

PART 2 ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution and all its appendices is the Constitution of Brighton & Hove City Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Members represent their wards and local residents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) provide a powerful and effective means of holding decision-makers to public account;
- (f) ensure that those responsible for decision making are clearly identifiable to local people and that the Council explains the reasons for decisions;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved; and
- (h) provide a means of supporting the Council to deliver its Corporate Plan 2023-2027.

1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13 – Review, Revision, Suspension, Interpretation and Publication of the Constitution.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

- (a) **Composition.** The Council comprises 54 Members (otherwise called Councillors). There are 23 electoral wards and 2 or 3 Members are elected by the voters of each ward. One of the Members is elected annually as the Mayor by the elected Members to chair the Council meetings and attend to ceremonial duties.
- (b) **Eligibility.** Only registered voters of the city of Brighton & Hove or those living or working there will be eligible to hold the office of Member.

2.02 Election and terms of Members

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

2.03 Roles and functions of all Members

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

(b) Rights and duties of Members

- (i) Members will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their role as Members and in accordance with the law.
- (ii) Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 7 of this Constitution.

2.05 Conduct

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

2.06 Allowances

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

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 7 of this Constitution:

- (a) **Voting.** Citizens on the electoral roll for the area have the right to vote in any European, national or local elections.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council, its Committees and Sub-committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Committee Work Programme what key decisions will be taken by Members or Officers and when;
 - (iii) see non-confidential reports and background papers, and a record of decisions made by the Council, its Committees and Sub-Committees;
 - (iv) 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 contribute to investigations by Policy Panels subject to compliance with the relevant procedures.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
 - (iii) the Monitoring Officer about an alleged breach of the Code of Conduct for Members.

3.02 Citizens' responsibilities

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

ARTICLE 4 – THE MAYOR

4.01 Role and function of the Mayor

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

(a) Chairing the Council Meeting

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and (subject to the arrangements for scrutiny discussed in Article 7) a place at which Members are able to ask questions of the Leader of the Council and the Chairs of Committees and Sub-Committees;
- (iv) to promote public involvement in the Council's activities.

(b) Civic and Ceremonial Role

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

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

ARTICLE 5 – FULL COUNCIL

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

5.02 The responsibilities of Full Council include:

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

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

ARTICLE 6 – COMMITTEES, SUB-COMMITTEES AND OTHER MEMBER BODIES

6.01 Introduction

The implementation of the Council’s budget and policy framework, and the discharge of its regulatory functions, is undertaken by a number of Committees and Sub-Committees with powers delegated from Full Council. The Council has also devolved powers to Partnership Boards with health bodies, under the National Health Service Act 2006, the Children Act 2004 and the Health and Social Care Act 2012.

The Council will appoint or make appointments to the Committees, Sub-Committees, Joint Committees and Partnership Boards as set out in the left hand column of the table below. An indication of the functions of each Committee/Sub-Committee/Joint Committee/Partnership Board is shown in column 3 of the table. The terms of reference and powers delegated to each Committee, Sub-Committee and Joint Committee are set out in Part 4 of the Constitution, while the annual Report to full Council in May of each year provides a more detailed picture of the Council’s partnership arrangements.

6.02 Policy and Regulatory Committees

Committee/Sub-Committee	Membership	Functions
Strategy, Finance & City Regeneration Committee	10 Members and one non voting standing invitee to assist the committee in raising and addressing issues of interest and importance to people from a Black and Minority Ethnic background	This Committee has overall responsibility for the financial and other resources of the Council, for developing the Council’s strategy and policy based on national government and local priorities and for the development & co-ordination of partnership working. It is also responsible for major built environment projects. It also has responsibility for many services delivered to residents and customers, including (but not only) Customer Services, including Digital First and Digital Brighton & Hove, revenues and benefits, registration and local land charges as well as adult learning & employment, neighbourhood renewal and grants and also public safety. It has responsibility for best value, for legal services and for human resources-related functions, as well as for property management and for member budgets

		and allowances. This Committee also has responsibility (concurrently with Equalities, Community Safety & Human Rights Committee) in respect of equalities and communities and concurrent responsibility (with Audit & Standards Committee) for information governance.
Housing & New Homes	10 Members of the Council	This Committee has overall responsibility for the Council's housing functions including: Council housing; private sector housing; strategic housing including the housing investment program; homelessness and allocations; tenancy relations; housing loans and grants, and authorised and unauthorised sites and encampments. It has responsibility for housing related support services and for co-ordinating the Council's policies on street homelessness.
Children, Families & Schools Committee	10 Members of the Council and up to 11 non-voting co-optees	This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as corporate parent for children in care and care leavers. It discharges the Council's functions relating to children's learning disabilities and exercises the functions of the Council as Local Education Authority. Many of these services are delivered or commissioned jointly with the National Health Service. The Committee is also the Council's Children and Young Peoples Trust Board pursuant to the Children Act 2004.
Transport & Sustainability Committee	10 Members of the Council	This Committee is responsible for highways management, traffic management and transport, parking, highways management and sustainability
City Environment, South Downs & the Sea Committee	10 Members of the Council	This Committee is responsible for parks and open spaces, waste, environmental health, trading standards, the water environment, coastal protection and flood defence, scrutiny of flood and

		coastal erosion plans, bereavement and coroner's services and public spaces.
Culture, Heritage, Sport, Tourism & Economic Development Committee	10 Members of the Council	This Committee discharges the Council's functions in relation to building control, conservation & design, culture, arts & heritage, economic growth & regeneration, events, leisure sports & recreation, museums, planning, seafront for leisure, tourism & marketing and community wealth building & social value.
Equalities, Community Safety & Human Rights	10 Members of the Council and the following: one non voting standing invitee to assist the committee in raising and addressing issues of interest and importance to people from a Black and Minority Ethnic background; one non voting co-optee from each of the Community and Voluntary Sector; Sussex Police and the ICB.	This Committee discharges the Council's functions in relation to equalities, community safety and the community & voluntary sector. It is the Council's Crime & Disorder Committee.
Planning Committee	10 Members of the Council	This Committee exercises the Council's functions in relation to development control matters.
Personnel Appeals Panel	3 Members of the Council	This Panel, which has the status of a Sub-Committee of the Strategy, Finance & City Regeneration Committee, deals with appeals against dismissals, grading

		and other grievances in accordance with agreed personnel procedures.
Licensing Committee	15 Members of the Council	This Committee, sitting as the Licensing Committee (Licensing Act 2003 functions), discharges the Council's functions under the Licensing Act 2003. The Licensing Committee sitting as the Licensing Committee (Non-Licensing Act 2003 Functions) also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003. The day to day decisions on individual applications are dealt with by the Licensing Panel. The approval of the Statement of Licensing Policy is reserved to Full council. N.B. The Licensing Committee operates as two separate Committees with identical membership. The functions of the two separate Committees relate to Licensing Act and non-Licensing Act functions respectively.
Licensing Panel	3 Members of the Council	The Licensing Panel (Licensing Act 2003 Functions) is a Sub-Committee of the Licensing Committee. It hears applications under the Licensing Act 2003 where the matter is authorised or required to be dealt with by a Committee. The Licensing Panel (Non Licensing Act 2003 Functions) deals with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations. It also has general powers to hear and determine matters, which include serving as the appellate Committee where there is a right of appeal from a decision of an officer and no other arrangements have been made under the Constitution. The Sub-Committees operate as two separate Committees with identical membership.
Audit & Standards Committee	8 Members of the Council plus up to 3 non-voting Independent Persons, who have been co-	The Audit & Standards Committee deals with financial governance and stewardship, risk management and audit and information governance (the latter concurrently with the Strategy, Finance & City Regeneration

	opted onto the Committee	Committee), as well as with complaints about the conduct of Members. Its responsibilities include promoting high ethical standards amongst Members and dealing with complaints against them.
Standards Panel	Between 3 and 5 Members of the Council plus one non-voting Independent Person, who acts as Chair.	The Panel is a Sub-Committee of the Audit and Standards Committee and its main delegated functions relate to the determination of alleged breaches of the Code of Conduct for Members which have been the subject of a formal investigation and have been referred to it by the Monitoring Officer.
Health and Wellbeing Board	<p>5 Members of the Council, plus other voting members determined having regard to the requirements of the Health and Social Care Act 2012, as well as other non-voting co-optees’.</p> <p>Additional non-voting co-optees include such other persons, or representatives of such other persons, as is deemed appropriate.</p>	This Board is established as a Council Committee pursuant to the requirements of the Health and Social Care Act 2012. The Board works with key local leaders to improve the health and wellbeing of the population of Brighton & Hove through the development of a shared understanding of the needs of communities and the most vulnerable residents. It provides systems leadership to ensure collaboration and exercises strategic influence over commissioning decisions, taking into account the input of key stakeholder representatives. The Health and Wellbeing Board is responsible for the co-ordinated delivery of services across adult social care and public health.
Adult Social Care & Public Health Sub Committee	5 Members (expected to be the Council’s 5 elected members appointed to the Health and Wellbeing Board)	The Brighton & Hove Council Adult Social Care and Public Health Sub-Committee is established as a sub-committee of the Brighton & Hove Health & Wellbeing Board pursuant to s102 4B of the Local Government Act 1972 (as modified by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013). Its purpose is to discharge Brighton & Hove City Council’s functions in relation to adult

		social care, learning disabilities and public health.
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6.03 Other Bodies and Partnerships, including joint committees as well as boards and panels

As well as setting up joint committees, the Council and/or its Committees may from time to time either establish task groups, consultative forums, commissions, working groups, ad hoc panels or other advisory bodies. This may involve joining existing groups and working in partnerships to assist the Council in discharging its functions by working effectively with its partners and stakeholders. For the avoidance of doubt: no Committee or Sub-Committee may delegate its functions to any such group. A more detailed list of the bodies which Members are appointed to is published in the papers relating to annual Council in May of each calendar year.

Other Bodies and Partnerships (including joint committees as well as boards and panels)	Membership	Functions
Sussex Police and Crime Panel	2 Members.	The Police and Crime Panel is a joint committee of all local authorities in East and West Sussex and its function is to scrutinise the elected Police and Crime Commissioner.
Greater Brighton Economic Board	2 Members of the Council plus one Member on the Call-in Panel.	The Greater Brighton Economic Board is a partnership which brings together political and business leaders from across the city region. The Board will be the investment agency to work in conjunction with the Coast to Capital Local Enterprise Partnership (LEP), to set and agree the area's growth priorities and negotiate and secure funding from Government.
Sussex Health & Care Assembly	1 Member of the Council	The purpose of the Assembly is to support and promote greater integration and collaboration across health and social care at a strategic, Sussex-wide level. The Assembly will build upon the local Health and Wellbeing Strategies and co-ordinate the strategic direction for meeting the broader health, public health and social care needs of the population of

		Sussex to settle an Integrated Care Strategy for Sussex.
Health Overview and Scrutiny Committee	10 Members of the Council plus up to 4 non-voting co-optees	This Committee discharges on behalf of the Council the overview and scrutiny functions of health services as set out in the National Health Service Act 2006 (as amended). The Committee can scrutinise matters relating to the health and social care of the Council's population, including both adults and children, and make reports and recommendations to the NHS, the Council, its Committees and other relevant bodies.
Independent Remuneration Panel	Between 3 & 5 Members appointed by the Monitoring Officer after consultation with the Chief Executive. Any person who is a Member, or otherwise a co-optee of the Council, or is disqualified from being a Member is not eligible for appointment.	The functions of the Independent Remuneration Panel are as set out in Regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003, namely to produce a report in relation to Members of the Council making recommendations:
Corporate Parenting Board	5 Members plus up to 4 nominated co-optees	Acts as an advisory board to the Council, its partners and its Committees on matters related to the Council's looked after children. Its role is to ensure that the Council and its partner agencies have a joint commitment to achieving improved outcomes for children in care and care leavers, developing and overseeing implementation of the Corporate Parenting Strategy to drive improved outcomes and providing challenge to ensure that the Council's duties as Corporate Parent are carried out effectively and consistently.
Member Advisory Group: Grants	3 Members	The Members Advisory Group: Grants acts as a cross-party member body for the purposes of consultation on community and voluntary sector

		grants in relation to the Third Sector Investment Programme administered by the Executive Director of Housing, Neighbourhoods and Communities.
Joint Staff Consultation Forum	6 Members	The role of the Joint Staff Consultation Forum is to provide a mechanism for regular communication and consultation (a) in support of the Council's approach to working in partnership with its recognised trade unions and professional associations and (b) to maintain a healthy employee relations climate.
Brighton & Hove, and Barnardo's Link plus, Joint Fostering Panel	1 Member	To be the Joint Fostering Panel in accordance with the Fostering Services (England) Regulations 2011 and to carry out the responsibilities of a fostering panel under the relevant legislation.
Youthwise	3 Members	Views and recommendations from this group will be taken into account and will be represented at the Children, Families and Schools Committee by the Councillors and Youth Council representative
Downland Advisory panel	5 Members	The purpose of the Downland Advisory Panel is purely consultative. It exists to allow Brighton & Hove City Council to draw on and access local skills, experience and expertise, to advise on the management of the City Downland Estate and assist with the strategic direction and implementation of the City Downland Estate Plan – its policy development, plans and delivery.
Orbis Partnership Oversight Board	2 Members	The Orbis Partnership Oversight Board oversees and monitors the delivery of the Orbis Partnership for the benefit of each participating Council, and in particular to, monitor the performance of the partnership and seek assurance that Orbis is acting according to its mission and business plan and has the resources to do so, including oversight of the external contract performance of Orbis Services.

Community Safety Partnership Board	3 Members	The Community Safety Partnership Board is responsible for ensuring the statutory and other duties of the Community Safety Partnership Board are delivered effectively and efficiently by its Responsible Authorities and partners. The overarching duty is to reduce crime and disorder, improve community safety and reduce re-offending in Brighton & Hove. This duty is set out in the Crime and Disorder Act 1998 and in subsequent guidance and legislation
Housing Area Panels (x 4)	Each Housing Area Panel comprises all ward Members within the boundaries of the Housing Area Panel, together with tenant and resident association representatives.	The role of each of the Council's four Housing Area Panels is to advise the Council in its landlord role as local housing authority, with particular attention to anything affecting the area concerned.
Shoreham Harbour Regeneration Project	See Part 4 of Constitution.	All parties will promote the aims of the Shoreham Harbour Regeneration Project through joint communication channels.

6.05 Delegations to Officers

Some of the functions of the Committees and Sub-Committees and other bodies listed above may be discharged by an Officer under delegated powers. Details of the functions of Committees and Sub-Committees delegated to officers are contained in the Scheme of Delegation to Officers at Part 6 of the Constitution and summarised at Article 10.

6.06 Urgency Committee/Sub-Committees

- (a) The Council shall establish an Urgency Committee consisting of 7 Members to exercise its powers. The Urgency Committee may exercise its powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Council. Every decision of the Urgency Committee shall be reported for information to the next ordinary meeting of Full Council.

- (b) Each Committee of the Council may appoint an Urgency Sub-Committee to exercise its powers. The Membership of such Urgency Sub-Committee shall consist of the Chair of the relevant Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups. Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the relevant Committee.

ARTICLE 9 – JOINT ARRANGEMENTS

9.01 Arrangements to promote well being

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (c) exercise on behalf of that person or body any functions of that person or body.

9.02 Joint local government arrangements

- (a) The Council may establish joint arrangements with one or more Local Authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's Scheme of Delegations to Committees and Sub-Committees in Part 4 of this Constitution.

9.03 Delegation to and from other local authorities

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Council's Monitoring Officer may delegate to another named local authority the power to discharge the Council's functions in relation to one or more specified trading standards investigations and/or prosecutions, provided that the criteria in the delegation given to the Monitoring Officer at Part 6 of this Constitution are met.
- (c) The decision as to whether or not the Council shall accept a delegation of another local authority's functions shall be reserved to Full Council.

9.04 Contracting out

The Council may contract out to another body or organisation any of its functions:

- a) which may be exercised by an officer and which is subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or

- b) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

9.05 Joint arrangements with other public bodies

Under Section 75 National Health Service Act 2006, Section 10 of the Children Act 2004 and the Health and Social Care Act 2012, local authorities, national health bodies and a number of other bodies have powers to delegate the exercise of some of their functions to each other and to co-operate in the exercise of their functions.

ARTICLE 10 – OFFICERS

10.01 Terminology

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

10.02 Management structure

- (a) **General.** The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions. This shall include a **Data Protection Officer**, appointed to discharge the duties specified in Part 6 of the Constitution.
- (b) **Chief Officers.** The Council will engage persons for the following posts. Their functions are more particularly set out in Part 6 of the Constitution:

Post	Main Functions and areas of responsibility
Chief Executive	<ol style="list-style-type: none">1. Head of Paid Service under section 4 of the Local Government and Housing Act 1989, including all workforce matters not specifically reserved to Members2. Overall corporate management and operational responsibility (including overall management responsibility for all Officers)3. Provision of professional advice to all parties in the decision-making process4. Responsibility for various matters in relation to Members (including taking declarations of acceptance of office and receiving resignations)5. Representing the Council on partnership and external bodies (as required by statute or the Council)6. Exercising functions delegated to other Officers unless the function is required by law or the Scheme of Delegation for Officers to be exercised by another person (e.g. the Monitoring Officer and Chief Finance Officer)7. Acting as the Returning Officer with overall responsibility for conduct of Local and National Elections.
Executive Director of Governance, People & Resources (and Monitoring Officer)	<ol style="list-style-type: none">1. Legal Services2. Democratic Services & Civic Office3. Health Overview and Scrutiny4. Ethical Standards5. Electoral Registration and Elections6. Local Land Charges7. Policy8. Performance Improvement and Programmes9. Corporate Communications10. Leadership Support Office11. Regulation of Investigatory Powers

	<p>12. Procurement 13. IT&D 14. Senior Information Risk Officer (SIRO) 15. Human Resources & Organisational Development 16. Strategic Finance* 17. Financial Services* 18. Audit and Business Risk* 19. Revenues and Benefits Services*</p> <p>* See <u>Note</u> below regarding delegations to the Chief Finance Officer</p>
Chief Finance Officer	<p>1. Strategic Finance 2. Financial Services 3. Audit and Business Risk 4. Revenues and Benefits Services</p> <p><u>Note:</u> The above list of functions 1. to 4. inclusive are also delegated to the Executive Director of Governance, People & Resources, who may exercise them only to the extent that they are not required as a matter of law or professional practice to be exercised by the Chief Finance Officer.</p>
Executive Director of Economy, Environment & Culture	<p>1. Tourism 2. Arts and Creative Industries 3. Management of Museum and Leisure Establishments 4. Venues 5. Archives 6. Seafront 7. Parks and Open Spaces 8. Events 9. Leisure 10. Highways 11. Traffic Management 12. Parking Management and Enforcement 13. Transport 14. Land Use Planning 15. Town and Country Planning 16. Developer Contributions 17. Assets of Community Value 18. Conservation and Design 19. Building Control and Sports Grounds 20. Waste Management and Control 21. Economic Development and Regeneration 22. Property 23. Environmental Awareness & Enforcement 24. National Parks 25. Markets 26. Sustainability</p>

	<p>27. Major Projects 28. Miscellaneous</p>
Executive Director of Families, Children & Learning	<ol style="list-style-type: none"> 1. Director of Children's Services under section 18 of the Children Act 2004 2. Children and Young People, including joint working arrangements under section 75 of the National Health Service Act 2006 3. Education 4. Children and Young People's Social Services 5. Assistance to Pupils/Students 6. Adult Learning and Supported Employment, including Print & Sign 7. Adult Learning Disability 8. Human Resources Functions – Schools 9. Buildings/Premises 10. Miscellaneous
Executive Director of Health & Adult Social Care	<ol style="list-style-type: none"> 1. Director of Adult Social Services 2. General Adult Social Services 3. Joint working arrangements under section 75 of the National Health Service Act 2006 4. Public Health 5. Coronavirus-related Enforcement Functions 6. Adult Disability 7. Integrated Commissioning 8. Bereavement Services 9. Registration Service 10. Coroners Service
Executive Director of Housing, Neighbourhoods & Communities	<ol style="list-style-type: none"> 1. Authorised and unauthorised sites and encampment 2. Neighbourhood Renewal 3. Housing Related Support Services 4. Housing 5. Emergency Planning 6. Safer Communities 7. Environmental Health 8. Licensing and Registration 9. Trading Standards 10. Communities 11. Libraries 12. Customer Services, including Digital First 13. Prevent Duty 14. Safety at Sports grounds

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

(d) **Authorisation.** Under the Council's Scheme of Delegation to Officers

in Part 6 of the Constitution the powers delegated to the Officers listed above may be exercised by other Officers reporting to those Officers.

10.03 Functions of the Chief Executive

- (a) **Discharge of functions by the Council.** The Chief Executive will report to Full Council and/or the Strategy, Finance & City Regeneration Committee as they consider appropriate on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- (b) **Proper officer for access to information.** The Chief Executive will ensure that there are arrangements in place for decisions, together with the reasons for those decisions and relevant Officer reports and background papers to be made publicly available as soon as possible.
- (c) **Restrictions on functions.** The Chief Executive, as the Head of Paid Service, may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

10.04 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the Full Council if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Audit and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit & Standards Committee.
- (d) **Code of Conduct for Members.** The Monitoring Officer will ensure that all allegations of breaches of the Code of Conduct for Members are dealt with under the approved procedures.
- (e) **Conducting investigations.** When necessary, the Monitoring Officer will conduct investigations into allegations of breaches of the Code of Conduct for Members and issue reports to the Standards Panel to assist the Standards Panel in determining whether or not the Code of Conduct for Members has been breached.

- (f) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members.

- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer.

10.05 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take financial decisions, maladministration, financial impropriety, probity to all Members and will support and advise Members and Officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will be responsible for providing financial information to the media, members of the public and the community where appropriate.

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

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

10.07 Conduct

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

10.08 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 7.6 of the Constitution.

ARTICLE 11 – DECISION MAKING

11.01 Responsibility for decision making

The Council will issue and keep up to date a record of which individual or function within the Council has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 4 and 6 of this Constitution (Scheme of Delegations to Committee and Sub-Committees and Scheme of Delegation to Officers).

11.02 Principles of decision making

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 (the authority will give particular consideration to the implications for human rights of any proposals at an early stage in the decision making process);
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes.

11.03 Decision making by Full Council

Decisions reserved to Full Council relating to the functions listed in Part 3 of the Constitution will be made by the Full Council and may not be not delegated.

Subject to Article 5, the Full Council meetings will follow the Council Procedure Rules set out in Part 3 of this Constitution when considering any matter.

11.04 Decision making by Health Overview and Scrutiny Committee

Health Overview and Scrutiny Committee will follow the Health Overview and Scrutiny Committee Procedure Rules set out in Part 5 of this Constitution when considering any matter.

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

Subject to Article 11.07, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 3 of this Constitution as apply to them.

11.06 Decision making by Council bodies acting as tribunals or in partnership with other bodies

The Council, a Committee/Sub-Committee or an Officer:

- (a) 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.
- (b) acting or meeting with any other body pursuant to any arrangements under section 75 of the National Health Service Act 2006, section 10 the Children Act 2004, the Health and Social Care Act 2012 or any other partnership arrangements will follow any proper procedures which have been agreed with that body for those arrangements.

ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 7 of this Constitution.

12.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 7 of this Constitution.

12.03 Legal proceedings

The Executive Director of Governance, People & Resources 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 Executive Director of Governance, People & Resources considers that such action is necessary to protect the Council's interests.

12.04 Seal of the Council

- (a) The common seal of the Council shall be kept in a safe place in the custody of the Executive Director of Governance, People & Resources.
- (b) The common seal of the Council shall be affixed to a document only on the authority of:
 - (i) a resolution of Full Council;
 - (ii) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
 - (iii) a decision by Full Council, or by a Committee, Sub-Committee or Officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.
- (c) The affixing of the common seal shall be attested by the Monitoring Officer, the Executive Director of Governance, People & Resources, the Assistant Director Legal and Democratic Services, the Head of Commercial Law or a Senior Lawyer of the Council or other Solicitor authorised by the Executive Director of Governance, People & Resources. An entry of every sealing of a document shall be made, and numbered consecutively, in a book kept for the purpose, and shall be signed by the person who shall have attested the seal.

12.05 Authentication of documents

Without prejudice to the powers delegated to the Monitoring Officer and the Executive Director of Governance, People & Resources under the Scheme of Delegation to Officers, where any document is necessary or incidental to any legal procedure or proceedings on behalf of the

Council, it may be signed by the Monitoring Officer, Executive Director of Governance, People & Resources, the Assistant Director Legal and Democratic Services, the Head of Commercial Law, a Senior Lawyer of the Council or other person authorised by the Monitoring Officer.

ARTICLE 13 - REVIEW AND REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

13.01 Duty to monitor and review the Constitution

The Strategy, Finance & City Regeneration Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Chief Executive and the Monitoring Officer will report to the Committee from time to time on the operation of the Constitution.

13.02 Protocol for monitoring and review of the Constitution

A key role for the Chief Executive and 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 officers may:

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with them by Members, officers, the public and/or other relevant stakeholders;
- (d) compare practices in the Council with those in other comparable Local Authorities, or national examples of best practice.

13.03 Changes to the Constitution

- (a) **Approval.** Subject to (b) and (c) below changes to the Constitution will only be approved by Full Council after consideration of the proposal by the Strategy, Finance & City Regeneration Committee, the Audit & Standards Committee, the Chief Executive, or the Monitoring Officer.
- (b) The changes described in the left-hand column of the table below may be made by the person or body mentioned in the right-hand column of the table.

- | | | |
|------|--|---|
| (i) | The establishment or abolition, or any change(s) to the terms of reference of, any Sub-Committee, Advisory Body, permanent Member Working Group or Joint Committee | Strategy, Finance & City Regeneration Committee |
| (ii) | Delegation of functions of a Committee to an existing Sub-Committee | Strategy, Finance & City Regeneration Committee or the relevant Committee |

- | | | |
|--------|---|--|
| (iii) | Changes to the Scheme of Delegation to Officers | Strategy, Finance & City Regeneration Committee |
| (iv) | Delegation of powers from a Committee or Sub-Committee to an Officer | The relevant Committee or Sub-Committee |
| (v) | Access to Information Procedure Rules | Executive Director of Governance, People & Resources |
| (vi) | Financial Regulations and Standard Financial Procedures | Chief Finance Officer |
| (vii) | Officer Employment Procedure Rules | Executive Director of Governance, People & Resources |
| (viii) | Protocol for Public Representations at Planning Committee | Planning Committee |
| (ix) | Criteria for Planning Committee Site Visits | Planning Committee |
| (x) | Forms for declaration of interests and for declaration of gifts and hospitality under the Code of Conduct for Employees | Executive Director of Governance, People & Resources |
| (xi) | Protocol for Public Questions at Committees and Sub-committees | Executive Director of Governance, People & Resources |
| (xii) | Code of Corporate Governance | Audit & Standards Committee |
- (c) The Monitoring Officer may make consequential amendments to the Constitution to give effect to a decision of Full Council or other body authorised to change the Constitution under this Article.

13.04 Suspension of the Constitution

The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended in accordance with paragraph 1.7 of those Rules.

13.05 Interpretation

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 Full Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

13.06 Publication

- (a) The Executive Director of Governance, People & Resources will give a printed copy of this Constitution to each Member of the Authority upon delivery to them of that individual's declaration of acceptance of office.
- (b) The Executive Director of Governance, People & Resources will ensure that copies are available for inspection at Council offices, libraries 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 Executive Director of Governance, People & Resources will ensure that the summary of the Constitution is published online and is updated as necessary.

ARTICLE 14 – ROLE AND POWERS OF COMMITTEE AND SUB-COMMITTEE CHAIRS

14.01 Appointment and general Role

- (a) Council Procedure Rules 20 permits the Council to appoint, from amongst its voting Members, Chairs of Committees and Sub-Committees. Chairs are normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Chair in any particular case, the Chair is elected by the Committee or Sub-Committee. Council Procedure Rule 20.5 bars any Member of the Council from being Chair of more than one Committee without the permission of the Council. The Council has an aspiration of ensuring that at least 50% of its Chairs are women.
- (b) Annual appointments made by the Council usually include one or more Deputy Chair for each Committee and Sub-Committee. Deputies are generally able to exercise the powers vested in their Chairs if the Chairs are unavailable.
- (c) As further explained in paragraphs 14.03 and 14.04 below, the role of Chair has some aspects which are formally recognised by law and relate to the conduct of meetings. The Chair is usually, in practice, a lead Member in a particular area of the Council's work. Paragraph 14.02 outlines the way Chairs are expected to fulfil their roles.

14.02 Fulfilling the Role of Chair

The Council expects that its Chairs will:-

- have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee or Sub-Committee which they chair;
- lead in the development of the work of the Committee or Sub-Committee which they chair, also taking into account the wider vision, such as corporate, cross-service and partnership issues;
- lead in service delivery and the implementation of policies approved by the Council where these relate to the Committee or Sub-Committee which they chair;
- be the spokesperson for the Committee or Sub-Committee which they chair;
- meet regularly to progress the Committee's or Sub-Committee's objectives with Deputy Chairs, Opposition Spokespersons, Officers, and as appropriate other people, groups and organisations;

- represent and pursue the interests of the Committee or Sub-Committee which they chair in the community and if appropriate at regional and wider levels;
- in accordance with Council's Constitution and the provisions summarised at paragraphs 14.03 and 14.04 below, ensure that:
 - (1) the meetings of the Committee or Sub-Committee which they chair are properly conducted and
 - (2) reports of proceedings are forwarded on as necessary, for example to Full Council.
- support the performance of the Council's overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;
- be a promoter and upholder of:
 - (1) equalities throughout Brighton & Hove - particularly the Council's equalities policies;
 - (2) high standards of ethical conduct by the Council's Members and Officers – particularly the Council's Code of Conduct for Members.

14.03 Legal powers and Duties

- (a) The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council's Procedure Rules, which are standing orders made under powers in the 1972 Act. For any eventuality not covered in the legislation or the Council Procedure Rules, it may be possible to turn to the body of common law which the Courts have developed in relation to meetings.
- (b) The following are specific functions which a Chair has under the Local Government Act 1972:-
 - a power to exercise a second (casting) vote in the event of an equality of votes on any matter;
 - a duty to sign the minutes of the previous meeting;
 - a power to agree the addition of a late item of business to the agenda, if the Chair is of the opinion that it should be considered at the meeting as a matter of urgency.
- (c) To help the Committee or Sub-Committee which they chair make effective decisions, Chairs will not only ensure that the procedural rules

applying to their Committee or Sub-Committee are observed, but also that any decisions made are sound at law. With assistance from Officers as necessary, Chairs will ensure that the Committee or Sub-Committee (1) observes any particular legal duties relevant to a proposed decision and (2) has regard as necessary to any general duties such as:-

- best value;
- compliance with the Human Rights Act 1998;
- equalities;
- the general fiduciary duties to its Council Taxpayers to act with financial prudence.

- (d) Finally, the Chair will ensure that the Committee or Sub-Committee reaches its decisions rationally, taking into account relevant factors and disregarding those which are irrelevant.

14.04 Powers and Duties under the Council's Constitution

Under the Council's Constitution, the role and powers of Chairs are recognised in a number of ways, including the following:-

- (a) Appointment as Chair: - Under Council Procedure Rule 20.1 Chairs may be appointed at the Council's annual general meeting.
- (b) Settling the Agenda: - Under the Council Procedure Rules 23.2 and Council Procedure Rule 23.6, Chairs have power to direct that items of business be placed on the agenda of their Committee or Sub-Committee and the order in which business is arranged on the agenda.
- (c) Conducting the meeting: - Under the Council Procedure Rules (and in particular Council Procedure Rule 27) the Chair controls the proper conduct of meetings of their Committee or Sub-Committee. The Chair has discretion to depart from the formality of the Council Procedure Rule 16 and such discretion is regularly exercised.
- (d) Involvement at Urgency and other Sub-Committees:- Council Procedure Rule 22 makes Chairs ex-officio members of any Urgency Sub-Committee of the Committee they chair and permit them to attend and speak at any meeting of a Sub-Committee appointed by their Committee.
- (e) Reserve Power to call special Meetings: - Council Procedure Rule 19.2 permits a Chair to call a special meeting of their Committee or Sub-Committee at any time.
- (f) Reporting to Full Council: - It usually falls to Chairs to present any reports which need approval of Full Council under Council Procedure Rule 24.2.

- (g) Duty to be available for Questions: - Council Procedure Rule 9.2 permits any Member of the Council to give written notice and ask questions of any Chair at Full Council meetings. Council Procedure Rule 9.17 permits a Chair to be questioned about any report which they are putting before the Council.
- (h) Right to be consulted: - Under the Council's Scheme of Delegations to Officers, a number of delegated powers can only be exercised by officers after consultation with the relevant Chair.
- (i) Special Responsibility Allowance: - In recognition of the role played by Chairs (which role may be carried out on a jobshare basis if two individuals rather than one are appointed to it), Schedule 1 of the Council's Members' Allowances Scheme allocates differing levels of special responsibility allowance payment to Chairs, the levels of payment being based on the levels responsibility.

ARTICLE 15 – ROLE AND POWERS OF THE LEADER OF THE COUNCIL

15.01 Appointment and general Role

- (a) Council's Procedure Rule 18.10 permits the Council to appoint, from among its voting Members, a Leader of the Council. The Leader of the Council is normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Leader of the Council, the Leader of the Council of the largest political group becomes the Leader of the Council.
- (b) Usually the annual appointments made by the Council include one or more Deputy Leaders who are generally able to exercise the powers vested in the Leader of the Council if they are unavailable.
- (c) As further explained in paragraphs 15.03 and 15.04 below, the role of the Leader of the Council is not a formal legal role, but they are in practice the executive head of the Council, and the Member with greatest responsibility for driving forward the broad policies of the Council. Paragraph 15.02 outlines the way the Leader is expected to fulfil their role.

15.02 Fulfilling the Role of Leader of the Council

The Council expects that the Leader of the Council will:-

- be the political (rather than ceremonial) leader of the Council, for the benefit of all the city of Brighton & Hove's communities - its citizens, taxpayers, businesses, public bodies and other public authorities;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in the development of the Council's vision for the future, policy framework, budgets and strategies;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in service delivery and the implementation of policies approved by the Council;
- represent and pursue the interests of the Council in the community and at international, national and regional levels;
- act as Chair of the Strategy, Finance & City Regeneration Committee, fulfil the role of Leader of the Council at full Council meetings and carry out as necessary the other functions mentioned at paragraph 15.04 below;
- lead in providing policy direction and guidance to the Chief Executive and Chief Officers;

- meet regularly to progress the Council’s objectives with Committee Chairs, the Chief Executive and Chief Officers, Leaders of other political groups at the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc.;
- support the performance of the Council’s overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and Officers;
- be a promoter and upholder of:
 - (1) equalities throughout the city of Brighton & Hove - particularly the Council’s equalities policies;
 - (2) high standards of ethical conduct by the Council’s Members’ and officers – particularly the Council’s Code of Conduct for Members.

15.03 Legal Powers and Duties

As the Council operates a Committee System, the Leader has no formal legal powers and duties vested in them under the Local Government Act 1972 or the Local Government Act 2000.

However, in practice, all Local Authorities need to appoint Leaders and each Leader of the Council will hold the most significant elected Member role within their authority. As described in paragraph 15.02 above, the Council’s Leader will be the Council’s political/elected head, the focus for policy direction and community development, and also the chief advocate and ambassador for the whole of the city of Brighton & Hove.

15.04 Powers and Duties under the Council’s Constitution

Under the Council’s Constitution, the Leader of the Council is recognised in the following ways:-

- Chairing Strategy, Finance & City Regeneration Committee: - The Leader of the Council will normally be appointed at the Council’s annual general meeting as Chair of the Council’s most senior Committee, the Strategy, Finance & City Regeneration Committee (if the Council does not appoint the Chair, it would fall to the Committee to make an appointment and it would be expected that the Leader would be appointed.) This Committee is responsible for the Council’s broad policies and its finances.

- Power to attend and speak:- Council's Procedure Rule 18.11 permits the Leader of Council to attend and speak at any meeting of a Committee or Sub-Committee of the Council but they can only vote if appointed as a voting member of the Committee or Sub-Committee.
- Reserve Power to call extraordinary Council Meetings:- Council Procedure Rule 4.3 permits the Leader of the Council, if neither the Mayor nor the Deputy Mayor is available, to call extraordinary meetings of Full Council.
- Duty to be available for Questions:- Council's Procedure Rule 9.1 permits any Member to give written notice and ask questions of the Leader of the Council at Full Council meetings.
- Involvement in Major Emergencies:- The Leader of the Council must be informed if an emergency is likely to be or has been declared under the Council's emergency planning or business continuity procedures. Officers also must consult the Leader of the Council before they take any emergency action which would otherwise need Committee authority.
- Special Responsibility Allowance: - In recognition of the role played by the Leader, Schedule 1 of the Council's Members' Allowances Scheme allocates the highest special responsibility allowance payment to the joint role of Leader and Chair of Strategy, Finance & City Regeneration Committee.
- Power to designate individual Members as Lead Members:- Where the Leader of the Council considers it would be beneficial for a particular area or function to have a dedicated Lead Member, the Leader of the Council may appoint a Lead Member to that area or function. Such appointments would normally be a member of the party with the largest number of seats in order to ensure maximum co-ordination with the work of the Chairs of policy Committees. The Council has an aspiration of ensuring that at least 50% of its designated Lead Members are women.