

## **PART 1 - SUMMARY AND EXPLANATION**

### **1.1 The Constitution**

1.1.1. This document is Swale Borough Council's Constitution. It sets out how the Council operates, how decisions are made and the procedures which need to be followed. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **1.2 Purpose**

1.2.1 The purpose of the Constitution is to:

- a) enable the Council to provide clear leadership to the community in partnership with the public, 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; and
- h) provide a means of improving the delivery of services to the community.

### **1.3 How the Council operates**

1.3.1 The Council is composed of 47 Members, otherwise called Councillors and elections are held every four years. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn-up by the Local Government Boundary Commission for England. Councillors are democratically accountable to residents of their ward.

- 1.3.2 Only registered voters of the Borough or those living or working or owning land or premises in Swale will be eligible to hold the office of Councillor.
- 1.3.3 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.
- 1.3.4 All Councillors will:
- a) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - b) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - d) balance different interests identified within the ward and represent the ward as a whole;
  - e) be involved in decision-making;
  - f) be available to represent the Council on other bodies; and
  - g) maintain the highest standards of conduct and ethics.
- 1.3.5 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- 1.3.6 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. For these purposes, "confidential" and "exempt" information are defined in the Procedural Rules in Part 3.2 of this Constitution.
- 1.3.7 Councillors have to agree to follow a Code of Conduct set out in Part 4 of this Constitution to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for matters relating to the Code of Conduct.
- 1.3.8 Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 5 of this Constitution. The Scheme is approved by Full Council following advice from an Independent Members' Allowances Panel.

## **1.4 The Committee System**

- 1.4.1 The Council operates a 'committee system' form of governance. This means that decisions are made by Full Council or delegated to Committees, Subcommittees and Officers. Full Council is the meeting of all 47 Councillors and Full Council is ultimately responsible for the exercise of all functions and certain matters are expressly reserved to be taken by a meeting of the Full Council.
- 1.4.2 The Council does not have an overview and scrutiny committee. In the committee system a cross-section of administration and opposition members are involved in the decision-making process and therefore hold the administration to account on their policies as they proceed through the committee system.

## **1.5 How Decisions Are Made**

- 1.5.1 This part of the Constitution explains who takes decisions and sets out the responsibilities of the Council, Committees, Subcommittees and officers.
- 1.5.2 All Councillors meet together a number of times each year as the Full Council. The main role of Full Council meetings is to decide the Council's overall policies and set the budget each year. Further details are set out in Part 3.3 of the Constitution.
- 1.5.3 Full Council elects a Mayor as Chair of the Full Council meeting and who performs the Council's civic role and represents the Council in the community. The Mayor is the representative of the Crown in the Borough and as such is the First Citizen of the Borough. They are the principal ambassador of the council. The Mayoralty cannot be used for political purposes. The Full Council also elects a Deputy Mayor who will deputise for the Mayor when they are unavailable or absent.
- 1.5.4 Meetings of the Full Council will generally be open for the public to attend except where exempt or confidential matters are being discussed.
- 1.5.5 There are three different types of Full Council meeting:
- a) The Annual Meeting of the Council;
  - b) Ordinary meetings; and
  - c) Extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules.

- 1.5.6 The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility and for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2 of this Constitution.
- 1.5.7 All decisions of the Council will be made in accordance with the following principles:
- a) due consultation and the taking of professional advice from officers;
  - b) respect for human rights;
  - c) a presumption in favour of openness;
  - d) clarity of aims and desired outcomes;
  - e) due regard to the Public Sector Equality Duty; and
  - f) due regard for the individuals and communities served by the Council.

## **1.6 Committees**

- 1.6.1 Whilst certain functions are reserved to the Council, the Council can delegate many of its functions to a Committee, a Subcommittee, a joint Committee or an Officer. These are set out in Part 2 of the Constitution. Part 2 of the Constitution also sets out the responsibilities for the Council's functions which are not the responsibility of the Full Council.
- 1.6.2 The Committee system consists of a number of service-based and other committees taking decisions under their terms of reference which are agreed by Full Council and set out at Part 2 of this Constitution.

## **1.7 The Council's Staff**

- 1.7.1 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 structure chart is attached as Appendix 1 to this constitution.

## **1.8 Finance, Contracts and Legal Matters**

- 1.8.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules as set out in Part 3.8 of this Constitution.

- 1.8.2 Every contract made by the Council will comply with the Contract Standing Orders as set out in Part 3.9 of this Constitution.
- 1.8.3 The Directors/Head of Legal are authorised to institute, defend or participate in and settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or is in accordance with Council policy or in any case where they consider that such actions are necessary to protect or pursue the Council's interests. If the action is not required to give effect to a decision or policy of Council the Director/Head of Legal will consult with the Chair of Policy and Resources or Vice-Chair in their absence.
- 1.8.4 Where any documents are necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Partnership or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 1.8.5 The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Partnership should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Partnership or some other person authorised by them.

## **1.9 Review and Publication of the Constitution**

- 1.9.1 This Constitution will be kept under review by the Monitoring Officer.
- 1.9.2 The Proper Officer will give a printed copy or summary of this Constitution to each Member of the authority upon delivery to them of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council, and advise Members of any changes.
- 1.9.3 The Proper Officer will ensure that copies are available for inspection at the Council offices. The Constitution will also be available to view on the Council's website. If requested, hard copies will be made available on payment of a reasonable fee.
- 1.9.4 The Proper Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.