

## **PART 1**

# **SUMMARY AND EXPLANATION**

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

Newark & Sherwood District Council has adopted a constitution which sets out how the Council operates, how decisions are made and the procedures which will be followed. Some of these processes are required by the law whilst others are a matter for the Council to choose.

The Council regularly reviews and revises its Constitution to ensure that it is fit for purpose and complies with the legislative requirements.

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

The first part of the Constitution sets out a summary and explanation of how the Council operates.

The second part sets out how decisions are made including remits of Committees and a scheme of delegation to officers.

The third part sets out rules and procedures under which the Council will operate.

The fourth part sets out codes and protocols adopted by the Council.

The fifth part sets out the members allowance scheme.

The sixth part sets out the Council's management structure.

### **How the Council Operates**

The Council has 39 members who are elected every 4 years. One or more members will be elected by voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by The Secretary of State. The regular election of Councillors is held on the first Thursday in May every four years (next election May 2019). The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

Where a member of the District Council ceases to hold office within the above period, a vacancy arises. A by-election will be held unless the vacancy arises within 6 months of the regular District Council elections.

Only registered voters of the District or those living or working in the District are eligible to hold the office of Councillor.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's key strategic priorities and set the budget each year. The precise role and remit of the Council is set out in Part Two.

There are three types of Council meeting:-

- (a) The annual meeting.
- (b) Ordinary meetings.
- (c) Extraordinary meetings.

Meetings are conducted in accordance with the Council Procedure Rules in Part Three of the constitution.

The Council Meeting is chaired by the Chairman of the Council or in his/her absence the Vice-Chairman. The Chairman and Vice-Chairman are elected annually by the Council.

The Chairman, and in his/her absence, the Vice-Chairman, has the following responsibilities:-

- (i) to promote and uphold the purposes of the constitution and to interpret it where necessary.
- (ii) to preside over meetings of the Council.
- (iii) to attend civic and ceremonial functions on behalf of the Council with preference being given to local organisations and to events within the District.

The Council has appointed Committees to discharge certain functions on behalf of the Council and has also agreed a scheme of officer delegation. This is set out in detail in the second part of the Constitution.

The roles and functions of all Members of the Council are described in detailed job descriptions which have been formally adopted by the Council and which will be revised and updated from time to time.

All Councillors will:

- (i) collectively be the ultimate policy makers.
- (ii) represent their communities and bring their views into the Council's decision making process.
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns.
- (iv) balance different interests and represent the Council as a whole.
- (v) be involved in decision making.
- (vi) be available to represent the Council on other bodies.
- (vii) maintain high standards of conduct and ethics.

Some Councillors have additional responsibilities from being the Leader or Deputy Leader of the Council, the Leader of a Political Group, the Chairman or Vice-Chairman of the Council or the Chairman or Vice-Chairman of a Committee. Further information on the role and powers of chairmen of committees and of the Leader of the Council are set out below.

Councillors have a right of access to such documents and information as are necessary for the proper discharge of their functions and in accordance with the law. These rights, and the limitations on those rights, are explained more fully in the Access to Information Procedure Rules contained in Part Three of the constitution.

The Council does not have any dedicated overview and scrutiny arrangements save for the Overview and Scrutiny of the Bassetlaw/Newark and Sherwood Community Safety Partnership which is undertaken under joint arrangements with Bassetlaw District Council.

Committees of the Council, with the exception of the Licensing Committee which is constituted under the Licensing Act 2003, are required to be constituted to reflect the political balance of the Council in accordance with principles contained in the Local Government and Housing Act 1989. Seats on Committees are therefore allocated between political groups in the same proportion as parties are represented on the District Council. Group Leaders are responsible for nominating Members from their Groups to the seats allocated.

The Leader of the Council will be appointed ex officio as a member of the Economic Development, Leisure and Environment and Homes and Communities Committees and will be entitled to attend and speak at those committees. He or she will not be entitled to vote unless expressly appointed as a voting member of the committee. The Deputy Leader will be entitled to attend the Economic Development, Leisure and Environment and Homes and Communities Committees in an ex officio capacity in the absence of the Leader except where the Deputy Leader is already a member of that Committee.

Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Code is contained in the fourth part of the Constitution.

Councillors are entitled to receive allowances in accordance with the Members Allowance Scheme set out in the fifth part of the Constitution.

### **Chairmen of Committees**

Chairmen of Committees are normally appointed annually, at the Council's Annual General Meeting in May. If a Chairman is not so appointed, the Committee may elect the Chairman. Normally a Member will not be appointed as a Chairman of more than one committee without the express approval of the Council.

Usually the annual appointments made by the Council include the appointment of a Vice-Chairman to each committee. The Vice-Chairman is generally able to exercise the powers vested in the Chairman where the chairman is absent or otherwise unavailable.

Some aspects of the role of the chairman, principally relating to the conduct of meetings are recognised by law. The Chairman is also, in practice, a lead member in the area of the Council's work which falls within the remit of his or her committee and acts as spokesperson of the committee. This may also include a representative role on other bodies where appropriate.

Chairman of Committees have the following powers and duties:-

- Responsibility for the proper conduct of meetings
- A power to exercise a second (casting) vote in the event of an equality of votes on any matter
- A duty to sign the minutes of the previous meeting
- A power to agree to the addition of a late item of business to the agenda if he or she believes that it needs to be considered as a matter of urgency
- To respond to questions or comments raised by members at the Council meeting relating to decisions of the committee.

### **Leader of the Council**

The Council's Procedure Rules provide for the election of a Leader which will normally be at the Council's Annual Meeting.

As the Council operates a committee style of governance the Leader has no formal powers or duties vested in him/her under the Local Government Act 1972 or the Local Government Act 2000. However, in practice all authorities need to appoint a Leader who will, as a consequence, hold the most significant member role within his/her authority. The Council's Leader will be the Council's political and elected head, the focus for political direction and the chief advocate and ambassador for the district (excluding civic and ceremonial duties).

The Leader will act as Chairman of the Policy & Finance Committee and is entitled to attend all meetings of the Council's functional committees in an ex officio capacity.

### **Deputy Leader of the Council**

The Council's Procedure Rules provide for the election of a Deputy Leader which will normally be at the Council's Annual Meeting. The Deputy Leader will exercise the powers and functions of the Leader in his/her absence.

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

The Council appoints officers to give advice, implement decisions and manage the day to day delivery of Council services. Some officers have a specific duty to ensure that the Council acts within the Law and uses its resources wisely.

In particular the Council must appoint the following Statutory Officers:-

- (i) a Head of Paid Service.
- (ii) a Monitoring Officer.
- (iii) a Section 151 Officer.

The Head of Paid Service is responsible for the following functions:

- (i) Overall corporate management and operational responsibility (including overall management responsibility for all staff).
- (ii) reporting to the Council on the way in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (iii) the provision of professional advice to all relevant parties in the decision making process.
- (iv) together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions.

The Monitoring Officer is responsible for the following functions:-

- (i) maintaining an up to date version of the Constitution and ensuring that it is available for inspection by the Members, Officer and the Public.
- (ii) ensuring that Councillors complete a register of their interests and maintaining the register, a copy of which can be found on each Councillors individual page.
- (iii) ensuring lawfulness of decision making
- (iv) advising the Council on appropriate arrangements for dealing with complaints relating to the Code of Conduct, a link to which can be found on the Constitution home page.

The Section 151 Officer is responsible for the following functions:-

- (i) ensuring lawfulness and financial prudence of decision making.
- (ii) responsibility for the administration of the financial affairs of the Council.
- (iii) providing advice on the scope of powers and authority to take decisions.
- (iv) subject to the need to respect confidentiality where appropriate, to provide financial information to the media, members of the public and citizens.

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are, in the opinion of those officers, necessary to enable their duties to be undertaken.

Officers will comply with the Officers Code of Conduct and protocol on Officer/Member relations set out in part four of this constitution. Failure to do so may constitute a disciplinary offence.

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in part three of this Constitution.

The Council's management structure is set out in part six of the Constitution. This includes details of the current Corporate Management Team and designated Chief Officers.

### **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council.

Where members of the public use specific Council services, for example as a Council tenant, they may have additional rights. These are not covered in this Constitution.

The following is a general summary of the rights of citizens in terms of information, the opportunity to participate and the ability to make complaints.

The right to information and to attend meetings of the Council are explained in more details in the Access to Information Procedure Rules in part three of this Constitution.

Citizens have the right to:-

- vote at local elections if they are registered on the electoral roll.
- sign a petition including a petition to request a referendum for an elected mayor form of constitution.
- contact their local Councillor about any matters of concern to them, a link to which can be found on the Constitution home page.
- attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private.
- see reports and background papers and any record of decisions made by the Council unless these contain confidential or exempt information.
- complain to the Council under its complaint scheme, a link to which can be found on the Constitution home page.
- complain to the Ombudsman (but they should only do this after using the Council's own complaints process).
- complain, under such arrangements as are adopted by the Council from time to time, that a Member has not observed the Code of Conduct, a link to which can be found on the Constitution home page.
- inspect the Council's accounts and make their views known to the external auditor, contacts for which are: KPMG LLP (UK), St Nicholas House, Park Row, Nottingham, NG1 6FQ. The Council's Audit Manager is: Mike Norman on Tel. 0115 9353554 or Email: [michael.norman@KPMG.co.uk](mailto:michael.norman@KPMG.co.uk)
- request information under the Provisions of the Freedom of Information Act, a link to which can be found on the Constitution home page.

### **Citizens' Responsibilities**

- Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully or recklessly harm things owned by the Council, Councillors or Officers. The Council has adopted a policy for dealing with vexatious complainants, a link to which can be found on the Constitution home page.

### **Area Committees and Forums**

The Council may adopt Area Committees and Forums but currently none are established.

### **Joint Committees**

The Council may establish joint arrangements with one or more other local authorities. Such arrangements may involve the appointment of a Joint Committee with those other local authorities.

Details of joint arrangements, including the remit of any joint committees which have been established under such joint arrangements, are set out in part two of the Constitution.

### **Finance, Contracts and Legal Matters**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in part three of this Constitution.

Every contract made by the Council will comply with the Contracts Procedure Rules set out in part three of this Constitution.

The Chief Executive and Chief Officers are authorised to institute, defend or participate in any legal proceedings, where such action is necessary to give effect to decisions of the Council or in any case where it is necessary, in the opinion of the relevant officer, to protect the Council's interests.

The above named officers have delegated powers to authorise officers to appear in court on the Council's behalf.

### **Authentication of Documents**

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

Any contract entered into on behalf of the Council shall comply with the Contract Procedure Rules set out in Part Three of the Constitution.

In addition to any other person who may be authorised by resolution of the Council, the Proper Officers for the purposes of authentication of documents shall be the Chief Executive, Deputy Chief Executive, any Chief Officer of the Council concerned with the matter to which the document relates or any Officer authorised in writing by any of the above named.

The Common Seal of the Council shall be attested by the Chief Executive, Deputy Chief Executive, designated Monitoring Officer, designated Deputy Monitoring Officer or designated Section 151 Officer.



**Review and Revision of the Constitution**

The Head of Paid Service, Monitoring Officer and Section 151 Officer will monitor and review the operation of the Constitution to ensure that it is fit for purpose. Any significant changes to the Constitution will require the approval of the Council. Minor variations to the Constitution may be made by the Monitoring Officer in order to remove any inconsistency or ambiguity, to reflect legislative changes or to put into effect any decision of the Council or its Committees.