

CHAPTER 1 - SUMMARY AND EXPLANATION

- 1 The 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, whilst others are for the Council to choose.
- 2 The Constitution is divided into 12 Sections which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules of procedure and protocols at the end of the document.

A WHAT'S IN THE CONSTITUTION?

- 3 Chapter 1 of the Constitution commits the Council to Chapters 1 to 12 and explains the rights of citizens and how the key parts of the Council operate.

PURPOSE OF THE CONSTITUTION

- 4 The purpose of the Constitution is to:
 - a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 - b) support the active involvement of citizens in the process of local authority decision making;
 - c) help Councillors represent their constituents more effectively;
 - d) enable decisions to be taken efficiently and effectively;
 - e) create a powerful and effective means of holding decision makers to public account;
 - f) ensure that no one will review or scrutinise a decision in which they were directly involved;
 - g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
 - h) provide a means for improving the delivery of services to the community; and
 - i) enable the Council to provide services to the community in an efficient, effective and economical manner.

B HOW THE COUNCIL OPERATES

- 5 The Council is composed of 66 Councillors with one-third of them (22) elected three years in every four. 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.
- 6 Councillors agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council trains and advises them on the Code of Conduct.
- 7 All Councillors meet together as the Council. Meetings of the Council are open to members of the public except when personal or confidential matters are being discussed. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader, approves those matters which are part of the Council's main policies (known as the 'policy framework') and provides an opportunity through questioning and debate for the Cabinet to be held to account. There is also the opportunity for the public to ask questions or make statements directly to the Council.

C HOW DECISIONS ARE MADE

- 8 The Cabinet is the part of the Council which is responsible for key and most day-to-day decisions. The Cabinet is made up of the Leader and six other Councillors. When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan unless they are urgent. These decisions will be taken in public, including any discussion with Council officers, except where personal or confidential matters are being discussed. The Cabinet 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.
- 9 Decisions which are not made by the Cabinet (or Cabinet Members individually) may either be dealt with by Area Committees (see below) or if they concern a matter such as a planning or licensing application by the Licensing and Regulatory Committee or the Planning Committee as applicable.
- 10 Meetings of the Council's Cabinet and Committees are open to the public except where personal or confidential matters are being discussed. The Government has defined categories of information which can, or must, be discussed in private. These are outlined in the Section of this Constitution dealing with access to information principles (See Chapter 12).

E OVERVIEW AND SCRUTINY

11 There are four Overview and Scrutiny Committees which support the work of the Cabinet, Cabinet Members 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 Cabinet and the Council as a whole on its policies, budget and how it delivers its services. Overview and Scrutiny Committees also monitor the decisions of the Cabinet and Cabinet Members. They consider 'called-in' decisions that have been made by the Cabinet or a Cabinet Member but not yet implemented. (See Overview and Scrutiny Procedure Rules (Chapter 6). This enables the relevant Overview and Scrutiny Committee to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

F AREA COMMITTEES

12 In order to give citizens a greater say in Council affairs, seven Area Committees have been created.

13 They cover

- a) Crosby
- b) Formby
- c) Linacre and Derby
- d) Litherland and Ford
- e) St. Oswald and Netherton and Orrell
- f) Sefton East Parishes
- g) Southport

14 The Committees are responsible for making some decisions on local transport and environmental matters and acting as a focus of consultation and discussion about matters in their area. Their membership is made up of Councillors for each particular area and meetings are held in public. Local advisory groups of local people sit alongside the Committees.

G THE COUNCIL'S STAFF

15 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 Protocol governs the relationships between officers and members of the Council, which can be found in Chapter 12.

H CITIZEN'S RIGHTS

16 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Chapter 3. Some of these are legal rights, whilst others depend on the Council's own processes. Local advice agencies can advise on individuals' legal rights.

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

18 Citizens have the right to:

- a) vote at local elections if they are registered;
- b) contact their local Councillor about any matters of concern to them;
- c) obtain a copy of the Constitution;
- d) attend meetings of the Council and its Committees unless meeting in private session, for example, personal or confidential matters are being discussed;
- e) petition to request a referendum on a mayoral form of executive;
- f) participate in the Council's question time;
- g) 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;
- h) attend meetings of the Cabinet and Cabinet Members where key decisions are being discussed or decided (unless meeting in private session);
- i) see reports and background papers (citizens cannot see reports and background papers in relation to matters which are or have been considered in private session) and any record of decisions made by the Council and Cabinet;

- j) complain to the Council about any matter for which it is responsible through the complaints procedure;
 - k) 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;
 - l) 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
 - m) inspect the Council's accounts and make their views known to the external auditor.
- 19 The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Committee Section, Town Hall, Trinity Road, Bootle.
- 20 All of the publicly available information including agendas, reports, minutes and a calendar of meetings is available on the Council's website.

I DECISION MAKING

RESPONSIBILITY FOR DECISION MAKING

- 21 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts D, E, F, G H and J of this Constitution.

PRINCIPLES OF DECISION MAKING

- 22 All decisions of the Council will be made in accordance with the following principles:
- a) proportionality (i.e. the action must be proportionate to the outcome);
 - b) due consultation and the taking of professional advice from officers;
 - c) respect for human rights;
 - d) a presumption in favour of openness;
 - e) clarity of aims and desired outcomes;

- f) take account of all relevant matters;
- g) discount all irrelevant matters; and
- h) in accordance with the law.

TYPES OF DECISION

23 There are decisions reserved to full Council which are decisions relating to the functions listed in Chapter 4 will be made by the full Council and not delegated.

24 A key decision is:

- a) any executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a Departmental budget, whichever is the greater;
- b) any executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards.

25 A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Chapter 5 of the Constitution.

DECISION MAKING BY THE FULL COUNCIL

26 Subject to paragraph 29, the Council meeting will follow the Council and Committee Procedure Rules (Standing Orders) set out in Chapter 4 of the Constitution when considering any matter.

DECISION MAKING BY THE CABINET

27 Subject to paragraph 29, the Cabinet will follow the Cabinet Procedure Rules (Standing Orders) set out in Chapter 5 of this Constitution when considering any matter.

DECISION MAKING BY OVERVIEW AND SCRUTINY COMMITTEES

28 Overview and Scrutiny Committees will follow the Scrutiny Procedures Rules set out in Chapter 6 of this Constitution when considering any matter.

DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL

29 Subject to paragraph 29, other Council Committees and Sub-Committees will follow the Council and Committee Procedure Rules (Standing Orders) set out in Chapter 4 of this Constitution which apply to them.

DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

30 The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of the Human Rights Act 1998.

J MEMBERS OF THE COUNCIL

COMPOSITION AND ELIGIBILITY

- a) **composition:** The Council will comprise 66 members otherwise called Councillors. Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State;
- b) **eligibility:** Only registered voters of Sefton or those living, working or owning/occupying land there will be eligible to hold the office of Councillor.

ELECTION AND TERMS OF COUNCILLORS

31 The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year except that in 2013 and every fourth year after there will be no regular election. 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.

32 The Council has adopted a Code of Conduct governing, elected and co-opted Members which applies when they are acting in those capacities.

ROLES AND FUNCTIONS OF ALL COUNCILLORS

- a) **key roles:** all Councillors will:
 - (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;

- (ii) represent their communities and bring their views into the Council's decision making process i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) be involved in decision making;
- (vi) where appropriate to represent the Council on other bodies (with their consent); and
- (vii) maintain the highest standards of conduct and ethics.

(b) rights and duties:

- (i) Councillors will have rights of access to documents (and electronically held information), information, land and buildings of the Council necessary for the proper discharge of their functions and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it; and
- (iii) for these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Chapter 12 of this Constitution.

CONDUCT

33 Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Chapter 12 of this Constitution.

ALLOWANCES

34 Councillors will be entitled to receive allowances in accordance with the Members' Allowances set out in Chapter 2 of this Constitution.

K THE CONSTITUTION

POWERS OF THE COUNCIL

35 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

THE CONSTITUTION

36 This Constitution, and all its appendices, is the Constitution of Sefton Metropolitan Borough Council.

INTERPRETATION AND REVIEW OF THE CONSTITUTION

37 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

38 The Council will monitor and evaluate the operation of the Constitution as set out in Section 1.

DUTY TO MONITOR AND REVIEW THE CONSTITUTION

39 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

PROTOCOL FOR MONITORING AND REVIEW OF CONSTITUTION BY MONITORING OFFICER

40 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out above. In undertaking this task the Monitoring Officer may:

- a) observe meetings of different parts of the members and officer structure;
- b) undertake an audit trail of a sample of decisions;
- c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- d) compare practices in this Authority with those in other comparable authorities or national examples of best practice.

CHANGES TO THE CONSTITUTION

41 Legislative and any other necessary and urgent changes to the Constitution can be made by the Heads of Governance and Civic Services and Corporate Legal

Services and such actions are reported to the next Council meeting as appropriate. Any such step is taken in consultation with the Cabinet Member and/or Leader of the Council.

L SUSPENSION OF THE CONSTITUTION

LIMIT TO SUSPENSION

- 42 The Sections of this Constitution may not be suspended unless the Chief Executive (or Emergency Duty Co-ordinator who must be a Chief Officer) considers suspension to be appropriate to deal with an emergency or situation of urgency in which case he may suspend such parts of the Constitution he/she considers to be necessary to deal with the emergency or situation of urgency. Such a step should only be taken in exceptional circumstances and 'emergency' is to have the same meaning as defined in the Civil Contingencies Act 2004.
- 43 The Rules of Procedure specified in Chapter 4 may be suspended by the full Council to the extent permitted within those Rules and the law.

PROCEDURE TO SUSPEND

- 44 The Chief Executive (or Emergency Duty Co-ordinator) may suspend such parts of the Constitution as he or she considers necessary under paragraph 42 above by giving written notice of the suspension to the Leader (or his nominee) and the Monitoring Officer.
- 45 Subject to paragraph 44 above, the Rules of Procedure in Chapter 4 of the Constitution may only be suspended by motion to suspend. Such motion may not be moved without notice unless one half of the whole number of Councillors is present.
- 46 The extent and duration of any suspension under paragraphs 44 and 45 above will be proportionate to the result to be achieved, taking account of the principles of the Constitution set out above.

RULES CAPABLE OF SUSPENSION:

The Council and Committee Procedure Rules (except paragraphs 92 and 96) may be suspended in accordance with paragraphs 44, 45 and 46. The rules can only be suspended for the duration of the meeting.

RESTORATION FOLLOWING SUSPENSION UNDER PARAGRAPHS 44, 45 AND 46 ABOVE

- 47 The suspension shall terminate and the Constitution shall be fully in force at the next Council meeting following the suspension or at the date of the Chief

Executive gives written notification to the Leader and the Monitoring Officer that the Constitution is restored, whichever is the earlier.

M INTERPRETATION

48 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council is final. Such interpretation will have regard to the purposes of this Constitution contained above.

N PUBLICATION

49 The Director of Corporate Commissioning will ensure that copies of this Constitution are available to each member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

50 The Director of Corporate Commissioning will ensure that copies are available for inspection at principal Council offices and available for inspection on the Council's website.

O DESCRIPTION OF EXECUTIVE ARRANGEMENTS

51 The following parts of this Constitution are the executive arrangements:-

- a) Chapter 5 – Cabinet;
- b) Chapter 8 – Area Committees (for Cabinet decisions delegated to Area Committees);
- c) Chapter 9 – Joint Arrangements; and
- d) Chapter 12 -Access to Information Procedure Rules.