

A1. The Council and the Constitution

1. The Council

- 1.1. The Maidstone Borough Council is constituted by virtue of Section 2 of the Local Government Act 1972 as consisting of the Chairman and the Councillors, being the Mayor and the Members.
- 1.2. The Council shall exercise all its powers and duties in accordance with the law and with this Constitution.

2. Purpose of this Constitution

The Council is required by law to have a written Constitution setting out how the Council operates, how decisions are made and the rules and procedures that need to be followed. The arrangements making up this Constitution have the purpose of: -

- 2.1. Ensuring that the strategies, policies, ethos & direction of the Council are determined by elected Members;
- 2.2. Facilitating decision-making closest to those elected Members who can be held politically accountable for such decisions by other Members and also by Local Residents (as defined in Part A2, provision 1.1);
- 2.3. Maintaining political accountability during periods of no overall control by any individual Political Group;
- 2.4. Providing elected Members with the information, mechanisms & forums needed to represent Local Residents effectively and to hold those responsible for discharging functions to account; and
- 2.5. Enabling Local Residents opportunities to be heard and to participate directly in the proceedings of the Council, the Committees & the [CabinetExecutive](#).

3. The Structure of this Constitution

- 3.1. This Constitution, in all six parts, together with annexes, appendices & schedules, and also with the Glossary of Terms, is the Constitution of the Maidstone Borough Council.
- 3.2. The six parts cover different areas and have differing levels of status.
 - 3.2.1. Part A contains the higher-level principles and core provisions of the Constitution.
 - 3.2.2. Part B contains provisions on responsibilities for discharging the functions of the Council and for making decisions.

- 3.2.3. Part C sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made. This also impinges on how the Council enters into certain transactions. These are intended to be binding on all bodies of the Council.
 - 3.2.4. Parts D & E set out respectively the Codes and Protocols followed by the Council. These are intended to be binding on the Council's Officers and on its decision-making bodies save that the Council may resolve to make a decision notwithstanding the content of these Codes and Protocols.
 - 3.2.5. Part F contains final provisions such as the statutory Scheme of Allowances.
- 3.3. The Parts and provisions of this Constitution should not conflict. Where however provisions in this Part A conflict with any provision in any other Part of this Constitution, the provisions in this Part A shall prevail.

4. Citation

- 4.1. Within any Chapter, a reference to a numbered Provision, Rule or Clause shall refer to the contents of that Chapter of the Constitution unless specified otherwise. Within an Appendix to a Chapter, references to a numbered Paragraph shall likewise refer to the contents of that Chapter.
- 4.2. The contents of this Part A, and also Parts B, D, E & F are correctly referred to as Provisions (e.g. "Provision 4.2"), save for any appendix whose content is correctly referred to as Paragraphs.
- 4.3. The individual chapters of Part C may be referred to by Chapter number (e.g. "Chapter C1") or by their title (e.g. "Council Procedure Rules"). Within these particular chapters, the contents are correctly referred to as Rules (e.g. "Rule 2" or "Council Procedure Rule 2").

5. Interpretation

- 5.1. Every Provision in this Constitution, including every Rule, Clause or Paragraph, must be interpreted in the light of its purpose.
- 5.2. The purpose of any such Provision in this Constitution is to be gathered first and foremost from the words used in that Provision.
- 5.3. Where particular words or phrases are defined within the Local Government Acts, they shall have the same meaning for the purposes of this Constitution unless negated by a particular definition within this Constitution or by the context in which the words or phrases are used.

- 5.4. A number of definitions for particular words or phrases are contained in the Glossary of Terms. These are capitalised throughout this Constitution.
- 5.5. Where the words used provide for any ambiguity or for alternate interpretations of a Provision, that Provision shall be construed in accordance with any particular statement of purpose applying to that provision or to that Part or sub-Part of the Constitution. Where there is no such particular statement of purpose, the general purpose of the arrangements that make up this Constitution set out above in Provision 2 of this Chapter shall apply.
- 6. Monitoring and Reviewing this Constitution.**
- 6.1. The Democracy & General Purposes Committee shall monitor and review the operation of the Constitution and associated guidance at least once a year to ensure that the aims and principles of the Constitution are given full effect.
- 6.2. A key role for the Monitoring Officer is to regularly review the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended to better achieve the purposes set out in Provision 2.
- 7. Changes to the Constitution**
- 7.1. Subject to Provision 7.2 below, changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Democracy & General Purposes Committee.
- 7.2. The first exception to Provision 7.1 is the power of the Monitoring Officer who has delegated authority to make changes to the Constitution which are necessitated by decisions taken by the Council; which remove inconsistency or ambiguity; which are minor; or to effect changes in the law. The other exceptions apply to the following Council bodies or Officers in respect of particular Chapters or parts thereof: -

Section	Body / Officer	Subject or Scope
Chs. B3 & B5	Leader	Delegations of Executive Cabinet Functions to Officers and individual portfolio holders
Ch. B5	Chief Executive	Division of delegated matters amongst Officer roles
Ch. B6	Chief Executive	Appointment of new Proper Officers
Ch. C56	Executive Cabinet	Crime & Disorder Reduction Rules

8. Suspension & Derogation

- 8.1. The Core Provisions contained in this Part A may not be suspended or excepted.
- 8.2. The Provisions in Part B may not be suspended or excepted.
- 8.3. The Rules of Procedure in Part C provide for the circumstances in which particular Rules may be suspended. No other suspension or exception shall be permitted.
- 8.4. The nature of the Codes in Part D and the Protocols in Part E are such that the Council may resolve to make any exception to their terms as the Council may see fit.
- 8.5. No other suspension, exception or derogation shall be permitted other than in accordance with this Provision 8.

9. Publicity and Information

- 9.1. The Democracy & General Purposes Committee and the Monitoring Officer shall ensure that the *Guide to the Constitution* ("the Guide") is produced and maintained alongside the Constitution itself. The Guide shall serve as the summary and explanation of the Constitution and shall be attached as an Annex.
- 9.2. The Council shall ensure that a copy of this Constitution and the Guide are readily available to Local Residents, Members and Officers alike. This shall include maintaining copies on the Council's website.
- 9.3. This shall include offering all newly elected Members a hard copy of the Guide, as well as providing soft copies of both the Guide and the Constitution and ensuring the same are covered in any induction training.