

Summary and Background

The Council's Constitution - Local Government Act 2000 - SECTION 37 LGA 2000 (Constitutions) (England) Direction 2000

Warwick District Council has agreed 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. 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?

- Article 1 of the Constitution commits the Council to quality and equality in all the services it provides. Quality of life within the District will be the Council's key consideration.
- Articles 2 to 16 explain the rights of citizens and how the key parts of the Council operate. These are:
 - Members of the Council (Article 2)
 - Citizens and the Council (Article 3)
 - The Council meeting (Article 4)
 - Chairing the Council (Article 5)
 - Overview and Scrutiny of Committees (Article 6)
 - The Cabinet (Article 7)
 - Regulatory and other committees (Article 8)
 - The Standards Committee (Article 9)
 - Area Committees and Forums (Article 10)
 - Joint arrangements (Article 11)
 - Officers (Article 12)
 - Decision making (Article 13)
 - Finance, contracts and legal matters (Article 14)
 - Review and revision of the Constitution (Article 15)
 - Suspension, interpretation and publication of the Constitution (Article 16)

How the Council Operates

The Council is composed of 446 councillors elected every four years. Councillors are democratically accountable to residents of their Wards. 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 are also referred to as members because once elected they are members of the Council. Councillors have to ~~agree to follow a~~ *the adopted* Code of Conduct to ensure high standards in the way they undertake their duties. The *Audit & Standards Committee* ~~trains and advises them on~~ *oversees the operation of the* Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader *every four years, and all Committees annually. The Leader appoints the* Deputy Leader and Members of the Cabinet ~~and all Committees~~. The Council will receive the minutes of the Cabinet and of any Committees that make a recommendation to Council. On occasion it may

scrutinise Cabinet decisions but only on referral to it of that task by an Overview and Scrutiny Committee.

The Council will receive petitions and any one person presenting such a petition may address the Council on the subject for *a maximum of five* ~~three~~ minutes.

The Council will have an explicit commitment to openness in all of their dealings, subject only to the need to preserve confidentiality in those specific circumstances where it be proper and appropriate to do so, and by their actions and communications deliver an account against that commitment.

How Decisions are Made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and up to nine other members (including the Deputy Leader). When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or 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.

Overview and Scrutiny

~~There are two~~ is an Overview and Scrutiny Committees who supports the work of the Cabinet and the Council as a whole. ~~They~~ *It* allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. ~~The~~ Overview and Scrutiny Ceommittees also monitors the decisions of the Cabinet. Councillors can 'call-in' a decision which has been made by the Cabinet but not yet implemented for consideration by an Overview and Scrutiny Committee (see ~~page E13~~ *Council Procedure Rule 21*). This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

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 Member/Officer Protocol, contained in Part 5 of the Constitution) governs the relationships between officers and Councillors.

Citizen's 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 advise on individuals' legal rights.

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except for that part of the meeting where exempt or confidential information is disclosed;
- petition to request a referendum on a mayoral form of Cabinet;
- present a petition to the Council, or its Committees, or the Cabinet and any one person presenting a petition to the Council may address the Council on the subject for three minutes
- find out, from the Leader Forward Plan, what and when matters are to be considered by the Cabinet;
- attend meetings of the Cabinet where key decisions are being discussed or decided except for that part of the meeting when confidential or exempt information is to be disclosed;
- see reports and background papers (except where exempt or confidential information is disclosed) and any record of decisions made by the Council and its Committees and Cabinet;
- complain to the Council about the service delivered by the Council, the behaviour of an officer delivering a service or the correctness of a Council policy in accordance with the Council's complaints policy;
- complain to the *Local Government & Social Care Ombudsman or the Housing Ombudsman* if they think the Council has not followed its procedures properly. However, they can only do this after using the Council's own complaints process;
- complain to the Monitoring Officer of the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

ARTICLE 5 - CHAIRING THE COUNCIL

LOCAL GOVERNMENT ACT 1972 - SECTIONS 3-7 LOCAL GOVERNMENT ACT 2000 - SECTION 37 - CONSTITUTIONS DIRECTION PARAGRAPH 3(G)

5.01 Role and function of the Chair

The Chair of the Council and in their absence, the Vice-Chair will have both a ceremonial role and that of chairing Council meetings.

The Chair will be elected by the Council annually. The Chair will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on Cabinet are able to hold the Cabinet to account;
4. ~~to promote the District public involvement in the Council's at events activities and to celebrate the activities and achievements of the Council including its officers and councillors,~~ *to promote the District by attending appropriate events and functions, including achievements of the Council for both its officers and councillors. Attendance at any event outside the District to be approved by Group Leaders.*
5. The Chair may on occasions delegate attending functions to their Vice Chair, or in exceptional circumstances, another Councillor (normally the previous Chairman);
6. Cannot be a member of the Cabinet or Standards Committee;
7. Can decide to be called Chair, Chairwoman, Chairperson, or Chairman during their year in office;
8. Determine one or two charities, associated with the District, to advocate during their year in office, but not hold any specific events to fund raise for them.

Article 14 FINANCE, CONTRACTS AND LEGAL MATTERS

14.04 Authentication *and signing* of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or Chief Executive or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any Contract entered into on behalf of the local authority in course of the discharge of an executive function shall be made in writing. Any contract with value exceeding sums specified in the Public Contracts Directive must be made under the common seal of the Council.

Any reference to the signing of documents in this Article, or the wider Constitution of the Council, includes the use of an electronic signature. Any person authorised to sign on behalf of the Council is therefore also authorised to do so by electronic means.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer (or in their absence the Chief Executive) or some other person authorised by them.

Any reference to the Common Seal in this Article, or the wider Constitution of the Council, includes an electronic seal incorporating the design of the Common Seal. Any person authorised to affix the Common Seal is therefore also authorised to do so by electronic means.

Section 4 Scheme of Delegation

Additional Delegations

Authority to the Monitoring Officer to make minor changes to the Constitution in consultation with the Chair of the Council and Chair of Audit & Standards Committee and informing all Warwick District Councillors of such a change that has been made.

Authority be delegated to the Head of Place, Arts and Economy to determine the type of planning appeal, to defend all types of planning appeal (including an application where the Local Planning Authority is notified under other legislation) and to amend the Council's case before or during the course of a planning appeal, the latter being subject to consultation with the relevant Ward Member and the Chair of the Planning Committee.

Revised Delegations

- DS (70) Determine all applications submitted to Warwick District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:
- (i) Applications where a written request is received from a member of Warwick District Council within the specified consultation period i.e. 21 days that Committee referral is required. Such requests should clearly state the reasons why a Committee referral is required.
 - (ii) Applications where 5 or more valid representations are received where these are contrary to the officers' recommendation unless the Head of Development is satisfied that the plans have been amended to address the concerns raised so that there are no more than four contrary representations.
 - (iii) Applications where the recommendation of the Head of Place, Arts and Economy i.e. Grant/Refuse is contrary to the representations made by a Parish/Town Council, i.e. Object/Support, except in the following circumstances:
 - a. the Head of Place, Arts and Economy is satisfied that the plans have been amended to address the concerns of the Parish/Town Council;
 - b. where the representations made by the Parish/Town Council do not raise any issues which are material to the planning assessment of the particular application; or
 - c. where the concerns of the Parish/Town Council have been previously considered as part of the assessment of an extant permission on the site and there has been no change in circumstances
 - (iv) Applications where the principle of development would represent a material departure from any policy within the Development Plan.
 - (v) Applications known to be submitted by or on behalf of a Warwick District Councillor, Warwick District Council employee ~~or former~~ employee of the Council, or the spouse/partner of any such person.

- (vi) Applications submitted by Warwick District Council, *Milverton Homes (either solely or as part of another Joint Venture), any Joint Venture (or similar) the Council is part of* or Warwickshire County Council (*including Warwickshire Property Development Company*), other than for approval of routine minor developments.
- (vii) Where applications are to be refused and enforcement action is being recommended, following consultation with the Chairman and Vice-Chairman of the Committee and the relevant ward member(s) except in the circumstances where the Head of Place, Arts and Economy considers it appropriate for that matter to be determined by Planning Committee.
- (viii) Applications where an Environmental Impact Assessment has been provided.
- (ix) Any application which raises significant issues such that in the opinion of the Head of Place, Arts and Economy, it would be prudent to refer the application to Planning Committee for decision.

DS (70a) In consultation with the Portfolio Holder for Place and relevant Ward Councillors, to

- (i) determine minor variations to S106 agreements
- (ii) to enter into section 106 agreements when the application has been determined by the Head of Place, Arts and Economy under delegated authority DS(70)
- (iii) *to enter into appropriate section 106 and other agreements when the application has been determined by the Planning Inspector or Minister*

A(2) Authority to affix the Common Seal where appropriate approval(s) have been given .

Chief Executive, Deputy Chief Executive, Monitoring Officer, and Programme Director for Climate Change (individually).