

COUNCIL CONSTITUTION  
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The following definitions are used in this Constitution.

<b>Annual Council</b>	the meeting of Full Council [ ].
<b>Borough</b>	the geographical area known as the London Borough of Havering.
<b>Cabinet</b>	the executive decision making body of the Council comprising the Leader and the Cabinet Members.
<b>Cabinet Member</b>	the individual member of the Cabinet to whom the Leader has assigned a portfolio or otherwise delegated authority to act in relation to that matter.
<b>Chair</b>	the designated chair of any committee or sub-committee of the Council.
<b>Chief Executive</b>	the Chief Executive of the Council (and any reference to the Head of Paid Service within this Scheme or the constitution shall be a reference to the Chief Executive).
<b>Chief Officers</b>	the Chief Executive, the Strategic Directors, <u>the Director of Public Health</u> , the Director of Children’s Services, the Director of Adult Social Services and the Monitoring Officer.
<b>Code of Conduct</b>	the code of conduct for Members found at part 5 of this constitution.
<b>Council</b>	the council of the London Borough of Havering
<b>Councillors</b>	elected councillors of the Council (and a reference to a Member shall be construed as being a reference to a Councillor). Any reference to a member includes a co-opted member (that is a member who is not a member of the Council but who is entitled to attend the committee or sub-committee on which they sit and may have voting rights).
<b>Deputy Chief Officers</b>	Officers who for all or most of their duties report directly to or are directly accountable to a Chief Officer.
<b>Executive</b>	the Leader and Cabinet together.
<b>Forward Plan</b>	A document containing details of the key decisions likely to be made by the Council for the four month period following publication of the Forward Plan.
<b>Full Council</b>	a meeting of the full membership of the Council.
<b>Leader</b>	the Leader of the Council.
<b>Mayor</b>	the first citizen of the Borough as elected by Full Council from year to year.
<b>Monitoring Officer</b>	the designated monitoring officer of the Council.
<b>Officers</b>	officers / members of staff of the Council
<b>Ombudsman</b>	the relevant ombudsman responsibility for the oversight of specific Council functions, including the Local Government and Social Care Ombudsman and the Housing Ombudsman.
<b>Policy Framework</b>	means the following plans and strategies (which are statutory, except where shown otherwise): <ul style="list-style-type: none"> <li>• Documents that together make up the Development Framework</li> </ul>

	<ul style="list-style-type: none"> <li>• Licensing and Gambling Authority Policy Statement</li> <li>• Youth Justice Plan</li> <li>• Corporate Plan (non-statutory)</li> <li>• Crime and Disorder Reduction Partnership Strategy</li> <li>• A plan or strategy for the control of the authority's borrowing, investments or capital expenditure</li> </ul>
<b>Scheme</b>	this scheme of delegations.
<b>Strategic Directors</b>	the Strategic Directors of Resources, Place and People collectively (any reference to a Strategic Director should be construed accordingly.)

~~Throughout this document, according to context, “The Council” means either:~~

- ~~• the 55 Members of the Council (“Councillors”) meeting together in full Council or~~
- ~~• the statutory body administering local government in the London Borough of Havering~~

This document is produced in accordance with the requirements of the Local Government Act 2000 (Constitutions) (England) Direction 2000.

## 1. The Council’s constitution

The ~~London Borough of Havering~~Council has a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are properly made and are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others have been decided by the Council itself.

The constitution is divided into 12 articles which set out the basic rules governing the Council’s business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2. What’s in the constitution?

Article 1 of the constitution commits the Council to deliver its priorities under the corporate plan, and to provide clear community leadership in partnership with local people, partners, businesses and others with a stake in the ~~well being~~wellbeing of the ~~London Borough of Havering~~. The rest deal with:

- (a) Members of the Council (Article 2)
- (b) Citizens and the Council (Article 3)
- (c) The Council and the Mayor (Article 4)
- (d) The Executive – Leader of the Council and Cabinet (Article 5)
- (e) Overview and Scrutiny (Article 6)
- ~~(e)~~f Joint arrangements (Article 7)
- ~~(f)~~g Staff (Article 8)
- ~~(g)~~h Decision making (Article 9)
- ~~(h)~~i Finance, contracts and legal matters (Article 10)

(i) Review and revision of the constitution (Article 11)

(j) Suspension, interpretation and publication of the constitution (Article 12).

### 3. How the Council operates

Councillors are democratically accountable to residents of their electoral ward. The overriding duty of ~~councillors~~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 to comply with a code of conduct to ensure high standards in the way they undertake their duties.

All ~~councillors~~Councillors meet together as the Full Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies, and set the budget each year. The Council elects a Leader, who then appoints a Deputy Leader and between two and eight other members who together with the Leader of the Council form the Cabinet. The Leader and Cabinet are responsible for implementing the policies decided by the Council within the budget. Functions of the Cabinet and individual Cabinet ~~members~~Members are decided by the Leader. The Council is required by law also to appoint Overview and Scrutiny Committees to assist in policy formulation and to hold the Cabinet to account for its performance.

### 4 How decisions are made

The Executive is accountable for most day-to-day decisions. The Executive is made up of the Leader and the Cabinet. The Leader is elected by the Council and is responsible for arranging for the exercise of all executive functions. The Leader appoints the Cabinet. When major decisions are to be discussed or made, these are published in the ~~Leader's~~ Forward Plan. If these major decisions are to be taken at a meeting of the Executive, the meeting will be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Full Council ~~as a whole~~ to decide.

While most decisions are taken by the Executive (i.e. by or on behalf of the Cabinet or an individual Cabinet member), some important decisions are also taken by the ~~full~~Full Council, or by its committees and sub-committees.

### 5. Overview and Scrutiny

There are ~~six~~two Overview and Scrutiny Committees, known as sub-committees which support the work of the Overview and Scrutiny Board, the Executive and the Council as a whole. They have statutory powers to report and make recommendations which advise the

Executive and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Sub-Committees also monitor the decisions of the Executive. The Overview and Scrutiny Board can “call-in” a decision which has been made by the Executive but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Executive reconsider the decision. It may also be consulted by the Executive or the Full Council on forthcoming decisions and the development of policy.

The Overview and Scrutiny Board also deal with Councillor Calls for Action and sub-committees have power to scrutinise a number of partner agencies in relation to matters concerning the National Health Service and crime and disorder.

## **6. Health and Wellbeing Board**

The Council’s Health and Wellbeing Board is a committee that includes NHS representatives as well as councillors and officers from the Council. Havering’s local Healthwatch organisation is also represented. The Board works towards ensuring people in Havering have services of the highest quality which promote their health and wellbeing and to narrow inequalities and improve outcomes for local residents.

## **7. Other Committees**

The Council also appoints a number of other committees to undertake functions on its behalf that cannot be undertaken by the Executive. ~~These include the Regulatory Services Committee (which deals with planning issues), the Audit Committee and the Pensions Committee.~~

## **8. The Council’s staff**

The Council has staff to give advice, implement decisions and manage the day-to-day delivery of its services. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between staff and members of the Council.

## **9. Citizens’ rights**

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, while others depend on the Council’s own processes. ~~The local Citizens’ Advice Bureau can advise on individuals’ legal rights.~~

Citizens have the right to:

- (a) vote at local elections if they are registered
- (b) contact their local councillor about any matters of concern to them

- (c) obtain a copy of the constitution
- (d) attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- (e) petition to request a referendum on a mayoral form of Executive
- (f) find out, from the ~~Leader's~~ Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or staff, and when
- (g) attend meetings of the Executive where key decisions are being discussed or decided except where, for example, personal or confidential matters are being discussed
- (h) see reports and background papers except those containing personal or confidential information, and any record of decisions made by the Full Council and Executive
- (i) complain to the Council about any aspect of the Borough's services using the Council's formal complaints systems
- (j) complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints process
- (k) complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's code of conduct, and
- (l) inspect the Council's accounts and make their views known to the external auditor.
- (m) Inspect the Register of Members' Interests

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they may have additional rights. These are not covered in this constitution.

The Council welcomes participation by its citizens in its work. A statement of the rights of citizens to inspect agendas and reports and attend meetings is available.

## **Article 1: The constitution**

### **1.01 Purpose of the Constitution**

The purpose of the constitution is to set the frameworks within which the Council operates and in particular to:

- 1 enable the Council to provide clear leadership to the community in partnership with citizens, partners, businesses and other organisations
- 2 support the active involvement of citizens in the process of local authority decision-making
- 3 help ~~councillors~~ Councillors represent their constituents more effectively
- 4 enable decisions to be taken efficiently and effectively
- 5 create a powerful and effective means of holding decision-makers to public account
- 6 ensure that no person will review or scrutinise a decision in which he or she was directly involved
- 7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- 8 provide a means of improving the delivery of services to the community.

### **1.02 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 Council will monitor and evaluate the operation of the constitution as set out in Article 11.

### **1.03 Definitions**

~~For the purposes of this constitution:~~

~~(a) Where appropriate, any reference to a member includes a co-opted member (that is a member who is not a member of the Council but who is entitled to attend the committee or sub-committee on which they sit and may have voting rights).~~



~~(b) The following staff are Chief Officers:~~

- ~~1. Head of Paid Service (i.e. the Chief Executive)~~
- ~~2. Director of Children's Services (appointed under s.18 Education Act 2004) (i.e. the Director of Children's Services)~~
- ~~3. Director of Adult Social Services (appointed under s.6(A1) Local Authority Social Services Act 1970) (i.e. the Director of Adults and Health)~~
- ~~4. the s.151 Officer (i.e. the Chief Operating Officer)~~
- ~~5. Director of Public Health~~
- ~~6. Any person who for most of their duties (other than clerical or administrative) reports directly to the Head of Paid Service or directly to the Council or a committee or sub-committee of the Council.~~

~~Those in categories 1 – 5 are statutory chief officers, those in category 6 are non-statutory chief officers.~~

~~(c) Deputy Chief Officers are staff who for all or most of their duties report directly to or are directly accountable to a Chief Officer.~~

~~(d) SLT Directors are the Directors of Adult Social Services, Children's Services, Neighbourhoods, the Chief Operating Officer and the oneSource Managing Director~~

~~(e) Second Tier Managers are senior managers reporting to an SLT Director~~

~~(f) Third Tier Managers are senior managers reporting to a Second Tier Manager~~

~~(g) "Policy Framework" means the following plans and strategies (which are statutory, except where shown otherwise):~~

~~Documents that together make up the Development Framework~~

~~Licensing and Gambling Authority Policy Statement~~

~~Youth Justice Plan~~

~~Corporate Plan (non-statutory)~~

~~Crime and Disorder Reduction Partnership Strategy~~

~~A plan or strategy for the control of the authority's borrowing, investments or capital expenditure~~

~~(h) "Budget" includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits. For the purpose of the Budget Framework Procedure Rules and the Policy Framework Procedure Rules, the budget shall not include reserves and balances.~~

~~(i) "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.~~

## **Article 2: Members of the Council**

### **2.01 Composition and eligibility**

The Council comprises 55 members, otherwise called ~~councillors~~Councillors. Three ~~councillors~~Councillors are elected by the voters of each electoral ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Only registered voters of the ~~London~~-Borough-~~of Havering~~ or those living or working there are eligible to hold the office of councillor.

The regular election of councillors is held on the first Thursday in May every fourth year from 2002. The terms of office of councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

Vacancies in the office of Councillor are filled by a by-election; those elected at a by-election hold office until the fourth day after the date of the next regular election.

### **2.02 Roles and functions of all councillors**

#### **(a) Key roles**

All ~~councillors~~Councillors will:

- (i) collectively be the ultimate policy-makers;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making; participate in the governance and management of the Council
- (iii) effectively represent the interests of their constituents, fairly, impartially and without unlawful discrimination;
- (iv) maintain the highest standards of conduct and ethics.

#### **(b) Rights and duties**

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) 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~~ Councillor or ~~member of staff~~ Officer entitled to know it.

- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this constitution.

**(c) Champions**

Council has established six positions to act as and be a Champion:

- (i) Champion for the Armed Forces
- (ii) Champion for Equalities and Diversity
- (iii) Champion for Historic Environment
- (iv) Champion for the Over Fifties
- (v) Champion for the Voluntary Sector Compact
- (vi) Champion for the Young People

Such appointments are made at Annual Council.

In relation to the issues for which they are responsible, the Champions shall be required to report annually to Council, shall have the right to report to Council or to Cabinet at any ordinary meeting and may be questioned at an ordinary meeting of the Council by any member.

**2.03 Conduct**

Councillors will at all times observe the Members’ Code of Conduct, the Protocol on Member/Officers Relations, the Protocol on Probity in Planning matters and the Protocol on Gifts and Hospitality set out in Part 5 of this constitution.

**2.04 Allowances**

Councillors are entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this constitution.

## **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 Procedure Rules in Part 4 of this constitution.

#### **(a) Voting and petitions**

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected mayor.

#### **(b) Information**

Citizens have the right to:

- (i) attend meetings of the Council, Cabinet and its committees except any part where confidential or exempt information is likely to be disclosed
- (ii) find out from the Forward Plan what key decisions will be taken by the Executive (or Officers), and when
- (iii) see reports and background papers, and any records of decisions made by the Council and the Executive except any part which includes confidential or exempt information
- (iv) inspect the Council's accounts and make their views known to the external auditor.

#### **(c) Complaints**

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme
- (ii) the Ombudsman
- (iii) the Monitoring Officer if they consider that a Member has acted in breach of the Code of Conduct.

### **3.02 Participation**

Overview and Scrutiny Sub-Committees and other committees may invite Citizens to:

- (a) contribute to their investigations
- (b) speak at their meetings.

#### Strategic Planning and Planning Committees

Public rights in respect of participation at the Strategic Planning Committee and the Planning Committee are set out in the Planning Procedure Rules in Part 4 of this Constitution.

**Article 4: ~~The Full~~ Council and the Mayor**

**4.01 Functions of ~~the Full~~ Council**

Only ~~the Full~~ Council will exercise the following functions:

- (a) adopting and changing the constitution
- (b) approving or adopting the ~~P~~policy ~~framework~~Framework, the budget and any application to the Secretary of State in respect of any housing land transfer
- (c) subject to the urgency procedure contained in the ~~Access to Information Procedure~~Decision Making Rules in Part 4 of this constitution, making decisions about any matter in the discharge of an executive function which is covered by the ~~P~~policy ~~framework~~Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the ~~policy~~Policy frameworkFramework or contrary to or not wholly in accordance with the budget
- (d) appointing the Leader and the Mayor
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them
- (f) adopting an allowances scheme under Article 2.04
- (g) changing the name of the area, conferring the honorary freedom of the borough or appointing honorary aldermen / alderwomen
- (h) confirming the appointment and dismissal of the Head of Paid Service
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal ~~Bills~~bills
- (j) the decision to introduce or revise a council tax reduction scheme
- (k) agreeing council tax discounts and exemptions
- (l) adoption of the ~~members e~~Code of ~~conduct~~Conduct
- (m) approving the annual pay policy statement
- (n) ~~Resolution~~resolution to make a change in governance arrangements

- (o) all local choice functions set out in Part 3 of this constitution which ~~the Full~~ Council decides should be undertaken by itself rather than the Executive
- (p) all other matters which, by law, must be reserved to Full Council.

#### **4.02 Council meetings**

There are four types of Council meeting:

- (a) annual meetings
- (b) ordinary meetings
- (c) council tax and budget setting meetings
- (d) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this constitution.

#### **4.03 Role and function of the Mayor**

The Mayor is elected at the Annual ~~Meeting of the~~ Council from among its members. The Mayor is the civic and ceremonial head of the Council. The Mayor appoints the Deputy Mayor.

The Mayor and, in his or her absence, the Deputy Mayor (in the case of (e) and (f) if the Deputy Mayor is chosen by the meeting in accordance with Council Procedure Rule rule 2 (a)) will have the following roles and functions:

- (a) To uphold and promote the purposes of the constitution and, when ~~Chairing~~ chairing the Full Council meeting, to interpret the constitution when necessary
- (b) To promote public interest in the Council's activities.
- (c) To be the Returning Officer for the parliamentary constituencies within the Borough.
- (d) To attend civic and ceremonial functions
- (e) To preside over meetings of ~~the Full~~ Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. ~~[In the case of an equality of votes, then, as the Chairman of the meeting, the Mayor has a second or casting vote.]~~



- (f) As Chair~~man~~ of the meeting, to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which ~~members~~ Members who are not on the Cabinet are able to hold the Cabinet to account.

#### **4.04 Committees of the Council**

~~The Full~~ Council will appoint committees and sub-committees, with the membership arrangements shown in the Table appended to this Part 2. The full functions of each are set out in Part 3 of this constitution.

~~The Full~~ Council is required – with a few exceptions – to make appointments to Committees in accordance with the principles of political balance. The number of Members’ seats on each ~~Committee~~ committee shown in the table may be varied by resolution of ~~the Full~~ Council in order to achieve political balance.

#### **4.05 Responsibility for functions**

~~The Full~~ Council will maintain the tables in Part 3 of this constitution, which set out the responsibilities for those functions of the Council that are not the responsibility of the Executive

**Notes for later inclusion:**

- 2.02 (a) Key roles
- (b) Rights and duties

Should these be added to a composite Part 5, showing rights and duties of Councillors, including code of conduct?

OR – should we extend 4.1 (Access to Info) to cover members of the public and councillors in separate sections.

Champion for Standards to be removed.

Need to re-order part 4, so that FC comes first, followed by Executive and Committees. And before that, need to add in some Decision Making Rules which will cover the FP and urgency provisions.