



**A Summary and Explanation of**

**The Constitution of**

**Gravesham Borough Council**

**Adopted by the Council on 23 April 2002**

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**The Proper Officer, as defined in Annex 1.12 of the Constitution, is responsible for ensuring that the *Summary & Explanation* of the Constitution is kept up to date**

# Summary and Explanation of the Constitution

## Contents

<b>1. Overview .....</b>	<b>2</b>
1.1 The Council's Constitution .....	2
1.2 What is in the Constitution? .....	2
1.3 How the Council Operates .....	3
<b>2. How decisions are made .....</b>	<b>4</b>
2.1 The Cabinet .....	4
2.2 Scrutiny .....	5
2.3 Other Committees, Boards and Panels of the Council .....	6
2.4 Outside Bodies .....	7
2.5 Area Committees and Joint Arrangements.....	7
2.6 Non-Executive Councillor (i.e. not Members of the Cabinet) .....	7
<b>3. The Council's Officers .....</b>	<b>8</b>
<b>4. Citizen's Rights .....</b>	<b>9</b>

# Summary and Explanation

## 1. Overview

### 1.1. The Council's Constitution

- 1.1.1. Gravesham Borough Council has agreed a written Constitution which sets out how the Council operates, how decisions are made and the procedures that 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.
- 1.1.2. The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedure rules, codes of practice and protocols are attached at the end as annexes to the Constitution.

### 1.2. What is in the Constitution?

- 1.2.1. Article 1 of the Constitution commits the Council to promoting the well-being of the people of Gravesham by providing community leadership in partnership with government, business, voluntary sector and local people.
- 1.2.2. In addition to providing vision and leadership for its communities, the Council is committed to:-
  - a) efficient transparent and accountable decision-making; and
  - b) seeking best value by delivering high quality services and securing continuous improvement in the way the Council's functions are carried out.
- 1.2.3. Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:-
  - a) Members of the Council (Article 2);
  - b) Citizens and the Council (Article 3);
  - c) Meetings of the Council (Article 4);
  - d) Chairing the Council (Article 5);
  - e) Overview and Scrutiny of Decisions (Article 6);
  - f) The Cabinet (Leader and Cabinet style of local governance) (Article 7);
  - g) Other Committees, Boards and Panels of the Council (Article 8);
  - h) The Standards Committee (Article 9);
  - i) Area Committees and Forums (Article 10);

- j) Joint Arrangements (Article 11);
- k) Officers (Article 12)
- l) Decision Making (Article 13);
- m) Finance, Contracts and Legal Matters (Article 14);
- n) Review and Revision of the Constitution (Article 15);
- o) Suspension, Interpretation and Publication of the Constitution (Article 16).

### **1.3. How the Council Operates**

- 1.3.1. The Council is composed of 39 Councillors (also referred to as Members) elected every four years.
- 1.3.2. Each Councillor is elected to represent an area of the Borough called a Ward, and is democratically accountable to the residents of their Ward. The over-riding 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.
- 1.3.3. As well as representing the local community, Councillors play key roles in running the Council through meetings of the full Council and through its committees, boards and panels. They may also represent the Council on various outside bodies.
- 1.3.4. Councillors have to agree to follow a Members' Code of Conduct [set out in Annex 3.2 of this Constitution] to ensure high standards in the way they carry out their duties. The Council's Standards Committee is responsible for training and advising Councillors on the Code of Conduct.
- 1.3.5. All 39 Councillors meet together as a general assembly of the Council, which is normally referred to as "the Council" or "the full Council". Meetings of the Council are normally open to the public.
- 1.3.6. The full Council remains the ultimate policy-making body of the Council. It can decide to delegate many (though not all) of its powers to smaller groups of Councillors or to individual officers employed by the Council. It can vary or withdraw this delegation of powers at any time.
- 1.3.7. Broadly, the Council has the following functions:
  - a) Setting Strategy, which means it approves an annual budget, the Council Tax levy and the policy framework. This policy framework includes such things as the Local Plan and other plans, strategies and policy documents (both those required by law and others that the Council chooses to adopt in addition);
  - b) Procedural, which means it approves the Council's political management processes and appoints:-
    - i. the Leader of the Executive (and can remove him or her);
    - ii. people to various groups and outside bodies;
    - iii. Committees, Boards and Panels.

- c) Regulatory, which means it can decide on applications for planning permission and certain types of licenses to do things including alcohol, entertainment and gambling licences. Although it normally delegates these decisions to a Planning Committee or Licensing Committee, they can be referred to the Council for decision in some circumstances;
  - d) Standards and Ethics, which means approving statements of policy relating to standards in public life; and receiving reports from the Council's Standards Committee, the Monitoring Officer and the Chief Finance Officer and deciding what action to take upon them.
- 1.3.8. The Cabinet, Committees, Boards and Panels are accountable to the Council as the ultimate decision-making body and have to work within Terms of Reference given to them by the Council. These Terms of Reference specify the functions with which the Cabinet, Committees, Boards and Panels are required to carry out on behalf of the Council and define the limits of their authority.
- 1.3.9. The Council has adopted a Conflict Resolution Mechanism. This is set out in the Policy and Budget Procedure Rules [Annex 2.3 to this Constitution]. This Mechanism deals with any disputes between the Cabinet and the full Council in matters related to the adoption of the budget or the policy framework. In effect, this mechanism enables the Leader of the Executive to delay a decision of the full Council for a short time and to ask the Council to reconsider the issue.

## **2. How decisions are made**

### **2.1. The Cabinet**

- 2.1.1. The Cabinet is the part of the Council which is responsible for most day-to-day decisions. In particular, it proposes the policy framework and budget to the Council and then carries on the work of the Council within this approved framework and budget.
- 2.1.2. The Cabinet is appointed by the Leader of the Executive. It is normally drawn from the majority political party group on the Council, although if no single party has an overall majority, the allocation of places in the Cabinet may be agreed between the various parties.
- 2.1.3. It comprises Councillors who hold office for a municipal year, commencing with the annual meeting of the Council in May. Meetings are held in public, except where confidential and/or exempt matters are being discussed.
- 2.1.4. The Leader determines the number of Members who may be appointed to the Cabinet. The Local Government Act stipulates this as being a minimum of three Members (including the Leader and two or more councillors selected by the Leader) up to a maximum of ten.

- 2.1.5. The Leader of the Executive allocates specific roles and responsibilities to Members of the Cabinet. These roles and responsibilities are referred to as 'portfolios'.
- 2.1.6. Decisions of the Cabinet are reached collectively (i.e. by all Cabinet Members present at the meeting). Individual Members of the Cabinet may have decision-making powers of their own.
- 2.1.7. Decisions of the Cabinet, and the reasons for those decisions, are recorded and made publicly available together with the background papers that were available to the Cabinet when making its decisions.
- 2.1.8. When major decisions (called 'Key Decisions') are to be discussed or made in the future then, so far as these decisions can be anticipated, they are published 28 days in advance in a forthcoming notice [see Article 13].
- 2.1.9. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If the Cabinet wishes to make a decision which is outside the policy framework and budget, this must be referred to the Council to decide.
- 2.1.10. The Cabinet may make an urgent decision which is outside the policy framework and budget agreed by the Council only in cases of special urgency, having first obtained the agreement of the Chair of the Scrutiny Committee whose terms of reference include responsibility for scrutiny of executive decisions in respect of the matter concerned, who must agree that the matter is urgent and that the proposed decision is reasonable.
- 2.1.11. The Cabinet may appoint Cabinet Committees to consider specific policy issues and make recommendations. Cabinet Committee's are made up of Councillors and in some cases, non-voting persons co-opted to them.

## **2.2. Scrutiny**

- 2.2.1. The Council is required to appoint at least one Scrutiny Committee. Within terms of reference set by the Council, the purpose of scrutiny is to assist the Council to improve continuously the performance of its services and the policies and strategies within which the Council operates.
- 2.2.2. Scrutiny has a powerful role in:-
  - a) publicly holding the Cabinet to account for its actions;
  - b) helping to secure best value in the delivery of Council services;
  - c) helping to inform policy development and review;
  - d) examining matters of wider local concern.
- 2.2.3. Within certain guidelines set out in the Scrutiny Procedure Rules [see Annex 2.5], decisions of the Cabinet can be "called in" for closer scrutiny by a Scrutiny Committee whose terms of reference include responsibility for scrutiny of executive decisions in respect of the matter concerned. This is to assess whether those decisions are appropriate and sound.

- 2.2.4. A Scrutiny Committee's terms of reference may also include conducting and overseeing detailed reviews of Council services to ensure they are providing value for money and that effective action plans exist to improve services on a continuing basis.
- 2.2.5. A Scrutiny Committee may review and make recommendations to the Cabinet and/or to the Council to assist in the development of future policies and strategies. A Scrutiny Committee may also be consulted by the Cabinet or the Council on forth-coming issues and policy proposals.
- 2.2.6. A Scrutiny Committee must be appointed by the Council, and must comprise a number of Councillors (with an appropriate political balance in membership) who hold office for a municipal year commencing with the annual meeting of the Council in May.
- 2.2.7. Decisions of a Scrutiny Committee must be reached in public, except where confidential and/or exempt matters are being discussed.
- 2.2.8. The Chair of any Scrutiny Committee whose Terms of Reference include responsibility for scrutiny of executive decisions shall be a Member appointed by Full Council.
- 2.2.9. Members of the Cabinet cannot be Members of any Scrutiny Committee.

### **2.3. Other Committees, Boards and Panels of the Council**

- 2.3.1. There is a number of functions (such as development control, licensing, appointments of senior Council officers and the maintenance of ethical standards), which cannot be the responsibility of the Cabinet. These functions are delegated by the Council to other Committees, Boards and Panels and to officers of the Council. These delegations are set out in more detail in Article 8 of this Constitution.
- 2.3.2. The Council is able to appoint any Councillor to other Committees, Boards and Panels that take decisions on functions which are not the responsibility of the Cabinet, except that in some cases there are requirements as to the number of Members of the Cabinet who may be appointed. These requirements are set out in more detail in Article 7 of this Constitution.
- 2.3.3. Decisions of other Committees, Boards and Panels are reached in public except where confidential and/or exempt matters are being discussed.

## **2.4. Outside Bodies**

- 2.4.1. Representatives of the Council on key local, regional or national public bodies where joint service planning and operational policy is involved will normally be appointed from amongst the Members of the Cabinet. Exceptionally, however, where it is judged to be in the Council's best interests, such appointments may be drawn from other Councillors. In cases where the Council has more than one nominee on such key bodies, the appointment of a Councillor who is not a Member of the Cabinet to the second place is encouraged, although sometimes the Council's representation may be best secured through an officer appointment.
- 2.4.2. Other appointments to Outside Bodies are filled by Non-Executive Members (i.e. Councillors who are not Members of the Cabinet) and non-elected representatives on the basis of the following expectations:-
- a) the Council will consider the expertise, knowledge and interests of Members when considering appointments;
  - b) representatives on outside bodies should be properly briefed and provide feedback to the appropriate part of the Council's organisation;
  - c) representation on an outside body should be taken seriously and every effort made to attend regularly;
  - d) representatives should give a good impression of the Council;
  - e) regular contacts should be made with other representatives of the Council on outside bodies.

## **2.5. Area Committees and Joint Arrangements**

- 2.5.1. The Constitution also allows the Council and the Cabinet, if they wish, to delegate certain functions to:-
- a) Area Committees or Forums to enable specific issues affecting local neighbourhoods to be considered in more detail; and to
  - b) joint bodies set up together with other local authorities to deal with issues that can be tackled better over a wider area or in a different way.
- 2.5.2 If any such functions are delegated in to area committees or under joint arrangements, details of those delegations must be shown in Annexes 1.8, 1.9 and 1.15 to this Constitution.

## **2.6. Non-Executive Councillors (i.e. not Members of the Cabinet)**

- 2.6.1 The roles of a Non-Executive Councillor are:-
- a) through the scrutiny process to:-
    - i. represent the community's interest to the Council;
    - ii. monitor the decisions of the Cabinet;



- iii. review public services in the borough and contribute to their improvement.
  - b) to serve on Committees, Boards and Panels of the Council (other than the Cabinet);
  - c) to advise, and to be consulted by, the Cabinet through Cabinet Committees;
  - d) to represent the people of their Ward, both as individuals and collectively, to the Cabinet and departments of the Council and to other public bodies.
- 2.6.2 The Council is a body corporate and as such individual Councillors have a collective responsibility for the Council's functions. This collective responsibility extends to a duty to ensure that the Council complies with the law and does not act unlawfully. Councillors must think consciously whether what is being done under delegated powers is appropriate.
- 2.6.3 Non-Executive Councillors can discharge their responsibilities through:-
- a) holding the Cabinet to account for the discharge of its functions by scrutinising decisions both before and after implementation;
  - b) the right of any five Members to requisition a meeting of the Council;
  - c) inspection of documents under the access to information legislation;
  - d) the power of the Council to appoint and remove the Leader of the Executive.

### **3. The Council's Officers**

- 3.1. The Council employs professional, administrative, clerical and manual staff referred to as 'officers'.
- 3.2. The Council is required to designate an officer to act as Head of Paid Service.
- 3.3. 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 S151 Officer) have a specific legal duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice called the Member/Officer Protocol governs the relationship between Officers and Members of the Council. This is set out in Annex 3.4 to this Constitution.
- 3.4. 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 Officer Code of Conduct (see Annex 3.2) outlines existing laws, regulations and conditions of service and provides further guidance to assist officers in their day-to-day work.

## 4. Citizens' Rights

- 4.1. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. Citizens' Advice can advise on individuals' legal rights.
- 4.2. Where members of the public have a contract with the Council under which the Council agrees to do certain things, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.
- 4.3. 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) have access to a copy of this Constitution;
  - d) attend meetings of the Full Council, Cabinet, Committees, Boards and Panels except where confidential or exempt matters are being discussed;
  - e) petition to request a referendum on a Mayoral form of executive;
  - f) attend meetings of any Scrutiny Committee and, by invitation of a committee, contribute to investigations or reviews undertaken by them;
  - g) from the forthcoming notice (published 28 days in advance), find out what major decisions are to be discussed or decided by the Cabinet and when;
  - h) see agendas, reports and background papers and records of decisions made by the Council, Cabinet, Committees, Boards and Panels (but excluding access to confidential/exempt information);
  - i) 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;
  - j) complain to the Local Government and Social Care Ombudsman or Housing Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's Corporate Complaints Procedure;
  - k) complain to the Standards Committee if they have evidence which they think shows that a Councillor has not followed the Member Code of Conduct;
  - l) submit a petition to the council and receive a response under the Council Petition Scheme;
  - m) inspect the Council's accounts and to make their views known to the external auditor.
  - n) make a request for information under the Freedom of Information Act 2000.
  - o) submit a Subject Access Request (SAR) to request a copy of what data the council holds about an individual.
- 4.4. The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Council's Committee and Electoral Services Department on 01474 33 72 47.

- 4.5. A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the Access to Information Procedure Rules in Annex 2 of this constitution.