

# PART 1 - SUMMARY AND EXPLANATION

## 1. Introduction to the Constitution

- 1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution.
- 1.2 This document, and its appendices, together make up the Constitution of the Sevenoaks District Council. If there are any inconsistencies between the contents of any of the Appendices and the Constitution, then the Rules of the Constitution will apply.
- 1.3 This Constitution sets out in clear terms how the Council operates and how decisions are made. Some of these processes are required by the law, while others are a matter for the Council to choose. The purpose of the Constitution is to:
  - ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
  - support the active involvement of local people in local authority decision-making;
  - help Members represent local people more effectively;
  - enable decisions to be taken efficiently and effectively; and
  - hold decision-makers to public account.
- 1.4 The Constitution is divided into 13 Parts which set out the basic rules governing the Council's business.
- 1.5 More detailed procedures and codes of practice are provided in separate rules and protocol and are contained in the associated appendices.

## 2. Managing the Constitution

- 2.1 The Constitution has been formally approved by the Council. Any significant changes to the Council's decision making arrangements and committee structure will need to be approved by full Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Advice on the interpretation of this Constitution should be sought from the Chief Executive.
- 2.2 The Chief Executive, in consultation with the Head of Legal & Democratic Services (the Monitoring Officer), will report to the Governance Committee, monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

- 2.3 Except for changes required by statute, changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Committee.
- 2.4 The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change between Executive Arrangements, the Committee System and Prescribed Arrangements.

### 3. Suspension, Interpretation and Publication of the Constitution

#### Suspension of the Constitution: Limit to Suspension

- 3.1 The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

#### Suspension of the Constitution: Procedure to Suspend

- 3.2 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in paragraph 1 above.

#### Interpretation of the Constitution

- 3.3 The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in paragraph 1 above.

#### Publication

- 3.4 The Chief Executive will provide a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- 3.5 The Chief Officer Legal and Governance (the Monitoring Officer) will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by the local press, the public and other interested parties on payment of a reasonable fee.
- 3.6 The Chief Officer Legal and Governance (the Monitoring Officer) will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

### 4. How the Council Operates

- 4.1 The Council is currently composed of 54 Members elected every four years.

Members are democratically accountable to residents of their ward. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Set out below is a link to the contact details of the District Council Members:

<http://cds.sevenoaks.gov.uk/mgMemberIndex.aspx?FN=ALPHA&VW=LIST&PIC=0>

- 4.2 Members have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee arranges training and advises them on the Council's Members' Code of Conduct. (Appendix Q - Members' Code of Conduct refers)
- 4.3 All Members meet together as the Council. Meetings of the Council are normally open to the public. Here Members decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council who then chooses the Members who will form the Cabinet. The Council also appoints a Scrutiny Committee and an Audit Committee to hold to account the Cabinet, and a number of other Committees.
- 4.4 The Council will receive regular reports from the Leader of the Council on the work of the Cabinet and from the Scrutiny Committee and the Audit Committee.
- 4.5 The Council allows questions from Members and the public and allows the public to present petitions about matters of concern to them.
- 4.6 From time to time, the Council will receive presentations from other organisations on matters which are likely to affect local people and businesses of the District.

## 5 Regulatory and other Committees

- 5.1 The Council will appoint the Committees set out in this Constitution and may appoint such other Committees as it thinks fit.

## 6. Principles of Decision-Making

- 6.1 All decisions of the Council will be made in accordance with the following principles:
  - (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from Officers;
  - (c) respect for human rights;

- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

## 57. Types of Decision

### Decisions Reserved to Full Council

- 7.1 Decisions relating to the functions listed in Part 2, paragraph 6 will be made by the full Council and cannot be delegated.

### Key Decisions

- 7.2 A “key decision” means an executive decision which is likely:
- (a) to result in the District Council incurring expenditure which is, or the making of savings which are, significant having regard to the District Council’s budget for the service or function to which the decision relates i.e. decisions which exceed £50,000 in value (but procurement decisions within the budget e.g. refuse vehicles can be undertaken within delegated powers); or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising 2 or more wards in the area of the District Council.
- 7.3 In accordance with section 38 of the Local Government Act 2000, in determining the meaning of “significant” for the purposes of paragraph 7.2 above regard shall be had to any guidance for the time being issued by the Secretary of State.
- 7.4 Further guidance on interpretation of a key decision is included in the Scheme of Delegations made by the Leader of the Council as reported to the Annual Meeting of the Council.
- 7.5 A decision taker may only make a key decision in accordance with the Scheme of Delegations made by the Leader of the Council as reported to the Annual Meeting of the Council.
8. Decision-making by the full Council, Cabinet, the Overview and Scrutiny function, the Performance and Governance Committee and other Committees and Sub-Committee established by the Council
- 8.1 Meetings of the Council, the Cabinet, the Overview and Scrutiny function (Scrutiny Committee), the Audit Committee and other Committees and Sub-Committees established by the Council will follow the Procedure Rules set out in Parts 2 to 12 and Appendix C of this Constitution when considering any matter.

## 9. Decision-making by Council Bodies acting as Tribunals

9.1 The Council, a Member or an Officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## 10. Local Peoples' Rights and Responsibilities

10.1 Throughout this document, the word "local people or person" should be taken to include all those who live in the Sevenoaks District and all those who have a direct interest in the well-being of the District because they work or have business interests in the District.

10.2 Local people have a number of rights in their dealings with the Council. These are set out in more detail below. 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 as can a solicitor or legal practitioner.

10.3 Where local people use specific Council services, for example as user of the refuse disposal service, or an applicant for planning permission, they have additional rights. These are not covered in this Constitution.

10.4 Local people have the right to:

- vote at local elections if they are registered;
- contact their Local Member(s) about any relevant matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- attend meetings of the Cabinet where decisions are being made except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- ask questions of the Council;
- submit petitions to the Council;
- contribute, when invited, to investigations by the Scrutiny Committee;

- find out, from the Cabinet's Notice of Forthcoming Key Decisions, 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 and Cabinet;
- complain to the Council under its complaints procedure if they think that the Council has not followed its procedures properly (there are separate procedures for challenging certain decisions made by the Council, for example planning decisions);
- 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 Council if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct (Appendix Q - Members' Code of Conduct); and
- inspect the Council's accounts and make their views known to the external auditor.

10.5 The Council welcomes participation by local people in its work. For further information on your rights as a resident, please contact the Transformation and Strategy Team, telephone 01732 227000.

10.6 Most meetings commence at 7 p.m. The dates and times of all meetings of the Council, the Cabinet and Committees are advertised at the Council Offices, in public libraries in the District and on the Council's website <http://www.sevenoaks.gov.uk>

10.7 Copies of the agenda for each meeting, including appropriate background papers, are available for inspection at the Council's offices and on the Council's website at least five clear working days before the meeting. Copies of extracts may be obtained on payment of a small fee to cover the cost of photocopying.

10.8 People's rights to information and to participate are explained in more detail in the Access to Information Procedure Rules. (Appendix A - Access to Information Procedure Rules)

10.9 Any member of the press or public has the right to film, blog, tweet or use any other type of social media to report any public meeting of the authority including committees, sub-committees and joint committees. Reference Appendix Z of the Constitution entitled 'Protocol on Reporting Meetings.'

#### Local Peoples' Responsibilities

10.10 People must not be violent, abusive or threatening to Members or Officers

and must not wilfully damage things owned by the Council, Members or Officers.

10.11 People are asked that:

- they treat Council Officers and Members with respect;
- that they provide all the relevant information to help the Council deal with their request efficiently
- they do not verbally or physically abuse Council Officers and Members.
- they do not attend the Council offices under the influence of alcohol or drugs

## 11. Finance, Contracts and Legal Matters

### Financial Management

11.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules (Appendix D - Financial Procedure Rules)

### Contracts

11.2 Every contract made by the Council will comply with the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules)

### Legal Proceedings

11.3 The Chief Executive and the Chief Officer Legal and Governance are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they together or individually consider that such action is necessary to protect the Council's interests.

### Authentication of Documents

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

11.5 Any contract with a value exceeding £25,000 entered into on behalf of the Local Authority in the course of the discharge of an Executive Function shall be made in writing. Such contracts must either be signed by at least two Officers of the Authority or made under the common seal of the Council attested by at least one Officer.

## Common Seal of the Council

11.6 The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. 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 Chief Executive should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Chief Officer Legal and Governance or some other person authorised by them.

## 12. Consultative Forums

12.1 The Council will appoint or support Forums from time to time to act as a consultative mechanism between local people and other interest groups in particular parts of the District and the District Council. The Forums may include:

- (a) Edenbridge Town Forum (Edenbridge North & East and Edenbridge South & West);
- (b) Sevenoaks Forum (Sevenoaks Eastern, Sevenoaks Kippington; Sevenoaks Northern and Sevenoaks Town & St. John's);
- (c) Swanley Town Forum (Swanley Christchurch & Swanley Village, Swanley St. Mary's and Swanley White Oak;
- (d) Business Forum;
- (e) Voluntary Sector Forum; and
- (f) Rural Forum.

12.2 All Members of the District Council representing wards within the remit of a Forum will be eligible to attend and speak at meetings of the Forum.

12.3 Subject to the overriding power of the Council to determine the form and composition of each Forum, each Forum will be able to agree the criteria for membership of the Forum.

12.4 Each Forum shall normally meet at least two times each year on dates, at times, and in locations to be agreed by members of the Forum.

12.5 The Council has also established a Sevenoaks District Council Residents' Panel.

## 13. Joint Arrangements

### Joint Arrangements

13.1 The Council may establish joint arrangements with one or more local



authorities and/or their Cabinets to exercise functions which are not Executive Functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

- 13.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 13.3 The Cabinet may appoint Cabinet members to a joint committee whose members need not reflect the political composition of the District Council as a whole.
- 13.4 The Cabinet may appoint Councillors to a joint committee from outside the Cabinet in the circumstances that the joint committee has functions for only part of the area of the Authority, and that area is smaller than two-fifths of the Authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Councillor for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

#### Access to Information

- 13.5 The Access to Information Procedure Rules apply. (Appendix A - Access to Information Procedure Rules )

#### Delegation To and From other Local Authorities

- 13.6 The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- 13.7 The Cabinet may delegate Executive Functions to another local authority or the Cabinet of another local authority in certain circumstances.
- 13.8 In circumstances where another authority wishes to delegate functions to the District Council the decision whether or not to accept such a delegation shall be reserved to the full Council.