

DARTFORD

BOROUGH COUNCIL

CONSTITUTION



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PART 1
SUMMARY AND EXPLANATION

1. SUMMARY AND EXPLANATION

1.1 The Council's Constitution

The Dartford Borough Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and separate rules and protocols are provided at the end of the document.

1.2 What's in the Constitution?

Article 1 of the Constitution commits the Council to community leadership in partnership with government, business, voluntary sector and the local community. In addition to providing vision and leadership for its communities, the Council is committed to delivering high quality services and securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency, and effectiveness (i.e. the duty of Best Value) and the delivery of efficient transparent and accountable decision-making.

Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2);
- Citizens and the Council (Article 3);
- The General Assembly of the Council Meeting (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny Committees (Article 6);
- The Executive (Leader/Cabinet style of local governance) (Article 7);
- Other Committees, Boards and Panels of the Council (Article 8);
- The Audit Board (Article 9);
- Area Committees/Forums (Article 10);
- Partnerships/Joint Arrangements (Article 11);
- Officers (Article 12);
- Decision Making (Article 13);
- Finance, Contracts and Legal Matters (Article 14);
- Review and Revision of the Constitution (Article 15);
- Suspension, Interpretation and Publication of the Constitution (Article 16).

1.3 How the Council Operates

The Council is composed of Councillors (also referred to as Members) elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have varied and powerful roles, as representatives of the local community, and as members of the General Assembly of the Council, the Cabinet, Policy Overview Committee, Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee and other Committees, Sub-committees, Boards and Panels of the Council and as representatives on Outside Bodies.

Councillors have to agree to follow a [Member] Code of Conduct [Part 5 of this Constitution] to ensure high standards in the way they undertake their duties. The Audit Board promotes and maintains high standards of conduct by Councillors (Borough and Parish/Town) and [voting] Co-opted Members.

All Councillors meet together as the General Assembly of the Council, which is also referred to as the "Council" or the "full Council". The full council meeting is the sovereign body of the Council. Meetings of the General Assembly of the Council are open to the public, except where confidential and/or exempt matters are being discussed.

General Assembly of the Council meetings are the forums of major debates and consideration of matters of interest to residents of the Borough, as well as for holding to account, Cabinet members, Committees etc.

The Council remains the ultimate decision-making body and determines the extent to which it delegates its powers and to whom and can vary or withdraw the delegation at any time. The functions of the Council and the rules that govern the conduct of Council meetings are described in Article 4 of this Constitution.

The Cabinet, Committees, Sub-committees, Boards and Panels are accountable to the Council as the ultimate decision - making body and have to work within Terms of Reference [set out in Part 3 of this Constitution] agreed by the Council. Terms of Reference specify the functions with which the Cabinet, Committees, Sub-committees, Boards and Panels are charged and define the limits of their authority.

The Council has adopted a Conflict Resolution Mechanism (set out in the Executive Procedure Rules detailed in Standing Orders as set out in Part 4 of this Constitution), for allowing disputes between the Cabinet and the Council in matters related to the adoption of the budget or the policy framework. In effect, this mechanism enables the Leader of the Council to delay a decision of the Council for a short time and to ask the Council to reconsider the issue.

Decisions are taken by Members acting collectively. No arrangements have been made under this Constitution, to delegate functions to individual ward Members.

The Council's Code of Corporate Governance describes the key principles underpinning the Council's arrangements for corporate governance. It also follows the 'CIPFA/SOLACE Framework Delivering Good Governance in Local Government' (revised in 2007), by which the Council measures its effectiveness in corporate governance.

1.4 Anti-bribery and Corruption

It is a criminal offence to offer, promise or provide – or request or accept - a bribe. It is also an offence for an organisation to fail to prevent an incident of bribery committed either by itself or by someone associated with it in order to obtain or retain a business advantage.

The Council operates a strict no tolerance policy towards bribery in all its forms whether directly or through third parties. The Council's Anti-fraud and Corruption Strategy applies to all its employees and Members. It also applies to business partners who supply services to the Council, including agents and intermediaries.

The Council relies on the services of contractors, sub-contractors and consultants and will only do business with those who accept the terms of its Anti-fraud and Corruption Strategy or whose own policy sets standards to match the Council's standards.

1.5 Equality framework

The general public sector equality duty is set out in section 149(1) of the Equality Act 2010. The broad purpose of this duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities and requires the Council to consider how it could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

In summary, the Council, must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- (b) advance equality of opportunity between people who share a protected characteristic (as defined in the Act) and those who do not;
- (c) foster good relations between people who share a protected characteristic and those who do not.

The Equality Act 2010 (Specific Duties) Regulations 2011 requires the Council to publish sufficient information to demonstrate its compliance with the public sector

equality duty. The Council's Equality and Diversity Framework reflects the public sector equality duty and published accordingly.

The Council is under a legal duty to promote good community relations and stronger, more cohesive communities within its locality. The **equality framework for local government** emphasises the importance of strategic leadership – political and managerial – in improving equality outcomes. The Council has made an organisational commitment to the framework, in terms of resource allocation, compliance with public duties, democratic engagement, scrutiny, service planning and procurement. The overview and scrutiny process has a central role to play in ensuring equality issues are integral to the Council's performance and strategic aims.

2. HOW DECISIONS ARE MADE

2.1 The Executive part of the Council

- (a) The executive part of the Council is the Cabinet, which is responsible for most day-to-day decisions in particular, for proposing the policy framework and budget envelope to the General Assembly of the Council and for implementing the Council's policy framework and budget spend. The Cabinet is also the focus for community planning and leads the search for best value.
- (b) The Leader of the Council decides the size of his/her Cabinet (subject to a maximum of ten, including the Leader and Deputy Leader) and appoints Cabinet members drawn from the majority group on the Council. The Leader may replace or remove Cabinet members at any time. The Leader will report to the General Assembly of the Council on all appointments and changes to the Cabinet.
- (c) Executive functions are exercised collectively by the Cabinet or by a committee of the Cabinet, or by officers under delegated authority or by any area committee or under joint arrangements. There is no single Member decision making.
- (d) The Leader allocates specific roles and responsibilities to members of the Cabinet. These roles and responsibilities are referred to as 'portfolios' (with no decision making powers) [Article 7.08 of this Constitution refers].
- (e) Decisions are supported by reasons and the reasons for those decisions are recorded and made publicly available together with background papers. When major decisions are to be discussed or made, these are published in the Cabinet's Regulation 9 Notice [Article 13 of this Constitution refers], insofar as these decisions can be anticipated. Decisions must be made in line with the Council's overall policies and budget. Any proposed decisions which are outside the agreed resources i.e. budget envelope¹ or policy framework, will require the approval of the General Assembly of the Council.
- (f) An urgent decision which is outside the budget or policy framework agreed by the Council, can only be made in cases of special urgency, having first obtained the

¹ Agreed by the General Assembly of the Council at the Budget meeting

agreement of the Chairman of the Scrutiny Committee, or (in relation to crime and disorder/community safety matters), the Crime and Disorder (Overview and Scrutiny) Committee, or the Mayor/Deputy Mayor. The Chairman of the Scrutiny Committee/Crime and Disorder (Overview and Scrutiny) Committee (as appropriate), or the Mayor/Deputy Mayor, must agree that the matter is urgent and that the proposed decision is reasonable.

(g) Accountable decision-making requires the following;

- for advance notice to be given of key decisions to be taken;
- for the public to have enhanced access to papers and decision-making;
- for decisions to be recorded and published together with the reasons for the decisions and the background papers.

2.2. Overview and scrutiny

Overview and scrutiny in local government is an essential part of the councillor's role as a representative of the people. The overview and scrutiny function is a statutory power and a duty. It enables non-Cabinet Councillors to hold the Cabinet to account and requires them to review policies and services on behalf of the public.

The Local Government and Public Involvement on Health Act 2007 extends the overview and scrutiny remit to take account of public service performance across an area, not just that of the Council.

Scrutiny is the mechanism by which public accountability is exercised. The Council, Cabinet and other public bodies make decisions on behalf of the public and spend public money. Public scrutiny holds the Council, Cabinet, Officers and partner organisations to account for decisions taken on behalf of the public and in the public interest.

Overview is the mechanism by which the Council's policies are developed and by which the Council's and its partners' long term plans are evaluated.

Overview and scrutiny also play important roles in assuring the quality of services, by monitoring performance management systems, questioning the appropriateness of targets and the adequacy of resources.

The Council's overview and scrutiny committees are the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. The Committees' functions are as set out in Article 6 and Part 3 of this Constitution.

2.3 Referral of matters for overview or scrutiny

The law states that any member of an overview and scrutiny committee/sub-committee may refer to their committee/sub-committee, any matter which is relevant to the functions of the committee/sub-committee. This Constitution extends this right to all Members, subject to the rules detailed in the Protocols of the Policy Overview Committee, Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee.

2.4 Councillor Calls for Action

Any member of the Council may, through the Councillor Calls for Action process, refer to the Scrutiny Committee any local government matter which is relevant to the functions of the Committee and to the Crime and Disorder (Overview and Scrutiny) Committee, any matter which is relevant to the discharge by the Dartford Community Safety Partnership, or the Council/Cabinet's crime and disorder/community safety functions.

2.5 Other Committees, Sub-committees, Boards and Panels of the Council

There are a number of regulatory functions (such as development control, licensing and other quasi-judicial functions), which cannot be the responsibility of the Cabinet. These functions are delegated by the Council to other Committees, Sub-committees, Boards and Panels and Officers of the Council. These delegations are set out in more detail in Part 3 of this Constitution.

Cabinet Advisory Panels have been established to act as a sounding board and source of advice to the Cabinet and to enable backbench Members to participate in policy formulation pre-decision. These Panels are consultative forums with no decision-making powers and are advisory only i.e. reporting/recommending accordingly to the Cabinet.

2.6 Outside Bodies

Cabinet members have a role to play as the Council's representatives on key local and regional public bodies, where joint service planning and operational policy is affected and also on key national bodies. However, where the Council has more than one nominee, the appointment of a non-executive (non-Cabinet) Member to the second place is encouraged, although sometimes, the Council's representation is best secured through Officer appointments. Other appointments to Outside Bodies are filled by non-executive (non-Cabinet) Members and non-elected representatives on the basis of the following expectations;

- The Council will consider the expertise, knowledge and interests of Members when considering appointments to Outside Bodies;
- Representatives on Outside Bodies will be properly briefed and required to feedback to the appropriate part of the structure;

- Representation on an Outside Body should be taken seriously and every effort made to attend regularly;
- Representatives should give a good impression of the Council;
- Regular contacts should be made with representatives of the Council on Outside Bodies.

2.7 Non-executive Councillors

The role of a non-executive Councillor is:

- To represent the community's interest to the Council, through the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee;
- To monitor the discharge of functions by the Council, Cabinet, partner organisations etc., through the Scrutiny Committee and in relation to crime and disorder, through the Crime and Disorder (Overview and Scrutiny) Committee;
- To advise and to be consulted by the Cabinet, through the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee;
- To review policies and develop proposals for change through the Policy Overview Committee;
- To serve on Committees, Sub-committees, Boards and Panels of the Council.

The Council is a body corporate and as such, individual Councillors have a collective responsibility for the Council's functions. This collective responsibility extends to a duty to ensure that the Council complies with the law and does not act unlawfully.

The arrangements under which non-executive Councillors can discharge their responsibilities are through;

- Holding the Cabinet to account for the discharge of its executive functions, by scrutinising decisions before and after implementation;
- The right of any five Members to requisition a meeting of the Council;
- Accessibility of documents through the access to information legislation;
- The power through the General Assembly of the Council, to appoint and remove the Leader;
- The Councillor Calls for Action process [Article 6.09 of this Constitution refers].

2.8 Dispensations

The Audit Board may, at its discretion and only in the following circumstances, grant dispensations to individual Members to participate in meetings where Members have a disclosable pecuniary interest or prejudicial interest:

- (i) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter; or

- (ii) that the authority considers that the dispensation is in the interests of persons living in its area; or
- (iii) that the authority considers that it is otherwise appropriate to grant a dispensation.

The Chief Officer and Director of Corporate Services may, at her discretion, in consultation with the Monitoring Officer and only in the following circumstances, grant dispensations to individual Members to participate in meetings where Members have a disclosable pecuniary interest or prejudicial interest:

- (i) that so many members of the decision-making body have disclosable pecuniary interests or prejudicial interests in a matter that it would impede the transaction of the business; or
- (ii) that, without a dispensation, no member of the executive would be able to participate on a particular item of business.

2.9 Transitional arrangements post local elections

The Chief Officer and Director of Corporate Services is authorised from the 3rd day after the Borough whole-Council elections to the day of the post-election Annual Meeting (i.e. the first Annual Meeting to be held after Borough whole-Council elections take place), to deal with any urgent matters, subject to reporting on the use of this power to Councillors.

3. THE COUNCIL'S STAFF

The Council employs professional and manual staff, referred to as 'Officers'.

The Council has a professional Head of Paid Service.

Officers are accountable to the Council as an organisation and serve all members of the Council. Officers give advice, implement decisions and manage the day-to-day delivery of the Council's services. Some Officers (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Member/Officer Protocol) [refer to Part 5 of this Constitution], governs the relationship between Officers and Members of the Council.

All Officers of the Council have a responsibility to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council and must not place themselves in a position that would create the least suspicion of being influenced by improper motives. The Employee Code of Conduct [refer to Part 5 of this Constitution], outlines existing laws, regulations and conditions of service and provides further guidance to assist Officers in their day-to-day work, particularly in light of the challenges faced in the new and more commercially orientated environment of local government.

4. CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau (CAB) can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

The Council has a key role in challenging discrimination and prejudice and working with partners to improve equality of opportunity, particularly for those who are most disadvantaged. The Council strives to eliminate unlawful discrimination and will at all times, promote equality of opportunity and good relations.

4.1 Rights

Citizens have the right to:

- 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 (except where confidential/exempt information is being discussed) of the Council, Cabinet, Sub-committees, Committees, Boards and Panels;
- Inspect agendas and reports of the Council, Cabinet, Committees, Sub-committees, Boards and Panels;
- Petition/ePetition to request a referendum on Council Tax increases;
- Petition/ePetition in relation to whether the Council should operate a certain form of governance arrangements;
- Petition/ePetition in accordance with the Ordinary 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;
- Attend meetings of the Policy Overview Committee, Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee by invitation and/or at the Chairman's discretion, contribute to investigations or reviews undertaken by the Committees;
- Participate in Development Control Board meetings in accordance with the Board's Public Speaking Protocol;
- Participate in Licensing Sub-committee meetings in accordance with the Sub-committee's Rules of Procedure;
- Find out, from the Cabinet's Regulation 9 Notice, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and when;
- Attend meetings of the Council, Cabinet or other committees where the Regulation 9 Notice is being discussed;

- See reports and background papers (but excluding confidential/exempt information) and any record of decisions made by the Council, Cabinet, Committees, Sub-committees, Boards and Panels;
- 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 Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's Corporate Complaints Procedure;
- 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 co-opted member of the Council's Independent Remuneration Panel or Deed, Trust and Obligations Committee.

4.2 Community engagement and social inclusion agenda

Changes in local government have meant a greater emphasis on community involvement. Community engagement provides citizens with opportunities to have a greater say in what happens in their community.

The Council has a statutory duty to consult on specific areas of service delivery. The Council is committed to extending its consultation beyond any statutory requirements and wants to ensure that its residents, its service users and all other interested parties have the opportunity to be involved in the planning, prioritising and monitoring of Council services.

The Council recognises and welcomes the fundamental importance of consulting effectively and involving the public in its decision-making and has adopted a Consultation and Engagement Strategy which sets out the principles of community engagement. Every resident in the Borough has an opportunity to participate in the development of this inclusive community focused framework.

4.3 Statement of Openness

The Council will:

1. be open and transparent;
2. involve those concerned;
3. act proportionately and consistently;
4. base decisions on evidence;
5. allocate responsibility appropriately.

4.4 Access to information

Details of the rights of citizens to inspect agendas and reports, attend meetings and film, record, photograph and broadcast the proceedings of meetings in 'open session' are included in the Access to Information Procedure Rules detailed in Standing Orders, as set out in Part 4 of this Constitution.

For further information on your rights as a citizen, please refer to the Council's website, at www.dartford.gov.uk or contact the Communications Team, at Civic Centre, Home Gardens, Dartford, Kent DA1 1DR: Tel: 01322 343434: communications@dartford.gov.uk

PART 2
ARTICLES OF THE CONSTITUTION

ARTICLE 1 - THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution and all its appendices is the Constitution of **The 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 that option which it thinks is closest to the purposes stated above. The Audit Board will monitor and evaluate the operation of the Constitution, as set out in Article 15.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

(a) Composition

The Council will comprise Councillors (also called Members). One or more Councillors will be elected by the voters of each ward in accordance with the scheme

drawn up by the Independent Local Government Boundary Commission for England and approved by the Secretary of State.

(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. Through the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, 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 have five main roles. They perform one or more of the following duties (subject to the proviso that there is no overlap between those Members who perform executive and overview and scrutiny functions):

- (i) executive decision-making;
- (ii) policy development and review;
- (iii) overview and scrutiny;
- (iv) quasi-judicial and regulatory;
- (v) community leadership and representations.

Taken together, these roles enable Councillors to:

- (a) collectively, in meetings of the Cabinet/Council, be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

- (b) contribute to the good governance of the Borough and actively encourage community participation and citizen involvement in decision-making;
- (c) effectively 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) be involved in decision-making in any of the five roles set out in paras. (i) – (v) above;
- (h) participate in the governance and management of the Council;
- (i) be available to represent the Council on other bodies (example partnerships and Outside Bodies) if appointed to such posts, by either the Cabinet or the Council; and
- (j) maintain the highest standards of conduct and ethics in order to give expression to the General Principles of Conduct and the [Member] Code of Conduct set out in Part 5 of this Constitution.

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. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules detailed in Standing Orders, as set out in 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 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, set out in Part 6 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.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

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

(a) Voting and petitions

Citizens on the electoral role for the Borough have the right to vote and sign a petition/ePetition to request a referendum in relation to whether the Council should operate a certain form of governance arrangements.

(b) Information

Citizens have the right to;

- Attend meetings of the Council, Cabinet, Committees, Sub-committees, Boards and Panels except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- 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;
- Find out from the Regulation 9 Notice what key decision(s) will be taken by the Cabinet and Officers and when;
- See reports and background papers (excluding confidential/exempt information) and any records of decisions made by the Council, Cabinet, Committees, Sub-committees, Boards and Panels; and
- Inspect the Council's accounts and make their views known to the external auditor;
- Receive information held by the Council subject to the Freedom of Information Act 2000.

(c) Participation

Citizens have the right on invitation and/or at the Chairman's discretion, to contribute to investigations by the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. The process is detailed in the Committees' Protocols at Part 8 of this Constitution.

Citizens have the right to participate in the meetings of the Development Control Board and the Licensing sub-committee. The process is detailed respectively, in the Development Control Board's Public Speaking Protocol and the Licensing Sub-committee's Rules of Procedure, at Part 4 of this Constitution.

(d) Complaints

Citizens have the right to complain to:

1. the Council itself, under its Corporate Complaints Procedure and receive a timely response;
2. the Ombudsman, after using the Council's Corporate Complaints Procedure;
3. the Monitoring Officer about a breach of the [Member] Code of Conduct and receive a timely response;
4. their elected ward Members.

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 things 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 plans and strategies to be adopted by the General Assembly of the Council;

- Corporate Plan;
- Equality and Diversity Framework;
- Other plans and strategies, which the Council may decide, should be adopted by it as a matter of local choice.

(b) Budget Framework

The budget framework is a reflection of Council policy in financial terms. The framework sets limits on the overall level of spend relating to net revenue spend and capital costs.

(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

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal

of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

4.02 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 and remove (through a vote of no confidence) the Leader of the Council;
- To note the size of the Cabinet and note the appointments to the Cabinet made by the Leader of the Council;
- To agree and/or amend the Terms of Reference of the Cabinet, Committees, Sub-committees, Boards and Panels, except where the power to appoint a sub-committee is vested by law in a committee;
- To appointment representatives to Outside Bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- To make, amend or revoke Standing Orders and Financial Regulations;
- To agree and/or amend the Scheme of Delegations to Officers, unless the function has been delegated by 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 committees, 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 deal with resolutions of maladministration (on an Ombudsman report), unless the function has been delegated by the Council;
- On the recommendation of the Audit Board, to adopt and amend this Constitution, as detailed in Article 15;
- To consider any matters referred to the Council for decision, in accordance with its Terms of Reference.

4.03 Council meetings

There are four types of Council meetings:

- (a) The Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings;
- (d) Specific Purpose Meetings;

and they will be conducted in accordance with the Council Procedure Rules detailed in Standing Orders, as set out in Part 4 of this Constitution.

4.04 Responsibility for functions

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

ARTICLE 5 – CHAIRING 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 1977² 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 in May, 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 Borough status was initially granted in 1933

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 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 2000, 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 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 in 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 the Council/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 at Part 8 of this Constitution.

Committee	Scope
Policy Overview Committee	<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</p>

	<p>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>
Scrutiny Committee	<p>The scrutiny 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 the delivery of Council services.</p>
Crime and Disorder (Overview and Scrutiny) Committee	<p>Scrutiny inter alia of:</p> <ul style="list-style-type: none"> • decisions and/or actions of the Dartford and Dartford Community Safety Partnership (CSP) and its partners; • any other local crime and disorder matter related to the Council's/Cabinet's crime and disorder/community safety functions; • community safety related local improvement targets; • the CSP's annual strategic assessment; • the CSP'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 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 CSP. The Committees may be consulted by 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 CSP are local authorities, fire and rescue authorities, police authorities, the police force and primary care trusts. Other partners may also sit on the CSP.

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 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 (i.e. Strategic Health Authority, Primary Care Trust or NHS Trust) is a key partner with local government in shaping and delivering public services. The Council's overview and scrutiny process 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 CSP 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 8 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 or representatives of the CSP 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 Council, Cabinet or the CSP. These bodies/organisations 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.

6.10 Membership

The Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are appointed by 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.

In deciding the membership of the Policy Overview Committee, Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, the Council takes into account the particular skills and expertise required to ensure that thorough and informed scrutiny/reviews take place.

No Members may be involved in scrutinising or reviewing a decision in which they have been directly involved.

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 or Scrutiny Committee, 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 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 CSP to serve on the Committee/sub-committee, providing this person:

- (a) is not the chairman or vice chairman of the CSP 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).
- (iv) 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 [refer to Standing Order 58(9) at Part 4 of this Constitution].

ARTICLE 7 - THE EXECUTIVE

7.01 The Role of the Executive (the Cabinet)

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

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 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 adopted³ a Leader and Cabinet form of local governance. The Cabinet consists of the Leader of the Council together with at least three (including the Leader) but not more than ten Councillors appointed to the Cabinet by the Leader. The size of the Cabinet is determined by the Leader.

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; or
- (c) he/she is removed from office by resolution of the Council; or
- (d) he/she is otherwise disqualified by law.

During his/her term of office, the Leader will continue to hold office as a councillor and accordingly, any enactment which provides for earlier retirement as a councillor will not apply.

³ General Assembly of the Council - 13 December 2010 Min.No.85

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
- (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 7.06 below). 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

If, for whatever reason both the Leader and Deputy Leader are unable to act or both positions are vacant, the Cabinet will either collectively act in the Leader's place or will arrange for a Cabinet member to act in the place of the Leader.

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.

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 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 or another local authority or to be discharged jointly with one or more other local authorities.

The Scheme of Delegations to Officers as agreed by the Council [Part 4 of this Constitution] sets out delegations to Officers (both by the Council and by the Cabinet) in terms of functions and budgets.

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.

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 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) 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 quasi-judicial roles on special committees appointed directly by the Council:

The Council will appoint the regulatory committees set out in section 2.1 of the table 'Responsibility for Council Functions' in Part 3 of this Constitution, to discharge the functions described in column 3 of that table.

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

8.02 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. 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.

8.04 Other committees, sub-committee, boards and panels

The Council will appoint the Committees, Sub-committees, Boards and Panels set out in section 2.2 of the table 'Responsibility for Council Functions' in Part 3 of this Constitution, to discharge the 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 Conduct⁴ 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 has an important role in strengthening and maintaining high standards of conduct within the Council.

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, in Part 3 of this Constitution. In summary, the Audit Board:

- 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;
- 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 the [Member] Code of Conduct;
- grants dispensations [refer to section 2.8 in Part 1 of this Constitution].

⁴ GAC 16 July 2012 [Min.No.35]

9.05 Sub-committee of the Audit Board

Hearing Panel - established by the Audit Board for the purposes of determining a complaint following an investigation. The Hearing Panel will have the Terms of Reference set out in 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 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 and Co-opted Members.

The 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.

The Council may appoint committees (which may be area committees) to advise the Cabinet on any matter relating to the discharge of Cabinet functions.

10.02 Form, composition and function

It is for the Council to appoint area committees and where it does so, the committees' functions will be reflected in terms of reference and in a constitution. Decisions about the constitution of area committees even where they are to take Cabinet decisions within their area, will be taken by the Council and not by the Cabinet. The Council will adopt conventions and 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 Council chooses to establish area committees, the committees may be decision-making bodies or consultative forums with no decision-making powers at all.

The Council may delegate non-Cabinet functions to area committees and the Cabinet may delegate Cabinet functions. 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 Council and 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 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 Cabinet is responsible will remain with the Cabinet, even if the Cabinet chooses to delegate functions to area committees.

Through their Terms of Reference and Protocols, the Scrutiny Committee and in relation to crime and disorder/community safety matters, the Crime and Disorder (Overview and Scrutiny) Committee, are able to hold the Council/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 the responsibility of the Cabinet and 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 Council chooses to establish area committees, the Council and the Cabinet will include details of the delegations to these committees in Part 3 of this Constitution including the functions delegated (showing which are the responsibility of the Cabinet and which are not), the composition and membership of the committees, budgets and any limitations on delegation. Delegations to area committees will be published.

In deciding to delegate decision making to area committees, the 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 Cabinet will remain and be seen to remain, accountable for those functions and the clear, accountable, corporate leadership of the Council.

Area committees which discharge functions delegated to them by the Cabinet can also discharge functions which are not the responsibility of the Cabinet.

10.04 Membership of area committees and Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee

(a) Conflicts of interest

It is a fundamental principle of accountability, that a Member cannot scrutinise his/her own decisions. If the Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee is scrutinising specific decisions or actions in relation to the business of an area committee of which the Member concerned is a member, the Member must declare his/her interest at the beginning of the meeting. If the Member was present at the area committee meeting at which the decision was made or action was taken, the Member should not participate in the scrutiny of the area committee's decision/action.

(b) General policy reviews

Where the Policy Overview Committee is reviewing policy generally, the Member must declare his/her interest at the beginning of the meeting, but need not withdraw from the decision making process.

10.05 Area Committees – Access to Information

Area committees will comply with the Access to Information Rules detailed in Standing Orders, as set out in Part 4 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet, will state clearly which items are which.

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. The Council's major/minor partnership arrangements are also detailed in tables 4.2 and 4.3, of Part 3 of this Constitution.

11.02 Arrangements to promote well-being

The Council or the Cabinet (where the function has been delegated to the Cabinet), in order to promote the economic, social or environmental well-being of its area, may;

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

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 has, jointly with others, such as Kent County Council, the Police, Kent and Medway Clinical Commissioning Group etc., set up a number of local partnerships to fulfil specific objectives e.g. the Dartford Community Safety Partnership [refer to Article 6.07 of this Constitution].

11.03 Joint committees

- (a) The Council may enter into arrangements with two or more local authorities to discharge functions jointly. Those arrangements may include establishing a joint committee, either to advise the local authorities on matters of joint interest or to discharge functions. It is also possible for the Cabinet in respect of functions for which it is responsible, to enter into joint arrangements with one or more other local authorities (including Parish and Town Councils) or with the executive(s) of one or more other local authorities.
- (b) Where joint arrangements involve a joint committee to discharge a number of functions on behalf of the Council, some of which are the responsibility of the Cabinet and some of which are the responsibility of the Council as a whole, 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. The political balance rules will apply to appointments made in these circumstances.
- (c) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (d) Except as set out 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 following circumstances and the political balance rules will not apply to such appointments;
 - The joint committee is discharging a function in relation to five or more local authorities;

- The joint committee is discharging a function which is required by law to be discharged by a joint committee;
 - The joint committee has functions for only part of the area of the Council and that area is smaller than 2 fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area of the committee.
 - The joint committee is exercising overview and scrutiny functions.
- (f) Where appointment to the joint committee is made in the circumstances described in para. (e) above, and the General Assembly of the Council only appoints one representative, that person need not be a Cabinet member. However, where the General Assembly of the Council appoints more than one representative to the joint committee in such circumstances, at least one must be a Cabinet member.
- (g) Details of any joint committees, including any delegations onward limits on delegations are as set out in table 4.1, in Part 3 of this Constitution.
- (h) The number of members of a joint committee from each of the participating local authorities is a matter for negotiation between those local authorities; and
- (i) Joint committees may delegate to sub-committees of themselves or to Officers.

In deciding to enter into joint arrangements, the 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 Cabinet will remain and be seen to remain accountable for those functions as the clear, accountable, corporate leadership of the Council.

Effective communication and exchange of information between the Cabinet and any joint committee/joint arrangement is achieved through Member participation in the meetings of the committee/joint arrangement and through the receipt by Cabinet of the minutes of the proceedings of the committee/joint arrangement which may be scrutinised by the Scrutiny Committee, or (in relation to crime and disorder/community safety matters), the Crime and Disorder (Overview and Scrutiny) Committee.

In accordance with an agreement made between Kent County Council and Dartford Borough Council, a [Dartford] Joint Transportation Board (the JTB) 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 3, in Part 3 of this Constitution.

11.04 Membership of joint committees and the Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee - conflicts of interest

It is a fundamental principle of accountability, that a Member cannot scrutinise his/her own decisions. If the Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee is scrutinising specific decisions or actions in relation to the business of a joint committee of which the Member concerned is a member, the Member must declare his/her interest at the beginning of the meeting. If the Member was present at the joint committee meeting at which the decision was made or action was taken, the Member should not participate in the scrutiny of the joint committee's decision/action.

11.05 Access to Information

- (a) The Access to Information Rules detailed in Standing Orders and in Standing Order 57(5), as set out in 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 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 Council may delegate non-executive (non-Cabinet) functions to another local authority or, in certain circumstances, 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 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, various powers relating to the enforcement of parking control in the Borough of Dartford and the prosecution of fly-tipping offences in the Borough. Further details of the arrangements are set out in table 4.3, in 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 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, in Part 3 of this Constitution.

11.07 Contracting out

- (a) The Council 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 Cabinet 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. The Cabinet remains and will be seen to remain, accountable for those functions as the clear, accountable corporate leadership of the Council.

11.08 Scrutiny of joint arrangements

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 delegating i.e. the actual discharge of the function.

11.09 Partnership/joint working governance arrangements

Any existing or future joint arrangements entered into by the Council will be in accordance with the Code of Practice for Effective Joint Working Arrangements at Part 5 to 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.

The Council organises Officer support for the different roles within the Council 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 and other Officers;
- The Council seeks to avoid potential conflicts of interests 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.

Officers are responsible for day-to-day managerial and operational decisions within the Council.

The roles, responsibilities and rights of Officers and Members are set out in the Member/Officer Protocol in Part 5 of this Constitution.

12.02 Management Structure

Appointment of Officers cannot be the responsibility of the Cabinet.

(a) General

The General Assembly of the Council may engage such Officers as it considers necessary to carry out its functions, unless the function has been delegated to a committee, board, panel or officer.

(b) Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer)

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 section 5.2 of the table 'Statutory Officer Roles', in Part 3 of this Constitution, who will be designated as Statutory Officers.

(c) Officers

Appointment of Officers (other than Statutory Officers), is the responsibility of the Head of Paid Service or his/her nominee.

(d) 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 Officers, as set out in Part 7 of this Constitution.

12.03 Functions of the Head of Paid Service

(a) Discharge of Functions by the Council

The Head of Paid Service reports to the General Assembly of the Council or to the Cabinet as appropriate, on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

(b) Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer, 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 its Sub-committee.

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 and that Members consult with him/her regularly.

The statutory duties and powers of the Monitoring Officer are as follows:

(a) Maintaining the Constitution

The Monitoring Officer maintains an up-to-date version of this Constitution and will ensure that it is widely available for consultation 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 reports to the General Assembly of the Council 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.

(c) Supporting the Audit Board and its Hearing Panel

The Monitoring Officer contributes to the promotion and maintenance of high standards of conduct through provision of support to the Audit Board (exercising its standards functions) and its Hearing Panel.

(d) Conducting investigations [Member] Code of Conduct

The Monitoring Officer has the power to conduct investigations into [Borough] Councillor misconduct and to report the results of the investigation to the Hearing Panel for local determination, in accordance with the Arrangements for dealing with Code of Conduct Breaches, at Part 4 of this Constitution.

(e) Proper Officer for access to information

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

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

The Monitoring Officer advises whether the decisions of the Cabinet are in accordance with the Council's policy framework and budget.

(g) Providing general advice

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

(h) Parish/Town Councils

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 must be available for inspection at the Council offices and on the Council's website.

The Monitoring Officer is available to give advice to the Parish/Town Councils on matters concerning their code of conduct. The Monitoring Officer has the power to conduct investigations into Parish/Town Councillor misconduct and to report the results of the investigation to the Hearing Panel, for local determination, in accordance with the Arrangements for dealing with Code of Conduct Breaches, at Part 4 of this Constitution.

(i) Restrictions on post

The Monitoring Officer cannot be the Chief Finance 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 Council.

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

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

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

The Chief Finance Officer also has an important role in the 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 unlawfully.

(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.

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 a deputy nominated by him/her in cases of absence or illness. It is the function of the Chief Finance Officer to appoint a deputy, not the Council.

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.

12.07 Data Protection Officer

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 Legislation⁵;
- 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 highest management level in the Council.

12.08 Conduct

Officers are subject to a [non-statutory] Employee Code of Conduct which is included in Officers' terms and conditions of employment. Officers must comply with the Employee Code of Conduct, at Part 5 of this Constitution.

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

⁵ Data Protection Legislation' means the General Data Protection Regulation and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time and any successor legislation to the GDPR or the Data Protection Act 2018 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner

12.09 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules detailed in Standing Orders, as set out in 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.

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).

12.11 Scrutiny of Cabinet decisions

The Scrutiny Committee or, (in relation to crime and disorder/community safety matters), the Crime and Disorder (Overview and Scrutiny) Committee, may question the Council's/Cabinet's decisions/actions which will have been based on Officer advice and in accordance with the guidelines detailed in the Committees' Protocols, require Officers to appear before the Committees to answer questions.

ARTICLE 13 – DECISION MAKING

13.01 Executive arrangements

The principle aims of the Council's executive arrangements are to make decision making more efficient, transparent and accountable so that the Council can be more open and responsive to the means and aspirations of the communities it serves.

Central to the Council's executive arrangements is the need for effective access by the public to decision-making and decision makers. The characteristics of effective access are;

- It is publicly known who is responsible for decisions;
- It is publicly known what decisions are being or are planned to be taken;
- People know how they can make an input to those decisions and at what point in the process they can best influence them;
- People have access to information about decisions;
- People know what decisions have been taken and the reasons for them; and
- Significant decisions should not be a surprise to those whom they affect.

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

13.02 Principles of decision making

All decisions of the Council (whether they are the responsibility of the Cabinet or not), will be made in accordance with the following principles;

- Proportionality (i.e. the action taken is proportionate to the desired outcome);
- Decisions should be taken on the basis of due consultation and professional advice from Officers;
- Respect for human rights;
- 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

The policy framework and budget will be set by the General Assembly of the Council, meeting in public. The Cabinet will make recommendations to the General Assembly of the Council at that public meeting and it will, of course, also be open to members of the Policy Overview Committee, Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee and other members of the Council to make recommendations at that meeting. The Access to Information Procedure Rules detailed in Standing Orders, as set out in Part 4 of this Constitution, will apply.

Unless otherwise delegated, decisions relating to functions listed in Article 4.02 of this Constitution will be made by the General Assembly of the Council and not by the Cabinet.

(b) Cabinet Key Decisions

Any decision in relation to a Cabinet function which results in the Council incurring expenditure which is or the making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates, is a key decision.

The legislative definition of a key decision 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.

- 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 power 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 various bodies within the Council including Officers but, no matter who is taking the decision, the same principles detailed in Article 13.01 of this Constitution, will apply.

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, as set out in 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 Notice⁶) 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.

⁶ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

The Regulation 9 Notice is available for inspection on the Council's website www.dartford.gov.uk and at the Council offices together with relevant papers (excluding draft documents and exempt or confidential information).

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 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 must submit at least one annual report to the General Assembly of the Council on how often the urgency procedure under Standing Order 54 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 decisions⁷

Subject to the rules on confidentiality and exempt information:

⁷ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 & Openness of Local Government Bodies Regulations 2014

1. decisions taken by 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
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 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.

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.

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, as set out in 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, as set out in 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, as set out in 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, as set out in Part 4 of this Constitution, as apply to them.

13.12 Decision making by Council bodies acting as tribunals

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

13.13 Member training and quasi-judicial functions

Only Members who have received the appropriate training on quasi-judicial functions, may serve on the Development Control Board, Licensing Sub-committee, Hearing Panel, Appeals Panel, Deed, Trust and Obligations Committee and the Discretionary Housing Payments Panel.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution, as may be amended from time to time by the Section 151 Officer.

14.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4 of this Constitution.

14.03 Legal proceedings

Through the Scheme of Delegations to Officers set out in 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 report to the Audit Board. Reviews may also be triggered by Member requests to the Council, external feedback (example from the Ombudsman), 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 it 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 DCLG 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.

15.04 Procedure rules

(a) Approval

Changes to the 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.

The Council may from time to time delegate the function of amending the Constitution to Officers of the Council.

The Directors have delegated authority to may make urgent amendments, amendments which give effect to any decision of the Council or changes in the law, minor amendments such as to correct errors and amendments, to ensure that this Constitution is up-to-date.

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

There will be no requirement to consult with local electors and other interested persons in the Borough where changes are prompted from internal reviews and evaluation of the Council's governance.

Proposals for constitutional change will not be used to overcome disputes between the Cabinet and other Councillors or even within the Cabinet itself.

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, the Cabinet, a Committee, Sub-committee, Board and Panel 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 may not be suspended;

S.O. 13(4)	Recording of votes in minutes;
S.O. 15(1) (b)	Submission of minutes of the Council to next ordinary meeting;
S.O. 15 (2)	Signing minutes as correct record;
S.O. 19.2. (A)	Declaration of personal interests;
to and (E) inclusive	
S.O. 19.6. (1)	Register of declarable interests;
S.O. 30 (2)	Recording of votes;
S.O. 44	Interpretation of Standing Orders’;
S.O. 56 (2) (e)	Conflict Resolution Mechanism;
and (6)(b) and (c)	
S.O. 60	Recruitment/Appointment of Statutory Officers;
S.O. 61	Disciplinary action in respect of Statutory Officers;
S,O. 62	Disciplinary action in respect of staff other than Statutory Officers.

16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings 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 the Constitution contained 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 Chief Officer and Director of Corporate Services will publish an electronic copy of this Constitution on the Council's website.