

Summary and Explanation

1. THE COUNCIL'S CONSTITUTION

This is the Constitution of Colchester Borough Council.

The Council has adopted the Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and that the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

The Constitution provides a framework which:

- enables the Council to provide clear leadership to the community in partnership with members of the public, business and other organisations;
- supports the active involvement of members of the public in the process of local authority decision-making;
- helps Councillors represent their constituents more effectively;
- enables decisions to be taken efficiently and effectively in line with the Council's Budget and Policy Framework;
- creates a powerful and effective means of holding decision-makers to public account;
- ensures that no one will review or scrutinise a decision in which they were directly involved;
- ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provides a means of improving the delivery of the services to the community.

2. WHAT IS IN THE CONSTITUTION?

This Constitution is divided into 15 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 this document.

Article 1 commits the Council to enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations. The remaining Articles explain the rights of citizens and how the key parts of the Council operate.

These are:

- Members of the Council (Article 2)
- The Public and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Cabinet (Article 7)
- Regulatory and other committees (Article 8)
- Area committees (Article 9)

- Joint arrangements (Article 10)
- Officers (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15)

3. HOW THE COUNCIL OPERATES

The Council comprises fifty one Councillors (also known as Members) with one-third elected three years in four. Councillors are democratically accountable to 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.

Councillors have to agree to follow a code of conduct (known as the Members' Code of Conduct) to ensure high standards in the way they undertake their duties. The Governance and Audit Committee ensures that they receive and training and advice on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are held regularly and are normally open to the public unless items to be discussed are of a confidential nature. Here, Councillors decide the Council's overall policies and set the budget each year.

The Council at the appropriate Annual Meeting will appoint the Leader of the Council for a term of office for four years (or for the remainder of his/her term of office as a Councillor if this is shorter). The Leader appoints a Councillor to be the Deputy Leader and also appoints Councillors to the Cabinet (also known as the Executive) for the duration of the Leaders term of office. The Cabinet comprises of the Leader and up to nine other Councillors (known as Cabinet Members) who each have specific areas of responsibility known as portfolios which are determined from time to time by the Leader of the Council.

The Annual Meeting appoints Councillors to the other Committees and Panels of the Council.

All public meetings of the Council, Cabinet, Committees and Panels have an agenda item for public participation known as "Have Your Say". This enables the public to address the meeting on a particular agenda item or on a matter within the remit of the meeting.

4. HOW DECISIONS ARE MADE

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. When major decisions (called "Key Decisions") are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. This plan must include at least those decisions which the Cabinet anticipates it will have to make over the next four months. If a Key Decision needs to be made which is not in the Forward Plan, special provisions exist to make this happen. 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 exempt 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 the policy framework, this must be referred to the Council as a whole to decide.

5. OVERVIEW AND SCRUTINY OF DECISIONS

The role of overview and scrutiny is performed by the Scrutiny Panel. It allows citizens to have a greater say in Council matters by holding public inquiries or establishing task and finish groups 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 Scrutiny Panel monitors the decisions of the Cabinet and Portfolio Holders. It can 'call-in' a decision which has been made by the Cabinet or Portfolio Holders (as appropriate) but not yet implemented.

This enables it to consider whether the decision is appropriate. The Panel may recommend that the Cabinet or Portfolio Holder reconsiders the decision. The Scrutiny Panel or the Policy and Public Initiatives Panel may be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

6. THE COUNCIL'S EMPLOYEES

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. A code of practice governs the relationships between Officers and Councillors.

7. 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 advise on individuals' legal rights.

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, Cabinet, Committees and Panels except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Constitution;
- participate in the Council's "Have Your Say" question time and contribute to investigations by the Scrutiny Panel;
- find out, from the Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;

- see reports and background papers, and any record of decisions made by the Council, Cabinet, Committees and Panels together with Key Decisions taken by Portfolio Holders or Officers;
- complain to the Council about any aspect of the delivery of the Council's services in accordance with its complaints procedure;
- complain to the Local Government and Social Care Ombudsman or the Housing Ombudsman if they think the Council has not followed its procedures properly. However, they should only do so after first raising their complaint using the Council's own complaints procedure and giving the Council a chance to respond. The Ombudsman may, however, get involved earlier in extenuating circumstances;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Members Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor; and
- submit a petition in accordance with the Council's Petitions Scheme.

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.