

Part 1 - Summary and Explanation

Summary and Explanation

The Council's Constitution

South Hams District Council has 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 decide.

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 in Parts 3 – 7.

The main features of the Constitution are as follows:

- the Council meeting will set the overall budget and policy framework and will be a focus for debate about the performance of the Executive;
- an Executive body consisting of a Leader and other Executive Members will make decisions within the policy and budget framework established by full Council. Decisions will be delegated to the Executive as a body but not to individual Members;
- a Scrutiny Group will hold the Executive to account, can make recommendations to the Executive and / or Council arising from the outcome of the Scrutiny process and may review areas of Council activity or matters of wider local concern;
- Policy Development Groups will review and develop policy and may review areas of wider local concern;
- An Audit Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment and independent Scrutiny of the Council's financial and non financial performance;
- most regulatory decisions will continue to be made by bodies of the Council;
- there will be a Standards Committee to promote high standards of conduct and support Councillors' observance of their Code of Conduct;
- a Personnel Panel will draft Personnel policy and consider issues of individual personal impact.
- A Salcombe Harbour Board is assigned to improve, maintain and manage the whole of the Salcombe Harbour Estuary for the benefit of users.

What's in the Constitution?

Article 1 of the Constitution commits the Council to principles of community leadership, public involvement and efficient, effective, transparent and accountable decision making. Articles 2 – 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 full Council meeting (Article 4)
- Chairing the Council (Article 5)
- Scrutiny and Policy Development (Article 6)
- The Executive (Article 7)
- Regulatory and Other Bodies of the Council (Article 8)
- The Standards Committee (Article 9)
- Audit Committee and Salcombe Harbour Board (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 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.

Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

How the Council operates (cont'd)

All Members meet together as the Council. Meetings of the Council are normally open to the public. At Council meetings, Members decide the Council's overall policies, particularly Statutory Plans and set the budget and Council Tax each year. The Council appoints the Leader of the Council, Deputy Leader of the Council and other Members of the Executive and appoints Members of all the other bodies of the Council and most representatives on Outside Bodies annually. The Council may question the performance and decisions of the Executive and of other bodies of the Council. It receives annual and other reports from the Leader of the Council, chairmen of other bodies and individual Members. The Council may determine those matters not within the remit of any of its reporting bodies. Council meetings may include formal decision making, wider debates and presentations. The Council may also meet informally in workshops and seminars.

HOW DECISIONS ARE MADE

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council, the Deputy Leader of the Council and between three and eight other Members all appointed by the Council. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally 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. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

SCRUTINY

There is a Scrutiny Group and three Policy Development Groups which support the work of the Executive and the Council as a whole. They allow 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. Scrutiny 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 the Group to consider whether the decision is appropriate. Scrutiny may recommend that the Executive reconsider the decision. Scrutiny may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Audit Committee has a more specific role and monitors the internal workings of the Council including the internal and external audit functions.

REGULATORY COMMITTEES

A 'regulatory committee' is a term often used by councils to describe committees which deal with Local Authority business which cannot be dealt with by the Executive such as licensing and planning. Regulatory Committees also normally deal with applying legislation and statutory regulations which have a degree of public or environmental protection. In this Constitution, they include:

- the Development Control Committee
- the Licensing Committee

Meetings of the Council's regulatory committees are open to the public except where personal or confidential matters are being discussed.

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.

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 are a result of the Council's own processes and decisions. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as an applicant for benefit, 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 Member, or any other Member, about any matters of concern to them;
- petition the Council;
- obtain a copy of the Constitution;
- attend meetings of the Council and its other bodies except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- with prior notification ask questions at Executive meetings;
- by invitation may contribute to debates of the Scrutiny and Policy Development Groups;

Citizens' Rights (cont'd)

- find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council about something the Council has done wrong, failed to do or if the Council has not treated a citizen in a professional or courteous manner;
- 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 Standards Board for England if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

For further information on your rights as a citizen, please contact the Monitoring Officer (or Member Support Services Manager in his/her absence), South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE, Telephone: (01803) 861347.

A detailed statement of the rights to inspect agendas, reports, background papers and minutes of meetings of the council and its bodies is set out in Part 4.