

# **PART 1**

# **SUMMARY AND EXPLANATION**

## 1.01 Interpretation

Throughout this Constitution:-

- a) Unless the context otherwise requires, the singular includes the plural and the plural the singular.
- b) Any reference to a numbered or lettered paragraph is, unless the context otherwise requires, a reference to the paragraph in this Constitution.
- c) The following words and expressions shall have the undermentioned meanings respectively assigned to them:-

‘1972 Act’ shall mean the Local Government Act 1972.

‘1989 Act’ shall mean the Local Government and Housing Act 1989.

‘2000 Act’ shall mean the Local Government Act 2000.

‘2011 Act’ shall mean the Localism Act 2011.

‘Chief Financial Officer’ shall mean the Officer holding the post of Chief Financial Officer of the District Council, who is also designated as the Chief Financial Officer responsible for the purposes of Section 151 Local Government Act 1972; Section 73 Local Government Act 1985 and Section 112 Local Government Act 1988 for monitoring the Council’s financial affairs.

‘Monitoring Officer’ shall be that person designated as Monitoring Officer in accordance with section 5(1) Local Government and Housing Act 1989.

‘Clear Working Day’ excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held and shall mean a day other than a Saturday or a Sunday, or a day which is a public or bank holiday.

‘Clear Calendar Day’ excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held but will include a day which is a Saturday or a Sunday, or a day which is a public or bank holiday.

‘Key Decision’ is defined in Article 12.03 (b) of Part 2 of the Constitution.

‘Confidential information’ is defined at paragraph 10.3 of the Access to Information Rules in Part 4 of the Constitution.

‘Exempt information’ is defined at paragraph 10.4 of the Access to Information Rules in Part 4 of this Constitution.

'Committee' shall include any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of, or appointed by, the Council.

'Constitution' shall mean this Constitution as approved by the Council in accordance with the Local Government Act 2000.

'Council' shall mean the District Council of Adur as the legal entity.

'Deputy Chairman' shall mean the Deputy Chairman of the Council.

'Executive' shall mean the Executive of the Council as set out in the Constitution, and as defined by the 2000 Act, and shall comprise the Leader, Deputy Leader and Executive Members (and is also sometimes referred to as 'the Cabinet') and will often act together with Worthing Borough Council's Executive as the Joint Strategic Committee.

'Executive Member' shall mean an elected Member of the Council appointed to the Executive by the Leader in accordance with the Council's Constitution.

'Head of Paid Service' shall mean the Officer holding the post of Chief Executive in the District Council, who is also designated as the Head of Paid Service under Section 4 of the Local Government and Housing Act 1989.

'Leader' shall mean the Leader of the Council, elected by the Council in accordance with the Constitution and the 2000 Act.

'Chairman' shall mean the Chairman of the Council or, if the context permits, the person presiding at any meeting of Full Council.

'Meeting' shall mean a meeting of the Full Council, or in relation to the Executive, a Committee, Sub-Committee, Joint Committee or Joint Sub-Committee, a meeting of that body.

'Member' shall mean:

- i. in relation to a meeting of the Full Council, a Councillor;
- ii. in relation to a Committee, a Member of that Committee whether a Councillor or a person who is not a Councillor, but who is appointed to be a Member of the Committee under Section 102 of the 1972 Act; and
- iii. in relation to the Executive, an Executive Member.

'Motion' includes a recommendation contained in any report concerning an item of business for a meeting and a new motion.

'Person Presiding' shall mean the person appointed or entitled to preside at any meeting including the Chairman or Vice-Chairman, where the context allows.

'Rule' shall mean a Procedure Rule or Standing Order, and shall include Financial Procedure Rules, Contract Procedure Rules and Council Procedure Rules.

'Summons' shall mean the Summons for a meeting, or in relation to a Council Standing Order, applied to the Executive or a Committee shall mean the agenda for the meeting.

'Sub-Committee' shall mean a Sub-Committee of a Committee of the Council and 'Joint Sub-Committee' shall mean a Sub-Committee of a Joint Committee of the Councils.

'Terms of Reference' shall mean the terms of reference of the Executive or a Committee as varied from time to time.

"Working Group" shall mean a group established by the Council consisting of Elected Members and / or Officers and / or co-opted Members and / or persons who are not Elected Members, Officers or co-opted Members, for the purpose of providing advice to any decision maker within the Council.

'Urgent' means a matter of pressing importance requiring swift action given the gravity of the situation, which was unforeseeable (in an objective sense) and is not attributable to a failing on the part of the Council (and similar expressions shall be construed accordingly).

## **1.02 The Council's Constitution**

This is the Constitution of the District Council of Adur which has been adopted by the Council. It 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.

This Constitution was adopted from 1<sup>st</sup> May 2015 and replaces all previous Constitutions. Updates to the Council's Constitution are made on an ongoing regular basis and an up-to-date version may always be accessed via the Council's website.

The Constitution is divided into nine parts. The 15 Articles in Part 2 set out the basic rules governing the Council's business, and the remaining parts provide more detailed procedures and guidance.

The Council's Monitoring Officer takes overall responsibility for ensuring that the Council maintains an up-to-date Constitution. However, Parts 6, 7 and 8 dealing with Members' Allowance Schemes, Council Management Structure and Outside Bodies, are maintained by the Democratic Services Manager. Further, the Financial Procedure Rules and Contract Standing Orders contained in Part 4 of the Constitution, Rules of Procedure, are maintained by the Chief Finance Officer.

The Constitution may be accessed on the internet at:

<http://www.adur-worthing.gov.uk/>

Hard copies of the Council's Constitution will be provided, upon request to the Democratic Services Manager. However, a charge of £30 per copy will be made, and is payable in advance, to cover the costs of photocopying.

### **1.03 What is in the Constitution?**

Article 1 of the Constitution briefly describes the Constitution and commits the Council to:

- Leadership;
- Responsibility;
- Integrity;
- Transparency;
- Efficient and effective services; and
- Participation.

Articles 2 – 15 explain the rights of the citizens in relation to the Council and how the key parts of the Council operate. These are:

- Members of the Council (Article 2);
- The Citizen and the Council (Article 3);
- The Full Council (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny Committee (Article 6);
- The Executive (Article 7);
- Regulatory and other Non-Executive Decision-making Committees and Advisory Panels (Article 8);
- Governance (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).

#### **1.04 How the Council Operates**

The Council is composed of 29 Councillors (with elections by halves), i.e. one half of Councillors are elected every two years. The District is divided into 14 Wards each of which elects 2 or 3 Councillors. The Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole District, but they have a special duty to their constituents, regardless of how they voted.

Councillors should undertake their duties in accordance with the high standards of conduct expected of persons in public life and, to this end, the Council has adopted a Members' Code of Conduct to which Members are obliged to adhere. The Joint Governance Committee oversees the provision of training and advice to Councillors on the Code of Conduct.

All Councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public. Here Councillors decide the Council's overall policies, set the annual budget and the Council Tax. The Full Council will elect a Leader from among the elected Councillors.

Legislation provides the Leader with the executive decision-making powers of the Council. The Leader must appoint between 2 and 9 other elected Councillors to the Executive and delegates to the Executive, individual Executive Members and Officers many of the executive functions and powers.

The Council appoints at least one Overview & Scrutiny Committee, a Planning Committee and a Licensing Committee.

The Full Council appoints the following Joint Committees with the Borough Council of Worthing: a Joint Governance Committee; Joint Overview and Scrutiny Committee; Joint Staff Committee; Joint Senior Staff Committee and a Joint Senior Staff (Appeals) Committee. These are explained in more detail in Articles 7 to 9.

The Council appoints Members to the Joint Census Committee, the Shoreham Harbour Joint Committee and the Greater Brighton Economic Committee with other Councils.

Each year, the Full Council appoints a Chairman of the Council, who also chairs meetings of the Full Council.

### **1.05 How Decisions are made**

The Full Council agrees the policy framework and budget within which any other decisions within the Council are to be made.

The Executive are responsible for most of the other major decisions. The Executive is made up of the Leader and between 2 and 9 other elected Members of the Council. The Executive usually meets as a Joint Committee with the Executive of the Borough Council of Worthing. This Committee is known as the Joint Strategic Committee. The fact that the Executive is to make a Key and/or Exempt Decision is published on the Council's website not less than 28 calendar days before the decision is to be made. When such decisions are to be discussed with Council Officers at a meeting of the Executive this will be open for the public to attend, except where confidential information or, if determined, exempt matters are being discussed. The Executive 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 Full Council as a whole to decide.

Executive Members take individual decisions, within the remit of their portfolios. These decisions are made outside of formal meetings following receipt of a written report, with recommendations and advice, from Officers. These individual Executive Member decisions are often taken as joint decisions following consultation with the equivalent Executive Member of the Borough Council of Worthing.

The Council has put in place procedures to ensure that before such decisions are taken, there is appropriate opportunity for consultation with all interested parties and that the decisions must be recorded, in writing, kept and are available to the public.

The majority of the day-to-day decisions of the Council are delegated to Officers.

### **1.06 Overview and Scrutiny**

The Council will have at least one Overview and Scrutiny Committee ('OSC') and a Joint Overview and Scrutiny Committee ("JOSC") with the Borough Council of Worthing which support the work of the Full Council and the Executive as well as scrutinising and challenging the decisions of the Executive and Officers when appropriate. When they are looking at policy development or reviewing decisions by the Executive, the OSC and JOSC can hold public hearings to receive evidence and opinions from the public, external experts, elected Members and Officers of the Council. Details of how matters can be brought before the OSC are set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution.

The majority of the work of Overview and Scrutiny is carried out by the Joint Overview and Scrutiny Committee with the Borough Council of Worthing.

### **1.07 Joint Governance Committee**

The Council has a Joint Governance Committee with Worthing Borough Council, which is responsible for:

- (a) Promoting and maintaining high standards of conduct by Elected Councillors and Co-opted Members and determining standards matters;
- (b) Overseeing the audit function, annual accounts and the work of internal auditors; and
- (c) For all non-executive functions that are not the responsibility of Full Council or any other non-executive Committee.

### **1.08 Regulatory Committees**

The Council has two Regulatory Committees, one jointly with the Borough Council of Worthing. These are:-

The Planning Committee, which is responsible for the Council's development control functions, determines the more complex or sensitive planning applications, and is responsible for planning enforcement and building regulations. Public involvement in this process is encouraged by the opportunity for the public (applicants and objectors) to make written and oral representations to the Committee on planning applications.

The Licensing Committee, which is responsible for all non-Executive Licensing functions including those under the Licensing Act 2003 and the Gambling Act 2005.

### **1.09 The Council's Staff**

The Council employs staff (called 'Officers') to give professional and practical advice, implement decisions of Members, make and implement delegated decisions and manage the day-to-day delivery of its services. Some Officers, namely the Chief Financial Officer (Section 151 Officer), Deputy Section 151 Officer, Monitoring Officer and Deputy Monitoring Officers, have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol in Part 5 of this Constitution governs the relationships between Officers and Members of the Council.

### **1.10 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.

Where members of the public use specific Council services, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local Elections for Councillors if they are registered;
- contact the Council about any matters for which it is responsible;
- contact their local Councillor about any matters of concern to them and which are the responsibility of the Council;
- obtain a copy of the Constitution;
- attend meetings of the Full Council, the Executive and Committees, except where confidential matters are being discussed or it is determined otherwise;
- petition to request a referendum on a Mayoral form of governance;
- present petitions, ask questions and make statements at meetings of the Full Council, the Executive and Committees in accordance with the relevant rules;
- find out, from the 28 Calendar Day Notice of Key and/or Exempt Decisions, what Key Decisions are to be made by the Executive or Officers; when they are to be made and how they can make representation;
- see copies of agendas, reports, background papers in relation to Full Council, the Executive and Committees, except those relating to exempt or confidential items;
- see any record of decisions or minutes of decisions made by the Full Council, the Executive and Committees, except those relating to exempt or confidential items;
- complain to the Council in accordance with its Complaints Procedure;
- 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;
- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not adhered to the Council's Code of Conduct, and
- inspect the Council's accounts and make their views known to the external Auditor.

The Council welcomes participation by its citizens in its work.