



The Constitution

Part 1 Executive Summary



The Council's Constitution

1. Hastings Borough Council agreed a revised Constitution at its meeting on 13th February 2019. The Constitution is kept up to date by regular review. This Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
2. The Constitution is divided into 16 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.

What is in the Constitution

- 2.3 Article 1 of the Constitution set out its purpose. Articles 2 to 15 explain the rights of citizens and how the key parts of the Council operate. These are:
- Councillors of the Council (Article 2)
 - Citizens and the Council (Article 3)
 - The Full Council (Article 4)
 - Chairing the Council (Article 5)
 - **Scrutiny of Policies and Decisions** (Overview and Scrutiny Committee) (Article 6)
 - The Cabinet (Article 7)
 - Regulatory and other Committees (Article 8)
 - The Standards Committee (Article 9)
 - Joint arrangements (Article 10)
 - Officers (Article 11)
 - Decision making (Article 12)
 - Finance, contracts and legal matters (Article 13)
 - Review and revision of the Constitution (Article 14)
 - Suspension, interpretation and publication of the Constitution (Article 15)

How the Council operates

- | 3.4 The Council is composed of 32 councillors, one half elected every other year from May 2004. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- | 4.5 Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.
- | 5.6 All Councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public.
- | 6.7 The Council appoints the Leader of the Council, whilst the Leader of the Council appoints the Deputy Leader and other Cabinet members and allocates portfolios to Cabinet members.
- | 7.8 Full Council is the main policy arena for the authority. Whilst the budget and many plans and strategies will be produced by the Cabinet, Full Council has complete freedom in deciding whether to accept or amend these proposals, or indeed replace them completely. The Full Council meeting is also the main setting for holding the Cabinet to account, providing an opportunity for members of the Cabinet to be questioned by Councillors or, indeed, members of the public.

How Decisions are made

- | 8.9 The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader of the Council, the Deputy Leader and between one and eight other councillors as the Leader shall, from time to time, determine. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. Cabinet meetings are generally open for the public to attend except where personal or confidential matters are being discussed. The Cabinet 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 Council as a whole to decide, or in accordance with this Constitution.

Overview and Scrutiny

- | 9.10 There are as many Overview and Scrutiny Committees as the Council shall, from time to time determine, who complement the work of the Cabinet and the Council as a whole. The Overview and Scrutiny Committee allows citizens to have a greater sayrole in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

11. The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol (in part 5 of this Constitution) governs the relationships between Officers and Councillors.

10.

Citizens' Rights

- 11.12. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

- 12.13. Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- present a petition to the Council;
- attend meetings of the Council and its committees or boards except where confidential or exempt matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- ask questions at ordinary meetings of the Council. A period of up to 30 minutes is allowed for questions to be put by members of the public who live or work in the Borough;
- contribute to investigations by the Overview and Scrutiny Committee if invited to do so;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or a committee of the Cabinet, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council **if they are dissatisfied with the action or lack of action taken by the Council on a matter which is the Council's responsibility about the provision of any of its services in accordance with the Council's Complaints Procedure;**
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;

- 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
- inspect the Council's accounts and make their views known to the External Auditor.

13.14. The Council has a policy of open access to files and other records. The Council also holds as many meetings as possible in public, giving access to agenda, reports and many background documents. Whilst the Council adopts a strong policy of openness, there are safeguards to protect individuals' privacy and in relation to legal, commercial, financial or otherwise sensitive information and so some documents may not be publicly accessible.

15. The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Monitoring Officer, Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY.

14.16. All documents may be inspected on request at the Reception at the Council Offices, Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY during office opening hours 8.30am to 5.00pm Monday to Friday. Documents are also available to view on the Council's website: www.hastings.gov.uk

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The Constitution

Part 2 Articles of the Constitution



Article 2 – Members of the Council

Composition and eligibility

2.1

- a. Composition. The Council comprises 32 members, otherwise called Councillors. Two Councillors are elected by the voters of each ward in accordance with an order made by the Local Government Boundary Commission for England.
- b. Eligibility. Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

Election and terms of Councillors

- 2.2 Half of all Hastings Councillors will be elected every other year from 2004. The terms of office of Councillors is four years starting on the fourth day after being elected and finishing on the fourth day after the date of the next regular election. If there is a requirement for an 'all out' election for example a boundary change, then of the two Councillors in each ward, the one that receives the highest number of votes will, be elected for a period of 4 years. The other Councillor in each ward will be elected for a period of 2 years to maintain the Council's 2 yearly electoral cycle. four years later.

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Roles and functions of all Councillors

2.3

- a. Key roles. All Councillors will:
 - i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - ii. represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - iii. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - iv. balance different interests identified within the ward and represent the ward as a whole;
 - v. be involved in decision-making;
 - vi. be available to represent the Council on other bodies; and
 - vii. maintain the highest standards of conduct and ethics.
- b. Rights and duties
 - i. Councillors 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 functions and in accordance with the law.
 - ii. Councillors will not make public, information which is confidential or exempt or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
 - iii. For these purposes, "confidential" and "exempt" information are defined in the Access to

Article 3 – Citizens and The Council

Citizens' rights

- 3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:
- a. Voting and petitions. Citizens on the electoral roll for the Borough have the right to vote in elections and to petition a request for a referendum for an elected mayor form of Constitution.
 - b. Information. Citizens have the right to:
 - i. attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - ii. attend meetings of the Cabinet when key decisions are being considered;
 - iii. find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - iv. see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - v. inspect the Council's accounts and make their views known to the External Auditor.
 - c. Participation. Citizens have the right to participate in the Council's question time and may contribute to investigations by the Overview and Scrutiny Committee if invited to.
 - d. Complaints. Citizens have the right to complain to:
 - i. the Council itself under its complaints procedure;
 - ii. the Ombudsman after using the Council's own complaints procedure;
 - iii. the Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizen's responsibilities

Citizens must not be violent, abusive or threatening to Councillors or Officers.

Article 4 – The Full Council

Meanings

4.1

- a. Policy Framework. The policy framework means the following plans and strategies:-

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- i. The Corporate Plan;
- ii. Crime and Disorder Reduction Strategy;
- iii. Plans and strategies which together comprise the Local Plan
- iv. Plan and strategies which together comprise the Housing Strategy
- v. The Pay Policy

Such other plans and strategies as the Council shall, from time to time, determine that shall form part of the policy framework.

- b. Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, and the control of its capital expenditure, and the control of its investments.

Functions of the Full Council

4.2 Only the Council will exercise the following functions:

- a. adopting and changing the Constitution, with the exception of minor amendments, including legislative updates, which will be delegated to the Chief Legal Officer;
- b. approving and adopting the policy framework and the budget
- c. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet 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 of the Council;
- e. agreeing and/or amending the terms of reference for Committees of Council, deciding on their composition and making appointments to them;
- e.f. adopting or amending the Councillors' Code of Conduct;
- f.g. agreeing the mechanism for appointments to outside bodies;
- g.h. adopting an allowances scheme under Article 2.5;
- h.i. changing the name of the Borough, conferring the title of honorary alderman or freedom of the Borough;
- j. confirming the appointment and dismissal of the Head of Paid Service, and the dismissal of the Monitoring Officer and Section 151 Officer having taken account of:
 - i. any advice, views or the recommendations of the Employment Committee;
 - ii. the conclusions of any investigation into the proposed dismissal; and

l.iii. any representations from the relevant Officer.;

- i.k. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or bills;
- j.l. all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- k.m. all other matters which, by law, must be reserved to Council.

Council Meetings

4.3 There are four types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. special meetings such as that to set the annual budget;
- d. extraordinary meetings.

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

Responsibility for functions

4.4 The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5 – Chairing the Council

Role and function of the Mayor

- 5.1 The Mayor and Deputy Mayor will be elected by the Council annually from amongst the Councillors. The Mayor and in his / her absence, the Deputy Mayor will have the following responsibilities:
- a. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
 - b. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
 - c. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold it to account;
 - d. to promote the Borough and public involvement in the Council's activities;
 - e. in order to promote the Borough, to attend such civic and ceremonial functions as the Council and he/she determines.

Article 6 – Overview and Scrutiny Committee

Terms of reference

- 6.1 At the Annual Meeting the Council shall appoint such Overview and Scrutiny Committee as it sees fit. It will discharge the functions conferred by Section 21 of the Local Government Act 2000.

General role

- 6.2 Within the terms of reference, the Overview and Scrutiny Committee will:
- a. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - b. make reports and/or recommendations to the Full Council and/or the Cabinet in connection with the discharge of any functions;
 - c. consider any matter affecting the area or its inhabitants;
 - d. exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet; and
 - e. exercise such other functions as shall be allocated to it from time to time by statute or subordinate legislation.

Specific functions

- 6.3 Policy development and review

The Overview and Scrutiny Committee may:

- i. assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii. conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. advise the Cabinet on mechanisms to encourage and enhance community participation in the development of policy options;
- iv. question members of the Cabinet and Chief Officers about their views on issues and proposals affecting the area; and
- v. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- b. Scrutiny

The Overview and Scrutiny Committee may:

- i. review and scrutinise the decisions made by and the performance of the Cabinet and Council Officers both in relation to individual decisions and overtime;
- ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii. question members of the Cabinet and Chief Officers about their decisions and

performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- iv. make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- vi. question and gather evidence from any person (with their consent).

c. Finance

The Cabinet is required to meet reasonable requests for funding from the Overview and Scrutiny Committee. Funding should be used for specific activities in support of the functions outlined in the Terms of Reference under 6.1. If the Cabinet refuses funding then the Overview and Scrutiny Committee can ask the Full Council to determine whether or not the funding should be granted.

d. Officers

Officer support for Scrutiny Project Groups and other Officer support for the overview and scrutiny function will be arranged by the Continuous Improvement and Democratic Services Manager.

- e. **Annual report: The Overview and Scrutiny Committee may report annually to Full Council on its workings and may make recommendations for consideration of their future work programmes and amended working methods, if appropriate.**

Proceedings of Overview and Scrutiny Committee

- 6.4 The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Cabinet

Role

- 7.1 The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Form and composition

- 7.2 The Cabinet will consist of the Council Leader (who shall be the Chair of the Cabinet), the Deputy Leader, and at least one, but not more than eight, Councillors appointed annually to the Cabinet by the Leader.

The Local Government Act 2000 provides that the political balance rules do not necessarily apply to a Cabinet or Committees of a Cabinet.

Leader and Deputy Leader

- 7.3 The Leader will be a Councillor elected to the position of Leader by the Council at the annual meeting or if there is a vacancy in the position of Leader of the Council, the Council shall, at its next meeting, elect a Leader of the Council. The Leader will hold office:
- a. For a term of office which starts on the day of his/her election as Leader, and ends on the day of the post-election annual meeting which follows his/her election as Leader; or until
 - i. he or she resigns from the office; or
 - ii. he or she is no longer a Councillor; or
 - iii. he or she is removed from office by resolution of the Council; or
 - iv. he or she is otherwise disqualified by law or by the Court.
 - b. The Leader shall appoint one of the members of the Cabinet to be the Council's Deputy Leader at the post-election annual meeting. The Deputy Leader shall hold office until:
 - i. the end of the term of the Leader; or
 - ii. the Leader removes the Deputy Leader from office giving written notice of the removal to the Chief Legal Officer; or
 - iii. he or she resigns from office; or
 - iv. he or she is no longer a Councillor; or
 - v. he or she is removed from office by resolution of the Council; or
 - vi. he or she is otherwise disqualified by law or by the Court.
 - c. If for any reason there shall be a vacancy in the position of Deputy Leader, the Leader shall appoint another Deputy Leader from among the members of the Cabinet.
 - d. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.
 - e. If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant the remaining

Article 8 – Regulatory and other Committees

Regulatory and other Committees

- 8.1 The Council will appoint the Committees set out in Part 3 of this Constitution under the heading Responsibility for Council Functions to discharge the functions described.

Composition of the Planning Committee, Environment and Safety Committee and Licensing Committee.

8.2

- a. A member of the Cabinet with portfolio will not be able to serve on the Licensing Committee, Environment and Safety Committee or Planning Committee or any other regulatory Committee.
- b. No member of these Committees shall take part in any debate or vote on any matter in relation to which the member has predetermined his/her decision on the matter.
- c. Members whose professional or personal interests might create regular conflict of interest in matters coming before the Planning Committee should not be appointed to the Planning Committee. A member who is about to act in a professional or private capacity in any matter in which the Council has an interest should give notice of such intention to the Monitoring Officer.
- d. The Planning Protocol contained in Part 5 of the Constitution applies to Planning Committee Members.
- e. For all Regulatory Committees, in cases where the Chair or Vice Chair is not available to Chair the meeting (or part of), the Legal Officer **advising the Committee** will ask for a nomination for Chair for the duration of the meeting (or part of). The nomination must be of a permanent member of that Committee and not a substitute. **The nomination must be seconded and a majority vote taken by those Councillors sitting on that Committee.**

Article 9 – The Standards Committee

Standards Committee

9.1 The Council will establish a Standards Committee.

Composition

9.2 Membership.

- a. The Standards Committee will be composed of five members of the Council. At least one Independent Person will be invited to attend. The Political Balance Rules do not strictly apply to the Standards Committee, but will be applied to the Councillor membership of the Committee. No more than one Councillor member of the Standards Committee may be a member of the Cabinet and that member may not be the Leader of the Council.
- b. The appointment of Independent Person(s) must be approved by a majority of the members of the Council.
- c. A meeting of the Standards Committee will not be quorate unless at least three members are present for its duration.
- d. Members of the Standards Committee may on written application to the Monitoring Officer (or Deputy Monitoring Officer) at least three working days prior to the meeting of the Standards Committee appoint substitutes for that meeting, only if in the opinion of the Monitoring Officer (or Deputy Monitoring Officer) in consultation with the Chair or Vice Chair of the Standards Committee, sitting Councillors have a conflict of interest in any matter to be considered by the Standards Committee at that meeting.

9.3 Independent Persons. The Council must appoint at least one Independent Person to carry out the following advisory functions:

- a. to give the Standards Committee their view on any allegations it has decided to investigate, before a decision is reached;
- b. to give the Standards Committee their view on any sanctions to be imposed, before a decision on sanctions is reached;
- c. to provide support as necessary to the Councillor against whom a standards complaint is made.

Role and function

9.39.4 The Standards Committee will have the following roles and functions:-

- a. promoting and maintaining high standards of conduct by Councillors and co-opted members;
- b. assisting Councillors and co-opted members to observe the Councillors' Code of Conduct;
- c. advising the Council on the adoption or revision of the Councillors' Code of Conduct.
- d. monitoring the operation of the Councillors' Code of Conduct;
- e. granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Councillors' Code of Conduct (this function is also available to the Monitoring Officer);
- f. hearing and determining standards complaints made against Councillors in accordance

| with Council procedure and imposing or recommending sanctions where appropriate;.

promotion and maintenance of high standards of conduct through provision of support to the Standards Committee

- d. Conducting investigations. The Monitoring Officer will **conduct investigations or** arrange for investigations into complaints alleging breach of the Code of Conduct **and make reports or recommendations in respect of them to the Standards Committee** in accordance with procedures adopted by the Council.
- e. Proper Officer for access to information. The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.
- g. Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- h. Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Functions of the Chief Finance Officer

11.4

- 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, or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers 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 decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- e. Give financial information. The Chief Finance Officer may provide financial information to the media, members of the public and the community.

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

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

Conduct

- 11.6 Officers will comply with the Officer's Code of Conduct and the Protocol on

Article 12 – Decision Making

Responsibility for decision making

- 12.1 The Council 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 Parts 3 and 8 of this Constitution.

Principles of decision making

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

- a. proportionality (i.e. the action must be proportionate to the desired outcome);
- b. due consultation and the taking of professional advice from officers;
- c. respect for human rights (see below for further details);
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes; and
- f. reasonable and based only upon relevant information.

- e. And explanation of what options were considered and the reasons for the decisions will be included as part of the record of any decision taken.

Types of decision

12.3

- a. Decisions reserved to Full Council.
Decisions relating to the functions listed in Article 4.2 will be made by the Full Council and not delegated.
- b. Key decisions
 - i. A key decision means a Cabinet decision which is likely to involve expenditure or savings in excess of £250,000 or which is likely to have a significant effect on communities living or working in an area comprising two or more wards.
 - ii. A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

Decision making by the Full Council

- 12.4 Subject to Article 12.8, The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by the Cabinet

- 12.5 Subject to Article 12.8, The Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by the Overview and Scrutiny Committee

- 12.6 The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

Decision making by other Committees and Sub-Committees

- 12.7 Subject to Article 12.8, Other Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

Decision making by Council bodies acting as tribunals

- 12.8 The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations 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 and the Human Rights Act 1998.

Decision making by Ward Councillors

- 12.9 The Council and Cabinet are able to delegate authority to individual Ward Councillors to make decisions in relation to matters affecting their ward. Where delegation has been given, the Ward Councillor is required to produce a record of decisions, which are accessible by the public for six years. The Ward Councillor is required to act in accordance with a protocol agreed by the Council or Cabinet when exercising the power.

Call-over

- 12.10 The Council, Cabinet and Committees may operate a call-over process to determine which matters on the agenda are to be discussed and those that are to be agreed without discussion. The Chair of the meeting may undertake the call-over and all matters which are not called are the subject of a motion from the Chair to agree all matters not called.

Article 14 – Review and Revision of the Constitution

Duty to monitor and review the constitution

- 14.1 The Council's Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of constitution by the Monitoring Officer

- 14.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
- a. observe meetings of different parts of the Councillor and Officer structure;
 - b. undertake an audit trail of a sample of decisions;
 - c. record and analyse issues raised with him/her by Councillors, Officers, the public and other relevant stakeholders; and
 - d. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

- 14.3 Changes to the Constitution will be approved by the Full Council. However, minor changes, not affecting the substance of the Constitution, such as correction of typographical errors, updating of legislation, or changes in job titles or the management structure, may be made by the Directors with the approval of the Monitoring Officer and in consultation with the Leader of the Council and the Chair of Working Arrangements Group.

Article 15 – Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

15.1

- a. Limit to suspension. The Articles of this Constitution may not be suspended.
- b. Procedure to suspend Standing Orders. The procedure to suspend Standing Orders is set out in Part 4 of this Constitution. The extent and duration of suspensions will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Interpretation

- 15.2 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.

Publication

15.3

- a. The Monitoring Officer will make available a copy of this Constitution to each Councillor of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Councillor first being elected to the Council
- b. The Monitoring Officer will ensure that copies are available for inspection **on request** at **the** Council offices, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. The Monitoring Officer will ensure that **the summary of** the Constitution is made readily available within the area and is updated as necessary. The Constitution can be found on the Council's Website at www.hastings.gov.uk.



The Constitution

Part 4 Rules of Procedure



vi. deal with any business from the last Council meeting;

~~vii. consider motions;~~

vi. **consider any changes to the membership of Committees**

vii.viii. receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;

viii.ix. receive reports about and receive questions and answers on the business of joint arrangements and external organisations.

~~ix.i. consider motions;~~

x. consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee for debate; and

xi. **membership of Committees.**

3. Extraordinary and Special Meetings

Calling extraordinary meetings

3.1 Those listed below may request the Chief Legal Officer to call Council meetings in addition to ordinary meetings:

i. the Council by resolution;

ii. the Mayor of the Council;

iii. the Monitoring Officer; and

any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Special Meetings

3.2 Special meetings are set in the programme for meetings at the commencement of the municipal year.

3.3 The only business which may be considered at an extraordinary or special meeting is the business for which the meeting was called or set as the case may be.

3.4 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

4. Appointment of Substitute Members of Committees and Sub-Committees

4.1 There shall be no substitution of members of the **Standards Committee**, Licensing Committee or the Cabinet. Members of the Cabinet may not be substitutes on Overview and Scrutiny Committee. **The Leader may not**

substitute on Standards Committee.

- 4.2 The political groups may appoint substitute members in accordance with this Rule on Committees and Sub-Committees. Only Councillors who have undergone related training may be substituted to **Standards Committee**, Planning Committee, **Charity Committee** and Environment and Safety Committee. Only members of Cabinet may be substituted to Charity Committee.
- 4.3 Substitute members will have all the powers and duties of any ordinary member of the Committee.
- 4.4 Substitute members may attend meetings in that capacity only:
- i. to take the place of the ordinary member for whom they are the designated substitute;
 - ii. where the ordinary member will be absent for the whole of the meeting or, in the case of the Charity Committee, for such item or items as shall be notified to the Chief Legal Officer under iii. below; and
 - iii. after notifying the Chief Legal Officer no later than the commencement of the relevant meeting in the form supplied.

5. Time and Place of Meetings

The time and place of meetings will be determined by the Chief Legal Officer and notified in the summons. **All Council meetings unless otherwise determined shall be held in Muriel Matters House, Breeds Place, Hastings.**

6. Notice of and Summons to Meetings

The Chief Legal Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Legal Officer will send a signed summons by post or electronic mail to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. Chair of Meeting

The ruling of the Mayor as to the construction or application of any of these rules, or as to any proceedings of the Council, shall be final. Subject to the requirement that the election of Mayor is to be the first item for discussion at Annual Council the Mayor shall have power to adjust the order of items on the agenda where he or she considers that it would be in the interests of the proper conduct of the meeting.

The Mayor may adjourn a meeting of the Council for such period as he or she considers appropriate. In the event of an adjournment, the Mayor may, at the time of the adjournment or subsequently, fix a date and time for the meeting to resume. If no date and time is fixed the outstanding business shall be dealt with at the next ordinary meeting of the Council.

The person presiding at the meeting may exercise any power or duty of the Mayor. Where

these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chair of Committees and Sub-Committees.

In the absence of the Mayor and Deputy Mayor, the **Chief Legal Officer**proper officer shall call on any Councillor present at a Council meeting to move that a Councillor can chair the meeting. If discussion arises, the **Chief Legal Officer**proper officer shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting. This rule shall apply to Committees and Sub-Committees in the same way except that members of Cabinet are not excluded by virtue of this Rule alone.

8. Quorum

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor **or Chair** counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor **or Chair**. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for Committees is one quarter of the membership, subject to a minimum of three.

The Standards Committee and Cabinet have their own rules as to quorum. These are set out in Article 9 of Part 2 and in the Cabinet Procedure Rules.

9. Duration of Meeting

Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. Petitions Scheme

The Council welcomes petitions and recognises that petitions are one way in which people can bring their concerns to the attention of the Council. The subject of any petition to be presented must relate to a matter for which the Council has powers, duties or functions or which affects the Borough or part of it or its inhabitants. However, the Council will not deal with a petition which in the opinion of the Monitoring Officer is vexatious, abusive or otherwise inappropriate to be considered under this rule.

There are different types of petition as set out below.

Ordinary petitions

10.1 These are petitions which relate to matters for which the Council has **powers, duties and responsibilities or which affects the Borough or part of it or people who live or work in the Borough**. These petitions should be presented to the Mayor or to the Chief Legal Officer at Muriel Matters House, Breeds Place, Hastings, TN34 3UY.

- (a) The wording of the petition will appear at the head of each page of signatures.
- (b) The petition shall bear the signatures of ten or more persons who live, work or study in the Borough.
- (c) The petition presented shall be the original and shall bear the signatures, name and address of each signatory.
- (d) By signing the petition the petitioner is agreeing to have their personal information published in the public domain.

10.3 A petition shall NOT be presented if it relates to:

- (a) matters relating to an individual or relating to a current housing, planning, licensing or grant application;
- (b) matters which are the subject of legal proceedings or an appeal to a tribunal or government minister or an investigation by the Local Government Ombudsman or the Standards Committee or through the Council's Corporate Complaints Procedure;
- (c) matters relating to a Council Officer or the conduct of a Councillor; or
- (d) any other matter which would require the release of any exempt information as defined in Part 1 of Schedule 12A of the Local Government Act 1972.

The Scheme does not relate to petitions alleging misconduct by a councillor or Councillors (complaint to Standards Committee), relating to a Council officer or Service (Corporate Complaints Process / Disciplinary), or to matters relating to an individual e.g. a taxi driver's licence application or to petitions relating to a current planning application.

Ordinary petitions should be presented to the Mayor or to the Chief Legal Officer at the Muriel Matters House, Breeds Place, Hastings, TN34 3UY

Consultation petitions

10.4 These are petitions compiled in response to consultation by the Council on a proposal such as a planning application, licensing application, proposed policy or strategy. Such petitions should be returned to the address in the consultation and will be considered by the Committee or body with responsibility for making the decision or recommendation.

Governance Petitions

10.5 These petitions are outside the Petitions Scheme. These relate to such matters as a call from electors for the Council to hold a referendum on whether to have an elected Mayor or for the establishment of a parish or community council in part of the Council's area. The legislation governing e-petitions has not yet been extended to such petitions.

Petitions for Debate

10.6 A petition which can require a debate at a meeting of the Council must comply with rule 10.23 above except that it must have at least 1,500 signatures or more of persons who live, work or study in the Borough.

This rule does not apply where the petition requires that an Officer be called to account.

outcome of the petition if they were not present at the meeting where the petition was discussed.

Review of steps taken in response to the petition by the Overview and Scrutiny Committee

- 10.5 If the petition organiser is not satisfied that the petition has been dealt with properly, the petition organiser may request that the Overview and Scrutiny Committee reviews the adequacy of the steps taken or proposed to be taken in response to the petition.

On receipt of a request for a review, the Overview and Scrutiny Committee shall consider the request at its next available meeting or as soon as practicable thereafter.

The Council shall within 10 working days of the decision on review inform the petition organiser of the outcome of the review.

11. Public Question Time

General

- 11.1 Members of the public who reside or work in the Borough may **at ordinary meetings of the Council**, in accordance with these rules, ask questions of the Leader and Portfolio Holders (including the Chair of Charity Committee), **at ordinary meetings of the Council**, on any matter within the Borough Council's powers, duties or functions. Public question time will last no longer than 30 minutes. A question asked within the 30 minutes will be answered.

Order of questions

- 11.2 Questions will be asked in the order **in which they are recorded as being notice of them was** received **by the Chief Legal Officer**, except that the Mayor may group together similar questions.

Notice of questions

- 11.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Legal Officer no later than five clear working days before the day of the meeting. Each question must give the name and address of the questioner.

Number of questions

- 11.4 At any one meeting no person **or organisation** may submit more than one question. **and no more than one such question may be asked on behalf of one organisation.**

Scope of questions

- 11.5 The Chief Legal Officer may reject a question **and the ruling shall be final** if:

- it is not about a matter for which the local authority has a responsibility, **power, duty or function** or which affects the Borough;
- it is defamatory, frivolous or offensive;
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- it requires the disclosure of confidential or exempt information;
- its purpose is not primarily to seek information.
- it is about a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure;
- **the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.**

Copies of questions

- 11.6 Copies of all questions **received together** with the **written** reply from the Leader or relevant Portfolio Holder will be circulated to all Councillors and will be made available to **members of** the public attending the meeting. The question and answer will be taken as read.

Supplementary question

- 11.7 A questioner who has **submitted put** a question **in person** may also **ask put** one supplementary question, without notice, to the **Cabinet** member who has replied to his or her original question. **Questions shall be put and answered without debate.** A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

Written answers

- 11.8 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the **Cabinet** member to whom it was to be put, will be dealt with by a written answer **within 10 working days of the Council meeting at which the question was asked.**

12. Questions by Councillors

Questions on notice at Full Council

- 12.1 A Councillor may also submit one written question to the Chief Legal Officer five clear working days before the relevant meeting.

A member of the Council may ask:

- the Mayor;
- **the Leader or** a Portfolio Holder; **or**
- the Chair of any Committee or Sub-Committee

- the Chair of any Committee or Sub-Committee

one question on any matter in relation to which the Council has powers, or duties or functions or which affects Hastings Borough. The Chief Legal Officer may reject a question and the ruling shall be final if it:

- It is not about a matter for which the local authority has a responsibility power, duty or function or which affects the Borough;
- It is defamatory, frivolous or offensive;
- It is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- It requires the disclosure of confidential or exempt information;
- It is about a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure; or
- the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

Response

12.2 An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Supplementary question

12.3 A Councillor who has submitted asking a question on notice may ask one supplementary question, without notice, of the Councillor to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

Questions to the Leader, Deputy Leader or other Portfolio Holder

- 12.4 At each ordinary meeting of the Council a maximum period of 30 minutes shall be set aside for oral questions by Councillors to of the Leader, Deputy Leader or other Portfolio Holder, (including the Chair of Charity Committee).
- 12.5 The Leaders of the opposition group/s are entitled to ask the first questions, such questions to be received in order of group size.
- 12.6 All other Councillors may, subject to the time limit, ask a question. The Mayor shall determine the order of these questions. If time permits Councillors may ask a further question.
- 12.7 When asking a question the Councillor must shall try to identify the Councillor to whom the question is addressed.

- 12.8 The Mayor may disallow a question on any of the following grounds:-
- it is not relevant to the functions, powers and duties of the Council
 - it is wholly or partly frivolous or derogatory to the dignity of Council
 - it is not put with reasonable brevity
 - it comprises more than one part
 - it is identical or moderately similar to another question **which has already been** put during question time.
- 12.9 No supplementary questions are permitted.

On reports of the Cabinet or Committees

- 12.10 A member of the Council may ask the Leader, Deputy Leader or a Portfolio Holder any question without notice upon an item of the report of the Cabinet when that item is being received or under consideration by the Council.

Ward Councillors to Speak at any Meeting

- 12.11 A Councillor may speak on an item particularly affecting their ward at any meeting of Council bodies of which he or she is not a member, subject to any limitations imposed by law or this Constitution.

13. Reports and Minutes of Cabinet and Committees

- 13.1 At ordinary meetings of the Council when the appropriate agenda item is reached the Mayor will ask the Councillors to state the numbers of the items on which they wish to speak. This process is known as "call-over". Such items are called "reserved items".
- 13.2 When an item is reserved, any other item before the Council ruled by the Mayor to be related to it shall be deemed to be reserved.
- 13.3 No discussion shall take place on any items which have not been reserved. Items not reserved, including items requiring Council decision, shall be deemed adopted without discussion.
- 13.4 Where the decision to be taken is a decision for the Council, the Leader and Chairs of Committees (starting with the Leader or relevant Cabinet Member) shall move in turn the adoption of the recommendations as set out in the items in the report or minutes of the Cabinet or Committee, which have been reserved, in the order which they appear on the agenda, save that reserved matters requiring Council decision will be called first.
- 13.5 In the absence of the Chair of a Committee or relevant Cabinet member, the Vice Chair or another Member nominated by the Chair may move the recommendations.
- 13.6 A motion to adopt the recommendations of Cabinet or Committee need not be seconded.
- 13.7 Where the Cabinet and Overview and Scrutiny Committee are reporting or making recommendations on the same subject matter, their reports or minutes shall be considered together and, if in the opinion of the Mayor, there is a

material difference between the recommendations, the Chair of the Overview and Scrutiny Committee (or nominee) shall move its recommendations as an amendment to the recommendations moved under Rule 13.4 as soon as these have been moved. This amendment need not be seconded and shall then be open for debate.

- 13.8 Where the reports or minutes on a reserved item do not contain any recommendations to the Council, the Mayor shall call the Councillor who reserved the item or their nominee to speak first. The Leader or relevant Cabinet member or Chair of the Committee concerned shall have the right of reply at the end of debate on the reserved item. No motion may be moved in respect of that matter other than to refer it back to the Cabinet for review or to the Overview and Scrutiny Committee for review and report. A motion to refer back a report or minute of the review of a decision previously referred back under this Rule or called-in under Rule 29.15 (unless as part of the call-in process) shall be out of order.

14. Motions on Notice

Notice

- 14.1 Motions must be about matters for which the Council has **statutory powers, duties or functions** a responsibility or address the built or natural environment of the Borough of Hastings or address a matter of local, regional or national policy that affects the lives of people in the Borough of Hastings. The ruling of the Monitoring Officer in consultation with the Mayor shall be final as to the relevance of the motion.

Further, a motion may not be tabled in any of the following circumstances:-

- a. any matter relating to an individual or individuals which relates to the application or use of any of the Council's powers, past or present, in respect of that individual, other than in relation to admission to the honorary freedom of the Borough or in relation to an individual as a Councillor holding office in the Council;
 - b. a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure;
 - c. the appointment, promotion, dismissal, salary or other payments, superannuation or conditions of employment or the conduct or ability of any individual employed by the Council or the conduct of a member of the Council;
 - d. any other matter which would require the disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.
- 14.2 Except for motions which can be moved without notice under Rule 15, written notice of every motion, signed by at least one Councillor, must be delivered to the Chief Legal Officer not later than 8 clear working days before the date of the **Council** meeting. These will be entered in a book open to public inspection.

Motion set out in agenda

- 14.3 Motions for which notice has been given will be listed on the agenda in the order in which notice of the motion was received and the motion accepted, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 14.4 The agenda for each Council meeting, other than the Annual Meeting, shall include all notices of motions which relate to Council functions proposed to be moved at that meeting which have been received in time, accepted by the Chief Legal Officer and have not been withdrawn in writing by the proposer. Motions which are the responsibility of Council will be dealt with in the order upon which they are received.
- 14.5 If a motion set out in the summons is not moved either by a Councillor who gave notice thereof or by some other Councillor on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- 14.6 Motions which relate to matters which are not the responsibility of Council (e.g. Cabinet functions) will be referred by the Chief Legal Officer to the responsible body for consideration at its next available meeting. The proposer and seconder (or some other Councillor on their behalf) of the motion are entitled to speak to the motion at the meeting of that body. Only members of that body may move or second a proposition at the meeting of that body.
- 14.7 No notice of motion, which if adopted, will, in the opinion of the Mayor, rescind, or substantially reverse the effect of a Council resolution made within the previous six months, shall be proposed unless the notice is signed by a majority of the members of the Council.
- 14.8 The Chief Legal Officer will, if requested, help Councillors with the wording of motions.
- 14.9 No notice of motion shall be accepted which in the opinion of the Chief Legal Officer relates to a quasi judicial matter before the Council.

15. Motions Without Notice

The following motions may be moved without notice:

- a. to appoint a Chair of the meeting at which the motion is moved;
- b. in relation to the accuracy of the minutes;
- c. to change the order of business in the agenda;
- d. to refer something to an appropriate body or individual;
- e. to appoint a Committee or Councillor arising from an item on the summons for the meeting;

Appendix 2

HONORARY FREEDOM OF THE BOROUGH

Introduction

1. The Borough Council has power to admit individuals as freemen of the Borough and this is set out in Section 249(5) Local Government Act 1972:-

“the Council of a ...district having the status of a ...borough ...may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the...borough....persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the...borough, but the admission of a person to be an honorary freeman shall not confer on him any such rights as are referred to in Section 248(4) above.”

2. The legislation goes on to provide that the council may spend “such reasonable sum as they think fit for the purposes of presenting an address or casket containing an address to a person upon whom they have conferred the title...”.
3. The title is entirely honorary – there are no rights or privileges arising from the award - and the Council’s powers to spend are strictly limited by the section.

Motion to bestow the Freedom of the Borough

4. In most cases the consideration of the Council admitting a person to the freedom of the Borough will result from a motion to Council.
5. Under the Constitution a motion, which is required to be considered by Council, would normally be included on the agenda of the next ordinary meeting of the Council. The Act, however, refers to meeting of the council specially convened for the purpose.
6. The honour has been bestowed by the Borough on just **sixfour** occasions since 1972. The individuals honoured and the reasons why the Council considered them as persons of distinction or persons who have, in the opinion of the Council, rendered eminent services to the Borough are as follows:-

1978	William Henry Dyer. For services to the town’s old people and encouraging interest in local history.
1986	Victor James Pain. For 60 years work for the Borough of Hastings and as Leader of the Council.
2006	Pam Brown. OBE. In recognition of outstanding service to the Borough and its citizens.
2008	47 Royal Artillery Regiment. In recognition of the great debt owed to the armed forces, serving at home and abroad.
2011	Michael Foster. Member of Parliament for Hastings and Rye
2006	Maureen Charlesworth. For services as a local Councillor and to voluntary organisations in the Town.

Hastings Borough Council

Constitution of the Council

Part 6

Councillors' Allowances The Constitution, Part 6

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Councillors' Allowances Scheme

Table of Members' Allowance Scheme

| With effect from 15th May 2019 13 April 2016 (Approved at Council)

A text version is available following this Table.

Post	Number	Basic Allowance	Special Responsibility Allowance	Total Allowance per Councillor
Basic Allowance All Councillors	32	£6,150 <u>5,796</u>		£6,150 <u>5,796</u>
Leader of the Council (With or without Portfolio)	1	£6,150 <u>5,796</u>	£12,300 <u>11,589</u>	£18,450 <u>17,385</u>
Deputy Leader with Portfolio	1	£6,150 <u>5,796</u>	£7,999 <u>7,539</u>	£14,149 <u>13,335</u>
Cabinet Members with Portfolio and Chair of Charity Committee (Majority Group)	6 <u>5</u> (Ex Deputy Leader)	£6,150 <u>5,796</u>	£6,642 <u>6,258</u>	£12,792 <u>12,054</u>
Opposition Group Members and other Group's members without Portfolios serving on Cabinet	2	£6,150 <u>5,796</u>	£3,318 <u>3,126</u>	£9,468 <u>8,922</u>
Chair of Overview and Scrutiny	1	£6,150 <u>5,796</u>	£3,077 <u>2,898</u>	£9,227 <u>8,694</u>
Vice - Chair of Overview and Scrutiny	1	£6,150 <u>5,796</u>	£602 <u>567</u>	£6,752 <u>6,363</u>
Chair of Planning	1	£6,150 <u>5,796</u>	£3,693 <u>3,477</u>	£9,843 <u>9,273</u>
Vice Chair of Planning	1	£6,150 <u>5,796</u>	£1,352 <u>1,275</u>	£7,502 <u>7,071</u>
Chair of Licensing	1	£6,150 <u>5,796</u>	£1,002 <u>945</u>	£7,152 <u>6,741</u>
Chair of Environment and Safety	1	£6,150 <u>5,796</u>	£586 <u>552</u>	£6,736 <u>6,348</u>
Chair of Audit Committee	1	£6,150 <u>5,796</u>	£3,077 <u>2,898</u>	£9,227 <u>8,694</u>
Ordinary Members of Planning Committee	8	£6,150 <u>5,796</u>	£1,002 <u>945</u>	£7,152 <u>6,741</u>

Ordinary Members of Licensing Committee	14	£6,150 <u>5,796</u>	£104.04 <u>100</u> per Sub Committee membership	£6,150 <u>5,796</u> plus £104.40 <u>100</u> per Sub Committee attendance
Ordinary Members of Environment and Safety Committee	4	£6,150 <u>5,796</u>	£293 <u>276</u>	£6,443 <u>6,072</u>
Independent Members of the Standards Committee	2		£614.87 <u>579</u>	£614.87 <u>579</u>
Independent Members of the Museums Committee	6		£71.78 <u>66</u>	£71.78 <u>66</u>
Majority Group Leader per member (plus Standard Element)	1	£6,150 <u>5,796</u>	£184.15 <u>171</u> per member plus £1,317 <u>1,242</u> (223 members)	£11,518 <u>10,971</u>
Majority Group Deputy Leader per member	1	£6,150 <u>5,796</u>	£184.15 <u>171</u> per member (223 members)	£10,201 <u>9,729</u>
All Opposition Group Leaders per Member (plus Standard Element)	1	£6,150 <u>5,796</u>	£184.15 <u>171</u> per member plus £1,317 <u>1,242</u> (7 members)	£8,756 <u>8,235</u>
Deputy Leader Main Opposition Group per member	1	£6,150 <u>5,796</u>	£184.15 <u>171</u> per member (7 members)	£7,439 <u>6,993</u>

Note: Some Councillors will be in receipt of more than one Special Responsibility Allowance. Their total allowance must be calculated by adding together the relevant Special Responsibility Allowances plus the basic allowance.

Text version of Table of Councillors' Allowance Scheme

With effect from **15th May 2019** 13 April 2016 (Approved at Council)

Post: All Councillors

Number: 32

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: Not applicable

Total Allowance per Councillor: £6,150 5,796

Post: Leader of the Council (with or without Portfolio)

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £12,300 11,589

Total Allowance for Councillor: £18,450 17,385

Post: Deputy Leader with Portfolio

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £7,999 7,539

Total Allowance per Councillor: £14,149 13,335

Post: Cabinet Members with Portfolio (Majority Group) and Chair of Charity Committee

Number: 6 5 (ex Deputy Leader)

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £6,642 6,258

Total Allowance per Councillor: £12,792 12,054

Post: Opposition Group Councillors and other Group's councillors without Portfolios Serving on Cabinet

Number: 2

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £3,318 3,126

Total Allowance per Councillor: £9,468 8,922

Post: Chair of Overview and Scrutiny

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £3,077 2,898

Total Allowance per Councillor: £9,227 8,694

Post: Vice - Chair of Overview and Scrutiny

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £602 567

Total Allowance per Councillor: £6,752 6,363

Post: Chair of Planning

Number of Councillors: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £3,693 3,477

Total Allowance per Councillor: £9,843 9,273

Post: Vice Chair of Planning

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £1,352 1,275

Total Allowance per Councillor: £7,502 7,071

Post: Chair of Licensing

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £1,002 £945

Total Allowance per Councillor: £7,152 6,741

Post: Chair of Environment and Safety

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £586 552

Total Allowance per Councillor: £6,736 6,348

Post: Chair of Audit Committee

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £3,077 2,898

Total Allowance per Councillor: £9,227 8,694

Post: Ordinary Members of Planning Committee

Number of Councillors: 8

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £1,002 945

Total Allowance per Councillor: £7,152 6,741

Post: Ordinary Members of Licensing Committee

Number of Councillors: 14

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £104.40 100 per Sub Committee membership

Total Allowance per Councillor: £6,150 5,796 plus £104.40 100 per Sub Committee attendance

Post: Ordinary Members of Environment and Safety Committee

Number of Councillors: 4

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £293 276

Total Allowance per Councillor: £6,443 6,072

Post: Independent Members of the Standards Committee

Number: 2

Basic Allowance: Not applicable

Special Responsibility Allowance: £614.87 579

Total Allowance per independent member: £614.87 579

Post: Independent Members of the Museums Committee

Number: 6

Basic Allowance: Not applicable

Special Responsibility Allowance: £71.78 66

Total Allowance per independent member: £71.78 66

Post: Majority Group Leader per member (plus Standard Element)

Number of Councillors: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £184.15 171 per member plus £1,317 1,242 (223 members)

Total Allowance per Councillor: £11,518 10,971

Post: Majority Group Deputy Leader per Member

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £184.15 171 per member (223 members)

Total Allowance per Councillor: £10,201 9,729

Post: All Opposition Group Leaders per member (plus Standard Element)

Number of Councillors: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £184.15 171 per member plus £1,317 1,242 (7 members)

Total Allowance per Councillor: £8,756 8,235

Post: Deputy Leader Main Opposition Group per Member

Number: 1

Basic Allowance: £6,150 5,796

Special Responsibility Allowance: £184.15 171 per member (7 members)

Total Allowance per Councillor: £7,439 6,993

Note

Some Councillors will be in receipt of more than one Special Responsibility Allowance. Their total allowance must be calculated by adding together the relevant Special Responsibility Allowances plus the basic allowance.

The Mayor and Deputy Mayor receive a subsistence allowance. Currently the allowance approved is £6,542 6,226.00pa for the Mayor and £2,136 2,033.00pa for the Deputy Mayor from 15th May 2019 1 April 2014. This allowance is not part of the s Independent Remuneration Panel's remit.

The Constitution

Part 8

Standing Instructions to Authorised Officers

E. Renewal Areas Part VII Local Government and Housing Act 1989 (as amended)
Including:-

Section 93(5) - Financial assistance in renewal area

Section 97 - Powers of entry and penalty for obstruction.

40. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 10 to 16 above.
41. The Assistant Director Housing and Built Environment (the Authorised Officer) is responsible for professional work and advice for the Council, Cabinet, the Planning Committee, the Directors and Officers on town and country planning, building control and engineering.
42. The Authorised Officer or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the Planning legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to the following:

43. Applications:

- A. Planning permission including approval of reserved matters;
- B. Listed building consent;
- C. Consent for the display of advertisements;
- D. Hazardous substances consents;
- E. To enter into a Section 106 agreement where the application can be granted under delegated authority and to vary a Section 106 agreement whether or not the original application was determined under delegated authority. Where the original application was determined by the Planning Committee, the Assistant Director of Housing and Built Environment is authorised to amend the agreement in consultation with the Chair of the Planning Committee.
Where the original application was determined by the Planning Committee, to make minor changes to the terms of a draft S106 Agreement in consultation with the Chair of the Planning Committee.

44. This authority is subject to the following exceptions:

- a. The application has attracted five or more written representations from different households or businesses on planning grounds or a petition as defined in Standing Orders and the written representations or petition are contrary to the officers recommendation, or
- b. The Chair of the Planning Committee has referred any application to the Planning Committee within 21 days after validation of an application or 21 days after the date of any advert placed in the press whichever is the later

The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000

The Town and Country Planning (Hearings Procedure) (England) Rules 2000

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 The Hedgerows Regulations 1997

The Units of Measurement Regulations 1995

The Town and Country Planning (Crown Land Applications) Regulations 1995

The Compulsory Purchase of Land Regulations 1994 The Conservation (Natural Habitats) Regulations 1994

The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992

The Town and Country Planning General Regulations 1992

The Planning (Listed Buildings and Conservation Areas) Regulations 1990

The Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990

The Town and Country Planning (Applications) Regulations 1988

For the avoidance of doubt the following applications in paragraphs 46 to 535 (inclusive) are delegated to be determined by Authorised Officers under delegated authority and unless expressly specified will not be determined by the Planning Committee unless submitted by, or on behalf of the Council, submitted by, or on behalf of the Foreshore Trust a serving elected Councillor or officer of the Council where the officer is employed in a politically restricted post and/or within the Council's planning service in accordance with paragraph 44(e) above.

46. Approval of any matters required to be submitted pursuant to conditions imposed on any permission, consent or approval given under the Town and Country Planning Acts.

47. All applications for prior determination for telecommunications apparatus.

48. All consents under the Tree Preservation Order Regulations.

49. All certificates of lawfulness of existing use or development or of proposed use or development.

50. To authorise enforcement action under the Town and Country planning legislation except:

**Hastings Borough Council
Constitution of the Council**

Part 9

Financial Rules

The Financial Rules

Application

1. The 'Financial Rules' are in four parts: Financial Regulations, Contracts Standing Orders, and Financial Authorisations and delegations.
2. These Financial Rules are the framework within which the Council's financial affairs are to be managed. Every councillor and Officer must comply with them. They are part of the policy framework of the Council and can only be changed with the approval of the Council.
3. The Chief Finance Officer may issue Finance Operating Procedures setting out the detailed application of these Financial Rules.
4. For advice on these Financial Rules or their application, contact the Chief Legal Officer or the Chief Auditor.

Responsibilities of Councillors and Officers

5. All councillors and Officers are responsible for ensuring that they are:
 - a. Aware of these Financial Rules.
 - b. Aware of the Finance Operating Procedures that apply to their work and responsibilities.
 - c. Complying with the Financial Rules and Finance Operating Procedures.
6. All councillors and Officers are accountable for the security of resources under their control, and for ensuring that:
 - a. The use of these resources is legal, properly authorised, and achieves best value.
 - b. Resources are used with the minimum possible level of waste, inefficiency or loss.
 - c. Resources are used only in the course of the Council's business, and that where there is specific permission for personal use, (e.g. telephone, Internet), such use is reasonable, lawful, and within any prescribed limits.
7. All councillors and Officers must carry out, and account for, all financial transactions with due care, promptly, accurately, honestly, and adhering to the Finance Operating Procedures issued by the Chief Finance Officer.
8. All councillors and Officers are accountable for ensuring that their claims for allowances and reimbursement of expenses include only expenses and allowances that were authorised, and that were actually and necessarily incurred in the performance of their duties.

Table A: Exceptions to the General Authorisation from Cabinet to the Directors and their nominees

To facilitate future revisions, authorisation levels are given in 4 bands:

Bands

Band 1 - Up to £50,000.

Band 2 - From £50,000 to £100,000.

Band 3 - From £100,000 to £200,000.

Band 4 - Over £200,000

Budgets and spending consents required:

32. Spending from a revenue reserve not previously authorised by **Cabinet or Council** Chief Finance Officer:

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Director of Corporate Services and Governance).

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Director of Corporate Services and Governance).

Band 4 - Cabinet.

33. Virement within the revenue budget of a Chief Officer

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

34. Virement between revenue budgets of different Chief Officers

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Director of Corporate Services and Governance).

Band 4 - Cabinet.

39. Writing off irrecoverable sums :

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance.

Band 4 - As for band 3.

40. Any actions outside of Financial Rules or Finance Operational Procedures

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer.

Band 4 - As for band 3.

41. New or substituted capital schemes

Band 1 - Cabinet.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - As for band 3.

42. Any actions not in accordance with Council policy or any resolution of the Cabinet

Band 1 - Cabinet.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - As for band 3.

Grants, loans, guarantees and financial assistance

43. Renovation and other housing specific grants under the Housing Grants Financial Policy

Band 1 - Director for Operational Services or his/her nominee may act.

Band 2 - Director for Operational Services or his/her nominee may act in consultation with Chief Finance Officer.

Band 3 - In consultation with Portfolio Holder for Finance and Chief Finance Officer.

Band 4 - Cabinet

Other grants, loans, guarantees and financial assistance

44. Renovation and other grants under the Housing Grants Financial Policy

Band 1 - Chief Finance Officer.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - Cabinet.

Land and Property

44. Settlement of rent reviews (increase in annual rent not the total amount of rent)

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

In this section, land values are the annual rent or proposed annual rent.

45. Authorising disposal by lease not previously authorised by Council or Cabinet. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

46. Approving terms for grant or renewal of leases or any other property transaction of Council land or buildings and the settlement of rent reviews. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

47. Authorising any other property transactions relating to the Council's land and approving terms including renewals. **In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).**

Band 1 - Director of Corporate Services and Governance Corporate Resources or his/her nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

48. Authorising the acquisition by lease of land or buildings and approval of terms. **In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).**

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

49. Forfeiture of leases and tenancies or serving notice to quit or similar to obtain vacant possession. **In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).**

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

50. Appropriation from one statutory function to another. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

51. Authorising disposal by sale not previously authorised by Council or Cabinet.

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

52. Authorising the acquisition by purchase of land or buildings and approval of terms.

Band 1 - Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

53. Dilapidations claims and settlement including authorising the service of notice, actioning claims and settlement of works and dilapidation or payment in lieu. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - The Director of Corporate Services and Governance or his/her nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance. Cabinet.