflicts of interest, a form of 'floating' or 'pool' membership comprising three Members (politically balanced), drawn from the membership of the Audit Board, is the Council's preferred option.

The quorum for a meeting of the Hearing Panel is three [3] Members, for the duration of the meeting.

9.06 Independent Person

Under the provisions of the Localism Act 2011, the Council is required to appoint at least one Independent Person to assist it in promoting and maintaining high standards of conduct amongst all its Councillors, Co-opted Members and Parish/Town Councillors.

An Independent Person will be consulted by the Monitoring Officer on the decision to investigate complaints. The Independent Person may be consulted on other standards matters, including by the Councillor who is the subject of an allegation.

Under the Standing Orders (England) Regulations 2001 (as amended), the final decision to dismiss a Statutory Officer must be by resolution of the General Assembly of the Council, having first considered amongst other matters, the advice, views or recommendations of the Statutory Officer Advisory Panel whose member composition, must include at least two Independent Persons (with voting rights), where the independent investigator's report recommends dismissal.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

10.01 Area Committees

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

Area committees or forums can take many forms and undertake a variety of roles, for example, they can be made up of Councillors, representatives from other public, private and voluntary sector bodies in the area and members of the public or they can be made up of Councillors only. Area committees or forums can be purely advisory and consultative bodies or they can have delegated functions and budgets.

The Council will consult with relevant Parish and Town Councils and the Chairmen of relevant Parish/Town meetings when considering whether and how to establish area committees. The objective will be to establish a partnership approach to strengthen local focus and action to help give local communities a real input into decisions which affect them.

10.02 Form, composition and function

The General Assembly of the Council and the Cabinet may appoint area committees to **discharge their respective functions** and where they do so, the committees' functions will be reflected in terms of reference, including the application of protocols which prevent an area committee from making a decision which significantly affects a part of the Council's area (in respect of which that committee does not have functions) or all of the Council's area.

If the General Assembly of the Council and Cabinet chose to establish area committees, the committees may be decision-making bodies or consultative forums with no decision-making powers.

The General Assembly of Council may delegate non-Cabinet functions to area committees and the Cabinet may delegate Cabinet functions (see [Article 10.03](#) of this Constitution). If both are delegated to the same area committee, the agendas for the meeting must make it clear whether the decisions required relate to Cabinet functions or not. The General Assembly of the Council and if relevant, the Cabinet will continue to have powers to discharge the functions which are the subject of area committee

arrangements. This ensures that there is sufficient flexibility so that if the General Assembly of the Council or the Cabinet need to exercise the powers (for example in consequence of the exercise of another power), then they have the ability to do so.

Accountability for the discharge of functions for which the General Assembly of the Council or Cabinet are responsible will remain with the General Assembly of the Council or Cabinet, even they choose to delegate functions to area committees.

Through their Terms of Reference and Protocols [[Part 3 of this Constitution](#)], the Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, are able to hold the Cabinet to account, both for the decision to delegate out a particular function and for the outcome of so delegating, i.e. the actual discharge of the function.

Functions which are to be discharged by an area committee, must be exercised in accordance with the Council's policy framework.

The composition of area committees and sub-committees need not reflect the political balance of the Council as a whole, if all of the voting members on the committee/sub-committee represent wards within its area and the area does not exceed two fifths of the total for the Council by reference to population or area.

Area committees may include voting co-optees, if the committee is appointed exclusively to discharge functions relating to;

- Corporate Property Management;
- Housing Management (of 1,500 or one quarter of the Council's stock whichever is the less);
- Promotion of tourism;
- Festival Management;
- Joint County/District functions discharged by a joint committee.

10.03 Delegations

If the General Assembly of the Council and the Cabinet chose to establish area committees, details of the functions delegated to these committees will be referred to in terms of reference, including the composition and membership of the committees, budgets and any limitations on delegation.

In deciding to delegate decision making to area committees, the General Assembly of the Council and/or Cabinet will need to be clear that doing so will not adversely affect the quality of local services or the efficiency, transparency and accountability of decision making and that the arrangements will deliver best value. The General Assembly of the Council and where applicable, Cabinet will remain and be seen to remain, accountable for those functions and the clear, accountable, corporate leadership of the Council.

10.04 Membership of area committees - conflicts of interest

- (a) **Scrutiny** - the rules detailed in Article [11.04.1](#) apply.
- (b) **General policy reviews** - the rules detailed in Article [11.04.2](#) apply.

10.05 Area Committees – Access to Information

Area committees will comply with the Access to Information Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

Agendas and notices for area committee meetings which deal with functions of both the General Assembly of the Council and Cabinet, will state clearly which items relate to the General Assembly of the Council and which relate to the Cabinet.

10.06 Cabinet members on area committees

A Cabinet member may serve on an area committee, if otherwise eligible to do so as a Councillor.

10.07 Present position

The Council has not appointed area committees.

ARTICLE 11 – PARTNERSHIPS/JOINT ARRANGEMENTS

11.01 Partnership/joint working

Partnership working between local, public, private and voluntary sector bodies is essential for the effective delivery of services and for effective communication between such bodies, for example as part of the community planning process.

[The Code of Practice for Effective Joint Working Arrangements:](#)

- outlines the principles of good partnership governance;
- defines a partnership and what constitutes a ‘major’ and ‘minor’ partnership;
- identifies why the Council enters and engages in partnerships;
- Details tools for identifying, managing, supporting and reviewing partnership arrangements.

The Chief Officer and Director of Corporate Services maintains an overview of the [Partnerships’ Register](#) which is a comprehensive record of the Council’s involvement in all ‘major’ and ‘minor’ partnerships. Links to the Council’s major/minor partnership arrangements are as inserted in tables 4.2 and 4.3, [Responsibility for Functions](#) [Part 3 of this Constitution].

11.02 Arrangements to promote well-being

The General Assembly of the Council or the Cabinet (where the function is an executive function), may, in order to promote the economic, social or environmental well-being of the Borough:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (c) exercise on behalf of that person or body any functions of that person or body.

The need for sustainable, socially-inclusive communities is central to the Council's aim of enhancing local quality of life and health.

Local people provide a powerful voice in planning local approaches to economic, social and environmental well-being and in holding core public services and Councillors to account.

The key to an effective community strategy is successful partnership working and community involvement throughout the process. At every stage, all Councillors have important roles to play.

The Council may, jointly with others, set up a local partnership to fulfil specific objectives e.g. the [Dartford Community Safety Partnership](#).

11.03 Joint arrangements

- (a) The General Assembly of the Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the local authorities on matters of joint interest or to discharge functions. Such arrangements may involve the appointment of joint committees with these other local authorities
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions, on matters of joint interest or to discharge functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Where joint arrangements involve a joint committee to discharge a number of functions, some of which are the responsibility of the Cabinet and some of which are the responsibility of the General Assembly of the Council, appointment of members to the joint committee to represent the Council will be made by the General Assembly of the Council, with the agreement of the Cabinet.

Where the General Assembly of the Council appoints only one Member to the joint committee, that Member may be, but need not be, a Cabinet member. Where more than one Member is appointed, at least one of them will be a Cabinet member. The political balance rules will apply to appointments made in these circumstances.

- (d) Except as set out in para.(e) below, the Cabinet may only appoint Cabinet members to a joint committee.
- (e) The Cabinet may appoint Members to a joint committee from outside the Cabinet in the circumstances described below and the political balance rules will not apply to such appointments:
- where the joint committee has functions only in respect of a part of the area of one of the local authorities which is smaller than two-fifths of that local authority (either by area or population). In this case the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral division or ward which is wholly or partly contained within the area in respect of which the joint committee has functions; and
 - where the joint committee is between a county council and a single district council and has functions only in respect of the area of the district. In this case, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area of the district.

In accordance with an agreement made between Kent County Council and Dartford Borough Council, a [\[Dartford\] Joint Transportation Board](#) (the JTB) (a non-statutory forum) ,has been established by the Cabinets of Kent County Council and Dartford Borough Council. The JTB advises the Cabinets on decisions to be taken by the relevant Cabinet in relation to functions specified in the agreement. Further, details of the JTB's Constitution are set out in table 4.1.B, [Responsibility for Functions](#) [Part 3 of this Constitution].

- (f) Details of any joint committees, including on onward limits on delegations (if any) are as set out in table 4.1.A, [Responsibility for Functions](#) [Part 3 of this Constitution].
- (g) The number of members of a joint committee from each of the participating local authorities is a matter for negotiation between those local authorities.
- (h) Joint committees may delegate to their sub-committees or to Officers.
- (i) Effective communication and exchange of information between the Council and any joint committee/joint arrangement is achieved through Member participation in the meetings of the committee/joint arrangement and through the receipt by the Council of the minutes of the proceedings of the committee/joint arrangement which may be scrutinised by the Scrutiny Committee (in relation to Cabinet functions), or the Crime and Disorder (Overview and Scrutiny) Committee (in relation to crime and disorder/community safety matters).

11.04.1 Cross membership of area/joint committees *and* the Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee - conflicts of interest

It is a fundamental principle of accountability that a Councillor cannot scrutinise his/her own decisions.

If the Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee is scrutinising decisions or actions of an area/joint committee of which the Councillor is a member, unless a dispensation has been granted, he/she must declare an interest, not participate in any discussion of, or vote taken on, the matter at the meeting and withdraw from the meeting room when the matter is under discussion.

11.04.2 Cross membership of area/joint committees *and* the Policy Overview Committee

If the Policy Overview Committee is reviewing a policy relating generally to an area/joint committee on which that Member also serves, as a member of the Policy Overview Committee, the Member must declare an interest, but need not withdraw from the meeting room when the matter is under discussion.

11.05 Access to Information

- (a) The Access to Information Rules detailed in [Standing Orders \(Procedural\)](#), [Part 4 of this Constitution] apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- (c) If a joint committee contains members who are not members of the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.06 Delegation to and from other local authorities

- (a) The General Assembly of the Council may delegate non-executive (i.e. non-Cabinet) functions to another local authority or, in certain circumstances, to the executive of another local authority.
- (b) The Cabinet may delegate Cabinet functions to another local authority or to the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept a delegation of a General Assembly of the Council function or a Cabinet function from another local authority is reserved to the General Assembly of the Council, unless otherwise delegated.
- (d) The Council and/or Cabinet continue to have the power to discharge the functions which are the subject of joint committee arrangements.
- (e) Functions which are the responsibility of the Cabinet and which are to be discharged under joint arrangements, must be exercised in accordance with the policy framework set by the General Assembly of the Council.

In accordance with arrangements between Kent County Council and Dartford Borough Council, Kent County Council has delegated to Dartford Borough Council, powers relating to the enforcement of parking control in the Borough of Dartford. Further details of the arrangements are set out in table 4.4, [Responsibility for Functions](#) [Part 3 of this Constitution].

Sevenoaks District Council and Dartford Borough Council have agreed to participate in an administrative partnership model, to facilitate the joint delivery of some of their functions, with a view to their more economical, efficient and effective discharge. Further details of the arrangements are set out in table 4.4, [Responsibility for Functions](#) [Part 3 of this Constitution].

11.07 Contracting out

- (a) The General Assembly of the Council and Cabinet (for executive related functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements, where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making function.
- (b) In deciding to contract out a function for which it is responsible, the General Assembly of the Council or Cabinet (as relevant) must satisfy itself that contracting out a function will not adversely affect efficiency, transparency and accountability in respect of the discharge of those functions and that the arrangements will deliver best value and/or value for money.

11.08 Scrutiny of joint arrangements/contracting out

Within their [Terms of Reference](#), the Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are able to hold the Cabinet to account both for the decision to delegate or contract out a particular function and for the outcome of the delegation i.e. the actual discharge of the function.

11.09 Partnership/joint working governance arrangements

Any existing or future partnership/joint arrangements entered into by the Council will be in accordance with the [Code of Practice for Effective Joint Working Arrangements /Partnerships Register](#) [Part 6 of this Constitution].

ARTICLE 12 – OFFICERS

12.01 Terminology

The use of the word 'Officers' means all employees and staff (professional and manual), engaged by the Council to carry out its functions, including individuals engaged under short term and agency contracts.

The Council organises Officer support for the different roles within its organisation following a number of broad key principles with a view to delivering more efficient and effective services:

- All Officers are employed by and accountable to, the Council as a whole;
- Support from Officers is needed for all the Council's functions and the roles of the General Assembly of the Council, the Cabinet, Policy Overview Committee, Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee, other Committees, Sub-committees, Boards, Panels and individual Members representing their communities etc.;
- Day to day managerial and operational decisions remain the responsibility of the Head of Paid Service, Directors and Heads of Service (as appropriate);
- The Council seeks to avoid potential conflicts of interest for Officers arising from the separation of the executive and scrutiny roles; and
- All Officers have access to training and development to help them support effectively, the various Member roles and the executive and scrutiny arrangements of the Council.

The Head of Paid Service considers how to resource Officer support to ensure all Councillors can effectively represent their communities.

The roles, responsibilities and rights of Officers and Members are set out in the [Member/Officer Relations Protocol](#) [Part 5 of this Constitution].

The appointment of staff, and determination of the terms and conditions on which they are employed (including procedures for their dismissal), is a function the the General Assembly of the Council,¹⁰ delegated to the Head of Paid Service (see [Article 12.02 \(b\)](#) and (c) and [Article 12.03](#)).

Appointment of Officers is not the Cabinet's responsibility.

12.02 Management Structure

The Leadership Team comprises the Chief Officer and Director of Corporate Services, Director of Housing and Public Protection and Director of Growth and Community.

The Chief Officer and Director of Corporate Services is Head of Paid Service.

The Monitoring Officer and Section 151 are not members of the Leadership Team. However, they meet fortnightly with the Leadership Team.

The Leadership Team is not a decision-making body and its meetings are not held in public.

¹⁰ Section 112 Local Government Act 1972 (as amended)

Discharge of functions

(a) Designation of Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and appointment of Directors

On the recommendation of the Statutory Officer Advisory Panel, the General Assembly of the Council will engage persons for the posts, functions and areas of responsibility specified in tables 5.1 and 5.3, [Responsibility for Functions](#) [Part 3 of this Constitution].

The General Assembly of the Council will appoint the Returning Officer and Electoral Registration Officer.

(b) Appointment of Officers

Appointment of Officers (other than Statutory Officers, Directors, Returning Officer and Electoral Registration Officer), is the responsibility of the Head of Paid Service.

(c) Officer Structure

The Head of Paid Service determines and publicises a description of the overall departmental structure of the Council, showing the [management structure](#) and deployment of its Officers [Part 6 of this Constitution].

12.03 Functions of the Head of Paid Service

The core roles of the Head of Paid Service:

- to have overall corporate management and operational responsibility (including overall management responsibility for all staff);
- to provide professional advice to all parties in the decision making process (General Assembly of the Council, Cabinet, overview and scrutiny and other committees);
- together with the Monitoring Officer, responsible for a system of record keeping for all the Council's decisions; and
- to represent the Council¹¹ on partnership and external bodies (as required by the Council) or.

The Head of Paid Service has delegated authority to co-ordinate the discharge of the Council's employment functions, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

The Head of Paid Service is responsible for the preparation and publication of the Council's annual [Pay Policy Statement](#) which outlines its approach to the pay of its employees and in particular, the pay of its senior staff.

¹¹ May be represented by a nominee

Restrictions on Functions - The Head of Paid Service may not be the Monitoring Officer¹², but may hold the post of Chief Finance Officer (Section 151 Officer), if a qualified accountant.

12.04 Functions of the Monitoring Officer

The Monitoring Officer performs a key function in ensuring lawfulness and integrity in the operation of the Council's decision-making process including investigation and reporting on issues that embrace all aspects of the Council's functions.

The Monitoring Officer has a key role in promoting and maintaining high standards of conduct within the Council, in particular, through provision of support to the Audit Board and the Hearing Panel.

In order for the Monitoring Officer to carry out his/her statutory duties and powers, the Council will need to ensure that he/she has access as necessary to meetings and papers.

The statutory duties and powers of the Monitoring Officer include:

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of this Constitution and ensure that it is accessible by Members, Officers and the public.

(b) Ensuring lawfulness and integrity of decision - making

After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the General Assembly of the Council¹³ or to the Cabinet, in relation to a Cabinet function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented, until the report has been considered by the General Assembly of the Council.

(c) Conducting investigations [Member] Code of Conduct

The Monitoring Officer will discharge those functions as ascribed to him/her under the [Arrangements for dealing with Code of Conduct Breaches](#) [Part 5 of this Constitution].

(d) Proper Officer for access to information

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

¹² Section 5(1A) - Local Government and Housing Act 1989

¹³ Section 5 (2) of the Local Government and Housing Act 1989 (as amended)

(e) Advising whether Cabinet decisions are within the budget and policy framework

In consultation with the Section 151 Officer, the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Council's policy framework and budget.

(f) Providing general advice

The Monitoring Officer will provide general advice to [Borough] Members, on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

(g) Contributing to corporate management

The Monitoring Officer contributes to the corporate management of the Council, in particular, through the provision of professional governance advice.

(h) Parish/Town Councils

The Monitoring Officer is available to give advice to the Parish/Town Councils on matters concerning their codes of conduct and to discharge those functions as ascribed to him/her under the [Arrangements for dealing with Code of Conduct Breaches](#) [Part 5 of this Constitution].

(i) Register of Members' Interests & Gifts & Hospitality

The Monitoring Officer is responsible for establishing and maintaining a Register of Members' Interests and a Gifts and Hospitality Register (over £100) for Borough Councillors. The duty in relation to the Register of Members' Interests extends to the Registers for Parish/Town Councillors. The [Borough and Parish/Town Councils] Registers are available for inspection and published on the [Borough] [Council's website](#).

Restrictions on post - The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service. The duties of the Monitoring Officer must be carried out personally, but can be carried out by a deputy nominated by him/her in cases of absence or illness. It is the function of the Monitoring Officer to appoint a deputy, not the Council¹⁵.

12.05 Functions of the Chief Finance Officer (Section 151 Officer)

The Chief Finance Officer is also known as the 'Section 151 Officer'.

The Chief Finance Officer's key roles include providing advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members of the Council.

¹⁵ Section 5(7) - Local Government and Housing Act 1989

The Chief Finance Officer also has an important role in the financial management of the Council in particular by:

(a) Ensuring lawfulness and financial prudence of decision making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer reports to the General Assembly of the Council or to the Cabinet (in relation to Cabinet functions) and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully¹⁶.

(b) Administration of financial affairs

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

(c) Contributing to corporate management

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

(d) Providing general advice

The Chief Finance Officer provides general advice to all Members on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues and will support and advise Councillors and Officers in their respective roles.

(e) Give financial information

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

Restrictions on post - The duties of the Chief Finance Officer (apart from the administration of the financial affairs of the Council) must be carried out personally, but can be carried out by an Officer nominated by him/her in cases of absence or illness¹⁷.

12.06 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

¹⁶ Local Government Finance Act 1988 (as amended) - section 114(2)

¹⁷ Local Government Finance Act 1988 (as amended) - section 114(6)

12.07 Data Protection Officer (DPO)

The Council is required to appoint a Data Protection Officer. The DPO's minimum tasks are:

- to inform and advise the organisation and its employees about their obligations to comply with the Data Protection Legislation¹⁸;
- to monitor compliance with the Data Protection Legislation, including managing internal data protection activities, advise on data protection impact assessments and train staff;
- to be the first point of contact for supervisory authorities and for individuals whose data is processed (employees, customers etc.); and
- to report to the Leadership Team.

The Head of Legal Services is appointed Data Protection Officer.

12.08 Conduct

Officers are subject to a [non-statutory] [Employee Code of Conduct](#) [Part 6 of this Constitution], which is included in Officers' terms and conditions of employment. Officers will comply with the Code of Conduct and the [Member/Officer Relations Protocol](#) [Part 5 of this Constitution].

Officers' contracts include a right of appeal against grievance, dismissal or disciplinary proceedings, where this forms part of the disciplinary, capability, grievance and related procedures of the Council.

12.09 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

12.10 Politically restricted posts

The law aims at ensuring the political impartiality of local government staff. The Council is required to maintain an up to date list of its politically restricted posts which fall into five categories of local government officer. The list is open to public inspection:

- first category - posts individually identified in the legislation;
- second category - posts defined by their relationship to others;
- third category – posts, where the duties have certain characteristics described in the legislation;
- fourth category - posts to which duties have been delegated under the Scheme of Delegations to Officers.

¹⁸ Data Protection Legislation' means the Data Protection Act 2018 and the UK GDPR (derived from the General Data Protection Regulation (EU) 2016/679))

The third and fourth categories of posts have to be included in lists prepared and maintained by the Council. There is no requirement to keep a list of those posts deemed to be politically restricted by virtue of the first category that do not also fall within the remit of the third category.

The effect of including a Council employee on the list of politically restricted posts, debars that individual from having any active political role either in or outside the workplace, in particular:

- (a) standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature;
- (b) acting as an election agent or sub-agent for any candidate for election;
- (c) holding office in a political party;
- (d) canvassing at elections (not restricted to the Borough of Dartford);
- (e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the postholder's home or in their car or other personal possessions).

The cumulative effect of these restrictions is to limit the incumbents of politically restricted posts, to bare membership of political parties, with no active participation within the party permitted.

The responsibility for granting exemptions from political restriction is with the Head of Paid Service, in consultation with the Monitoring Officer (s3A Local Government and Housing Act 1989 (as amended)) (see the guidance on [Politically Restricted Posts](#) [Part 6 of this Constitution]).

12.11 Overview and Scrutiny

Officers may be required to attend the Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee and the Policy Overview Committee, to answer questions, in accordance with the [Committees' Protocols](#) [Part 3 of this Constitution].

12.13 Senior Information Risk Owner (SIRO)

The Chief Officer and Director of Corporate Services is the appointed SIRO and leads on and champions a culture of good information management, owns the overall information risk policy and procedures and advises the Council's senior management on information risk.

The role of the SIRO is as detailed in the [Records Management Policy](#).

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for decision making

[Terms of Reference](#) and the [Scheme of Delegations to Officers](#) [Part 3 of this Constitution] are the up-to date records detailing responsibility for particular types of decisions or decisions relating to particular areas or functions.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles;

- Proportionality (i.e. the action taken is proportionate to the desired outcome);
- Due consultation and on the professional advice of Officers;
- Respect for human rights (Human Rights Act 1998);
- Due regard to the public sector equality duty (s149 Equality Act 2010);
- A presumption in favour of openness;
- Clarity of aims and desired outcomes; and
- An explanation of what options were considered and giving reasons for the decision.

13.03 Types of decision

(a) Decisions reserved to the General Assembly of the Council

Decisions relating to functions listed in [Article 4.01](#) and [Article 4.02](#) of this Constitution, will be made by the General Assembly of the Council.

(b) Cabinet Key Decisions

The legislative definition of a key decision¹⁹ is as follows (based on a 2-stage test);

An executive decision which in the opinion of the decision taker is likely;-

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

The General Assembly of the Council will, at the budget meeting, agree the limits above which items are significant. These agreed limits will be published.

NB: The General Assembly of the Council is able to set different thresholds for different services or functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function.

13.04 Indicative thresholds for Key Decisions

- Any Cabinet decision which is likely to give rise to expenditure or savings above such thresholds as agreed by the General Assembly of the Council (refer to [Article 13.03\(b\)](#) of this Constitution) will be treated as a key decision.

¹⁹ Reg. 2 - Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000

- A Cabinet decision which is likely to have a significant impact on two or more wards is a key decision. (In considering whether a decision is significant, the Cabinet or an Officer under delegated authority) will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected. It will be for the Cabinet to decide, in any one case, whether a decision to be taken is likely to involve significant expenditure).
- Any decision made by the Cabinet in the course of developing proposals to the General Assembly of the Council to amend the policy framework and budget will be a key decision.
- Where the Cabinet has been granted authority by the General Assembly of the Council to amend any aspect of the policy framework (i.e. in year amendments) then any decision to do so will also be a key decision.

Key decisions may be delegated to Officers, in accordance with the [Scheme of Delegations to Officers](#) [Part 3 of this Constitution].

The Cabinet (or an Officer under delegated authority) may only make a key decision in accordance with the requirements of the Executive Procedure Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution].

Key decisions which have significant effects within the community need to be identified and properly consulted on. People must be informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and to respond to any consultation process.

13.05 Advance notification of Key Decisions

The Cabinet is responsible for delivering the Council's policy framework through taking decisions collectively in respect of functions which are the responsibility of the Cabinet or through delegation of decisions to Officers, particularly for day-to-day operational and management decisions and to area/joint committees etc.

Any decisions taken need to be consistent with the agreed policy framework and budget and need to take into account the needs and aspirations of the local community. The Council is therefore required to give advance notice (a Regulation 9 Notice²⁰) of any key decisions to be taken.

The Regulation 9 Notice gives an indication of those key decisions which it is known the Cabinet will need to consider, as well as relevant decisions which will be delegated by the Cabinet to Officers or devolved structures.

The [Regulation 9 Notice](#)²¹ is available for inspection on the Council's website and at the Council offices together with relevant papers (excluding draft documents and exempt or confidential information).

²⁰ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

²¹ Formerly known as the 'Forward Plan'

13.06 Urgent Key Decisions

In cases of special urgency, the Regulation 9 Notice may be dispensed with, but only where the decision maker (i.e. Leader of the Council where the key decision is being taken by Cabinet or where the key decision is being taken by an Officer under delegated authority, the Officer taking the decision) has obtained the agreement of the Chairman of the Scrutiny Committee or (on matters related to crime and disorder), the Crime and Disorder (Overview and Scrutiny) Committee, that the taking of the key decision cannot reasonably be deferred by the decision maker. If the Chairman of the Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee is unable to act, then the Mayor (or in the Mayor's absence, the Deputy Mayor) must agree that the taking of the decision cannot reasonably be deferred by the decision maker.

The Leader of the Council will submit at least one annual report to the General Assembly of the Council on how often the urgency procedure under [Standing Order 54\(9\)](#) [Part 3 of this Constitution] has been used, together with the reasons for the decision(s) and why the matter(s) was urgent.

If a particular decision is not included on the Regulation 9 Notice or in the view of the Cabinet, a particular decision was not to be regarded as a key decision, the Scrutiny Committee/Crime and Disorder (Overview and Scrutiny) Committee (as appropriate) may, on taking a contrary view, require the Cabinet to make a report to the General Assembly of the Council on the decision and the reason why it was not regarded as a key decision.

Where a key decision is taken by the Cabinet or by an Officer under delegated authority, any report (excluding draft reports) and relevant background information (but excluding confidential/exempt information) will be placed in the public domain.

Decisions are taken on the basis of completed reports.

The special urgency provision will not be invoked only by reason of a failure to finalise reports in time to allow the normal procedures to be followed.

Subject to the rules on exempt and confidential information, key decisions will be taken by the Cabinet in public.

13.07 Recording and publishing of decisions²²

Subject to the rules on confidentiality and exempt information:

1. decisions taken by the General Assembly of the Council, Cabinet, Boards, Committees, Panels and joint committees; and
2. excluding administrative/operational decisions, decisions taken by Officers under the Scheme of Delegations relating to the grant of a permission or licence; and

²² The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 & Openness of Local Government Bodies Regulations 2014

3. excluding administrative/operational decisions, decisions taken by Officers under the Scheme of Delegations that affect an individual's legal rights either in a positive or detrimental manner; and
4. decisions taken by Officers under the [Scheme of Delegations to Officers](#) to award a contract or incur expenditure which, in either case, exceeds the key decision threshold; and
5. key decisions taken by Officers under delegated authority,

will be recorded and published as soon as reasonably practicable after the decision(s) is taken. The record will include reasons for the decision, background documents and any relevant interests which any of the Members involved have, together with any dispensations granted by the Audit Board or the Chief Officer and Director of Corporate Services, in consultation with the Monitoring Officer.

All decisions taken by the Council, Cabinet, Boards, Panels etc. are based on sound professional advice from Officers including advice from the Monitoring Officer and Chief Finance Officer, where appropriate.

Except in cases of urgency, decisions affecting third parties will not be acted upon before they have been properly recorded and if initiated, the operation of the Call-in procedure detailed in the Scrutiny Committee's or Crime and Disorder (Overview and Scrutiny) Committee's Protocol, fully completed.

The [Openness of Local Government Bodies Regulations 2014](#) are designed to make local authorities more transparent to their local communities. Regulation 7 requires that certain types of officer decisions are recorded and made available to the public.

13.08 Decision making by the General Assembly of the Council

Subject to [Article 13.12](#) of this Constitution, the General Assembly of the Council meeting will follow the Council Procedure Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution], when considering any matter.

13.09 Decision making by the Cabinet

Subject to Article [13.12](#) of this Constitution, the Cabinet will follow the Executive Procedure Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution], when considering any matter.

13.10 Decision making by the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will follow the Overview and Scrutiny Procedures Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution], when considering any matter.

13.11 Decision making by other Committees, Sub-committees, Boards and Panels established by the Council

Subject to Articles [13.12](#) and [13.13](#) of this Constitution, other Committees, Sub-committees, Boards and Panels of the Council will follow those parts of the Council Procedure Rules detailed in [Standing Orders \(Procedural\)](#) [Part 4 of this Constitution], as apply to them.

13.12 Decision making by Council bodies acting as tribunals

The Council, a Member or an Officer acting at a tribunal or in a regulatory manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Rights Act 1998.

13.13 Member training and regulatory functions

Only Members and substitutes who have received the appropriate training, may participate in the decision making of the Development Control Board, Licensing Committee, Licensing Sub-committee, Hearing Panel, Appeals Panel and the Deed, Trust and Obligations Committee.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with [Financial Regulations](#) [Part 4 of this Constitution], as may be amended from time to time by the Section 151 Officer, under the [Scheme of Delegations to Officers](#).

14.02 Contracts

Every contract made by the Council will comply with [Contract Standing Orders](#) [Part 4 of this Constitution].

14.03 Legal proceedings

Through the [Scheme of Delegations to Officers](#) [Part 3 of this Constitution], Officers are authorised to institute, to defend or participate in any legal proceedings in any case where such action(s) is necessary, to give effect to decisions of the Council or in any case, where it is considered that such action is necessary, to protect the Council's interests.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 Monitoring and review

Monitoring and review of this Constitution to ensure that its aims and principles are given full effect, will be on an annual basis, on the Monitoring Officer's Annual Report to the Audit Board or under the [Scheme of Delegations to Officers](#) [Part 3 of this Constitution]. Reviews may also be triggered by Member requests to the General Assembly of the Council, external feedback (example from the Ombudsmen), recommendations of the Statutory Officers or decision of the General Assembly of the Council.

15.02 Protocol for monitoring and review of the Constitution by the Audit Board

A key role for the Audit Board is to be aware of the strengths and weaknesses of the Constitution and to make recommendations to the General Assembly of the Council for ways in which the Constitution could be amended, in order better to achieve the purposes set out in [Article 1](#). In undertaking this task, the Audit Board may;

1. Observe meetings of different parts of the Member and Officer structure;
2. Undertake an audit trail of a sample of decisions;
3. Record and analyse issues raised with the Board, by Members, Officers, the public and other relevant stakeholders; and
4. Compare practices in the Council with those in other comparable authorities, or national examples of best practice.

15.03 Changes to the executive arrangements

Changing the form of the executive arrangements detailed in this Constitution, will require the Council to consult with local electors and other interested parties and the Council will have to consider the extent to which the changes [if implemented], are likely to assist in securing continuous improvement in the way in which the Council's functions are exercised having regard to combination of economy, efficiency and effectiveness (i.e. the duty of Best Value).

Proposals to change from Leader/Cabinet to an elected mayor form, requires a referendum.

Any changes to the Council's executive arrangements detailed in this Constitution, will require the Council to follow any guidance on consultation issued by the Secretary of State on consultation.

Changes to executive arrangements may be prompted not from internal reviews and evaluation of the Council's governance, but from changes in public opinion triggering a mayoral referendum.

The General Assembly of the Council is the decision making body for changes to the form of executive.

15.04 Constitution amendments

(a) Approval

(i) Subject to para. (ii) below, amendments to this Constitution will only be approved by the General Assembly of the Council, after consideration of the proposal by the Audit Board responsible for monitoring and reviewing constitutional matters.

(ii) The Council may from time to time delegate the function of amending this Constitution to Officers.

Amendments which give effect to internal reviews, evaluation of the Council's governance, any decision of the Council or changes in the law and amendments such as to correct errors, Officer titles, clarifying where Officer responsibility for the discharge of functions lays etc., will be made by the Monitoring Officer, pursuant to the [Scheme of Delegations to Officers](#), subject to the core elements and the intent of this Constitution remaining unaltered.

(b) Changes prompted from internal reviews and evaluation of the Council's governance etc.

There will be no requirement to consult with local electors and other interested persons in the Borough where changes are prompted by the amendments referred to, in (ii) above.

ARTICLE 16 - INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

(a) Limit to suspension

The Articles of this Constitution may not be suspended. With the exception of mandatory Standing Orders specified below, any Standing Order of the Council may be suspended by the General Assembly of the Council, to the extent permitted within Standing Orders and the law.

(b) Procedure to suspend

A motion to suspend any Standing Order at a General Assembly of the Council meeting, will not be moved without notice, unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in [Article 1](#).

(c) Standing Orders not capable of suspension

The following [Standing Orders \(Procedural\)](#) may not be suspended;

| | |
|------------|--|
| S.O.13(4) | Recording of votes in minutes; |
| S.O.15(1) | Submission of minutes to next ordinary meeting; |
| S.O.15 (2) | Signing minutes as correct record; |
| S.O.19 | Declaration of Member interests; |
| S.O.30(2) | Recording of votes; |
| S.O.44 | Interpretation of Standing Orders; |
| S.O.56 | Conflict Resolution Mechanism; |
| S.O.60 | Recruitment/Appointment of Statutory Officers & Directors; |
| S.O.61 | Disciplinary action in respect of Statutory Officers & Directors; |
| S.O.63 | Disciplinary action in respect of staff other than Statutory Officers & Directors. |

16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the General Assembly of the Council, will not be challenged at any meeting of the General Assembly of the Council. Such interpretation will have regard to the purposes of this Constitution, in [Article 1](#).

16.03 Publication

- (a) The Chief Officer and Director of Corporate Services will provide a printed copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office, on the Member first being elected to the Council.
- (b) The Monitoring Officer will publish an electronic copy of this [Constitution on the Council's website](#).

[THE PARTS OF THIS CONSTITUTION](#)

PART 1 - Summary and Explanation

PART 2 - Articles of the Constitution

PART 3 - Committees, Delegations, Committee Procedures/Protocols

PART 4 - Standing Orders, Financial Regulations

PART 5 - Member Code of Conduct, Arrangements (for dealing with alleged Code breaches), Member Protocols etc

PART 6 - Employees, Management/Staffing Structure, Joint Working/Partnerships

PART 7 - Members' Allowances, Indemnities

PART 8 - Probity, Propriety

PART 9 - Other