

# Part 2

## **Description of the Constitution**

**Part 2** is a brief introduction to the main aspects of political governance at the Council and how the Council works.

**New version for July 2018**

## **1. The County Council**

### **Powers of the County Council**

1.01 The County Council exercises all its powers and duties in accordance with the law.

### **Constitution**

1.02 This Constitution is the Constitution of the County Council within the meaning of Section 37 of the Local Government Act 2000. Further copies may be obtained on application to the Director of Law and Assurance and the Constitution is available on the County Council's website ([www.westsussex.gov.uk](http://www.westsussex.gov.uk)).

### **Aims and principles**

1.03 The aims and purpose of the Constitution are to:

- (a) explain how the County Council works
- (b) show how the County Council has organised itself to provide leadership to the community in partnership with others
- (c) ensure that the framework for how the County Council operates is clear
- (d) set out the Executive arrangements which separate the roles of the Executive, Select Committees and non-Executive Committees in a way which is easily understood
- (e) describe how decisions will be made
- (f) describe members' representational roles and the ways they engage directly with the local community
- (g) describe who is going to make a decision and how they will be held accountable.

### **Interpretation**

1.04 The County Chairman may be required to make a ruling as to the construction or application of the Constitution or as to any proceedings of the County Council. He or she may not be challenged on the ruling at a meeting of the County Council. The Chairman may take advice from the Director of Law and Assurance before making his or her ruling. Where questions about the Constitution or the interpretation of it arise at other times, they will normally be addressed to the Director of Law and Assurance. In interpreting the Constitution, the Director of Law and Assurance will have regard to the aims and principles set out in paragraph 1.03.

### **Duty to Monitor and Review the Constitution**

1.05 The County Council has agreed that there will be a regular formal review midway through the life of each Council; the extent of the review will be determined at the time. The Governance Committee will keep the County

Council's governance arrangements under review on advice from the Chief Executive and Director of Law and Assurance.

- (a) The Governance Committee is an advisory committee of the County Council. It has nine members including the County Chairman who is ex-officio Chairman of the Committee.
- (b) The Governance Committee is responsible to the County Council for overseeing the effectiveness of the governance arrangements.
- (c) Without in any way limiting the scope of paragraph (b) its role is to consider specifically any disputes which arise as to whether or not the Executive may make a final decision or whether that power is vested in the County Council alone.

1.06 In accordance with its role of keeping under review and monitoring the governance arrangements of the County Council, the Governance Committee may from time to time recommend to the County Council or to the Regulation, Audit and Accounts Committee that the substantive parts of the Constitution should be amended.

#### **Role of Monitoring Officer**

1.07 In his or her role as Monitoring Officer and adviser to the Governance Committee the Director of Law and Assurance has access to member meetings and necessary parts of the officer structure.

#### **Changes to the Constitution**

1.08 The County Council, on recommendation from the Governance Committee, may change the Scheme of Delegation to members, Standing Orders and the Code of Practice on Local Authority Publicity.

1.09 The Governance Committee may change the Scheme of Delegation to executive directors, may approve changes to the Protocol on County Local Committees and the criteria for the Councillor Call for Action.

1.10 The Regulation, Audit and Accounts Committee, on the recommendation of the Governance Committee, may approve revisions to the Risk Management Procedures, Financial Regulations and Financial Procedures, Standing Orders on Procurement and Contracts and the Anti Fraud and Corruption Strategy on advice from the Chief Financial Officer and the Monitoring Officer.

1.11 The Standards Committee may recommend to the County Council changes to the Code of Practice on Probity in Planning and the Codes of Conduct for officers and members.

1.12 The Director of Law and Assurance, in consultation with the Chairman of the Governance Committee, has authority to update Part 1, Part 2 and Section 1 of Part 3 of the Constitution.

## **Publication**

- 1.13 The Director of Law and Assurance will make sure that each member of the County Council and all co-opted members have access to the Constitution as soon as possible after his or her declaration of acceptance of office.
- 1.14 Copies will be made available for inspection at Council offices and other appropriate locations and are available on request to the Director of Law and Assurance. It is also available on the County Council's website ([www.westsussex.gov.uk](http://www.westsussex.gov.uk)) which can be accessed via libraries.
- 1.15 The summary of the Constitution will be widely available and updated as necessary.

## **Executive Arrangements**

- 1.16 Under the Local Government Act 2000, the County Council is required to make arrangements called Executive arrangements which show how it undertakes its business. This means that the County Council must decide how it will create and operate an Executive and for which functions the Executive will be responsible. It must also provide for the appointment of one or more overview or scrutiny committees (Select Committees) and indicate how its non-Executive functions are to be carried out. The County Council has decided to operate Executive arrangements on a Leader and Cabinet model. Parts 3 and 4 of the Constitution (except for Standing Orders on Contracts) are to be taken as the Executive arrangements for the purposes of Part II of the Local Government Act 2000.

## **Review of Constitution**

- 1.17 The Governance Committee will keep under review the operation of the Constitution so as to ensure that these aims and principles are given full effect. The governance arrangements are contained in this Constitution. Responsibility for decision-making under the Local Government Act 2000 is Part 3 of the Constitution – Responsibility for Functions and the Scheme of Delegation (Part 3 Section 2), and in Standing Orders (Part 4 Section 1). Failure to comply with a relevant part of the Constitution will not necessarily invalidate the decision
- 1.18 Any part of the County Council, a member or an officer acting as a tribunal or in a quasi-judicial manner or considering (other than for the purposes of giving advice) or determining the civil rights and obligations or the criminal responsibility of any person, is required to follow a proper procedure which accords with the requirements of natural justice and the rights referred to in the Human Rights Act 1998.

## **2. How the County Council Operates**

- 2.01 The County Council is composed of 70 members elected every four years. One member is elected by the voters of each electoral division in

accordance with a scheme drawn up by the Local Government Boundary Commission for England. The regular election of members is normally held on the first Thursday in May every four years beginning in 2001. The term of County Council members starts when they have taken their declaration of office after being elected and finishes four days after the date of the next regular election. Where a member of the County Council ceases to hold office during the period of office of the County Council a vacancy arises. A by-election is held unless the vacancy arises within six months of the County Council elections.

- 2.02 Members of the County Council are democratically accountable to the residents of their electoral divisions. The County Council is a political organisation and a key element in its organisation is informal political party groups. The overriding duty of members is to the whole community but they have a special duty to their constituents, even if they did not vote for them.
- 2.03 The Standards Committee ensures that all members maintain high standards of conduct.
- 2.04 All members meet together as the County Council. Meeting as the County Council they are responsible for deciding the County Council's overall policies and setting the budget each year. The County Council at its first meeting after the election elects the Chairman and Vice-Chairman of the Council and a Leader. The Leader then appoints a number of other members to be individual members of the Cabinet each to be responsible for a separate portfolio or a range of services. Together these members form the Executive, or Cabinet, as it is known in West Sussex.

### **The Chairman and Vice-Chairman**

- 2.05 The Chairman, assisted by the Vice-Chairman, has three core roles. The Chairman has an apolitical overview of the political governance arrangements of the organisation and is ex officio chairman of the Governance Committee. Secondly, the Chairman has a lead role in promoting and maintaining high standards of conduct amongst members and officers and is ex officio Chairman of the Standards Committee. The Chairman's third core role is that of civic head of the County Council, representing the County Council on ceremonial or social occasions.

### **The Cabinet - Executive**

- 2.06 The Cabinet (or Executive) is the part of the County Council which is responsible for most day-to-day decisions. The Cabinet is made up of a Leader and other individual Cabinet Members, up to a maximum of 10.
- 2.07 When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan insofar as they can be anticipated. Formal meetings of the Cabinet which are infrequent and held mainly around the time of the budget in January each year are open to the public except where exempt or confidential matters are being discussed. The Cabinet and Cabinet Members have to make decisions which are in line with the

County Council's overall policies and budget. If they wish to make a decision which is outside the budget or Policy Framework, this must be referred to the County Council as a whole to decide.

- 2.08 The Cabinet and Cabinet Members are assisted in their work by Advisers and Senior Advisers to Cabinet Members and cross-party Executive Task and Finish Groups, which provide advice to a Cabinet Member in relation to the development of commissioning plans or plans for service provision, or such other service-related proposal as the Cabinet Member decides. The terms of reference and the membership of an Executive Task and Finish Group is decided by the Cabinet Member and published to all members. The output from such work will also be available to all members.
- 2.09 The Cabinet is responsible for setting the commissioning principles within which commissioning plans can be made that fit the ambitions approved by the County Council in the Performance Framework. The wider member involvement in commissioning is through Task and Finish Groups, all-member events focusing on commissioning outcomes that enable members to influence and inform the development of commissioning proposals or through referral to the relevant Select Committee. Performance management of commissioning may be, for larger contracts, via Partnership Boards which comprise cross-party elected members, senior officers and representatives of a contractor or partner of the County Council whose role is to oversee the development of the commercial relationship with the contractor or partner and the performance of a contract against defined objectives. Performance management for contracts and service delivery is otherwise a function shared between the Cabinet and Select Committees.

### **Select Committees - Scrutiny**

- 2.10 The County Council has established Select Committees which support and monitor the work of the Cabinet and Cabinet Members. They commission reports which advise the Cabinet and the County Council on specific aspects of policy and its implementation. They monitor the decisions of the Cabinet and hold hearings to investigate specific issues. They can also "call-in" a proposal made by the Cabinet, a Cabinet Member, a County Local Committee (CLC) or an officer key decision but not yet implemented within eight working days (six for CLCs) of it being published. This enables them to consider whether the proposal is appropriate. They may also be consulted by the Cabinet or the County Council on forthcoming proposals and the development of policy, through formal meetings or Scrutiny Task and Finish Groups.

### **Non-Executive Committees**

- 2.11 Non-Executive committees carry out a number of regulatory functions mostly where a matter may not be decided by the Cabinet or by individual Cabinet Members (the Executive). Although these committees are described as 'non-Executive' they do take decisions. The non-Executive committees are the Planning Committee and the Rights of Way

Committee, whose work is described by their names, the Regulation, Audit and Accounts Committee (which deals with audit, accounts and regulatory functions), the Pensions Panel and the Appeals Panel. Their purpose and terms of reference are set out in the Scheme of Delegation Part 3 Section 2.

- 2.12 There is also a Standards Committee which promotes and maintains high standards of conduct by members of the County Council and assists members to observe the Code of Conduct (see paragraph 2.17 below). Finally, there is a Governance Committee which keeps the County Council's governance arrangements and the Constitution under review, oversees the effectiveness of the political structure, deals with elections and local government boundary changes and oversees arrangements for the appointment of executive directors and determines the terms and conditions of all staff.

### **County Local Committees**

- 2.13 The County Council has 11 County Local Committees (CLCs), two of which operate in a similar way to Joint Area Committees (in the Eastern and Western areas of Arun District). The purpose of CLCs is to enable the County Council to take some decisions that have a local impact only, to better engage with citizens, customers and communities and offer them the opportunity to access and influence decision-making on local issues.

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

- 2.14 The County Council employs officers to give advice to all parts of the County Council, implement decisions and undertake the day-to-day planning and management of the wide range of functions undertaken. Certain senior officers have special roles and duties in the governance of the County Council which are laid down by law. A code of conduct governs the conduct of officers. The Protocol on the Relationships between Members and Officers governs the relationships between officers and members. This is included in Part 5 Section 6 of the Constitution.

### **Community Involvement and Rights of the Public**

- 2.15 There are a number of ways in which the members of the public can find out about and participate in the work of the County Council. This includes a right to:
- (a) vote at local elections if they are registered;
  - (b) contact their local member about any matters of concern to them;
  - (c) obtain a copy of the Constitution;
  - (d) petition to request a referendum on a mayoral form of Executive;
  - (e) attend meetings of the Cabinet except where exempt (as defined by the Access to Information Act) matters are being discussed or decided;
  - (f) see reports and background papers, and any record of decisions made, unless containing exempt matters (see paragraph 2.16 below);

- (g) use the County Council's complaints procedure
- (h) complain to the ombudsman if they think the County Council has not acted properly within its own policy and procedures. However, they should only do this after using the County Council's own complaints process;
- (i) complain to the Monitoring Officer if they have evidence which they think shows that a member has not followed the County Council's Code of Conduct; and
- (j) inspect the County Council's accounts and make their views known to the external auditor.

2.16 Members of the public are welcome to attend any meetings of the County Council that are open to the public, except for any part that contains exempt or confidential information. These are listed on the County Council's website at [www.westsussex.gov.uk](http://www.westsussex.gov.uk). Meeting papers are also available on the website, as well as records of daily Executive decisions taken and a Forward Plan of key decisions. Petitions may be submitted under the County Council's petitions scheme.

### **Code of Conduct**

2.17 As well as clear standards of conduct for officers and members, the County Council has a firm commitment to human rights and equalities in policy, provision of services and employment. It is also committed to openness and transparency. It has a Confidential Reporting Policy (Whistle blowing) for officers and contractors. Details of the Freedom of Information Act are set out in Standing Orders (Part 4, Section 1).

### **Complaints**

2.18 The County Council is keen to ensure that complaints by the public are kept to a minimum, by ensuring that its services are as relevant as possible and of the highest quality. A complaints procedure is in place for use when necessary. After using the complaints procedure, a dissatisfied complainant has the right to contact the Local Government Ombudsman.

### **Joint Arrangements**

2.19 The County Council has a number of joint arrangements, including the West Sussex Health and Wellbeing Board, the Parking and Traffic Regulations Outside London Adjudication Joint Committee, the Local Enterprise Partnership Joint Committee and the West Sussex Joint Scrutiny Steering Group. Details of these can be found in the Scheme of Delegation.

### **Statement of Partnership with other councils**

2.20 The County Council works in partnership with the two borough and five district councils in West Sussex. It is committed to working together with local councils in West Sussex (parish, town, city and neighbourhood councils or meetings). The overriding principle is that all members and officers of all councils will be guided in their actions by what makes for



good local government in the best interests of the residents and taxpayers of West Sussex.

- 2.21 The County Council has a statement of partnership with other councils. The detailed statements are available on the County Council's website.

### **Financial Management**

- 2.22 Each year the County Council sets an annual revenue budget and capital programme which indicates how it is going to spend the money which it has available to it. The County Council spends money in a number of different ways to provide services in accordance with its powers and duties. These include employment of staff, building and maintaining premises, contracting with others to provide services and insuring itself and its property.
- 2.23 To help the County Council exercise its statutory financial responsibilities, safeguard its finances and assets and ensure the proper record keeping and reporting of its accounts, the County Council has Financial Regulations, Financial Procedures and Risk Management Procedures which it must follow. The County Council's Financial Regulations also explain how it controls its revenue budget, decides upon its capital programme and deals with income it receives. Financial Regulations are set out in Part 4 Section 3 of the Constitution, the Financial Procedures in Part 4 Section 4 and the Risk Management Procedures in Part 4 Section 2.

### **Contracts and Procurement**

- 2.24 The County Council spends a large proportion of its budget on procuring services, works and goods from other people. To ensure that the County Council is protected when it enters into contracts and also that it acts fairly and secures best value from the use of its budget, the County Council has Standing Orders on Procurement and Contracts which can be found in Part 4 Section 5 of the Constitution. Standing Orders on Procurement and Contracts govern how the County Council selects contractors and who (member or officers) is allowed to enter into a contract which binds the Council.
- 2.25 The County Council is keen to demonstrate that it addresses best value in all of its procurement. The Standing Orders on Procurement and Contracts are supplemented by a Procurement Strategy which sets out how the County Council hopes to achieve best practice in procurement.
- 2.26 Provisions with regard to these matters may be found in the Scheme of Delegation in Part 3 of the Constitution. They are delegated to the Director of Law and Assurance.

### **Legal Proceedings, Authentication of Documents and Affixing the Common Seal of the County Council**

- 2.27 There are occasions on which the County Council needs to institute legal proceedings against other people in the exercise of its powers and duties

and also to defend itself against actions taken by others. The Director of Law and Assurance is Solicitor to the Council and its Chief Legal Officer. He or she is empowered to institute and defend legal proceedings on behalf of the County Council and to represent it in court and at tribunals.

- 2.28 The Director of Law and Assurance is also empowered to witness or authenticate documents and to affix the Common Seal of the Council to deeds. The Scheme of Delegation in Part 3 sets out those powers in more detail.