

SUMMARY AND EXPLANATION**The Constitution of Darlington Borough Council****1. Introduction**

The Council's constitution is in seven parts. The first part – the part you're looking at now - is a summary of how the Council works and guide to how to find your way around about the council's internal rulebook. We've tried to make it easy to read and as simple as possible. This guide doesn't override the rules themselves – if there's a conflict then the rules prevail.

Most of the rules themselves are set out in the second, formal, part of the constitution. The rules set out who makes the decisions about the council's functions, when those decisions are taken and what procedures have to be followed.

2. Composition of the Council

There are 53 councillors on Darlington Borough Council. All 53 of them together comprise the full Council.

The Borough is divided into 24 wards. Some wards have two councillors and some have three, two wards currently have one councillor. The boundaries of the wards are reviewed from time to time by the Local Government Commission.

3. Elections and Councillors' Length of Office

Once elected, a councillor normally stays a councillor for four years. The main exception is if a councillor stops being a Councillor during the four years, for any reason, a by-election is held. Councillors elected at a by-election are elected for less than four years. They 'take over' the rest of the four years from the previous councillor.

When a Councillor's four years are up they can be re-elected.

The elections are known as 'all out' this means that every four years there is an election in every ward and all councillors stand for office at the same time and have the same period of office. If an election is held for more than one seat in a ward then electors have one vote for each vacant seat.

4. Roles and functions of Councillors

Between 2 and 9 councillors can be appointed to the Cabinet and their role is set out in section 11 of this part of the Constitution.

Councillors who are not on the Cabinet can only make formal decisions about the council's functions at meetings. They can only vote on decisions if they are a member of the relevant committee. They can only vote if they actually attend the meeting, although for some committees they can send another councillor to substitute for their place. The substitute does not act as a proxy – they are treated as being a full member of the committee and can vote as they wish.

Each councillor on the committee has one vote. If the votes for and against a particular decision are equal then the Chair of the meeting has a second or 'casting' vote.

Councillors are bound by the Council's code of conduct. They cannot take part in a decision if they have a conflicting personal interest in the decision. Ultimately councillors can be removed from office if they break the code

Councillors must also make sure that they take decisions for proper reasons. For example, the law says when making decisions about planning applications they can only take certain factors into account. These factors are called 'planning considerations'. A councillor must not be influenced by non-planning considerations.

Councillors must act with impartiality, especially where they are taking decisions about individuals (for example deciding whether or not to grant planning permission).

Councillors have certain legal rights to see council documents when they can establish that they need to see them in order to carry out their duties as councillors.

5. Scheme of Allowances

The Council has a scheme of allowances which are paid to councillors. The law requires the Council to set up an independent panel to advise it on the payments it should make. The scheme is set out in section 7 of this Constitution.

6. Role of the Full Council

6.1 The full Council's role is to take decisions as follows:-

- decisions which it has not delegated, about council functions **but not** about executive functions
- appointing Councillors to or from the Cabinet
- appointing Councillors to or from committees
- appointing the Mayor or deputy Mayor
- setting the budget (after considering a draft prepared by the Cabinet)
- setting the policy framework (plans and strategies which the Council will normally follow and from which the Cabinet cannot depart)

6.2 The difference between a council or executive function.

Under the regulations which required the Council to set up its Cabinet, all decisions about council services are either executive or non-executive. The main rule is that all decisions are for the Cabinet to take unless regulations say otherwise. There's a long list of functions which are not the responsibility of the Cabinet. The key areas which are not executive functions are as follows:

- most licensing functions
- most planning functions
- health and safety and food safety enforcement functions
- decisions about council employees
- decisions about elections

- decisions to sell off the Council’s housing stock
- any decision which the executive wants to take and which would be contrary to a council approved plan or strategy.

A full list is set out in regulations and is regularly updated.

6.3 Council approved plans and strategies.

There are some plans and strategies where the Cabinet prepares a draft plan or strategy and asks the full Council to adopt it. Full Council then makes the final decision about adoption. The list is set out in part 2 of the Constitution.

The Council can add plans and strategies to this list at any time.

Before the Council can adopt or approve any of these plans or strategies the Cabinet must prepare a draft and submit it to the full Council to consider. The Council can do whatever it likes but if it doesn’t want to adopt the draft it must give the Cabinet a chance to object.

6.4 Rules saying how meetings work.

The Council has a set of rules about how meetings are carried out. These govern things like how often councillors can speak and for how long they can speak. In general, the rules are quite relaxed at committee and executive meetings and are more formal at meetings of full council – with 53 councillors we need more formal rules to make sure everyone is given the opportunity to speak and take part.

The full rules are set out in the procedure rules in part 4 of the Constitution.

7. The Mayor

The Mayor is mainly a ceremonial role. The Mayor usually spends many hours each week representing the council on official visits to groups and events – almost all in Darlington.

The Mayor has a few formal powers. For instance, the Mayor chairs the meetings of the full council. If the Council takes a vote and the number is equal then the Mayor has a second or ‘casting’ vote to overcome the deadlock.

8. Decision making by employees.

The Council and the executive have each authorised some employees to make decisions. The list is set out in the “scheme of delegations” which is at in part 3 of the Constitution.

9. Overview and Scrutiny

The Council has five Scrutiny Committees these are:

Resources – which looks at the management of the Council’s employees, finances and land.

Public Protection and Community Partnerships – which looks at public safety including crime, and emergency planning, licensing, litter, waste and recycling.

Social Affairs and Health – which looks at the social care provided by the Council, housing and health. The Committee has specific powers to review the health services provided by the National Health Service.

Lifelong Learning – which looks at education services provided by the Council

Environment Scrutiny Committee – which looks at planning, transport highways, economic development, tourism and leisure.

The Scrutiny Committees are the Council’s watchdog committees. They do not have powers to make decisions themselves about these services, but they have powers to review and challenge the decisions of the Cabinet. An important part of their role is to review areas of the Council’s business and recommend improvements to the Cabinet.

Individual decisions can be called in to one of the Scrutiny Committees to give it the chance to review the decision before the decision is implemented.

The Scrutiny Committee does not have the power to take the decision itself – but it can ask the Cabinet to reconsider.

The full rules about Scrutiny are set out in the Scrutiny Procedure Rules in Part 4 of the Constitution. The council’s procedural rules apply to Scrutiny Committees in the same way that they apply to all council committees.

10. The Cabinet

The Cabinet consists of 9 councillors who are appointed by the Council. The Cabinet makes decisions about all the Council’s decisions except those specified as non-executive functions.

The Cabinet also has to prepare drafts of the Council’s most important plans and strategies and present them to full Council for approval. Full Council makes the final decision about approving them. Once the plan or strategy has been adopted the Cabinet cannot take decisions which are contrary to those policies – if it wants to do so it must refer the decision to the full Council.

A list of the plans and strategies which are approved in this way is set out in part 2 of the Constitution.

The Cabinet also proposes a draft budget and council tax. Again, full Council makes the final decision.

The rules about how the Cabinet operates are set out in the Cabinet Rules in Part 4 of the Constitution.

11. Decisions which can be taken by individual Councillors

Some councillors who are on the Cabinet are given special responsibility for different areas of the Council’s work. They’re a bit like cabinet ministers. These councillors are called ‘portfolio holders’

Portfolio Holders can take decisions on executive functions as individuals if the Cabinet decides to delegate powers to them. The Cabinet has delegated some powers to the Resources portfolio, but the majority of decisions are taken by members sitting in Cabinet.

See part 4 of the constitution for a list of the portfolios.

12. Council Committees

The Council has created six committees:

12.1 The Planning Applications Committee

This makes decisions about planning applications and similar matters.

12.2 The General Licensing Committee

This makes decisions about the Council's many licensing functions. The Council also has a separate Licensing Committee which deals with decisions about Liquor Licensing.

12.3 Standards Committee

The committee advises the Council about the Members' Code of Conduct. It can also hear complaints against Councillors when they are referred to it.

A copy of the council's Code of Conduct for Councillors is in part 5 of the Constitution.

12.4 Audit Committee

This committee deals with issues concerning internal control, risk management and financial reporting and provides a forum for discussion of matters raised by internal and external audit.

12.5 Human Resources Committee

The Human Resources committee manages the council's role as an employer. There are a number of panels which hear appeals and make appointments.

12.6 Membership and terms of reference of Committees

The terms of reference of the committees and make up of all the committees is set out in part 3 of the Constitution.

12.7 Sub-Committees

The Council Committees can appoint sub-committees to carry out certain aspects of their roles.

13. Management Structure

The Council's management structure is set out in part 7 of the Constitution.

The Chief Executive is the head of the Council's paid service. The Chief Executive is responsible for the overall management of the council's employees and makes reports about staffing issues to full council where appropriate.

The Borough Solicitor and Monitoring Officer is responsible for giving the Council and its Councillors legal advice about the business of the Council. This officer has must report to the Council if the Council is acting unlawfully or wrongly. The monitoring officer is also responsible for keeping the register of Councillors' interests, investigating some councillor misconduct and reporting appropriate cases to Standards Committee.

The Director of Corporate Services is the Council's Chief Finance Officer. The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs. This officer must report to Council if the Council has spent money illegally or is about to spend money illegally.

The rules about appointment of council employees are contained in the Council's Employment Procedure Rules in part 4 of the Constitution. The Scheme of Delegation for officer is set out in part 3 of the Constitution.

The Council has a Code of Conduct for its employees which is set out in part 5 of the Constitution.

14. Financial matters, contracts and Legal proceedings.

The Council has rules about how financial decisions are taken. These are set out in the Council's Financial Procedure Rules in part 4.

The Council has rules about how contracts are entered into. These are set out in the Council's Contract Procedure Rules in part 4 of the Constitution.

The Scheme of delegation sets out which officers are authorised to bring and defend legal proceedings.

15. Councillors' Interests

The Monitoring Officer keeps a register of Councillors financial and other interests – this includes things like the property they own and, if they are employed, who their employer is. You can inspect the register at the Town Hall. Councillors are responsible for making sure that their registration is up to date. Whenever a new councillor is elected the Monitoring Officer asks them to complete the registration and the monitoring officer will regularly remind councillors to make sure that the information is up to date. It is a breach of the Council's code of conduct if a councillor fails to keep information up to date.

A copy of the council's Code of Conduct for Councillors is in part 5 of the Constitution.

16. Protocols for councillor/officer behaviour

The council is most effective when there are good working relationships between councillors and its employees. The relationship between councillors and officers has to be businesslike and professional. The Council has produced guidance on councillor/officer behaviour which is in part 5 of the Constitution.

17. Citizen's Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Part 2 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individual's legal rights.

18. Rights and responsibilities of the Public

18.1 Voting

Most EU citizens who live in the Borough of Darlington are entitled to be registered as local government electors. Every year we send a registration form to every house in Darlington, usually around the end of August. If you aren't sure if you're on the register then you can see a copy or speak to the Council's electoral registration office. If you are a local government elector for a particular ward then you can vote in any elections held in that ward.

18.2 Access to information

The council publishes much information about its services and about decisions that it is planning to take. There is a forward plan which is issued every month which sets out many of the important decisions which the council is planning to take in next 3 month period.

The public have the right to see agendas and reports for meetings where decisions are to be taken and to see some documents - usually those which form the basis of committee reports.

There are some papers which you cannot see – for example if they contain personal information about other people or legal advice. The categories of 'exempt' information are set out in Schedule 12A to the Local Government Act 1972. We will give you a copy of the categories of exempt information if you are interested.

Darlington residents also have the right to see what decisions have been taken. Council staff make a record of all decisions taken at council meetings. This record is referred to as "the minutes". Most minutes are available for the public to see.

The Council also publishes a publication scheme. This will tell you what information the Council publishes.

The Council also keeps a number of public registers that are open to public inspection. These include a record of the personal interests of all councillors.

18.3 Access to meetings

At Darlington Borough Council every decision making meeting (including meetings of the Cabinet) is normally open to the public. However, some meetings – or parts of meetings – are held in private. Meetings are only held in private if 'exempt information' is likely to be discussed at the meeting. Usually the first part of all meetings is held in public. If the press and public are excluded then it's normally only at the end of the meeting whilst councillors are discussing the exempt information.

At Planning and Development Committee there is a right for people to speak at the committee meeting. There is a procedure for this which is set out in Part 5 of this Constitution.

Licensing Applicants can speak at General Licensing Committee, and in certain circumstances formal objectors can also speak.

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.

In summary, citizens have the right to :-

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a Mayoral form of Executive;
- participate in the Council's question time;
- contribute to investigations by Scrutiny Committees where determined as part of a Committee's line of inquiry;
- find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- attend meetings of the Cabinet where key decisions and other decisions are being discussed or decided;
- see agendas, reports and background papers, and any record of decisions made by the Council, the Cabinet and Committees where these are not confidential;
- complain to the Council if they think it has not followed its procedures properly (a copy of the Council's compliment, comment, suggestion or complaints procedure is available on request);
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they are encouraged to use the Council's own complaints process first;
- complain to the Standards Board for England if they have evidence which they think shows that a Councillor or a co-opted member with voting rights has not followed the Council's Code of Conduct for Members and Co-opted Members; and
- inspect the Council's accounts fifteen working days prior to the start of each annual audit 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 Democratic Services, Corporate Services Department, Town Hall, Darlington DL1 5QT or telephone (01325) 388351 or (e-mail DemocraticServices@darlington.gov.uk).

The Council will make copies of the agenda and reports for any meeting open to the public, available for inspection at the Town Hall at least five clear working days in advance of a meeting. If an item is added to the agenda later, a supplementary agenda, together with the relevant report, if applicable, will also be open to inspection from the time the item was added to the agenda.

Members of the public may attend all meetings open to the public.

Further information regarding the rights of the public to inspect papers and attend meetings are contained in Article 3 of this Constitution.

If English is not your first language and you would like more information about this document, or if you require information in large print or braille or tape, please contact (01325) 388351.

اگر آپ کو یہ کتابچہ انگریزی کے علاوہ کسی دوسری زبان میں درکار ہو تو برائے مہربانی ٹیلیفون نمبر 01325 388351 پر فون کر کے حوالہ نمبر بتائیں۔

ਜੇ ਇਹ ਪਰਚਾ ਤੁਹਾਨੂੰ ਅੰਗਰੇਜ਼ੀ ਤੋਂ ਬਿਨਾਂ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਨੂੰ ਨੰਬਰ 01325 388351 'ਤੇ ਫੋਨ ਕਰੋ ਅਤੇ ਰੈਫਰੈਂਸ (ਹਵਾਲਾ) ਨੰਬਰ ਦੱਸੋ।

यदि आप यह प्रकाशन अंग्रेजी के अलावा अन्य भाषा में चाहते हैं तो कृपया संदर्भ नम्बर (रेफरन्स नम्बर) बताकर निम्नलिखित 01325 388351 पर संपर्क करें।

如果你需要其它語言的版本，請與以下電話聯係並報出參考號碼：01325 388351

যদি আপনার ইংরেজী ছাড়া অন্য কোন ভাষায় এই প্রকাশনাটির দরকার থাকে, তাহলে 01325 388351 নম্বরে ফোন করুন এবং সূত্র নম্বর উল্লেখ করুন।

إذا رغبتم الحصول على هذه النشرة بلغة أخرى غير اللغة الإنجليزية نرجو الاتصال بنا على رقم الهاتف التالي : 01325 388351 • مع ذكر رقم الإشارة.