

# **INTRODUCTION**

## **What is the Constitution?**

It is a document that has been agreed by the Council, which sets out how it operates, how decisions are made, and the procedures which it has to follow. The Council has to exercise all its powers and duties in accordance with the law and the Constitution.

The Constitution is part of the Council's Corporate Governance framework which defines the systems and processes by which the Council leads, directs and controls its functions and relates to its communities and partners.

## **What is its Purpose?**

The purpose of the Constitution is to set out how the Council conducts its business, how decisions are made and the procedures it has to follow so that it remains accountable to local people. Some of those procedures are required by law while others are a matter for the Council to determine.

## **Can it be amended?**

The Constitution can only be amended by all Members of the Council sitting together as Full Council, however, consequential amendments can be made by the Monitoring Officer of the Council (the Assistant Director Law and Governance).

## **How do I obtain or view a copy?**

The Constitution can be viewed or downloaded from the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk). Copies are also available on request from Democratic Services by telephoning (01325) 406444 or e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

If you require any further assistance or advice about the Constitution, please contact Democratic Services (01325) 406444 or e-mail [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

# SUMMARY AND EXPLANATION

## Introduction

1. The Council's Constitution is in five parts. This document is a summary and explanation of how the Council operates. We have tried to make it easy to read and as simple as possible.
2. Most of the rules in respect of how the Council operates are set out in the first 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.

## Composition of the Council

3. There are 50 Councillors on Darlington Borough Council and all 50 of them together comprise the Full Council and represent the 20 wards which make up the Borough.
4. The wards each have either two or three Councillors. The boundaries of the wards are reviewed from time to time by the Local Government Commission.
5. General information about the Councillors, the wards they represent and their addresses are available on the Council's website at [www.darlington.gov.uk](http://www.darlington.gov.uk) or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## Elections and Councillors' Length of Office

6. Once elected, a Councillor normally remains a Councillor for four years. This Council holds 'all out' elections, which means that every four years there is an election, in every ward, and all Councillors stand for election at the same time. If an election is held for more than one seat in a ward then electors have one vote for each vacant seat. The last elections in Darlington were held in May 2019 and the next ones will be held in May 2023.
7. If a Councillor stops being a Councillor during the four years, for any reason, then a by-election is held. Councillors elected at a by-election are elected for less than four years. They 'take over' the remaining four year period from the previous Councillor. When a Councillor's four years are up they can be re-elected.

8. To be able to vote in elections in the Borough of Darlington you need to be registered to vote. 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 you can contact Democratic Services by telephoning (01325) 406444 or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

## **The Mayor**

9. The Mayor is appointed annually and is Darlington's first citizen. The Mayor is the figurehead of the Council at civic and ceremonial events. The Mayor also spends many hours each week representing the Council on official visits to groups and events – almost all in Darlington.
10. 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.
11. Further details on the role and responsibilities of The Mayor are available on the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk), by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## **The Leader**

12. The Leader is elected for a four-year term at the first full Council meeting following elections. The Leader will ordinarily serve a four-year term unless they resign or is removed during their four-year term of office following a majority vote of Council Members. The Leader :-
  - decides the size of Cabinet, a minimum of three and a maximum of nine Members;
  - appoints the Deputy Leader and the Cabinet, and allocates the Portfolios; and
  - can make most of the decisions on his/her own and is able to draw up the budget and new policies alone or with Cabinet.
13. A simple majority of Councillors can reject a proposal from the Leader/Cabinet. The Leader is able to delegate Executive functions to other Sub-Committees, individual Cabinet Members and Officers.

## **Roles and Functions of Councillors**

14. Councillors decide the Council's policies and priorities and represent their communities. They are democratically accountable to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The Council, acting as one body, has responsibility for certain activities including approving the Council's policy framework and budget, appointing the Cabinet and establishing committees and other arrangements to deliver the Council's business.
15. Further details of the roles and responsibilities of Members are available on the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk) or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## **Code of Conduct**

16. Councillors are required to abide by a Code of Conduct, to ensure high standards of probity in the discharge of their responsibilities. The Monitoring Officer (the Assistant Director Law and Governance) is the Lead Officer for the Council in relation to Member standard issues, including the conduct of Members. The Council also has an Audit Committee which deals with Ethical issues.
17. Councillors also abide by a local protocol on Member and Officer Relations.

## **Councillors' Interests**

18. 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 or on the Council's website at [www.darlington.gov.uk](http://www.darlington.gov.uk). 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 their information up-to-date.

## **Members' Allowances**

19. Councillors are paid allowances linked to the level of responsibility they have within the Council. An Independent Remuneration Panel, which includes independent members of the public, reviews remuneration for Members and makes recommendations to Full Council on the level at which allowances should be set. The Full Council must take the recommendations of the Panel into consideration in taking a decision about allowances but are not bound by those recommendations. Further details are set out in Part 5 of the Constitution

## **Decision-Making**

20. All decisions of the Council are made in accordance with a number of principles, namely :- proportionality (i.e. the action must be proportionate to the desired outcome), due consultation and the taking of professional advice from Officers; respect for human rights; a presumption in favour of openness; clarity of aims and desired outcomes; and explaining what options were considered and giving the reasons for the decision.

## **Role of the Full Council**

21. There are four types of Council meeting, which shall be conducted in accordance with the Council Procedure Rules :-
  - the annual meeting;
  - ordinary meetings;
  - special meetings; and
  - extraordinary meetings.
22. The Full Council's role is to take decisions which it has not delegated to another Committee or Officer, in relation to Non-Executive (Council) functions. It cannot take decisions about Executive (Cabinet) functions. More information on the difference between an Executive and a Non-Executive function can be found in the Responsibilities for Functions Section.
23. The Full Council is responsible for setting the policy framework and budget. The policy framework consists of the most important plans and strategies adopted by the Council, and a list of these can again be found in the Responsibility for Functions Section. The Council can add plans and strategies to this list at any time.

24. An explanation of the budget and policy framework and the process by which it has to be developed is set out in more detail in the Budget and Policy Framework Procedure Rules.
25. The Council and the Executive (Cabinet) have each authorised Officers to make decisions and a list of these is set out in the Scheme of Delegation.

### **Role of the Cabinet**

26. Cabinet's role is to take decisions in relation to its functions and it operates in accordance with rules known as Cabinet Procedure Rules. More information about these functions can be found in the Responsibilities for Functions Section.
27. Although Executive power formally sits with the Leader who can exercise that power individually, in Darlington, Cabinet exercises the majority of its responsibilities collectively.

### **Overview and Scrutiny**

28. The Council has appointed a number of Scrutiny Committees, which review and challenge the decisions of Cabinet. An important part of their role is to review areas of the Council's business and recommend improvements to Cabinet.
29. 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 Cabinet to reconsider.
30. Details of the individual Scrutiny Committees, their responsibility and how they operate can be found in the Scrutiny Procedure Rules. The Council's Procedure Rules, apply to Scrutiny Committees in the same way that they apply to all Council Committees.
31. Scrutiny Committees can receive requests to consider issues through Councillors. Further details on how this works in practice are set out in the Scrutiny Procedure Rules.

## Council Committees

32. The Council has created the following committees :-

- **Planning Applications Committee** - This makes decisions about planning applications for major proposals which might attract extensive public interest. There is a right for people to speak at these meetings and further details can be found in the Protocol for Councillors and Officers dealing with Planning Matters.
- **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. Applicants can speak at these meetings, and, in certain circumstances, formal objectors can also speak.
- **Members' Standards Hearing Committee** - This Committee hears complaints against Members (including Parish Councillors) which are referred to it by the Monitoring Officer.
- **Audit Committee** - This Committee deals with issues concerning internal control, risk management, financial reporting, treasury management, ethical values and accountability and provides a forum for discussion of matters raised by internal and external audit.
- **Human Resources Committee** - This Committee manages the Council's role as an employer. There are a number of panels which hear appeals and make appointments.

## Officer Decisions

33. The Council and the Leader have delegated some of its functions to Officers, and more information on these can be found in the Scheme of Delegation, as detailed in the Responsibility for Functions Section.

## Area Committees and Forums

34. The Council may appoint Area Committees and Forums. However, no Area Committees or Forums have been appointed.

## **Joint Arrangements**

35. This Council has established joint arrangements with other Councils, and further information on these arrangements can be found in the Responsibility for Functions Section.

## **Statutory Employees**

36. The Chief Executive is the Council's most senior officer with responsibility for leading the organisation to deliver the Council's objectives. The Chief Executive has the statutory role as the Head of 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.
37. The Monitoring Officer (the Assistant Director Law and Governance) as the Council's Chief Legal Officer is responsible for giving the Council and its Councillors legal advice about the business of the Council. This Officer must report to the Full Council if the Council is acting unlawfully or wrongly. The Monitoring Officer is also responsible for keeping the register of Councillors' interests, receiving complaints against Members' misconduct and determining whether such cases should be referred to the Members' Standard Hearing Committee for investigation.
38. The Chief Finance Officer (the Group Director of Operations (sometimes known as the Section 151 Officer) is responsible for the proper management and administration of the Council's financial affairs. This Officer must report to Full Council any decision or course of action that will involve incurring unlawful expenditure or an unbalanced budget.
39. The Democratic Manager is the Council's Statutory Scrutiny Officer. The Statutory Scrutiny Officer has responsibility for promoting and supporting the role of the Scrutiny Committees and providing Officers and Members with appropriate advice.
40. Further information on the Statutory and Proper Officer roles is set out in the Responsibility for Functions Section (Schedule 4 – Scheme of Delegation to Officers).
41. The rules about the appointment of Council employees are contained in the Council's Employment Procedure Rules, and the rules by which they must abide are set out in the Code of Conduct for Employees.

## **Financial and Contracts Matters**

42. The Council is responsible for significant amounts of public money which is received from Central Government or is raised locally through setting the Council Tax or for fees for a range of services. The Council is required to produce a set of Annual Accounts each financial year that are subject to rigorous external audit. As part of the Annual Accounts process, there is a set period for the public to inspect the accounts as well.
43. The Council has rules that govern the way in which goods, materials and services are procured to ensure value for money.
44. Full details of this can be found in the Council's Financial and Contract Procedure Rules.

## **Rights and Responsibilities of the Public**

45. The Council publishes much information about its services and about decisions that it is planning to take. The Council welcomes and positively encourages public involvement in the way in which it conducts its business. The majority of meetings and documents are accessible to the public and it is only for a small proportion of the Council's business that the public is excluded. Any decision to exclude the public is considered carefully and must meet specific criteria. More information on this can be found in the Access to Information Procedure Rules.
46. The public can photograph, film, record and blog at meetings. Further details are set out in the Access to Information Procedure Rules.
47. The Council produces a Forward Plan which contains advance notice of 'Key Decisions' to be made by Cabinet. Information about a key decision will be included on the forward plan 28 days before the decision is taken. More information about the requirements of the Forward Plan can be found in the Cabinet Procedure Rules.
48. Copies of agenda and reports for any meeting open to the public will be published on the website at least five clear working days before the meeting with copies available from Democratic Services. If an item is added to the agenda later, a supplementary agenda, together with any relevant report, will be available from the time the item was added to the agenda.

49. Agenda, reports and minutes of formal meetings will be stored for six years after the meeting and made available on request subject to any exemptions that may apply.
50. The Council also publishes a significant amount of information on its website (which comprises the Council's publication scheme). You can also make a freedom of information request see [freedomofinformation@darlington.gov.uk](mailto:freedomofinformation@darlington.gov.uk)
51. We also keep a number of registers which are open to public inspection. These include a record of the personal interests of all Councillors.
52. 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.
53. 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 and ask questions and make representations about items on the agenda;
  - 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 Corporate Complaints, Compliments and comments, Procedure is available at [https://www.darlington.gov.uk/media/3520/corporate\\_complaints\\_procedure-2020-final.pdf](https://www.darlington.gov.uk/media/3520/corporate_complaints_procedure-2020-final.pdf) or 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 Corporate Complaints, Compliments and Comments Procedure first;
- complain 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;
- 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;
- ask a Member to refer an issue to the relevant Scrutiny Committee for consideration. This is called Councillor Call for Action (CCfA). Details of how this operates are set out in the Scrutiny Procedure Rules; and
- submit a petition to the Council and to receive a response to the issues raised in that petition. Should the petition contain enough signatures it could trigger a debate at a Cabinet meeting.

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) 406444.