

DARTFORD BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

PART 1 SUMMARY AND EXPLANATION

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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 term 'Constitution' refers to the 16 Articles which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and rules and protocols are referred to in separate parts, with webpage links.

1.2 What's in the Constitution?

Article 1 of this 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 (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny Committees (Article 6);
- The Executive (Leader/Cabinet style of local governance) (Article 7);
- Regulatory, Other Committees, Boards and Panels of the Council (Article 8);
- Audit Board - Standards Functions (Article 9);
- Area Committees and 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, Overview and 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 and [voting] Co-opted Members have to agree to follow the [Member Code of Conduct](#) [Part 6 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 Parishes/Town) and [voting] Co-opted Members.

All Councillors meet together as the General Assembly of the Council, 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.

The functions of the General Assembly of the Council and the rules that govern the conduct of its meetings are described in Article 4 of this Constitution.

The Cabinet, Committees, Sub-committees, Boards and Panels have to work within [Terms of Reference](#) [Part 5 of this Constitution]. Terms of Reference specify the functions with which the General Assembly of the Council, 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 in [Standing Order 47](#) [Part 4 of this Constitution], for allowing disputes between the Cabinet and the General Assembly of the Council on matters related to the adoption of the Budget or the Policy Framework.

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

The [Code of Corporate Governance](#) [Part 6 of this Constitution] 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 2016/17), 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 organization 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 [Counter - fraud and Corruption Strategy](#) [Part 9 of this Constitution] 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 Counter-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 and Diversity Document 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 2020](#) 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 – see [Article 7.02.1](#)) 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 authority¹ 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 7.02.8](#) 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 13.05](#) of this Constitution – Advance notification of Key Decisions] 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 envelope² or policy framework, will require the approval of the General Assembly of the Council.

In summary, accountable decision-making requires the following:

- for advance notice to be given of Key Decisions to be taken [[Article 13.05](#)];
- 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.

¹ Scheme of Delegations to Officers

² Agreed by the General Assembly of the Council at the Budget meeting

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 through the scrutiny of decisions the Cabinet is planning to take, those it plans to implement and those that have already been taken/implemented, whilst the overview process plays a valuable role in developing policy.

The overview and scrutiny remit extends to the review and scrutiny of the actions of key local public service providers.

The scrutiny function is undertaken respectively, by the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, in accordance with [Articles 6.03](#) and [6.04](#) and their [Terms of Reference](#) [Part 5 of this Constitution].

The overview function is also undertaken by the Overview and Scrutiny Committee, in accordance with [Article 6.02](#) and its [Terms of Reference](#) [Part 5 of this Constitution].

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

2.3 Referral of matters for overview or scrutiny

The law states that any member of an overview and scrutiny committee may refer to their committee, any matter which is relevant to the functions of the committee. This Constitution extends this right to all Members, subject to the rules detailed in the [Protocols](#) of the [Overview and Scrutiny Committee](#) and [Crime and Disorder \(Overview and Scrutiny\) Committee](#) [Part 6 of this Constitution].

2.4 Councillor Calls for Action

Any member of the Council may, through the Councillor Calls for Action process³, refer to the Overview and 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 and licensing functions), which cannot be the responsibility of the Cabinet. These functions are delegated by the General Assembly of the Council to Committees, Boards and Panels in accordance with [Terms of Reference](#) [Part 5 of this Constitution].

³ Referred to in the Protocols for Scrutiny Committee and Crime and Disorder(Overview and Scrutiny) Committee

2.6 Outside Bodies

The Council has relationships with a wide range of organisations e.g., trusts, charities, school governing bodies, industrial and provident societies and community associations to which the Council or Cabinet formally appoints elected members and/or Officers to represent the Council's interests. These appointments are known as 'outside body appointments.' which are reviewed annually to ensure that the aims and activities of those outside bodies remain relevant to the Council, its policies and priorities.

With the increasing emphasis on partnership working, Councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Members always need to be clear about their roles and alert to potential conflicts of interest, in order to ensure transparency and public confidence in local democracy. Members are referred to the [Guidance for Members on Outside Bodies](#) [Part 11.4 of this Constitution].

2.7 Non-executive part of the Council

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.

2.8 Dispensations

The Audit Board may grant dispensations to individual Members with a disclosable pecuniary interest or prejudicial interest to participate in meetings where:

- 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;
- the Board considers that the dispensation is in the interests of persons living in the Borough; or
- the Board considers that it is otherwise appropriate to grant a dispensation.

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

- (i) 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) without a dispensation, no member of the Cabinet 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

Council employees are referred to as 'Officers'.

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 Relations Protocol [Part 6 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 (non- statutory) [Employee Code of Conduct](#) [Part 6 of this Constitution], sets out the fundamental standards to be followed by all employees and seeks to promote honest and ethical conduct when acting on behalf of the Council.

4. CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out 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 can advise on individuals' legal rights.

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 of the Council, Cabinet, Sub-committees, Committees, Boards and Panels, except where confidential/exempt information is being discussed;
- Inspect agendas, reports and minutes of meetings of the Council, Cabinet, Committees, Sub-committees, Boards and Panels, but excluding confidential/exempt information;
- Submit a statutory petition for example to request a referendum on Council Tax increases or in relation to whether the Council should operate a certain form of governance arrangements;
- Submit non- statutory Petitions/ePetitions in accordance with the [Petitions Guidelines](#), for a response on any matter relating to a function of the Council or, to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partners contribute;
- By invitation, attend meetings of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee 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 hearings in accordance with the [Sub-committee's Rules of Procedure](#);
- Find out, from the [Cabinet's Regulation 9 Notice](#), what key decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and when;
- Complain to the Council about Council services – the Council encourages its customers through its [Corporate Complaints Procedure](#) to voice their concerns as an opportunity to put things right for the customer and to improve services;
- Complain to the [Local Government & Social Care Ombudsman](#) or [Housing Ombudsman](#) if they think the Council has not followed its procedures;

- [Complain to the Monitoring Officer](#), if they have evidence which they think shows that a Councillor or [voting] Co-opted Member has breached the [Member Code of Conduct](#);
- Inspect the Council's accounts and to make their views known to the external auditor;
- When vacancies are advertised, apply to become an [Independent Person](#);
- When vacancies are advertised, apply to become a member of the Council's Independent Remuneration Panel or Co-opted Member of the Deed, Trust and Obligations Committee – [see Panel/Committee's [Terms of Reference](#) - [Part 5 of this Constitution].

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 may have a statutory duty to consult on specific areas of service delivery e.g. redevelopment proposals.

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 development, prioritising and monitoring of Council services.

The Council 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.

For further information, see the LGA's guidance on ['Consulting residents'](#).

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 \(Procedural\)](#) [Part 4 of this Constitution].

For further information on your rights as a citizen to access to information, contact Democratic Services, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR: Tel: 01322 343434: memberservices@dartford.gov.uk