

# CONSTITUTION - PART 1 - SUMMARY AND EXPLANATION

(Last revised July 2016)

## Summary and Explanation

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

Harrogate Borough 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 toward the end of the document.

### **What's in the Constitution?**

Article 1 of the Constitution commits the Council to providing open responsive local government and leadership for the District, balancing the needs and resources across the Borough. 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 decisions (Article 6).
- The executive (Article 7)
- Regulatory and other committees (Article 8).
- Area committees, fora and working groups (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 40 councillors who are elected at all out elections every 4 years. 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 to ensure high standards in the way they undertake their duties.

All councillors meet together as the Council. This is the legal body that can employ staff, own land and property and enter into contracts. 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, at its annual meeting in May each year, appoints the Leader for the ensuing year. The Leader selects the councillors for his/her Cabinet, nominates them to the Council for formal appointment and allocates their portfolios (areas of responsibility). The Council also appoints committees for the ensuing year to deal with certain areas of responsibility which are not within the powers of the Cabinet such as planning applications and other regulatory matters and also overview and scrutiny committees.

All committee meetings are public meetings as are all meetings of the full Cabinet. Public questions can be raised at all public meetings of Council and committees except the Council's annual meeting in May, extraordinary Council meetings and meetings of the Planning and Development Committees and Panels of the Licensing and Human Resources Committees. Questions to Cabinet Members are dealt with at Council meetings. There are rules about raising questions which are set down in Part 4 of this Constitution in the Procedure Rules of the Council. (A leaflet explaining rights of access to public meetings is available). Although the Planning and Development Committees do not have provision for public questions they do operate an Opportunity to Speak scheme in relation to planning and other applications before the Committees for which a free explanatory leaflet is available.

## **How Decisions are made**

The executive is part of the Council and is responsible for most day-to-day decisions. The executive is made up of the Council Leader and a cabinet of six councillors whom he/she selects. In this explanation and in the Constitution the word "executive" is used to include both individual cabinet members and the cabinet as a whole without distinction between them. The words "Leader" and "Cabinet" are used when only one or the other is meant. Executive decisions may be made by individual Cabinet Members, by the Cabinet as a whole or by Officers acting under powers given to them by the Leader and/or Cabinet.

When major decisions known as key decisions are to be discussed or made, these are published in advance in so far as they can be anticipated. If these key decisions are to be discussed with council officers at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions which are in line with the Council's overall policies and budget. The Cabinet as a whole has the ability to go slightly over budget, otherwise, if it wishes to make a decision which is outside the budget or policy framework set by the Council, this must be referred to the Council as a whole to decide.

## **Overview and Scrutiny**

There is an overview and scrutiny commission which supports the work of the executive and the Council as a whole. This 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 executive and the Council as a whole on its policies, budget and service delivery. The overview and scrutiny commission also monitors the decisions of the executive. It can 'call-in' a decision which has been made by the executive but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the executive reconsider the decision. It may also be consulted by the executive or the Council on forthcoming decisions and the development of policy and on service delivery.

## **Area Committees, Fora, Other Groups And Joint Working Arrangements**

In order to give local citizens a greater say in council affairs a number of groups have been created as fora, advisory groups, steering groups and committees of council. Some are composed of councillors but meet in public; some are public fora which cover either specific areas of the District or specific interest issues involving both councillors and members of the public; some are for specific parts of the District with a broad remit and involve councillors and others, and some are for specific interest groups such as the Housing Service Panel involving councillors and council tenants. Many of these groups meet in public and welcome the involvement of members of the public in their work. If in doubt about public access to a meeting, please contact Democratic Services on (01423) 500600 who will be pleased to assist.

## **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. A code of practice governs the relationships between officers and members of the council and can be found in Section 10 of Part 5 of this Constitution.

## **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, 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 (or any other councillor if they prefer) about any matters of concern to them;
- see a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a form of executive including a directly elected mayor;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny commissions. Questions can be raised both of the Leader and Cabinet Members and of the Chairs of most Committees.
- Through their Ward Councillor and through the Chair of the Overview and Scrutiny Commission members of the public may raise issues which they want to be investigated or discussed. The Ward Councillor is able to ask the Overview and Scrutiny Commission to take forward an investigation, pursue a problem with council policy or any other issue concerned with the way the Council or the executive functions;
- present petitions to the Council at Council meetings;
- find out what key decisions are to be discussed by the Cabinet or decided by the executive, when it is to be made and make representations in advance of the decision;
- attend meetings of the Cabinet subject to the decision not involving confidential or personal matters;
- see reports and background papers and any record of decisions made by the Council and executive, unless they contain personal or confidential material when only the public papers and record will be available;
- complain to the Council about any matter where they are dissatisfied with the Council's operations. Their complaint will be investigated by a senior officer or Director of the Department involved or ultimately by an officer appointed by the Chief Executive;
- complain to the 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 followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor when the external auditor gives notice of the audit.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Legal & Governance at PO Box 787, Harrogate HG1 9RW; email: [jennifer.norton@harrogate.gov.uk](mailto:jennifer.norton@harrogate.gov.uk); telephone 01423 500600.

Public right of access to agenda and reports and to attend public meetings of the Council, its committees and the Cabinet are set out in the Council's Access to Information Rules at Part 4 of this constitution. A separate leaflet setting out those rights is also available on request from Democratic Services, Legal & Governance, PO Box 787, Harrogate HG1 9RW; e-mail: [democraticservices@harrogate.gov.uk](mailto:democraticservices@harrogate.gov.uk); telephone 01423 500600 or from Reception at the Civic Centre, St Luke's Avenue, Harrogate, HG1 2AE.