

CHAPTER 1 – THE CONSTITUTION

1. Summary and Explanation

1.1 The Council's Constitution

The London Borough of Bromley (“the Council”) has agreed a constitution which 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.

The Constitution is divided into Chapters which set out the basic rules governing the Council's business and also include more detailed procedures and codes of practice.

1.2 What's in the Constitution?

The Constitution commits the Council to having strategies to deliver g its priorities, providing clear Leadership in partnership with local people, businesses and others with a stake in the well-being of the Borough of Bromley. It explains the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council
- Citizens and the Council
- The Council meeting
- The Executive
- Committees
- Joint arrangements
- Officers and their delegations

Members Allowances

1.3 How the Council operates

The Council is composed of 58 Councillors elected every four years. Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents..

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for ensuring that training and advice is given on the Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will elect the Leader of the Council who in turn appoints and provides leadership to an Executive. The Executive will consist of the following:

- the Executive Leader;
- at least 2 but not more than 9 Councillors appointed by the Leader.

The Council holds the Executive to account by appointing Policy Development and Scrutiny Committees to question decisions and to propose policy changes.

The Council will also appoint central Committees to deal with development control, licensing, registration and other functions which cannot be undertaken by the Executive.

A Standards Committee will monitor the maintenance of high standards of conduct in all the Council's activities.

The procedure for Council meetings is set out in **Chapter 2** of this constitution.

1.4 How decisions are made - The Executive

The Executive is the part of the Council which is responsible for most day-to-day decisions. The full Council elects the Leader who appoints all other members of the Executive. When key decisions are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. Meetings of the Executive will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

1.5 How decisions are made – Council Functions

Whilst most decisions are taken by the Executive meeting together or by individual Portfolio holders a number of important decisions are also taken by the full Council or by Committees or Sub-Committees of the Council e.g., planning and licensing applications.

1.6 Policy Development and Scrutiny

There are 6 Policy Development and Scrutiny Committees who support the work of the Executive and the Council as a whole. They have a major role in policy development and scrutinise the decisions of the Executive. They make reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Policy Development and Scrutiny Committees also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

1.7 The Council's Staff

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 **Chapter 7**, governs the relationships between officers and members of the Council.

2. Management of the Constitution

2.1 Powers of the Council

The Council will exercise all of its powers and duties in accordance with the law and this Constitution.

2.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the London Borough of Bromley (“the Council”).

2.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

2.4 Review of the Constitution

The General Purposes and Licensing Committee, supported and advised by the 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.

2.5 Changes to the Constitution

(a) Approval

Changes to the Constitution (other than minor drafting or consequential amendments) will normally only be approved by the full Council after consideration of a proposal by the General Purposes and Licensing Committee unless the Monitoring Officer considers it appropriate to directly refer amendments to full Council or makes such amendments acting under delegated powers.

(b) **Delegated Powers of the Monitoring Officer**

The Monitoring Officer shall have power to amend the constitution in line with the Scheme of Delegation to Officers.

(c) **Change from a Leader and Cabinet form of Executive to alternative arrangements.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

2.6 Suspension of the Constitution

(a) **Limit to suspension.**

The Rules specified below may be suspended by the full Council, Committees and the Executive to the extent permitted within those Rules and the law.

(b) **Procedure to suspend.**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Chapter.

(c) **Rules capable of suspension.**

The following Rules may be suspended:

- Contracts Procedure Rules
- Council Procedure Rules
- Executive Procedure Rules
- Financial Regulations

2.7 Interpretation

The ruling of the Mayor (or as the case may be, person presiding) 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.

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated in paragraph 2.3.

2.8 Publication

- (a) The Director of Corporate Services and Governance will circulate a copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

- (b) The Director of Corporate Services and Governance will make available a full copy of this Constitution on the Council's website.

3. Roles and Functions of Elected members

3.1 Composition and eligibility

(a) **Composition.** The Council will comprise 58 members, otherwise called Councillors. Up to 3 Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

(b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

3.2 Election and terms of Councillors

The regular election of Councillors will usually be held on the first Thursday in May every four years beginning in 2002. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3.3 Roles and functions of councillors

(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 or electoral division and represent the ward or electoral division as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will, subject to statute and the Council's Constitution, 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 without the consent of the Council 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 Information Rules in **Chapter 8** of this Constitution.

3.4 Conduct

Councillors will at all times observe the Code of Conduct and the Member/ Officer Protocol set out in **Chapter 7** of this Constitution.

3.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in **Chapter 11** of this Constitution.

4. Citizens’ Rights

Citizens have a number of rights in their dealings with the Council. 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.

Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

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;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- participate in the Council’s question time and contribute to investigations by the Policy Development and Scrutiny Committees;
- find out, from the Executive’s forward plan, what key decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive;
- see reports and background papers, and any record of decisions made by the Council and Executive subject to personal or confidential restrictions;
- complain to the Council about any aspect of Council services;

- complain to the Local Government and Social Care 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 in writing 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.
- Inspect the Council's Members' Interests Register.
- request information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004

The Council welcomes participation by its citizens in its work. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in **Chapter 8** of this Constitution. For further information on your rights as a citizen, please contact the Director of Corporate Services and Governance.

The Council will not tolerate citizens being violent, abusive or threatening to Councillors or officers or wilfully harming things owned by the Council, Councillors or officers.

Members of the public may film, audio-record, take photographs and use social media to report on meetings as they are taking place and the Council will make reasonable provision for this to take place. Members of the public are advised to contact the Council in advance so that necessary arrangements can be made. Any person whose recording activities are disruptive to the meeting may be required by the chairperson to stop recording and may be removed from the meeting.

5. Decision Making

5.1 Responsibility for decision making

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 **Chapter 2 (the Council), Chapter 3 (the Leader and Executive), Chapter 5 (Committees) and Chapter 6 (Scheme of Delegation to Officers)** of this Constitution.

5.2 Principles of Decision Making

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

- (a) proportionality (i.e. the action resulting from the decision must be proportionate to the desired outcome);
- (b) after taking and considering professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) identification of the options which were considered in reaching the decision; and
- (g) the giving of reasons for reaching the decision

5.3 Types of Decision

Decisions reserved to full Council. Decisions relating to the functions listed in Chapter 2 will be made by the full Council and not delegated.

5.4 Decision making by the full Council

The Council meeting will follow the Council Procedure Rules set out in **Chapter 2** of this Constitution when considering any matter.

5.5 Decision making by the Executive

The Executive will follow the Executive Procedure Rules set out in **Chapter 3** of this Constitution when considering any matter.

5.6 Decision making by Policy Development and Scrutiny

Policy Development and Scrutiny Committees will follow the Policy Development and Scrutiny Procedure Rules set out in **Chapter 4** of this Constitution when considering any matter.

5.7 Decision making by other Committees established by the Council

Other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in **Chapter 2** of this Constitution as apply to them.

5.8 Decision making by Council bodies acting as tribunals

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.

6. Governance including Finance, Contracts and Legal Matters

6.1 Governance

The Council recognises that effective local government relies upon maintaining the confidence of the public in both the elected Members and Officers of the Council. The Council continually reviews governance arrangements and related procedures to ensure best practice so that the highest standards are maintained.

An Annual Governance Statement is available on the Council's website; the Statement is updated following the end of each financial year.

The Council has an Audit and Risk Management Committee, independent of both the Executive and the Scrutiny process as recommended by CIPFA.

The Council's Standards Committee's main responsibility is to ensure that high standards of Member conduct are maintained. It does this by ensuring that Members attend training on the Code of Conduct, are briefed on relevant issues and receives an annual overview report on complaints about Member Conduct.

6.2 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in **Chapter 9** of this Constitution.

6.3 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in **Chapter 9** of this Constitution.

6.4 Legal proceedings

The Director of Corporate Services and Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Corporate Services and Governance considers that such action is necessary to protect the Council's interests.

6.5 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Corporate Services and Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Every contract whatever its value will be in writing and signed by or on behalf of the appropriate Chief Officer. Contracts exceeding £200,000 will be made under the Common Seal of the Council and signed by the Director of Corporate Services and Governance, or by some other person authorised by him/her. Electronic sealing and execution of documents will be acceptable.

6.6 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Corporate Services and Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Corporate Services and Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Corporate Services and Governance or some other person authorised by him/her. Electronic sealing and execution of documents will be acceptable.

7. Officers

7.1 Management structure

(a) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. All officers are employees of the Council as a whole.

(b) Chief Officers

The full Council will engage persons for the following posts, who will be designated Chief Officers, each of whom will have responsibility for specific portfolios.

Post	Functions and areas of responsibility
Chief Executive (Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Staffing of the authority; ensuring that the work of officers is effectively co-ordinated and making sure the organisation runs efficiently.</p> <p>Provision of professional advice to all parties in the decision-making process.</p> <p>Together with the Monitoring Officer, has responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Ensuring that the Mayor has comprehensive and independent advice on exercising the functions of Mayor.</p>
Director of Corporate Services and Governance (Monitoring Officer)	<p>To perform the statutory responsibilities of the Monitoring Officer under the Local Government and Housing Act 1989 and successive legislation as set out in paragraph 7.3 below and in the Scheme of Delegation to Officers and to act as the Council's solicitor.</p> <p>Ensuring that the Mayor has comprehensive and independent advice on exercising the functions of Mayor.</p>

Director of Finance	To discharge the statutory function for the Council's financial administration given by Section 151 Local Government Act 1972.
Director of Children, Education and Families	Schools and Services for Children, Young People and Families
Director of Adult Services	Adult Social Care and relationships with Health services
Director of Public Health	Public Health Functions
Director of Environment and Public Protection	Street and Premises Management including Highways, Parking, Parks and Open Spaces
Director of Housing, Planning and Regeneration	Planning, Housing and Regeneration
Director of Human Resources, Customer Services and Public Affairs	Human Resources, Customer Services and Public Affairs

In addition, all Chief Officers will work with the Chief Executive and colleague Chief Officers on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown (the Deputy Monitoring Officer and the Deputy Chief Finance Officer being appointed by the Monitoring Officer and the Chief Finance Officer respectively, not the Council):

Post	Designation
Chief Executive	Head of Paid Service
Director of Corporate Services and Governance	Monitoring Officer
Director of Finance	Chief Finance Officer

The Chief Executive, the Director of Corporate Services and Governance and the Director of Finance will meet regularly to consider and recommend action in connection with current issues of governance and other matters of concern regarding probity.

(d) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

(e) **Deputy Chief Executive**

A Chief Officer shall be nominated by the Chief Executive to act when the Chief Executive is absent or unable to act.

7.2 Statutory Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.**

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified Accountant.

7.3 Statutory Functions of the Monitoring Officer

(a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. He or she will also report where the Local Government & Social Care Ombudsman has carried out an investigation.

(c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee. This support will include arranging for investigations on Code of Conduct complaints.

(d) **Proper Officer for access to information**

The Monitoring Officer as proper officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(e) **Advising whether Executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework in consultation with the Head of Paid Service, Chief Finance Officer and other Chief Officers as appropriate.

(f) **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.

The Monitoring Officer will contribute to the corporate management of the Council in particular through the provision of legal advice.

(g) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

7.4 Statutory Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and to 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 likely to lead to a loss or deficiency or to the Council entering into 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 will provide financial information to the media, Members of the public and the community.

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

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

7.6 Other officers

The Democratic Services Manager is the Scrutiny Officer who will promote the role of the Council's Policy Development and Scrutiny Committees and the Assistant Director, IT Services, is the Council's Data Protection Officer.

7.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/ Officer relations set out in **Chapter 7** of this Constitution.

7.8 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in **Chapter 10** of this Constitution.