

# **PART 2**

# **Articles of the Constitution**

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## ARTICLE 1 - **The Constitution**

### **The Constitution**

- 1.1 This Constitution, and all its appendices, is the Constitution of the Borough Council of Epsom and Ewell (hereafter referred to as 'the Council').

### **Powers of the Council**

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

### **Purpose of the Constitution**

- 1.3 The purpose of the Constitution is to:-
- (a) Enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
  - (b) Support the active involvement of citizens in the process of local authority decision-making;
  - (c) Help Councillors represent their constituents more effectively;
  - (d) Enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
  - (e) Create a powerful and effective means of holding decision-makers to public account;
  - (f) Ensure that no one will scrutinise a decision in which he or she was directly involved;
  - (g) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
  - (h) Provide a means of improving the delivery of services to the community.

### **Interpretation and Review of the Constitution**

- 1.4 Where the Constitution permits the Council to choose between different courses of action, the Council will seek to exercise that choice in the way that it thinks will most closely achieve the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## ARTICLE 2 - **Members of the Council**

### **Composition and Eligibility**

- 2.1 **Composition:** The Council comprises 38 Councillors, (otherwise called Members). Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- 2.2 **Eligibility:** To be eligible to hold the office of Councillor, one for the four criteria must be met: registered as an elector in the Borough or living, working or owning land in the Borough.

### **Election and Terms of Members**

- 2.3 **Election:** The regular election of Members will be held normally on the first Thursday in May (or whatever date is fixed by law) every four years (from 2003).
- 2.4 **Terms:** 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.

### **Roles and Functions of all Councillors**

- 2.5 **Key Roles:** All Members will:
- (a) Collectively be the ultimate policy-makers and carry out the principal strategic and corporate management functions, taking a Borough-wide view;
  - (b) Engage with and represent their communities, whose views they will bring into the Council's decision-making process and whose involvement and participation they will actively encourage;
  - (c) Represent the interests of their ward and where necessary balance different interests;
  - (d) Deal with individual casework and act as an advocate for constituents with their particular concerns or grievances in so far as they relate to the functions and responsibilities of the Council;
  - (e) Be involved in decision-making;
  - (f) Be available to represent the Council on other bodies;
  - (g) Maintain the highest standards of conduct and ethics, showing respect for fellow Members, officers and the community.
- 2.6 **Rights and Duties:** Members will:-

- (a) 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;
- (b) Not make public any 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;
- (c) No Member can issue an order for works to be carried out by or on behalf of the Council and nor can he/she, unless specifically authorised to do so, claim any right to inspect or enter any land.

For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.7 **Job Description:** Members are volunteers and bring a wide variety of skills and experience to the job of being a councillor. The multi-member ward structure of the Council provides the opportunity for individual councillors to specialise and use their particular skills and experience, working as part of a team for the benefit of the local community they represent, as well as the wider interest of the Borough as a whole.

2.8 However, there is a core role, which the community and the Council as a whole expect of all Members. This job description sets out that role under the six headings below:

#### 2.8.1 Representing the local Ward Community

- (a) Seeking, and listening to, the views of individuals, voluntary groups and businesses within the ward and representing local ward community views;
- (b) Balancing conflicting views and expectations to present a considered view to the Council or other agencies which have an impact on that community;
- (c) Informing the local community about the work of the Council and helping it to take an informed view of the options that may be before the Council.

#### 2.8.2 Representing Individuals and Groups

Whenever appropriate:-

- (a) Helping individuals, groups and businesses, to secure the appropriate services of the Council;
- (b) Helping individuals and groups to articulate their needs and have their case or their complaint heard, and when appropriate, presenting their case for them;

### **2.8.3 Representing the Whole Community**

- (a) To take an overview of the needs and views of the whole community - residents, voluntary groups and businesses together;
- (b) To balance long and short term needs and to promote the long term economic, social and environmental well being of the Epsom and Ewell community as a whole.

### **2.8.4 Representing the Council**

- (a) Acting as an ambassador of the Council in the wider community;
- (b) Where appointed to a particular position as the Council's representative on other public or voluntary bodies, to represent and secure the Council's policies through influence and formal partnership working in those bodies;
- (c) Building and maintaining relationships with the Council's partners.

### **2.8.5 A Local Politician**

- (a) To promote and represent the values and manifesto on the basis of which he/she has been elected in the decision making arrangements of the Council;
- (b) To support any political group or party to which he/she may belong in order to secure and maximise its support in local and other appropriate democratic elections.

### **2.8.6 Managing the Council and its Services (The Committee Role)**

- (a) As a member of the full Council, to set the Corporate Plan and to monitor the performance of its Committees;
- (b) As a member of a Council Committee, Sub Committee or panel, to manage the provision of the Council's services to the Community, in accordance with the Council's aims and objectives set out in its Corporate Plan;
- (c) To review the Council's performance in the provision of its policies and services and identify opportunities to provide better value to the community.

## **Conduct**

- 2.9 Members will at all times observe the Members' Code of Conduct and will have regard to other documents such as the Codes of Conduct for Planning and Licensing matters and the Member/Officer Protocol set out in Part 5 of this Constitution.

- 2.10 The Council is required to maintain and update a Register of Interests of its Members. The Register is available for public inspection at the Council's offices and on the Council's website.

### **Allowances**

- 2.11 Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## **ARTICLE 3 - Citizens and the Council**

### **Citizens' Rights**

- 3.1 Citizens rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution, subject to which, Citizens have the following rights:
- (a) **Voting and Petitions.** Citizens on the Register of Electors for the Borough have the right to vote in elections and to sign a petition to request a referendum for a form of Constitution with an elected Mayor. (A petition signed by 5% of those on the Register of Electors requires the Council to hold such a referendum).<sup>1</sup>
- (b) **Information.** Citizens have a right to:-
- Attend meetings of the Council and its Committees, Sub Committees and Advisory Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - See reports and background papers, and any records of decisions made by the Council;
  - Inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to;-
- Present petitions to the Council
  - Ask a question at committee meetings in accordance with agreed procedures;
  - Ask a supplementary question at the meeting provided it arises from the response to the original question.

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<sup>1</sup> The power to create directly elected mayors of local authorities was introduced in England and Wales by the Local Government Act 2000. Adjustments were made by the Local Government & Public Involvement in Health Act 2007 and the Localism Act 2011.

- (d) **Complaints.** Citizens have the right to complain to the:
- Council itself under its complaints scheme;
  - Local Government Ombudsman after using the Council's own complaints scheme;
  - Monitoring Officer about a breach of the Members' Code of Conduct.
  - Information Commissioner about a breach of the Council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2005.

### **Citizens' Responsibilities**

- 3.2 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. The Council will in appropriate cases be prepared to take action to protect its own rights and to support such action by its Members or Officers.

## **ARTICLE 4 - The Council**

### **The Role of the Council**

- 4.1 To act as a forum where all Members can meet on a regular basis, act as a focus for the Council, discuss and debate issues of importance to the Borough and decide the Council's budgetary and policy framework.

### **Policy Framework:**

- 4.2 The policy framework means plans and strategies, set out below which form the Policy Framework (subject to any variation that may from time to time be made in response to legislation). Any change to the Framework which is necessary as a result of changes in legislation will be incorporated into this Constitution by the Monitoring Officer without the need for the agreement of Full Council.
- 4.3 The policy framework includes the following plans and strategies:-
- (a) Mandatory (required by law)
- Local Development Framework and Local Area Action Plans <sup>2</sup>
  - Statement of Licensing Policy <sup>3</sup>

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<sup>2</sup> Section 15 Planning and Compulsory Purchase Act 2004

<sup>3</sup> Section 5 -Licensing Act 2003



- Statement of Gambling Policy<sup>4</sup>
  - Crime & Disorder Reduction Strategy<sup>5</sup>
  - Pay Policy Statement
- (b) Discretionary (as recommended by the Secretary of State)
- Corporate Plan
- (c) Discretionary (as decided by Full Council to be adopted as such)
- Housing Strategy
  - Equalities Statement
  - Health & Wellbeing Strategy

## **Budget.**

4.4 The Council has responsibility for the budget framework which includes:-

- (a) the allocation of financial resources to different services and projects;
- (b) any proposed contingency funds;
- (c) setting the Council Tax;
- (d) decisions relating to the control of the Council's borrowing requirement;
- (e) the control of capital expenditure;
- (f) the setting of limits to the amounts by which committees and officers can transfer expenditure between different budget heads (virement).

## **Functions of the Council**

4.5 Only full Council will exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) approving and adopting the Policy Framework, the Budget and the annual Council tax requirements, and any application to the Secretary of State in respect of any housing land transfer;
- (c) making decisions about any matter relating to the discharge of a function covered by the policy framework or budget where a decision would be contrary to the policy framework or contrary or not wholly in accordance with the budget;
- (d) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them

<sup>4</sup> Section 349 Gambling Act 2005

<sup>5</sup> Sections 5 & 6 The Crime and Disorder Act 1998

(except for authorised substitutions in accordance with the relevant Rules of Procedure in Part 4 of the Constitution);

- (e) appointing annually the Mayor and Deputy Mayor;
- (f) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (g) creating, amending or dissolving committees (including joint committees) of the Council and determining the terms of reference of such committees and appointing members to serve on its committees;
- (h) delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (i) adopting a Members' Allowance Scheme;
- (j) changing the name of the Borough;
- (k) conferring the title of Honorary Alderman or Honorary Freeman;
- (l) confirming the appointment, redundancy or early retirement of the Chief Executive;
- (m) determining any delegation to officers which does not fall within the purview of any committee;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (o) determining the level of disciplinary action or dismissal of specified statutory senior officers;
- (p) appointing the Independent Person or a Panel of such;
- (q) adopting the Members' Code of Conduct and the arrangements for dealing with complaints;
- (r) to consider those matters referred to it from time-to-time by scrutiny committees and by other Council committees;
- (s) to consider petitions which are referred to Full Council under the Petition Scheme;
- (t) all other matters which by law must be reserved to Council.

## **Council Meetings**

4.6 There are three types of Meetings of the full Council:

- (a) the Annual Meeting;

- (b) Ordinary Meetings;
- (c) Extraordinary Meetings.

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

## ARTICLE 5 - **The Mayor**

### **Role and function of the Mayor**

- 5.1 There are two distinct facets to the Officer of Mayor: ceremonial and civic, because the Mayor is:
  - (a) the First Citizen of the Borough of Epsom & Ewell, and
  - (b) the Chair/ Chairman of Epsom & Ewell Borough Council.
- 5.2 The Mayor, and in his/her absence the Deputy Mayor, will be the first citizen of the Borough and have the following roles and functions, to:-
  - (a) uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - (b) preside impartially over meetings of full Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
  - (c) be the representative for the Council, the community and local democracy and to work to ensure that the dignity and impartiality of the Office of Mayor is upheld;
  - (d) ensure that Council meetings are a forum for the debate of matters of concern to the local community;
  - (e) promote public involvement in the Council's activities;
  - (f) attend such civic and ceremonial functions as the Council considers appropriate;
  - (g) promote the Council as a whole and act as a focal point for the community.
- 5.3 Should the Mayor wish, in exceptional circumstances, to take part in debate on an issue before the Council, he/she should vacate the Chair for the whole of that item in favour of the Deputy Mayor.

## ARTICLE 6 - Overview and Scrutiny

### Functions

- 6.1 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 21 of the Local Government Act 2000 and regulations made under Section 32 of the Local Government Act 2000 in relation to the following matters:
- (a) local democracy and the achievement of effective, transparent and accountable decision making by the Council;
  - (b) the Council's budget, the management of its budget, capital programme, revenue borrowing and assets and its audit arrangements;
  - (c) the social, economic and environmental well-being of the Borough;
  - (d) the provision, planning, management and performance of all Council services;
  - (e) the Council's compliance with its duty concerning Best Value, in accordance with the Local Government Act 1999.
- 6.2 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 19 and Schedule 8 of the Police and Justice Act 2006 and regulations made under Section 20 of the Police and Justice Act 2006 in relation to the Crime and Disorder Reduction Partnership.
- 6.3 The functions detailed within sections 6.1 and 6.2 above are discharged by the Council's Audit & Scrutiny Committee.

### Terms of Reference

- 6.4 The terms of reference for the Audit & Scrutiny Committee are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.
- 6.5 Within its terms of reference, the Committee will:
- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (b) make reports and/or recommendations to full Council and/or any Committee in connection with the discharge of any functions;
  - (c) consider any matter affecting the area or its inhabitants,
  - (d) exercise the right to call-in, for reconsideration, decisions made by any policy committee but not yet implemented by any policy committee.

- (e) review and/or scrutinise decisions made or action taken in connection with the discharge by the Crime and Disorder Reduction Partnership of its crime and disorder functions;
- (f) make reports and/or recommendations to full Council and/or any appropriate committee in connection with the discharge of the Crime and Disorder Reduction Partnership functions, providing a copy to the responsible authorities and co-operating persons and bodies of the Crime and Disorder Reduction Partnership;
- (g) consider “councillor calls for action” concerning local crime and disorder matters in accordance with the Councillor Call for Action Protocol.
- (h) make reports and/or recommendations to full Council or any appropriate policy committee in relation to a councillor call for action concerning a local crime and disorder matter, providing a copy to the member concerned and to members of the CDRP as it thinks appropriate

### **Annual reports**

- 6.6 The Audit & Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **Officers**

- 6.7 The Audit & Scrutiny Committee will exercise overall responsibility for the work programme of those officers whose function is wholly to support its work, and of other officers in so far as they support that work.

### **Proceedings of Audit & Scrutiny Committee**

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

## **ARTICLE 7 - Policy and Regulatory Committees**

### **Policy Committees**

- 7.1 Full Council will appoint four policy committees as follows:
- (a) Community & Wellbeing
  - (b) Environment & Safe Communities
  - (d) Strategy and Resources

(e) Licensing and Planning Policy

7.2 The functions attributed to those committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

### **Regulatory Committees**

7.3 Full Council will appoint a Planning Committee, which will be responsible for dealing with planning applications and related matters.

7.4 The Licensing & Planning Policy Committee will appoint Licensing (Hearings) Sub Committees to be responsible for issuing premises and personal Licences (the membership of which must be drawn from Members of the Licensing & Planning Policy Committee) and a Licensing (General) Sub Committee for purpose of hearing appeals on both premises and vehicle licences (the membership of which is not restricted to the membership of the Licensing & Planning Policy Committee).

7.5 The functions of these Committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

## **ARTICLE 8 - The Standards & Constitution Committee**

### **Standards & Constitution Committee**

8.1 The Council has chosen to appoint a Standards & Constitution Committee in accordance with the Localism Act 2011.

### **Composition**

8.2 The Standards & Constitution Committee will be politically balanced. Full Council will appoint an independent person or a panel of such, to advise it and any member when matters of conduct arise.

### **Roles and Functions**

8.3 The Standards & Constitution Committee will have the functions set out in its Terms of Reference (see Part 3: Responsibility and Functions).

### **Arrangements for dealing with standards allegations under the Localism Act 2011**

8.4 All hearings and assessments of complaints against Members will be conducted in accordance with the current legal requirements and (subject to that) the provisions set out in Part 4 of this Constitution.

## ARTICLE 9 - Area Committees

### Area Committees

- 9.1 The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision making.
- 9.2 In the event that the Council decides after consultation to create any Area Committee (s) it will include, within a scheme approved for that purpose, provision for their form, composition and function; for the avoidance of conflicts of interest through membership of other committees; and for access to information.

## ARTICLE 10 - Joint Arrangements

### Arrangements to promote Wellbeing

- 10.1 The Council, in order to promote the economic, social or environmental wellbeing of its area may, subject to the other provisions of this Constitution:-
- (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or coordinate the activities of any person or body;

and

- (c) exercise on behalf of that person or body any functions of that person or body.

### Joint Arrangements

- 10.2 The Council may establish joint arrangements with one or more local authorities to exercise functions of any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- 10.3 Details of any joint arrangements, including any delegations to Joint Committees, will be found in Part 3 of this Constitution.

### Access to Information

- 10.4 The Access to Information Rules in Part 4 of this Constitution apply.
- 10.5 If the Joint Committee contains Members who are not on the executive of any participating local authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## Delegation to and from other local authorities

- 10.6 The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority and also accept such a delegation from another local authority.
- 10.7 The decision whether or not to delegate functions to another local authority or to accept such a delegation from another local authority shall be reserved to the Council.

## Contracting Out

- 10.8 The Council may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994.
- 10.9 The Council may also arrange for other functions to be carried out by a contractor, 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.

## ARTICLE 11 - Officers

**NOTE:** *'Officers' means all employees and staff engaged by the Council to carry out its functions*

## Management Structure

- 11.1 **General.** The Council may engage such officers as it considers necessary to carry out its functions.
- 11.2 **Directors.** The Council will engage persons for the following posts, who will be designated Directors:
- (a) Chief Executive, designated the Head of Paid Service
  - (b) Chief Operating Officer
- 11.3 The functions and responsibility of the Chief Executive and Head of Paid Service are:



Post	Areas of Responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all political groups and individual Members</p> <p>Together with the Monitoring Officer, 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>

11.4 **Head of Paid Service, Chief Finance Officer and Monitoring Officer.** The Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service (Local Government & Housing Act 1989, Section 4)
Chief Legal Officer	Monitoring Officer (Local Government & Housing Act 1989, Section 5)
Chief Finance Officer	Chief Finance Officer (Local Government Act 1972, Section 151; Local Government Finance Act 1988)

The posts will have the functions described in Article 11.5 to 11.16 below.

11.5 **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. This is set out at Part 7 of this Constitution.

### Functions of the Chief Executive (Head of Paid Service)

11.6 **Discharge of Functions by the Council.** The Head of Paid Service has overall responsibility for the management and coordination of the employees appointed by the Council. They are required to report to the Council as appropriate with regard to the way in which the overall discharge by the Council of its different functions is coordinated, the number and grade of officers proposed for the discharge of functions and the organisation of officers.

## Functions of Chief Finance Officer (Section 151 Officer)

- 11.7 **Ensuring lawfulness and financial prudence of decision making.** After consulting the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 11.8 **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 11.9 **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.
- 11.10 **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.
- 11.11 **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

## Functions of the Chief Legal Officer (Monitoring Officer)

- 11.12 **Maintaining an up-to-date Constitution.** The Monitoring Officer will ensure that an up-to-date version of the Constitution is maintained and will ensure that it is available to Members, staff and the public.
- 11.13 **Ensuring lawfulness and fairness of decision making.** After consulting the Chief Executive and Chief Finance Officer, the Monitoring Officer has a duty, by virtue of Section 5 of the Local Government and Housing Act 1989, to report to the Council if he or she considers 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 by the Council.
- 11.14 **Supporting the Standards & Constitution Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Constitution Committee.

- 11.15 **Conducting Investigations.** The Monitoring Officer will conduct investigations into allegations against Members made to the Council and arrange, if necessary, for the Standards & Constitution Committee to receive reports or recommendations in respect of them.
- 11.16 **Proper Officer for Access to Information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- 11.17 **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 and will support and advise Members and officers in their respective roles.

#### **Provision of sufficient resources to the Chief Executive, Chief Finance Officer and Monitoring Officer.**

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

#### **Conduct**

- 11.19 Officers will comply with the Officers' Code of Conduct and other relevant Codes and Protocols, in particular, the Member/Officer Protocol set out in Part 5 of this Constitution.

#### **Employment**

- 11.20 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **ARTICLE 12 - Decision Making**

#### **Responsibility for decision-making**

- 12.1 The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 in this Constitution.

#### **Principles of Decision Making**

- 12.2 All decisions of the Council will be made in accordance with the following principles:-
- (a) the decision should not be in conflict with the Council's Key Priorities and strategies;

- (b) the decision complied with Council Standing Orders, Contract Standing Orders and Financial Regulations;
- (c) the decision has a clear desired outcome and that any agreed action is proportionate to the outcome;
- (d) the decision has taken account of professional advice from officers, including the Monitoring Officer and the Chief Financial Officer and/or appropriate qualified consultants;
- (e) the decision has taken account of the provisions of the human rights legislation;
- (f) the decision was taken in an open and transparent manner unless otherwise legally permitted and unless the circumstances require the matter to be kept confidential;
- (g) the decision was taken after due consultation and, where appropriate, the views of the local ward members have been sought

### **Decision making by the Council**

- 12.3 Subject to Article 12.6 the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **Decision making by Audit & Scrutiny Committee**

- 12.4 The Audit, Crime & Disorder and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **Decision making by other Committees and Sub Committees**

- 12.5 Subject to Article 12.6, other Council Committees and Sub Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution which apply to them.

### **Decision making by Council bodies acting as Tribunals**

- 12.6 The Council, a committee, a sub-committee 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.

## ARTICLE 13 - Finance, Contracts and Legal Matters

### Financial Management

- 13.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

### Contracts

- 13.2 Every contract made by the Council will comply with the Financial Standing Orders (including Standing Orders relating to Contracts) set out in Part 4 of this Constitution.

### Legal Proceedings

- 13.3 The Chief Legal Officer 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 he/she considers that such action is necessary to protect the Council's interests.

### Custody of Seal

- 13.4 The Common Seal of the Council shall be kept in some safe place and shall be secured by a lock and the keys shall be kept in some safe place by the Chief Legal Officer.

### Sealing of Documents

- 13.5 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of a committee or officer to which the Council has delegated its powers in this behalf, but a resolution of the Council (or of a committee or an officer where that committee or officer has the power) authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.
- 13.6 The seal shall be attested, if signed by the Mayor (or Deputy Mayor) then also by an Authorised Officer (namely the Chief Executive or the Chief Legal Officer), or can be attested by a single Authorised Officer (namely the Chief Executive or the Chief Legal Officer) and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person or persons who shall have attested the seal.

## Signature of Documents

- 13.7 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or unless the Council or a committee, or sub-committee to which the Council has delegated its powers, has given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or the Chief Legal Officer.

## ARTICLE 14 - Review and Revision of the Constitution

### Duty to monitor and review the Constitution

- 14.1 The Monitoring Officer will ensure that the operation of the Constitution is monitored and reviewed to ensure that the aims and principles of the Constitution are given full effect and will report to the Council on this at least once every year.

### Changes to the Constitution

- 14.2 **Approval.** Changes to the Constitution will only be approved by full Council after consideration of a proposal from the Standards & Committee (in respect of the Council's Rules of Procedure and matters relating to the ethical framework or as deemed appropriate by the Monitoring Officer), Chief Executive or the Monitoring Officer or by way of Councillors proposing a motion on notice in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.
- 14.3 **Change from alternative arrangements to a form of executive.** If at any time the Council decides to change from alternative arrangements, it must take reasonable steps to consult local electors and other interested persons in the Borough when drawing up proposals.

## ARTICLE 15 - Suspension, interpretation and publication of the Constitution

### Suspension of the Constitution

- 15.1 **Limit to suspension:** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by full Council or committees to the extent permitted within those Rules and the law.

- 15.2 **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 the Council or the relevant Committee 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 Article 1.
- 15.3 **Rules capable of suspension:** The following Rules may be suspended in accordance with Article 15.1:-
- (a) Council Procedure Rules (as specified in those Rules);
  - (b) Financial Procedure Rules;
  - (c) Contract Procedure Rules.

### **Interpretation**

- 15.4 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of full Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1, and to any advice given by the Chief Executive.

### **Publication**

- 15.5 The Chief Executive will ensure each Councillor has access to the Council's Constitution on that individual's declaration of acceptance of office on the Councillor first being elected to the Council.
- 15.6 The Chief Legal Officer will make available copies for inspection at Council offices, and for purchase by members of the local press and the public on payment of a reasonable fee.
- 15.7 The Chief Legal Officer will ensure that the summary of the Constitution is made available, by electronic means, within the Borough and is updated as necessary.

## **ARTICLE 16 - Petition Scheme**

### **Petitions**

- 16.1 The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out how the petition will be administered.

16.2 Paper petitions can be sent to:

Chief Legal Officer  
Epsom and Ewell Borough Council  
The Town Hall  
The Parade  
Epsom  
Surrey  
KT18 5BY

16.3 Petitions can be submitted on line through the on line portal.

16.4 Petitions which satisfy the requirements of the Petition Scheme, can also be presented to a meeting of full Council. There are normally four ordinary meetings every year.

### What are petitions?

16.5 A petition is a communication that is signed by or sent to the Council on behalf of a number of people. There are different types of petitions:

- (a) **Ordinary Petitions:** These are petitions that do not fall within the other two categories set out below and will normally relate to the day-to-day services or facilities provided by the Council. Such petitions must be signed by at least 20 signatories.
- (b) **Petitions for debate:** If a petitions calls for something to be reported to and discussed at a meeting of the full Council, it must contain at least 1,500 signatures
- (c) **Petitions calling for an officer to give evidence:** If a petition calls for an officer to give evidence at a meeting of the Audit & Scrutiny Committee and to answer questions on a specific issue, it must contain at least 800 signatures.

### Petitions not covered by this Scheme

16.6 The following petitions will not be accepted by this Council:

- (a) the subject matter of the petition is deemed likely to cause distress, disruption or irritation without any proper or justified cause;
- (b) petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted;



- (c) the subject matter of the petition relates to a matter upon which legal proceedings are possible;
- (d) the petition relates to an individual member of the community or the personal circumstances of Members or Council employees;
- (e) petitions made under any enactment other than the Local Democracy, Economic Development and Construction Act 2009;
- (f) the subject matter of the petition is about something for which this Council is not responsible or cannot influence;
- (g) petitions about a planning decision, including a development plan document, any matter relating to a licensing decision.

16.7 If the Council decides that a petition does not fall within this scheme, the petition organiser will be informed and given the reason why it is not being accepted.

16.8 In addition, a petition will not normally be considered if it is received within six months of another petition on the same matter. If two or more petitions on the same subject are received at the same time, each will be treated as a separate petition but only the organiser of the first petition received will be invited to address the relevant meeting.

### **Guidelines for submission**

16.9 The Council will accept a petition if it is signed by the required number of people who live, work or study in the Borough. A petition submitted to the Council must include:

- (a) a clear and concise statement covering the subject of the petition;
- (b) what action the petitioners would like the Council to take;
- (c) the name, address and signature of any person supporting the petition.

16.10 Petitions must be accompanied by contact details, including an address for the petition organizer with whom the Council will correspond.

16.11 The contact details of the petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, the Council will contact signatories to the petition to agree who should act as the petition organiser.

16.12 The period immediately before an election or referendum may require the presentation of a petition to Council or a Council meeting to be delayed.

- 16.13 If a petition does not follow the guidelines set out above, the Council will not process the petition but will advise the petition organiser accordingly.

#### **Actions on receipt of petition.**

- 16.14 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition, with an explanation of next steps. It will also be published on the Council's website.
- 16.15 If the action requested by the petition can be taken, confirmation of such will be sent and the petition will be marked as completed and closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and details of the meeting will be sent to the petition organiser. If the petition needs more investigation, the petition organiser will be advised accordingly.
- 16.16 If the petition is about a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.
- 16.17 The Council will not take action on any petition which is considered to be vexatious, abusive or otherwise inappropriate, and reasons for this will be set out in the acknowledgement of the petition.
- 16.18 Petitions received, will be published on the Council's website, except in cases where this would be inappropriate. Whenever possible, the Council will also publish all correspondence relating to the petition (all personal details removed). Signatories to an e-petition, can elect to receive this information by email.

#### **Council's response to petitions**

- 16.19 The Council's response to a petition will depend on what a petition asks for and how many people have signed it but may include one or more of the following:-
- Taking the action requested in the petition
  - Considering the petition at a Council meeting
  - Holding an enquiry into the matter
  - Undertaking research into the matter
  - Holding a public meeting

- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Audit & Scrutiny Committee \*
- Writing to the petition organiser setting out the Council's views about the request in the petition

**\*Note:** *The Audit & Scrutiny Committee is a Committee responsible for scrutinising the work of the Council – in other words it has the power to hold the Council's decision makers to account.*

16.20 If a petition seeks something which a different council or body is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council or body but could involve other steps. In any event, the Council will always notify the petition organizer of the action taken.

### **Full Council debates**

16.21 If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior Council officer to give evidence at a meeting held in public.

16.22 This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting. The Council will decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

### **Officer evidence**

16.23 A petition may ask a senior council officer to give evidence at a meeting held in public about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

- 16.24 If a petition contains at least 800 signatures, the relevant senior officer will give evidence at a meeting held in public of the Council’s Audit & Scrutiny Committee, as appropriate. The senior staff who can be called to give evidence are:
- The Chief Executive
  - Monitoring Officer
  - Chief Operating Officer
  - Chief Finance Officer
  - Any deputies who report directly to those officers
- 16.25 The Audit & Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, the petition organiser will be able to suggest questions to the Chair/Chairman of the committee by contacting the Scrutiny Officer up to three working days before the meeting.

## **E-Petitions**

- 16.26 Petitions can be created and submitted through the Council’s website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide their name, postal address and e-mail address. The petition organiser will also need to decide how long they would like their petition to be open for signatures. Most petitions run for six months but can choose a shorter or longer timeframe, up to a maximum of twelve months.
- 16.27 When an e-petition is created, it may take five working days before it is published online, to enable the Chief Legal Officer to check that the content of the petition is suitable before it is made available for signature. If the petition cannot be published the petition organiser will be advised as to the reasons. The petition organiser will be able to change or re-submit their petition if they wish. The Council will within 10 working days of rejecting a petition publish a summary of the petition and the reason why it has not been accepted will be published under the “rejected petitions” section of the website.
- 16.28 If an e-petition is accepted, the petition organiser will receive an acknowledgment within 10 working days.

- 16.29 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement will also be published on this website.

### **Review of rejected Petition**

- 16.30 If a petition organizer feels that the Council has not dealt with their petition properly, they can request that the Council's Audit & Scrutiny Committee review the steps that the Council has taken in response to the petition. Such request for a review must provide a short explanation of the reasons why the Council's response is not considered to be adequate.
- 16.31 The designated Committee will endeavour to consider the review request within 30 days of receiving it. Should the Committee determine that the petition has not been adequately dealt with, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendation to the appropriate Committee or arranging for the matter to be considered at a meeting of the full Council.
- 16.32 Once the review has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

## **ARTICLE 17 - Champions**

### **Purpose of Member Champions**

- 17.1 The main purpose of Member Champions is to:

- 17.1.1. promote the cause for which they are a champion;
- 17.1.2. support the work of Epsom and Ewell Borough Council.

- 17.2. Member Champions achieve this through:

- 17.2.1. being outward-facing, enthusiastic, and focused on raising the profile of the area they champion;
- 17.2.2. developing in-depth knowledge and understanding of the issue(s) they Champion. using that knowledge to support the relevant Committee Chair(s) and Vice Chair(s);
- 17.2.3. represent their area both within and outside the Council in line with Council policy;
- 17.2.4. engaging relevant stakeholders to include them in the Council's work;
- 17.2.5. acting as an advocate or spokesperson for the Council's business and activities;

- 17.2.6. providing positive support and on occasions constructive challenge to officers in driving forward the Council agenda on relevant issues;
- 17.2.7. acting as the Council's representative on relevant external bodies where appointed to by the Council;
- 17.2.8. encouraging communications and positive action over the issue(s) they represent.

### **Role of Member Champions**

17.3. All Member Champions will have an allocated area of responsibility agreed at the Annual meeting.

17.4. Member Champions are aligned to the themes of the Future 40 Vision:

- Green & Vibrant
- Safe & well
- Opportunity & Prosperity
- Smart & Connected
- Cultural & Creative
- Effective Council

17.5. All Member Champions must act reasonably in their role and recognise and work to the agreed priorities and working practices adopted by the Council. As such the Member Champion must work with and communicate regularly with the relevant Committee Chair(s).

17.6. A Member Champion cannot make decisions and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice. They may however confirm a position as stated in a published policy.

### **Conditions of being a Member Champion**

17.7. A Member Champion can be any member of the Council who is not a Committee Chair.

17.8. If a Member Champion is a member of the Audit and Scrutiny Committee and it conducts a review of the area they champion, they must declare a non-pecuniary interest.

17.9. A Member Champion may be called to provide information to the Audit and Scrutiny Committee and would be expected to attend as requested.

## **Committee Chairs**

17.10. The Chair of Committees will:

- 17.10.1. acknowledge the right of Member Champions to be consulted on matters relating to their area of interest;
- 17.10.2. take full account of any views offered by the Member Champions prior to making decisions relating to their area of interest;
- 17.10.3. co-operate with Member Champions in the formulation of action plans that have been developed with lead officers;
- 17.10.4. consider nominating Champions to represent the Council at relevant conferences/seminar on the subject matter of the Member's interest in accordance with 2.1 above.

## **Allowances**

17.11. Member Champions are not entitled to receive Special Responsibility Allowances.

17.12. Any change to this position would require recommendation by an Independent Remuneration Panel and the approval of Full Council.

## **Term**

17.13. A Member Champion will normally be expected to serve for a minimum 2-year term. This may be extended at the discretion of the Chair of the Majority Group and relevant Policy Committee Chair.

17.14. In year changes and additions (where necessary, and after consultation with the Chair of the Majority Group and relevant Policy Committee Chair) to be appointed at the next available relevant policy committee.