

PART 1 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 Brighton & Hove City Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Members represent their wards and local residents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) provide a powerful and effective means of holding decision-makers to public account;
- (f) ensure that those responsible for decision making are clearly identifiable to local people and that the Council explains the reasons for decisions;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved; and
- (h) provide a means of supporting the Council to deliver its Corporate Plan.

1.04 Interpretation 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 ruling of the Mayor or Chair 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.

1.05 Duty to monitor and review the Constitution

The Audit, Standards and General Purposes Committee will have responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

1.06 Changes to the Constitution

(a) Approval

Subject to (b) to (e) below, changes to the Constitution will only be approved by Full Council usually after consideration of the proposal by the Audit, Standards and General Purposes Committee.

(b) Protocols

The protocols and other documents in Part 4 of the Constitution and the Access to Information Procedure Rules in Part 3 may be amended by the body that created them without approval of Full Council, except for the Member Code of Conduct which is reserved to Full Council. (Please note that the Standards Complaints Procedure appended to the Member Code of Conduct is not part of the Constitution and may be updated as appropriate by the Audit, Standards and General Purposes Committee).

(c) Cabinet delegation scheme

The Leader may amend the Allocation of Responsibilities to Cabinet as set out in Part 2A of the Constitution by way of an individual member decision.

(d) The changes described in the left-hand column of the table below may be made by the person or body mentioned in the right-hand column of the table.

(i)	The establishment or abolition, or any change(s) to the terms of reference of, any Sub-Committee, Advisory Body, permanent Member Working Group or Joint Committee	The relevant Committee or Sub-Committee
(ii)	Delegation of functions of a Committee to an existing Sub-Committee	The relevant Committee
(iii)	Changes to the Scheme of Delegation to Officers	Chief Executive
(iv)	Delegation of powers from a Committee or Sub-Committee to an Officer	The relevant Committee or Sub-Committee

- | | | |
|--------|---|---|
| (v) | Access to Information Procedure Rules | Corporate Director
– Corporate
Services |
| (vi) | Financial Regulations and Standard Financial Procedures | Chief Finance
Officer |
| (vii) | Officer Employment Procedure Rules | Corporate Director-
Corporate Services |
| (viii) | Protocol for Public Representations at Planning Committee | Planning
Committee |
| (ix) | Criteria for Planning Committee Site Visits | Planning
Committee |
| (x) | Forms for declaration of interests and for declaration of gifts and hospitality under the Code of Conduct for Employees | Corporate Director-
Corporate Services |
| (xi) | Code of Corporate Governance | Audit & Standards
Committee |
- (e) The Monitoring Officer may make consequential amendments to the Constitution to give effect to a decision of Full Council or other body authorised to change the Constitution under this Article.
- (f) Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa

The Council must comply with any statutory requirements in relation to such changes.

1.07 Suspension of the Constitution

The Articles of this Constitution may not be suspended. Other Rules and protocols may be suspended by the body to which they apply (or if no such body by the Council) to the extent permitted within those Rules and the law.

1.08 Publication

The Constitution is published on the Council's website and updated when amendments are made.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

- (a) **Composition.** The Council comprises 54 Members (otherwise called Councillors). One of the Members is elected annually as the Mayor by the elected Members to chair the Council meetings and attend to ceremonial duties.
- (b) **Eligibility.** Only registered voters of the city of Brighton & Hove or those living or working there will be eligible to hold the office of Member.

2.02 Election and terms of office of Members

Election and terms. The regular election of Members will be held on the first Thursday in May every four years. The terms of office of Members 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 Members

- (a) **Key roles.** All Members will:
- (i) maintain the highest standards of conduct and ethics;
 - (ii) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
 - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities;
 - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (v) balance different interests identified within the ward and represent the ward as a whole;
 - (vi) be involved in decision-making and scrutinising decisions made by others under the scrutiny arrangements;
 - (vii) be available to represent the Council on other bodies; and
 - (viii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.

(b) Rights and duties of Members

- (i) Members 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 role as Members and in accordance with the law.
- (ii) Members 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 Member or Officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 7 of this Constitution.

2.05 Conduct

Members will at all times observe the Members’ Code of Conduct and the Code of Conduct for Member/Officer Relations set out in Part 8 of this Constitution.

2.06 Allowances

Members will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 9 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules set out in this Constitution.

- (a) **Voting.** Citizens on the electoral roll for the area have the right to vote in any European, national or local elections.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council, the Cabinet, Committees and Sub-committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan key decisions will be taken by Members or Officers and when;
 - (iii) see non-confidential reports and background papers, and a record of decisions made;
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to ask questions, submit petitions and deputations at Full Council, Cabinet and Committees and Sub Committees and to participate in other engagements opportunities subject to compliance with the relevant procedures.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
 - (iii) the Monitoring Officer about an alleged breach of the Code of Conduct for Members.

3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Members or Officers and must not wilfully harm property owned by the Council, Members or Officers. They should also comply with the law (including byelaws) and the Council's procedures when dealing with the Council.

ARTICLE 4 – THE MAYOR

4.01 Role and function of the Mayor

The Mayor will be elected by Council annually. The Mayor and in their absence, the Deputy Mayor, will have the following roles, functions and responsibilities:

(a) Chairing the Council Meeting

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- (iv) to promote public involvement in the Council's activities.

(b) Civic and Ceremonial Role

The Mayor shall be the first citizen of the city of Brighton & Hove and shall have the following civic responsibilities:

- (i) to attend such civic and ceremonial functions as the Council and the Mayor may determine.
- (ii) to promote the Council as a whole and act as a focal point for the community.

ARTICLE 5 – FULL COUNCIL

5.01 The Full Council is made up of the 54 elected Members of the Council.

5.02 The responsibilities of Full Council include:

- Approving all key plans and strategies collectively known as the Policy Framework;
- Approving the budget;
- Adopting the Constitution;
- Making appointments to Outside Bodies;
- Adopting a Members' Allowances scheme;
- Adopting a Code of Conduct for Members;
- Appointing Lead Members;
- Endorsing, approving or otherwise committing the Council to any charter, alliance or pledge.

5.03 The full details of the functions and procedures of the Council are set out in Parts 2A and Part 3A of the Constitution.

ARTICLE 6 - DECISION MAKING

6.1 Introduction

6.1.1 This Article provides for the recording of decisions of the Council and the Executive and the principles governing those decisions

6.2 Responsibility for decision making

6.2.1 The Council will issue and keep up to date a record of what part of the Council or which individual has the responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in the Allocation of Responsibilities for Functions and the Delegations to Committees and Sub Committees and Delegations to Officers in Part 2 of the Constitution.

6.3 Principles of decision-making

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

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- a recording of options considered and rejected.

6.4 Type of Decision

6.4.1 Decisions reserved to Full Council

Decisions relating to the functions listed in Part 2A will be made by the Full Council and may not be delegated.

6.4.2 Key Decisions

A Key Decision is an executive decision which:

- (i) is likely to result 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; or
- (ii) is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the area.

6.4.3 A decision is significant for the purposes of (i) above if it involves expenditure or the making of savings of an amount in excess of £1m.

6.4.4 Decision takers may only take Key Decisions in accordance with the requirements of the Executive Procedure Rules set out in Part 3B of this Constitution.

6.5 Decision making by Council bodies acting as tribunals or in a quasi-judicial manner

The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining or considering (other than for the purposes of giving advice) the civil rights or the criminal responsibility of any person will follow a proper 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 in addition to the procedural rules of that body.

6.6 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committee will follow the Overview and Scrutiny Committee Procedure Rules set out in Part 3 of this Constitution when considering any matter.

6.7 Decision making by other Committees and Sub-Committees established by the Council

Other Council Committees and Sub-Committees will follow those parts of the Committee Procedure Rules set out in Part 3C of this Constitution.

ARTICLE 7 – THE EXECUTIVE

- 7.1** The Council will appoint the Leader of the Council.
- 7.2** The Leader will determine the size and membership of the Executive, will appoint Members to the Executive and appoint a Deputy Leader, or two Deputy Leaders on a job-share basis.
- 7.3** When determining the allocation of responsibilities the Leader will also determine any delegations to individual Members (of the Executive) who will be known as Cabinet Members.
- 7.4** The Executive will consist of the Leader together with at least two but not more than nine other Councillors.
- 7.5** The Executive Procedure Rules and Allocation of Responsibilities set out and determine how the Executive will operate and include arrangements for meetings, decision-making, and the allocation of responsibilities.
- 7.6** There may be no co-optees, deputies nor substitution of Executive Members.
- 7.7** Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Executive. No member of the Audit committee may be an executive member.
- 7.8** The Chair of any planning committee may not be an executive member. No member of the Planning Committee may be an executive member.
- 7.9** Members of the Executive or Cabinet Advisors may not be Members of the Overview or Scrutiny Committee
- 7.10** Part 2E of the Constitution includes a full description of the responsibilities of Cabinet Members

ARTICLE 8 – OFFICERS

8.01 Terminology

The use of the word “Officers” means all employees and staff engaged by the Council to carry out its functions.

8.02 Management structure

- (a) **General.** The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions. This shall include a **Data Protection Officer**, appointed to discharge the duties specified in Part 2G of the Constitution.
- (b) **Chief Officers.** The Council will engage persons for the following posts. Their functions are more particularly set out in Part 2G of the Constitution:

Post	Main Functions and areas of responsibility
Chief Executive	<ol style="list-style-type: none"> 1. Head of Paid Service under section 4 of the Local Government and Housing Act 1989, including all workforce matters not specifically reserved to Members 2. Overall corporate management and operational responsibility (including overall management responsibility for all Officers) 3. Provision of professional advice to all parties in the decision-making process 4. Responsibility for various matters in relation to Members (including taking declarations of acceptance of office and receiving resignations) 5. Representing the Council on partnership and external bodies (as required by statute or the Council) 6. Exercising functions delegated to other Officers unless the function is required by law or the Scheme of Delegation for Officers to be exercised by another person (e.g. the Monitoring Officer and Chief Finance Officer) 7. Acting as the Returning Officer with overall responsibility for conduct of Local and National Elections.
Corporate Director – City Services	<ol style="list-style-type: none"> 1. Legal Services 2. Democratic Services & Civic Office 3. Overview and Scrutiny 4. Ethical Standards 5. Electoral Registration and Elections 6. Local Land Charges

	<ol style="list-style-type: none"> 7. Policy 8. Performance Improvement and Programmes 9. Corporate Communications 10. Leadership Support Office 11. Regulation of Investigatory Powers 12. Procurement 13. IT&D 14. Senior Information Risk Officer (SIRO) 15. Human Resources & Organisational Development 16. Strategic Finance* 17. Financial Services* 18. Audit and Business Risk* 19. Revenues and Benefits Services* 20. Communities & Equalities <p>* See <u>Note</u> below regarding delegations to the Chief Finance Officer</p>
Chief Finance Officer	<ol style="list-style-type: none"> 1. Strategic Finance 2. Financial Services 3. Audit and Business Risk 4. Revenues and Benefits Services <p><u>Note:</u> The above list of functions 1. to 4. inclusive are also delegated to the Corporate Director – City Services, who may exercise them only to the extent that they are not required as a matter of law or professional practice to be exercised by the Chief Finance Officer.</p>
Corporate Director – City Services	<ol style="list-style-type: none"> 1. Tourism 2. Arts and Creative Industries 3. Management of Museum and Leisure Establishments 4. Venues 5. Archives 6. Seafront 7. Parks and Open Spaces 8. Events 9. Leisure 10. Highways 11. Traffic Management 12. Parking Management and Enforcement 13. Transport 14. Land Use Planning 15. Town and Country Planning 16. Developer Contributions 17. Assets of Community Value 18. Conservation and Design 19. Building Control and Sports Grounds

	<ul style="list-style-type: none"> 20. Waste Management and Control 21. Economic Development and Regeneration 22. Property 23. Environmental Awareness & Enforcement 24. National Parks 25. Markets 26. Sustainability 27. Major Projects 28. Miscellaneous 29. Emergency Planning 30. Safer Communities 31. Environmental Health 32. Licensing and Registration 33. Trading Standards 34. The Prevent Duty
<p>Corporate Director - Families, Children & Learning</p>	<ul style="list-style-type: none"> 1. Director of Children's Services under section 18 of the Children Act 2004 2. Children and Young People, including joint working arrangements under section 75 of the National Health Service Act 2006 3. Education 4. Children and Young People's Social Services 5. Assistance to Pupils/Students 6. Adult Learning and Supported Employment, including Print & Sign 7. Adult Learning Disability 8. Human Resources Functions – Schools 9. Buildings/Premises 10. Miscellaneous 11. Libraries
<p>Corporate Director Housing, Care and Wellbeing</p>	<ul style="list-style-type: none"> 1. Authorised and unauthorised sites and encampments 2. Neighbourhood Renewal 3. Housing Related Support Services 4. Housing 5. Director of Adult Social Services 6. General Adult Social Services 7. Joint working arrangements under section 75 of the National Health Service Act 2006 8. Public Health 9. Coronavirus-related Enforcement Functions 10. Adult Disability 11. Bereavement Services 12. Registration Service 13. Coroners Service

(c) **Structure.** The Chief Executive will determine and publicise a description of the overall structure of the Council showing the

management structure and deployment of officers.

- (d) **Authorisation.** Under the Council's Scheme of Delegation to Officers the powers delegated to the Officers listed above may be exercised by other Officers reporting to those Officers.

8.03 Functions of the Chief Executive

- (a) **Discharge of functions by the Council.** The Chief Executive will report to Full Council and/or the Cabinet as they consider 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) **Proper officer for access to information.** The Chief Executive will ensure that there are arrangements in place for decisions, together with the reasons for those decisions and relevant Officer reports and background papers to be made publicly available as soon as possible.
- (c) **Restrictions on functions.** The Chief Executive, as the Head of Paid Service, may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

8.04 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the Full Council if they consider 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, Standards & General Purposes Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit, Standards & General Purposes Committee.
- (d) **Code of Conduct for Members.** The Monitoring Officer will ensure that all allegations of breaches of the Code of Conduct for Members are dealt with under the approved procedures.
- (e) **Conducting investigations.** When necessary, the Monitoring Officer will conduct investigations into allegations of breaches of the Code of Conduct for Members and issue reports to the Standards Panel to

assist the Standards Panel in determining whether or not the Code of Conduct for Members has been breached.

- (f) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer.

8.05 Functions of the Chief Finance Officer

- (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 will report to the Full Council and the Council's external auditor if they consider 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 will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take financial decisions, maladministration, financial impropriety, probity to all Members and will support and advise Members and Officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will be responsible for providing financial information to the media, members of the public and the community where appropriate.

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

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

8.07 Conduct

Officers will comply with the Code of Conduct for Employees and the Code of Conduct for Member/Officer Relations set out in Part 8 of the Constitution.

8.08 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 4 of the Constitution.

