

Part 1 - Summary and Explanation

The Council's Constitution

The Constitution of Winchester City Council sets out:

- how the Council operates
- how decisions are made
- the procedures which are followed to ensure that both of these are efficient, transparent and accountable to local people.

Some of these processes are required by law whilst others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What is in the Constitution?

The Constitution contains 16 Articles which explain the Council's approach to ensure efficient and effective decision-making which is transparent, accountable and encourages community involvement. A key element is an explanation of the rights of citizens and how the key parts of the Council operate. The Constitution is therefore set out as follows:

- Article 1 - The Constitution
- Article 2 - Members of the Council
- Article 3 - Citizens of the Council
- Article 4 - Full Council Meeting
- Article 5 - Chairing the Council
- Article 6 - The Cabinet (Executive)
- Article 7 - Overview and Scrutiny Committees
- Article 8 - Regulatory and Non-Executive Decision Making Committees
- Article 9 - Audit and Governance Committee
- Article 10 - Area Committees and Forums
- Article 11 - Joint Arrangements
- Article 12 - Officers
- Article 13 - Decision Making
- Article 14 - Finance, Contracts and Legal Matters
- Article 15 - Review and Revision of the Constitution
- Article 16 - Suspension, Interpretation and Publication of the Constitution

How the Council Operates

The Council comprises 45 Councillors who each serve a four year term*. One third of the Council is elected three years in four. The County Council elections take place in the fourth year.

Councillors are democratically accountable to residents of the ward from which they are elected. 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.

Councillors have to agree to follow a code of conduct which aims to ensure high standards in the way they undertake their duties. The Standards Committee organises training, monitors the operation of the code and advises Councillors.

All Councillors meet together as the Council. Meetings of the Council are open to the public unless certain types of confidential and exempt information are discussed. At Council, Councillors decide the Council's overall policies and set the budget each year. In particular, the Council:

- a) Appoints the Leader of the Council (the Leader then appoints their Deputy and other Members of the Executive, i.e. Cabinet);
- b) Appoints the membership of The Overview and Scrutiny Committee and Regulatory Committees;
- c) Retains responsibility for a number of decisions which have not been delegated to Cabinet (e.g. approval of the annual budget and the various policies, plans and strategies forming the policy framework, such as the Council Strategy and the Development Plan, or carry forward proposals for capital schemes above £1.5 million in total) – see Part 3 for full list;
- d) Has a procedure for the public to present petitions at Full Council and address the meeting;
- e) Has a procedure for Council Questions from Members at each meeting which enables them to challenge the Cabinet and to require the Leader and Cabinet Portfolio Holders to account for their actions;
- f) Has a procedure to hold the Cabinet and Committees to account.

** NB: Following the Boundary Review and all out District Election in May 2016, Councillors will initially serve for between two and four years depending on the number of votes they received (e.g. in a 3 Member Ward, the Councillor with the least number of votes of the three Ward Councillors will serve for two years, the next for three years and the most successful for four years). Thereafter, all Councillors will serve a four year term.*

How Decisions Are Made

The Council's adopted executive arrangements for the discharge of its functions are in the form of a Leader with a Cabinet.

The Cabinet is the part of the Council which is responsible for most day-to-day decisions (other than on planning applications, human resource issues and licensing matters). The Cabinet consists of the Leader and up to nine other Councillors who are appointed by the Leader. When major decisions are to be discussed or made (known as Key Decisions), these are published in the Cabinet's Forward Plan insofar as they can be anticipated. Meetings of the Cabinet will generally be open for the public to attend, except when confidential matters are being discussed. The Cabinet

has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

There are also Cabinet Committees with membership drawn from Cabinet. Currently, these are the Cabinet (Local Plan) Committee, the Cabinet (Traffic & Parking) Committee, Cabinet (Housing) Committee, Cabinet (Central Winchester Regeneration) Committee, Cabinet (Leisure Centre) Committee and Cabinet (Station Approach) Committee. Cabinet may also establish Informal Policy Groups, led by the portfolio holder with cross party membership, to report to it on future policy options.

Overview and Scrutiny

The Council has established three Overview and Scrutiny Committees which have a general remit to maintain an overview of the discharge of the Council's executive functions and identify any items for review. It may undertake a scrutiny review itself or appoint an Informal Scrutiny Group or a Sub-Committee to carry out the task. The Overview and Scrutiny Committee also monitors decisions of the Executive. It can call in a decision which has been made but not yet implemented.

The Overview and Scrutiny Committee can also establish ad hoc advisory Committees on a task and finish basis for cross-cutting issues or to review major policy areas.

Regulatory and Other Committees

The following additional Committees have been established to carry out the various functions that the Government has stipulated should not be the responsibility of Cabinet (full details of the individual functions are set out in Part 3):

- a) The Planning Committee (responsibilities include planning applications and enforcement)
- b) Licensing and Regulation Committee (responsibilities include all Council licensing and regulation functions)
- c) Licensing Sub-Committee (responsibilities include dealing with applications under the Licensing Act 2003, hackney carriage/private hire licences applications and appeals, and any other licensing matters referred to it by the Service Lead - Legal)
- d) Housing (Appeals) Committee (responsibilities include the determination of appeals against officer decisions on individual housing cases)
- e) Appeals and Disputes Committee (responsibilities include the determination of appeals or grievances from Council employees)
- f) Winchester Town Forum (responsibilities include acting as a consultative and advisory body about issues affecting the Winchester Town wards)

- g) Audit and Governance Committee (responsibilities include considering both the internal Audit Manager's annual report and opinion and also reports of the Council's external auditor. It also reviews and approves the Council's Annual Statement of Accounts).

This Committee has delegated authority to undertake the Council's Standards and human resources functions that are reserved to Committees. There will be two Sub-Committees, a Standards Sub-Committee and a Human Resources Sub-Committee.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Protocol set out in Part 5 govern the relationships between Officers and Councillors.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can also advise on an individual's legal rights. Where the public uses specific Council services, as citizens or consumers, they may have additional rights. These are not covered in this Constitution but details of these rights will be explained by the services themselves.

Citizens have the right to:

- a) Vote at local elections if they are registered;
- b) Contact their ward or other Councillor or Cabinet member about any matter of concern but it is recommended that they contact their local Member in the first instance;
- c) Obtain a copy of the Constitution;
- d) Petition to request a referendum on a mayoral form of executive;
- e) Present petitions at Full Council, Cabinet or The Overview and Scrutiny Committee and address the meeting;
- f) Attend meetings of the Council and its Committees, to observe or to speak during the public participation sessions (except where, for example, exempt or confidential matters are being discussed);
- g) Find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;

- h) See reports and background papers, and any record of decisions made by the Council, Cabinet and Committees (except in relation to confidential or exempt business);
- i) Complain to the Council about its functions and services;
- j) Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- k) Complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- l) Inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. All citizens have rights to inspect agendas and reports, and to attend and speak at most meetings. These rights are explained in Article 3 – Citizens and the Council.

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