

# Summary of our Constitution

This summary gives a short description of how the Council is run and the key bodies and people who take decisions. Further details will be provided in the relevant sections of the Constitution.

## Powers of the Council

1. The Council must follow the law of England and this Constitution when it carries out its powers and duties.

## The Constitution

2. This Constitution and all of its appendices is the Constitution of North East Derbyshire District Council.
3. The purpose of the Constitution is to:-
  - (a) help the Council lead the District of North East Derbyshire working together with members of the public, business and other organisations;
  - (b) help members of the public be involved in decision making;
  - (c) help Councillors represent members of the public effectively;
  - (d) make sure decisions are taken efficiently, appropriately and effectively;
  - (e) make sure those who take the decisions can be held to account;
  - (f) make sure that members of the public know who in the Council takes decisions and why they have taken them; and
  - (g) provide a way of improving the delivery of services to the community.
4. If the Constitution gives the Council a choice about what to do, the Council must choose the option that it thinks is closest to its purposes.
5. The decision of the Chairman of the Council on the meaning of the Constitution or on any proceedings of the Council cannot be challenged by anyone at a Council Meeting. The Chairman of Council must have regard to the purposes of the Constitution when making a decision.

## Review of the Constitution

6. The Monitoring Officer must monitor and review how the Constitution is working to make sure it gives full effect to the purposes of the Constitution.

## **Changes to the Constitution**

7. Changes to the Constitution can only be approved by Council. Responsibility for reviewing the Constitution rests with the Standards Committee. The Monitoring Officer may make any associated changes to the Constitution to reflect what the Council has agreed.

## **Suspension of the Constitution**

8. The Constitution cannot be suspended. Council may suspend the operation of some of the Procedure Rules.

## **Publication**

9. The Monitoring Officer will make sure that every Councillor has access to the Constitution and that it is made widely available to staff and the public on the Council's website.

## **Councillors**

10. The Council is governed by 53 Councillors who are elected every four years. Each Councillor represents people in a Ward. Some wards have more than one Councillor. The job of your Councillor is to represent you even if you did not vote for them.
11. Councillors have a Code of Conduct to make sure they follow high standards in the way that they carry out their role. There is a Standards Committee which trains, advises and deals with complaints against Councillors alleging that they have breached the Code of Conduct.

## **Who can be a Councillor?**

12. Anybody aged 18 years or over who:-
  - (a) in some cases is currently a citizen of the European Union
  - (b) is registered to vote in local government elections in the District, or who has lived or worked there in the last 12 months, and
  - (c) is not stopped by law from holding office as a Councillormay stand for election as a Councillor.
13. Elections for all Wards will take place on the first Thursday in May every four years. People elected as Councillors start being Councillors on the fourth day after being elected and finish on the fourth day after the next regular election.
14. A Councillor will stop being a Councillor if:-
  - (a) they resign by giving written notice, or

- (b) they fail to attend meetings of the Council for a period of six months without having been granted a dispensation for their absence by the Council Meeting, or
- (c) they are stopped by law from holding office, or
- (d) the period for which they were elected has come to an end and they have not been re-elected.

### **Roles and functions of all Councillors**

- 15. Councillors will be entitled to receive allowances in accordance with the Members Allowance Scheme.
- 16. All Councillors should;
  - (a) together be the makers of overall policy
  - (b) represent, and speak up for their communities
  - (c) deal with individual casework and speak up for members of the public
  - (d) balance different interests within their Ward and represent it as a whole
  - (e) be involved in Council decision making
  - (f) be available to represent the Council on other bodies
  - (g) maintain the highest standards of conduct and ethics, and
  - (h) consider the views and work on behalf of all the residents in the ward, not just those who voted for them

### **Meetings of the Council**

- 17. The Council is a meeting of all Councillors. The Council meets together about six times a year The Council decides overall policies and sets the Budget each year. The Council also appoints the Leader of the Council, the Chairman of the Council and other positions on various committees and outside organisations.

There are three types of Council Meetings: -

- (i) The Annual meeting
- (ii) Ordinary meetings
- (iii) Extraordinary meetings

The Council Procedure Rules apply to Council Meetings.

The Council will have the functions as set out in the Functions Scheme.

## **The Leader of the Council and the Cabinet**

18. The Leader of the Council chairs meetings of the Cabinet and is elected for a four year term. The Cabinet is currently made up of six Councillors who each have responsibility for special areas of the Council. The Cabinet can only make decisions within the scope of the overall Budget and Policy Framework set by the Council. If the Cabinet wants to make a decision outside the Budget and Policy Framework then it has to get the Council to agree.
19. The Leader of the Council will lead in the formulation, co-ordination and presentation of the Cabinet's policies and liaise with the Council's Senior Management Team on the carrying out of policies by the Council.
20. The Leader of the Council will stay as the Leader of the Council until:
  - (i) they resign from office;
  - (ii) they are suspended from being a Councillor although they may resume office at the end of the period of suspension;
  - (iii) they are no longer a Councillor; or
  - (iv) they are removed from office by resolution of the Council Meeting.

(Within the legislation there is a requirement for the Leader to nominate a Deputy Leader and provisions for the Deputy Leader to act in the intervening period until Council appoints a replacement Leader if the Leader is unable to do so or the post of Leader becomes vacant)

## **The Chairman of the Council**

21. The Chairman of the Council is the non-political and civic representative of the Council and is in charge of the Council Meeting. The Chairman cannot be a member of the Cabinet. The Chairman of the Council and the Vice-Chairman will be elected annually by the Council.
22. The Chairman of the Council and, in the Chairman's absence, the Vice-Chairman will have the following roles and functions:
  - (i) to uphold and promote the purposes of the Constitution;
  - (ii) to decide what the Constitution means if there is a dispute;
  - (iii) to chair Council Meetings so that decisions can be taken efficiently, with regard to the rights of Councillors and the interests of the community;
  - (iv) to make sure that Council Meetings are a place for debating matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;

- (v) to promote public involvement in the Council's activities and in the democratic process;
- (vi) to attend those civic and ceremonial functions as appropriate.
- (vii) to approve as urgent decisions, which will not be subject to Call In, when the Chairman of the relevant Scrutiny Committee is unavailable.

### **The Cabinet**

- 23. The Cabinet will carry out all functions of the Council which are not the responsibility of another part of the Council, whether by law or under the Functions Scheme.
- 24. The Cabinet will consist of the Leader of the Council and two or more Councillors (up to a maximum of 10 including the Leader) appointed by the Leader.
- 25. The Leader of the Council will decide what functions will be carried out by individual members of the Cabinet. The Leader of the Council will notify the Monitoring Officer of these functions in writing. The Monitoring Officer will make sure that they are set out in the Functions Scheme.
- 26. Meetings of the Cabinet must follow the Cabinet Rules.

### **The Head of Paid Service**

- 27. The Head of the Council's Paid Service, as part of the management team of Directors and Heads of Service, runs the day to day work of the Council, working with the Leader of the Council and the Cabinet.

### **Scrutiny**

- 28. There are four Scrutiny Committees which hold to account and monitor the progress towards achieving the aims and objectives of the Council Plan, scrutinise the decisions taken by Cabinet and the contribution which they make towards achieving the Plan aims and objectives and also review issues of local concern. In some cases, they can Call In a decision which has been made but not yet carried out by the Council.

### **Employment and Appeals Committee (the EAC)**

- 29. There will be an Employment and Appeals Committee of four Councillors.
- 30. The membership shall comprise the Leader of the Council, the Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed. The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.
- 31. The Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Management Team which includes the Statutory Officers and

other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).

32. The Employment and Appeals Committee will have the roles and functions as set out in the Functions Scheme.

### **Planning and Licensing**

33. The Council's planning and licensing functions are overseen by a Planning Committee, the General Licensing Committee and the Licensing and Gambling Acts Committees which are accountable to the Council Meeting.

### **Monitoring Officer and Chief Finance Officer**

34. Along with the Head of Paid Service, two other members of staff have special roles to help make sure the Council follows the law and manages its finances well. These are the Monitoring Officer and the Chief Finance Officer (Section 151 Officer).

### **Other Officers of the Council**

35. The Council may employ such Officers as it considers necessary to carry out its functions.

### **Statutory Officers**

36. The Council will employ persons in the following posts,

#### Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer)

- (i) The Managing Director will be the Head of Paid Service.
  - (ii) The Director of Finance and Resources will be the Chief Finance Officer (also referred to as the Section 151 Officer).
  - (iii) The Assistant Director of Governance will be the Monitoring Officer.
  - (iv) The Head of Paid Service, Chief Finance Officer and Monitoring Officer will have the functions set out in the Functions Scheme.
  - (v) The Head of Paid Service cannot be the Monitoring Officer but may be the Chief Finance Officer if a qualified accountant.
  - (vi) The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.
37. Officers will comply with the Officer Code of Conduct and the Protocol on Officer/Member Relations.
38. The recruitment, selections and dismissal of Officers will comply with the Officer Employment Rules.

## **Members of the Public and the Constitution**

39. The Public's Rights are set out below:

(a) Petitions

Under the Council Procedure Rules, members of the public have the right to sign and present a Petition to the Council in accordance with the Council's Petition Scheme.

They also have a right to start and sign a petition calling for a referendum on Mayoral executive arrangements.

(b) Elections and Referenda

The public has a right to take part in Parliamentary, Police and Crime Commissioner and local elections and referenda.

(c) Information

Under the Access to Information Rules, members of the public have the right to:

- (i) attend public parts of meetings of the Council, the Cabinet and Committees;
- (ii) find out what Key Decisions will be taken by the Cabinet and when;
- (iii) see public reports and background papers, and any records of decisions made by the Council, the Cabinet, individual officers under delegated powers and Committees;
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(d) Taking part

Subject to the Council procedure rules and the relevant provisions of this Constitution, Members of the public have the right to take part in meetings of the Council, speak during public speaking time at meetings of the Planning Committee and contribute to investigations by Scrutiny Committees, where asked to do so.

(e) Complaints

Members of the public have the right to complain to:

- (i) the Council under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Council's Monitoring Officer about a breach of the Code of Conduct by a Councillor.

## **The Public's Responsibilities**

- (a) Members of the public must not be violent, abusive or threatening to Councillors or officers and must not deliberately damage items owned by the Council, Councillors or officers.
- (b) When attending meetings members of the public must not behave improperly, be offensive or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.

## **Common Seal of the Council**

- 40. The Common Seal of the Council will be kept in a secure place in the custody of the Legal Services Manager and Deputy Monitoring Officer
- 41. 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.
- 42. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or as required by the Contract Procedure Rules. The affixing of the Common Seal will be attested by the Monitoring Officer, or in their absence, anyone delegated the function by the Monitoring Officer together with the Chairman of the Council, or in their absence, another Councillor. An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose.