



**HAVANT BOROUGH COUNCIL**

**CONSTITUTION**

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# **PART 1**

## **SUMMARY AND EXPLANATION**

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## Brexit impact

Many of the laws and practices within this Constitution, such as the UK public procurement regime, derive from EU laws, and are therefore impacted by the UK's withdrawal from the EU.

As of 31 January 2020, the UK is no longer an EU Member State and its relationship with the EU is governed by the Withdrawal Agreement, which came into effect on 1 February 2020. The Withdrawal Agreement contains transitional arrangements, which provide for a transition period until 31 December 2020. During this period, the UK continues to be treated as a Member State for current purposes.

This Constitution will be kept under review during the implementation period and updated accordingly. For further guidance, please [contact](#) the Monitoring Officer.

## PART 1 – SUMMARY AND EXPLANATION

### 1 The Council's Constitution

- 1.1 This document is the Council's Constitution. It contains details of how the Council works, how decisions are made and where to find information about the Council.
- 1.2 Havant Borough Council is a non-metropolitan borough authority with statutory responsibility for delivering services within the Borough of Havant. The Council was incorporated on 1 April 1974 following the Local Government Act 1972.
- 1.3 Havant Borough Council (usually referred to in this Constitution as simply "the Council") has adopted a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.4 Generally speaking the Council will exercise its powers and duties in accordance with the Constitution, unless the law requires the Council to do something else or the relevant provisions are waived.
- 1.5 Hyperlinks to other documents/sites are included where this will be helpful. All hyperlinks are coloured [blue like this](#).
- 1.6 Defined terms are included in the [Glossary](#) in **Part 6**. Terms in the Glossary and Parts of the Constitution are shown in **bold like this**.

### 2 What Is In The Constitution?

- 2.1 The Constitution has six parts:

**Part 1** is this summary and explanation.

**Part 2** sets out which parts of the Council are responsible for carrying out the various functions of the Council.

**Part 3** contains the various Procedure Rules – Standing Orders - which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.

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**Part 4** includes codes and protocols that govern how Councillors (also known as “members” of the Council) and officers of the Council must behave in performing their duties.

**Part 5** is the [Councillors’ Allowances Scheme](#), which sets the level of financial allowances which Councillors receive for performing their duties.

**Part 6** is a [Glossary](#) which explains some of the terminology used in this document. Terms in the Glossary and Parts of the Constitution are shown in **bold**.

- 2.2 There are a number of other codes, protocols and policy documents that govern how the Council operates which do not form part of this Constitution. Where the Constitution refers to these documents, they will be made available on the Council's website via a [hyperlink](#).

## 3 Councillors

- 3.1 Havant Borough Council is made up of 38 **Councillors**, also known as “**members**”. Councillors are elected by and are democratically accountable to the residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Only registered voters of the Borough or people living or working here are eligible to stand to be elected as a Councillor.
- 3.2 The regular election of Councillors is usually held on the first Thursday in May three years in every four, for the ordinary election of a third (or as near as may be) of all Councillors except that in every fourth year, there will be no regular election. In wards with two Councillors an election to select a Councillor will happen every two years. The term of office of Councillors starts on the fourth day after being elected and will finish on the fourth day after the date of the next regular election (except for the Mayor and Deputy Mayor; and the Leader and Deputy Leader whose term of office continues until the following Annual Full Council Meeting even if they are not re-elected). Find out when the [next election](#) will take place.
- 3.3 A full list of Councillors’ names, contact information, term of office, and their membership of political groups is available [here](#) on the Council's website along with details of the committees and bodies on which they serve. Find out which [ward](#) you are in and view details of the [political composition](#) of the Council.
- 3.4 **Councillors** have the following roles and functions:
- (a) Collectively deciding the Council's [Budget and Policy Framework](#) and carrying out a number of other strategic functions;
  - (b) Initiating, developing and scrutinising policy;
  - (c) Representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;
  - (d) Contributing to the good governance of the area and encouraging community participation;
  - (e) Dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
  - (f) Balancing different interests identified within the ward and representing the ward and the Council as a whole;

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- (g) Maintaining the confidentiality of confidential and exempt information and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the [Code of Conduct for Councillors](#));
- (h) Being involved in decision-making;
- (i) Being available to represent the Council on other bodies; and
- (j) Promoting and maintaining the highest standards of conduct and ethics.

3.5 **Councillors** have to follow a [Code of Conduct](#) to ensure high standards in the way they undertake their duties. The Standards Committee and Monitoring Officer advise Councillors on the Code of Conduct; promote high standards of behaviour; and monitor standards of conduct. The Council maintains a [register of interests](#) declared by Councillors which is open to inspection by members of the public and available on the Council's website. Councillors are entitled to receive allowances in accordance with the [Councillors' Allowances Scheme](#) set out in **Part 5** of this Constitution.

## 4 How the Council makes decisions

- 4.1 All **Councillors** meet together a number of times each year as the **Full Council**. You can find details of the calendar of [Full Council meetings](#) on the Council's website. Annual Full Council appoints a Mayor and Deputy Mayor who preside over the Full Council meeting, perform the Council's civic role and represent the Council in the community.
- 4.2 The Full Council is responsible for setting the [Budget and Policy Framework](#). The Budget and Policy Framework sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Full Council can change the Budget and Policy Framework. Full Council sets the Council's budget each year.
- 4.3 The Full Council also appoints a number of committees to deal with regulatory functions such as Planning and Licensing. See details of the [Council's Committees](#).
- 4.4 Meetings of the Council and other decision-making bodies are open to the public, except where personal or confidential matters are being discussed (see [Access to Information Standing Orders](#) in **Part 3**).
- 4.5 This diagram shows the overall structure of the [Council's decision making arrangements](#).
- 4.6 The Council has adopted an "executive" form of governance. This means that the Full Council appoints a **Leader** of the Council. The Leader then appoints a minimum of 2 and no more than 9 other Councillors who, together with the Leader, form the **Cabinet** and are responsible for certain decisions such as policy matters (including recommending the [Budget and Policy Framework](#)), housing, land and property and economic regeneration.
- 4.7 Councillors that are not part of the **Cabinet** or the opposition shadow Cabinet are known as backbenchers. These Councillors are largely responsible for the scrutiny of **executive decisions**. Backbench Councillors may sit on the [Council's Committees](#).

## 5 Decision Making and the Cabinet

- 5.1 The **Cabinet** (also known as the "Executive") is the part of the Council, which is responsible for taking **executive decisions** and implementing the Council's [Budget and Policy Framework](#).

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- 5.2 The Cabinet, made up of the **Leader** and up to 9 additional **Councillors**, does not have to be appointed in **political balance**. The Council has decided that it will re-elect the Leader of the Council every year, rather than every four years, usually starting and ending at the Annual **Full Council** meeting. This is subject to a Leader resigning or being disqualified from office as a Councillor, or a vote of Full Council to remove the incumbent, which may happen before the end of the term.
- 5.3 Executive decisions may also be taken by the Leader, a committee of Cabinet, individual **Cabinet members** or by officers under the [Officer Scheme of Delegation](#) in **Part 2**.
- 5.4 Each of the Councillors on the Cabinet is responsible for a particular area of the Council's activities (called "portfolios"). Cabinet members are also sometimes called **portfolio holders**. Details of how the [Cabinet operates](#) and the current [Cabinet portfolios](#) can be accessed online.
- 5.5 The Cabinet has to make decisions that are in accordance with the Council's overall policies and budget. If it wishes to make a decision that is outside the Budget or Policy Framework, this must be referred to Full Council to decide.
- 5.6 Where Cabinet intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the agenda for the meeting becomes available.
- 5.7 When "**key decisions**" are to be discussed or made then special notice procedures must be followed – usually 28 days' public notice is given (although there are special rules where this is not possible). These procedures are set out in the [Access to Information Standing Orders](#) in **Part 3**.
- 5.8 Some decisions, as a matter of law, are not **executive decisions**. These decisions include Planning, Licensing and Personnel matters. The Council has standing regulatory and other committees to deal with these matters.
- 5.9 It is the duty of the Cabinet to work constructively and openly with backbench, opposition members and officers to make sure that the overview and scrutiny process is working correctly.

## 6 Overview and Scrutiny

- 6.1 The Overview and Scrutiny function supports and challenges the work of the **Cabinet** and the Council as a whole. It may be supported by sub-committees (known as Boards) or Task Groups. **Cabinet members** cannot sit on the Overview and Scrutiny Committee or any of its sub-committees. The Committee may hold inquiries into matters of local concern in which the public may take part, and may invite external bodies to provide evidence or appear before it. This sometimes lead to reports and recommendations which advise the Cabinet, the Council as a whole, and, in some cases, outside agencies, on policies, budgets, and service delivery. Individual Councillors may ask for items related to Council functions to be placed on the agenda of the committee.
- 6.2 The Overview and Scrutiny Committee also monitors the decisions of the **Executive** and **key decisions** taken by officers that have been taken but not yet implemented. Non-Cabinet Councillors can 'call-in' these decisions to enable the Overview and Scrutiny Committee to consider whether the decision is appropriate. The Overview and Scrutiny Committee may recommend that the decision is reconsidered by Cabinet.

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- 6.3 The Overview and Scrutiny Committee may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## 7 The Council's Staff

- 7.1 Councillors are supported by the Council's staff/employees (who are also called "officers"). Officers provide advice, implement decisions and manage the day to day delivery of the Council's services.
- 7.2 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Council's **statutory officers**: a Head of Paid Service responsible for the Council's officers (in Havant this is the Chief Executive); a Chief Finance Officer, responsible for the proper administration of the Council's financial affairs; and a Monitoring Officer responsible for reporting upon illegality and maladministration.
- 7.3 The [Council's Management Structure](#) is set out in **Part 2**. Officers must comply with a [Code of Conduct](#) which is set out in **Part 4**. The recruitment, selection and dismissal of officers will comply with the [Officer Employment Standing Orders](#) set out in **Part 3** of this Constitution. Officers are paid in accordance with the [Council's Pay Policy](#). The [Councillor Officer Protocol](#) governs the relationship between officers and Councillors (in **Part 4** of this Constitution).

## 8 The Role of the Mayor of the Council

- 8.1 The Mayor is the first citizen of the Borough of Havant. The civic and ceremonial role of the Mayor is non-political. The Mayor serves for a one-year term of office. He/she has the following roles and functions (which in his/her absence shall be carried out by the Deputy Mayor). The Mayor will:
- (a) promote public involvement in the Council's activities;
  - (b) promote the Council as a whole, acting as a focal point for the community, attending such civic and ceremonial functions and fulfilling such civic duties as the Council and he/she determine to be appropriate;
  - (c) preside over meetings of the **Full Council** so that Council business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, including deciding the order of business;
  - (d) ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and committee chairmen to account;
  - (e) keep order at Full Council meetings and ensure that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
  - (f) exercise a second or casting vote in the event of a tied vote;
  - (g) subject to the advice and guidance of the Head of Paid Service, Chief Finance Officer or Monitoring Officer during Council meetings, interpret the Constitution as and when necessary; and
  - (h) when in debate or question time read the sense of the meeting and when in the Mayor's belief debate or questions already put shall have represented the views of



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the Council, the Mayor shall intervene to move to the next business under the [Standing Orders](#) in **Part 3**.

- 8.2 The Mayor and Deputy Mayor are members of the Council elected by Councillors at the Annual Meeting of the Full Council.

## 9 Rights of Members of the Public

- 9.1 Members of the public, service users and residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Citizens' Advice can advise on individuals' legal rights.

- 9.2 Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the Constitution.

- 9.3 Members of the public have the right to:

- (a) vote at local elections if they are registered on the electoral roll;
- (b) stand for election as a Councillor if they live or work in the Council's area, in line with guidance from The Electoral Commission;
- (c) attend the Council's meetings except where confidential or exempt information is being discussed (see [Access to Information Standing Orders](#) in **Part 3**);
- (d) contact local Councillors about any matters of concern – access [Councillor details](#)
- (e) contribute to reports and investigations by the Overview and Scrutiny Committee;
- (f) complain where there are problems with Council services – access a [complaint form](#)
- (g) complain to The Local Government and Social Care Ombudsman after having first used the Council's own [complaints procedure](#) and given the Council a chance to respond to the complaint. The Ombudsman will normally allow the Council 8 to 12 weeks for a response, but the Ombudsman may get involved earlier if there are extenuating circumstances – access the [Ombudsman complaint form](#)
- (h) complain to the Monitoring Officer if there is evidence that a Councillor has not followed the Council's [Code of Conduct for Councillors](#) – access the [Code of Conduct Complaint Form](#)
- (i) inspect the [Council's accounts](#) and make views known to the Council's external Auditor;
- (j) present [petitions](#) in accordance with the Council's Rules (including petitioning to request a referendum on an elected Mayoral form of executive);
- (k) be consulted as individuals on certain changes to service delivery, where invited, although the Council is not always obliged to consult on service changes. The Council may have a duty to consult under specific legislation; or to consult representatives of the public and service users in connection with the Council's overall approach to the way services are delivered under the Council's **Best Value** duty;

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- (l) Find out from the [notices](#) of forthcoming **key decisions** what significant decisions will be taken by the Leader, Cabinet or officers and when; and
- (m) See reports and background papers, and any records of decisions made by the **Full Council** and the **Cabinet** (except where those reports and papers contain confidential or exempt information).

Hard copies of documentation can be obtained from the main council offices at The Plaza, Havant. Public Service Plaza, Civic Centre Road, Havant, PO9 2AX

9.5 Members of the public may participate in meetings, under the direction of the committee chairman and in accordance with the [Procedure Rules](#) set out in **Part 3**, in the following ways:

- (a) Addressing meetings of **Full Council** to ask questions, where prior notice is given
- (b) Addressing meetings of **Cabinet** to ask questions, where prior notice is given
- (c) At Planning Committee in accordance with the Committee's [rules on public speaking](#)
- (d) Making representations to the Licensing Committee as applicants or objectors in respect of individual applications; and speaking at Licensing Committee meetings on certain items in accordance with the Committee's [rules on public speaking](#)
- (e) Reporting on the proceedings at all open meetings of the Council by filming, photographing, audio-recording, using social media such as tweeting and blogging, or by any other means, and providing written commentaries during a meeting and oral commentaries outside of a meeting

## 10 Duty to monitor and review the Constitution

10.1 The Constitution has been formally adopted by the Council. The Monitoring Officer will monitor and review the operation of the Constitution on a regular basis, to ensure that it is up-to-date and that the aims and principles of the Constitution are given full effect.

10.2 The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to ensure that:

- (a) legislative references are updated;
- (b) it reflects the Council's structures and decision-making requirements;
- (c) consequential amendments are made as a result of Council and Cabinet decisions;
- (d) it is clear and unambiguous and maintains efficiency of operations; and
- (e) any other required changes are made as appropriate.

10.3 The Leader may amend and/or update the **Executive** arrangements at any time and shall notify the Monitoring Officer of any changes.

10.4 Any other change to the Constitution will only be approved by the Full Council after consideration by the Standards Committee.

10.5 The Monitoring Officer will inform all Councillors when changes are made to the Constitution.

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## 11 Suspension of the Constitution

- 11.1 Any part of the Constitution may be waived or suspended by **Full Council** (or the **Cabinet** in relation to **Executive functions**) to the extent permitted within the [Standing Orders](#) in **Part 3** and the law.

## 12 Publication

- 12.1 Copies of the Constitution are available to view on the [Council's website](#) (which is the definitive version) or from Democratic Services: [committeeservices@havant.gov.uk](mailto:committeeservices@havant.gov.uk)
- 12.2 The Monitoring Officer will make available a printed copy of this Constitution for Councillors if requested, but every Councillor has access to this Constitution online, which ensures it is always the most up to date version.
- 12.3 The Monitoring Officer will ensure this Constitution is available for inspection on the Council's website and at Council offices. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.