



## **Article 1: The constitution**

### **1.1 Purpose of the Constitution**

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

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

### **1.2 Interpretation and review of the constitution**

1.2.1 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.

1.2.2 The Council will monitor and evaluate the operation of the constitution as set out in Article 11.

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

### **2.1 Composition and eligibility**

- 2.1.1 The Council comprises 55 members, otherwise called Councillors. Two or three 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.
- 2.1.2 Only those individuals who can satisfy the criteria as set out in s.79 of the 1972 Act are eligible to hold the office of Councillor.
- 2.1.3 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.
- 2.1.4 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. (Note - if a vacancy occurs in the six months before the date on which that Member would have retired, an election is not to be held, unless more than one third of the Council's seats are vacant.)

### **2.2 Roles and functions of all Councillors**

- 2.2.1 All Councillors will:
- (a) collectively be the ultimate policy-makers;
  - (b) contribute to the good governance of the Borough and actively encourage community participation and citizen involvement in decision making;
  - (c) participate in the governance and management of the Council
  - (d) effectively represent the interests of their constituents, fairly, impartially and without unlawful discrimination;
  - (e) maintain the highest standards of conduct and ethics.
- 2.2.2 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.

2.2.3 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 Procedure Rules in Part 4 of this constitution.

## **2.3 Champions**

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

- (a) Champion for the Armed Forces
- (b) Champion for Equalities and Diversity
- (c) Champion for Historic Environment
- (d) Champion for the Over Fifties
- (e) Champion for the Voluntary Sector
- (f) Champion for the Young People

2.3.2 Such appointments are made at Annual Council.

2.3.3 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.

## **2.4 Conduct**

2.4.1 Councillors will at all times observe the Nolan Principles, the Members’ Code of Conduct (which seeks to embody the Nolan Principles), 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.

## **2.5 Allowances**

2.5.1 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**

### **3.1 Citizens' rights**

3.1.1 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) 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) attend meetings of the Council, Cabinet and its Committees except any part where confidential or exempt information is likely to be disclosed
- (c) find out from the Forward Plan what key decisions will be taken by the Executive (or Officers), and when
- (d) 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
- (e) inspect the Council's accounts and make their views known to the external auditor.
- (f) 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.

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

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

3.1.3 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: Full Council and the Mayor**

### **4.1 Functions of Full Council**

4.1.1 Only Full Council will exercise the following functions:

- (a) adopting and changing the constitution
- (b) approving or adopting the Policy 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 elsewhere in this constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework 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 2.5
- (g) changing the name of the area of the Borough or conferring an Honorary Award.
- (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
- (j) the decision to introduce or revise a council tax reduction scheme
- (k) agreeing council tax discounts and exemptions
- (l) adoption or amendment of the Code of Conduct
- (m) approving the annual pay policy statement
- (n) resolution to make a change in governance arrangements of the Council (which shall require two thirds majority of those present and voting at the meeting)

- (o) all local choice functions set out in Part 3 of this constitution which 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.

## **4.2 Council meetings**

4.2.1 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.

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

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

4.3.2 The Mayor and, in his or her absence, the Deputy Mayor (in the case of (d) and (e) 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 the Full Council meeting, to interpret the constitution when necessary
- (b) To promote public interest in the Council's activities.
- (c) To attend civic and ceremonial functions
- (d) To preside over meetings of 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.
- (e) As Chair 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 who are not on the Cabinet are able to hold the Cabinet to account.

#### **4.4 Committees of the Council**

4.4.1 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.

4.4.2 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 shown in the table may be varied by resolution of Full Council in order to achieve political balance.

#### **4.5 Responsibility for functions**

4.5.1 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

## **Article 5: The Executive – Leader of the Council and Cabinet**

### **5.1 Leader of the Council**

- 5.1.1 The Leader is responsible for arranging for the exercise of all executive functions.
- 5.1.2 The Council will elect a Councillor to the position of Leader of the Council. The Leader will hold office for a term of four years from the Annual Council meeting until the day on which the next post-election Annual Council meeting is held or until:
- (a) he or she resigns from the office, or
  - (b) he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
  - (c) he or she is no longer a Councillor, or
  - (d) he or she is removed from office by resolution of Full Council.

### **5.2 Cabinet**

- 5.2.1 The Leader will appoint a Cabinet, which will consist of between two and nine Councillors, one of whom will be Deputy Leader. If the Leader appoints or removes a member of the Cabinet he or she shall notify the Proper Officer of the appointment or removal

### **5.3 Deputy Leader**

- 5.3.1 The Leader is required to appoint a Deputy Leader who shall hold office until the end of the term of office of the Leader or until:
- (a) he or she resigns from office
  - (b) he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
  - (c) he or she is no longer a Councillor, or
  - (d) he or she is removed from office by the Leader
- 5.3.2 Where a vacancy occurs in the office of Deputy Leader the Leader must appoint another person in his place.

5.3.3 The Deputy Leader must act in the Leader's place if at any time the Leader is unable to act or the office of Leader is vacant.

#### **5.4 Other Cabinet members**

5.4.1 Other Cabinet members shall hold office until:

- (a) they resign from office, or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension), or
- (c) they are no longer Councillors, or
- (d) they are removed from office by the Leader.

5.4.2 If for any reason the Leader or Deputy Leader are unable to act or the office(s) is vacant then the Cabinet Members collectively must act in the Leader's place or must arrange for a member of the Cabinet to act in his / her place.

#### **5.5 Proceedings of the Executive**

5.5.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution.

#### **5.6 Allocation of portfolios and executive functions**

5.6.1 The portfolios and functions of individual Cabinet Members will be allocated by the Leader.

5.6.2 The Leader will give notice in writing to the Proper Officer, and maintain a list, setting out which individual members of the Cabinet, Committees, Officers or joint arrangements are responsible for the exercise of particular executive functions.

## **Article 6: Overview & Scrutiny**

### **6.1 Areas of responsibility**

6.1.1 Full Council will appoint an Overview and Scrutiny Board to discharge, together with Overview and Scrutiny Committees (known as subcommittees), the functions conferred by section 21 of the Local Government Act 2000 (or regulations made under section 32 of the Local Government Act 2000), the National Health Service Act 2006, the Police & Criminal Justice Act 2006 and the Local Government & Public Involvement in Health Act 2007 and any other relevant legislation from time to time.

### **6.2 Overview & Scrutiny activities**

6.2.1 Section 21 of the Local Government Act 2000 sets out the powers and functions of the Overview and Scrutiny Board and Sub-Committees, which are dealt with more fully in Part 3, section 1.4.

6.2.2 Overview and Scrutiny Sub-Committees must report annually to the Overview and Scrutiny Board on their workings and make recommendations for future work programmes and amended working methods if appropriate. The Overview and Scrutiny Board is required to report annually to Full Council.

### **6.3 Proceedings of Overview and Scrutiny Committees**

6.3.1 Overview and Scrutiny Sub-Committees and the Overview and Scrutiny Board will conduct their proceedings in accordance with the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution.

### **6.4 Joint scrutiny of health service**

6.4.1 The Health Overview & Scrutiny Sub-Committee is authorised pursuant to Regulation 28 of the Local Authority (Public Health, Health, Wellbeing and Health Scrutiny) Regulations 2013 to establish together with the Health Overview & Scrutiny Committees or equivalent of one or more other local authorities a Joint Overview & Scrutiny committee.

6.4.2 Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing Overview & Scrutiny Committees may agree.

## **Article 7: Joint arrangements**

### **7.1 Joint arrangements for the exercise of functions**

- 7.1.1 The Council may establish joint arrangements with one or more local authorities for the exercise of non-executive functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- 7.1.2 The Leader 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.
- 7.1.3 Except as set out below, the Leader may appoint only Cabinet Members to a joint committee and those Members need not reflect the political composition of the local authority as a whole.
- 7.1.4 The Leader may appoint non-executive Members to a joint committee that has functions for part only of the Borough, provided that the part in question is smaller than two-fifths of the Borough by area or population. In such cases, the Leader may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- 7.1.5 The Leader may appoint non-executive Members to a joint committee where the joint committee is discharging functions in relation to 5 or more authorities. The political balance requirements do not apply to such appointments.

## **Article 8: Officers**

### **8.1 Management structure**

8.1.1 The Council may engage such Officers as it considers necessary to carry out its functions.

8.1.2 The Chief Executive shall determine which Officers shall comprise ELT from time to time. As at the date of this document, ELT comprises of the Chief Executive and the Strategic Directors.

8.1.3 The Council has designated the following statutory posts to the following roles as at the date of this document

<b>STATUTORY DESIGNATION</b>	<b>COUNCIL POST</b>
Head of Paid Service	Chief Executive
Monitoring Officer	Deputy Director for Legal and Governance
Section 151 Officer	Strategic Director of Resources
Director of Adult Social Services	Strategic Director of People
Director of Children's Services	Director of Living Well
Scrutiny Officer	Assistant Director of Insight, Policy and Strategy
Director of Public Health	Director of Public Health

### **8.2 Duty to provide sufficient resources to the Monitoring Officer and the Strategic Director of Resources**

8.2.1 The Council will provide the Monitoring Officer and the Strategic Director of Resources with such staff, accommodation and other resources as are in those Officers' opinion sufficient to allow their duties to be performed.

### **8.3 Other Officers**

8.3.1 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This description is set out in Part 7 of this constitution.

8.3.2 The recruitment, selection and dismissal of Officers will comply with the Staff Employment Procedure Rules set out in Part 4 of this constitution

8.3.3 Officers will comply with the Staff Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this constitution

## **Article 9: Decision making**

### **9.1 Responsibility for decision making**

9.1 The Council and/or the Leader, as appropriate, 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.

### **9.2 Principles**

9.2.1 All decisions will be made:

- (a) proportionately (meaning that the action must be proportionate to the desired outcome)
- (b) after due consultation and the taking of professional advice
- (c) with respect for human rights as set out in the Human Rights Act 1998 and having regard to the Council's public sector equality duty.
- (d) with the presumption in favour of openness
- (e) with clarity of aims and desired outcomes
- (f) after due consideration for the interests of residents and other stakeholders, and
- (g) in accordance with the Policy Framework.

9.2.2 Decisions will be recorded in an appropriate manner. The record of executive decisions will provide an explanation of the options considered in making the decision and will give the reasons for the decision.

### **9.3 Executive Decisions**

9.3.1 "Executive decisions" are those that are required to be taken by the Leader or in accordance with delegations agreed by the Leader to Cabinet, to individual members of the Cabinet or to specific Officers.

9.3.2 Decisions made by the Health and Wellbeing Board are also Executive Decisions as this is a statutory executive committee.

## **9.4 Non Executive Decisions**

9.4.1 Decisions that are not executive decisions shall be taken by Full Council, by a Committee to which Full Council has delegated power to act on its behalf, or by specific Officers to whom powers have been delegated. In reaching such decisions, Officers to whom powers have been delegated may consult the Chair of the relevant Committee where to do so is expedient, and shall do so where an earlier decision so requires.

## **9.5 Referral of decision making to higher authority**

9.5.1 An individual or body to whom power to make a decision has been delegated may decline to make that decision and refer it for decision by the relevant Committee, Cabinet Member, the Leader or by Full Council as appropriate.

9.5.2 Decisions of the Health and Wellbeing Board cannot be referred to other parts of the Council, i.e. Cabinet, where the statutory decision making power rests solely with the Health and Wellbeing Board.

9.5.3 Decisions of the Strategic Planning Committee and the Planning Committee cannot be referred to another body (except Officers).

## **9.6 Decision making**

9.6.1 Subject to paragraph 9.7 below

- (a) Full Council meetings will follow the Council Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (b) the Executive will follow the Executive Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (c) the Overview and Scrutiny Board and Sub-Committees will follow the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (d) The Strategic Planning Committee and the Planning Committee will additionally follow the Planning Procedure Rules set out in Part 4 of this constitution.
- (e) other Council Committees and Sub-Committees will follow those parts of the Committee Procedure Rules set out in Part 4 of this constitution as apply to them.

## **9.7 Decision making by Council bodies acting as tribunals**

9.7.1 Quasi-judicial decisions of Full Council, Cabinet, Committee or an Officer shall be taken in accordance with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **9.8 Party Whip**

9.8.1 There shall be no party whip at meetings of:

- (a) the Strategic Planning Committee and the Planning Committee when determining planning matters;
- (b) Overview & Scrutiny Board and its Sub-Committees;
- (c) Governance Committee when it is conducting an investigation of hearing into the conduct of a Member;
- (d) the Licensing Committee when it is determining licences and conducting hearings; and
- (e) any other Committees where the Committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.

9.8.2 The party whip is understood to mean any instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote, or the application or threat to apply any sanctions by the group in respect of that Councillor should they speak or vote in any particular manner.

## **Article 10: Finance, contracts and legal matters**

### **10.1 Financial management**

10.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this constitution.

### **10.2 Contracts**

10.1.2 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this constitution.

### **10.3 Legal proceedings**

10.3.1 Any legal proceedings shall be instituted or conducted in accordance with the delegations granted to the Monitoring Officer at Part 3 of this constitution.

### **10.4 Authentication of documents**

10.4.1 Authentication of documents shall be in accordance with the Contracts Procedure Rules set out in Part 4 of this constitution.

10.4.2 The common seal of the Council may be affixed in accordance with the provisions of the Contracts Procedure Rules set out in Part 4 of this constitution.

## **Article 11: Review and revision of the constitution**

### **11.1 Duty to monitor and review the constitution**

11.1.1 The Governance Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.

11.1.2 A key role for the Governance Committee is to be aware of the strengths and weaknesses of the constitution adopted by Full Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Governance Committee may:

- (a) observe meetings of different parts of the Member structure
- (b) undertake an audit trail of a sample of decisions
- (c) record and analyse issues raised by Members, Officers, the public and other relevant stakeholders, and
- (d) compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### **11.2 Changes to the constitution**

11.2.1 Changes to the constitution will be approved by Full Council only after consideration of the proposal by the Governance Committee.

11.2.2 Where the Executive proposes to change the governance model of the Council, the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

11.2.3 The Monitoring Officer shall have power to:

- (a) amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure
- (b) insert recommendations made pursuant to a written report agreed by Full Council
- (c) clarify the constitution, make non-contentious amendments, insert obvious omissions or to comply with any accepted recommendations made by any government appointed inspection regime (on giving five

working days' notice to Group Leaders and the Governance Committee).

11.2.4 If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.

## **Article 12: Suspension, interpretation and publication of the constitution**

### **12.1 Suspension of the constitution**

12.1.1 The articles of this constitution may not be suspended. The rules specified below may be suspended by Full Council to the extent permitted within those rules and the law.

12.1.2 A motion to suspend any rule(s) 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.

12.1.3 The following rules may be suspended:

- (a) all of the Council Procedure Rules set out in Part 4 of this constitution except for those specified therein as not being capable of suspension.
- (b) all of the Committee Meeting Procedure Rules set out in Part 4 of this constitution except for those specified therein as not being capable of suspension.

### **12.2 Interpretation**

12.2.1 The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

### **12.3 Publication**

12.3.1 The Monitoring Officer will make a printed copy of this constitution available for Members.

12.3.2 The Monitoring Officer will ensure that a copy is available for inspection at the Town Hall, and can be purchased by members of the local press and the public on payment of a reasonable fee.

## Appendix

Committee	Number of members
Appointments Sub-Committee	5 Councillors at least one of whom must be a Cabinet Member.
Audit Committee	6 Councillors together with one independent member recommended to Audit Committee by the Council's Head of Audit.
Governance Committee	12 Councillors, at least one of whom must be a Cabinet Member
Health & Wellbeing Board	<ul style="list-style-type: none"> <li>• Four Councillors</li> <li>• Four Council Officers (Chief Executive, Director of Public Health, Director of Adult Social Services and Director of Children's Services)</li> <li>• Four representatives of Havering Clinical Commissioning Group</li> <li>• One member from Barking, Havering and Redbridge University Hospitals' NHS Trust (BHRUT)</li> <li>• One member from North East London NHS Foundation Trust (NELFT)</li> <li>• One member from NHS England One member from Healthwatch Havering with voting rights</li> </ul>
Joint Health Overview and Scrutiny Sub-Committee	3 Councillors
Licensing Committee	6 Councillors.
Licensing Sub-Committee	6 Councillors.
Local Pension Board	To be determined in accordance with the Local Government Pension Scheme Regulations 2013, not being a body constituted under section 101 of the 1972 Act.
OneSource Joint Committee	3 Councillors.
Overview and Scrutiny Board	12 Councillors
Pensions Committee	6 Councillors, one co-opted Member and two non-voting observers.
People Overview and Scrutiny Sub-Committee <b>(note A)</b>	9 Councillors
Places Overview and Scrutiny Sub-Committee	9 Councillors

Planning Committee <b>(note B)</b>	6 Councillors
Strategic Planning Committee <b>(note C)</b>	6 Councillors.

Notes:

A now incorporates Health Overview and Scrutiny Sub-Committee.

B&C in respect of Planning Committee and Strategic Planning Committee. Each ward of the Council must have at least one Councillor who is neither a member of the Strategic Planning Committee or the Planning Committee to ensure that there will always be a Councillor with whom residents will be able to discuss planning matters.