



## Regulatory & Appeals Committee

Date: Monday, 27 November 2017  
Time: 7.00 pm  
Venue: Council Chamber  
District Council Offices, Queen Victoria Road, High Wycombe Bucks

### Membership

Chairman: Councillor J A Savage  
Vice Chairman: Councillor Mrs L M Clarke OBE

Councillors: M Clarke, A D Collingwood, C Etholen, R Gaffney, M Hussain JP,  
D Knights, I L McEnnis, R Raja, D A C Shakespeare OBE and  
Ms J D Wassell

### Standing Deputies

Councillors: K Ahmed, Z Ahmed, A R Green and Mrs G A Jones

**Fire Alarm** - In the event of the fire alarm sounding, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Please congregate at the Assembly Point at the corner of Queen Victoria Road and the River Wye, and do not re-enter the building until told to do so by a member of staff.

**Filming/Recording/Photographing at Meetings** – please note that this may take place during the public part of the meeting in accordance with Standing Orders. Notices are displayed within meeting rooms.

## Agenda

Item		Page
1.	<b>APOLOGIES FOR ABSENCE</b> To receive any apologies for absence.	
2.	<b>MINUTES</b> To confirm the minutes of the meeting held on 24 July 2017 (previously circulated)	
3.	<b>DECLARATIONS OF INTEREST</b>	

To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

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|----|--|---------|
| 4. | <b>CONSTITUTIONAL REVIEW</b>   | 1 - 51  |
| 5. | <b>WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGES AND COMMERCIAL ADVERTISING ON LICENSED VEHICLES</b> | 52 - 55 |
| 6. | <b>STATUTORY DESIGNATED LIST OF WHEELCHAIR ACCESSIBLE VEHICLES</b>                             | 56 - 57 |
| 7. | <b>SUPPLEMENTARY ITEMS (IF ANY)</b>  |         |
| 8. | <b>URGENT ITEMS (IF ANY)</b>   |         |

**For further information, please contact Iram Malik 01494 421204, [committeeservices@wycombe.gov.uk](mailto:committeeservices@wycombe.gov.uk)**

# Agenda Item 4.

Report to Regulatory and Appeals Committee

## **REVISIONS TO THE CONSTITUTION**

**Officer contact:** Catherine Whitehead

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## **PROPOSED DECISION OR RECOMMENDATION TO COUNCIL**

***At this stage there would be no recommendation to Council however the final amendments would be referred to Council for approval.***

### Corporate Implications

This report has been prepared to consult the Members of Regulatory and Appeals Committee on a proposed review of the Constitution. There are no specific changes recommended at this stage but a report will come back to the Committee once the review has been completed.

### **Executive Summary**

1. Regulation and Appeals Committee agreed at its meeting in July that a review of the Constitution should be conducted to ensure that it continues to be compliant with current law and to ensure that the document remains clear. A review has been carried out which has informed the recommendation to prepare a new Constitution and the reasoning is set out within the report. This report seeks Members views on whether to progress a rewrite and if so what form the rewrite should take.

### **Sustainable Community Strategy / Council Priorities - Implications**

2. The constitution is a governance document which is designed to ensure that there is a clear record of the procedures which are agreed by Council and to help everyone to understand the procedures. It would help to ensure that the Council's decision making processes are sound and decisions are not vulnerable to challenge.

### **Background and Issues**

3. The Council is required by s37 Local Government Act 2000 to have a Constitution.

A local authority operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—

(a) such information as the Secretary of State may direct,

(b) a copy of the authority's standing orders for the time being,

(c) a copy of the authority's code of conduct for the time being under section 51, and

(d) such other information (if any) as the authority consider appropriate.

(2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

(3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

4. The Wycombe District Council Constitution was last reviewed in 2016 and at that stage a number of changes were made to bring it up to date. Over the years, since its original implementation in 2002, the Constitution has been amended regularly to give effect to changes which have been required by either internally to assist delivering or to reflect nation changes in law and guidance.
5. It is inevitable that a document which is subject to regular amendment eventually reaches a point where a more fundamental review is required to ensure that the document continues to work effectively as a whole and that the changes are consistent in style and the meaning remains clear.
6. There is also a greater sense of public transparency and accessibility than at the time it was originally drafted. Although the changes which accompanied the introduction of 'New Council Constitutions' by the then DETR (later ODPM) were intended to bring about a new era of Transparency, Accountability and Efficiency the actual constitutions which were produced as models which all local authorities drafted and implemented in accordance with government guidance were not as accessible as they might have been.
7. There were long, very wordy and in some respects the logic of the layout which was recommended by government guidance at the time was not particularly 'user friendly'. There is no requirement to follow the model (although there are some mandatory elements) and many Councils who are now well versed in drafting their own constitutions, rules and procedures, have chosen to adopt simpler and more transparent and accessible ways of describing their democratic arrangements.

### **Review of the Constitution**

8. The Head of Democratic, Legal and Policy Services has reviewed the Constitution with reference to the following:
  - The original guidance from government on drafting Constitutions within New Political Arrangements in 2002;

- An earlier draft of the Wycombe Constitution dated 2010 (to highlight recent amendments and the changing document);
  - Constitutions of other authorities;
  - Current practice within the organisation.
9. This review has identified that the passage of time coupled with the regular amends has led to a situation where the Constitution no longer sits together as a whole. In some small instances the Constitution does not reflect well understood practice within the organisation; in others the constitution is in conflict with itself but more commonly it is not clear what the intended meaning is. There are some instances where Members and Senior Officers who have been consulted have not appreciated the effect of the words and others where the context of the words has been altered which has impacted on understanding. This apparent lack of clarity places the authority at risk of being considered to have failed to follow its own rules and processes (procedural impropriety or maladministration) or for decision makers to have exceeded their powers (ultra vires) and therefore opens the Council to possible challenge. It is suggested that in reviewing and improving the document so that it is a transparent and cohesive document, there is an opportunity to make the Constitution shorter, clearer and more accessible both for those outside and those operating within the organisation.
  10. In 2002 the Constitution was produced in hard copy by all Councils and in the majority of Councils (including Wycombe District) was distributed to Members as part of a handbook. With austerity and the need to make the document more widely accessible PDF versions of Constitutions started to appear on Council websites and then in time hard copy versions were no longer distributed. The PDF web version was often not easy to use and whilst some may still print off a hard copy others may simply avoid reading the document and ask others to advise or worse still assume they know the content increasing the risk of a disconnect between the Constitution and practice.
  11. It is accepted that putting PDF documents on a website as an alternative to developing web content is not good practice and the public will not readily access a large document for downloading. It is therefore suggested that effort should be made to prepare at least an accessible summary for public consumption in a web friendly format with greater scope for searching and browsing the detailed procedures elsewhere in the Constitution. The production of the whole of the Constitution as web content would be time consuming to achieve and the relatively small number of hits by the public on the Constitution means this is not justified, but a hybrid approach is likely to strike the right balance between efficiency and accessibility. For those using the document regularly for reference the shorter and simpler the document the easier it will be to use in any event even when browsing online.
  12. The proposal is that the amendments would clarify but not change the meaning of the Constitution in any significant way (other than to ensure consistency and accuracy). Where it is necessary to make changes to the Constitution which do affect the meaning or distribution or allocation of responsibilities these would be specifically highlighted and a rationale

provided for any changes to explain why they were needed and what improvements they are designed to achieve. For example there are some proposed changes to the procedure rules for procurement and finance identified to streamline and make the processes more efficient. These changes would be separately identified and the effect would be explained.

13. The review provides broad scope for Members to identify ways in which they would like to see the Constitution improved subject always to the legislative framework in which the Council's democratic arrangements sit. Some suggested areas for improvement are set out below. This report is designed to enable members of the Regulation and Appeals Committee to set out the style and nature of the Constitution which they would like to see.

## **Part 1 Summary**

14. The government produced a model Constitution in 2002 and on this the majority of Constitutions were based. The Constitution although a statement of rules for the Council was also intended to be an outward facing document providing transparency to the public. The Summary and Articles section contains an overview of the Council. It is the part of the Constitution which, of all parts, appears to be directed to the public as it includes a broad description of the rights of Citizens as well as a basic statement about how the Council operates. The current draft largely reflects the model constitution in style and content.
15. In addition to the broad description this section contains some specific information which does not appear elsewhere in the Constitution eg the content of the Council's Policy Framework. The scope of the powers of the Executive is determined by the Policy Framework but this section does not sit within the Responsibility for Functions section. As a result there is limited understanding across the Council of the content of the Policy Framework.
16. The detailed information in Part 1 is set out in a series of 15 Articles. The majority of detailed rules are set out in the later parts of the Constitution. The consequence is that there are several sections through the Constitution which describe the functions of one decision making body eg Council. These include for example a description of Full Council is given in Part 1 (the Policy Framework) this includes a list of the documents which must be approved by the Full Council. In Responsibility for Functions under Part 2 of the Constitution a description of the functions of Council is given and the matters which it has delegated to Committees. There is then in Part 3 a set of Council Procedure Rules which describes how Council operates. This makes it difficult for those who want to use the document as a reference tool to understand how and when it is necessary to take a report to Council.
17. It also means that the broad introductory description of How the Council Works is not very accessible because it is dotted with detailed information. Furthermore 'Articles' has a legalistic tone and has the potential to be off putting to a public audience. It is proposed therefore that this section be completely deleted and re-written.
18. The detailed content of the Articles could be incorporated into the main body of rules and procedures where relevant and the remainder of the section

should be a broad overview of 'How the Council Works' which can be written in a simple style more accessible to public and those new to the organisation. This section could also be produced in an online illustrated format with simple diagrams and pictures of eg the Leader, the Chairman, etc, so that a member of the public reading this section would have an immediate introduction to how the Council works. A starting sample for this section, together with the section it is intended to replace is attached at Appendix A and B to this report. A proposed accessible online format is attached at Appendix C.

## **Part 2 Responsibility for Functions**

19. The remainder of the Constitution can then focus on the main description of the distribution of decision making powers of each element of the Council's decision making arrangements. It is suggested that a Chapter for each element with all information relevant to the role set out in one place would aid transparency. The following headings are suggested:

### **Non-Executive**

Council:

- Matters reserved to full Council by law
- Matters reserved to full Council by local choice
- Council Procedure Rules
- The Budget and Policy Framework Procedure Rules

Council Committees:

- Planning (Including Planning Protocol and Public Speaking)
- Licensing
- Standards
- Regulation and Appeals
- Personnel and Development

### **Executive**

- Leader
- Cabinet
- Portfolios
- Matters reserved to Cabinet by Local Choice
- Cabinet Procedure Rules
- Access to Information Procedure Rules

## **Committees with Executive and Non-Executive Functions**

- Audit
- High Wycombe Town Committee

## **Scrutiny**

- Improvement and Review Commission
- Health Scrutiny
- Improvement and Review Protocol

## **Joint Arrangements**

- Chilterns Crematorium Joint Committee
- Joint Waste Committee for Bucks

## **Councillors**

- List of all the Council Wards with Councillors
- Each Councillor together with their contact details and register of Interests
- Members Allowance Scheme
- Roles of Councillors (Job Descriptions)
- Members Code of Conduct
- Members Planning Code of Good Practice
- Member/Officer Protocol
- Scheme of Enrolment of Honorary Aldermen

## **Officers**

- Management Structure
- Proper Officer Functions
- Scheme of Delegation to Officers
- Employee's Code of Conduct
- Contract Procedure Rules
- Finance Procedure Rules
- Staff Employment Procedure Rules



- Anti-fraud and Corruption Policy and Procedure
- Whistleblowing Policy and Procedure

### **Delegation of Responsibilities**

20. The distribution of the functions of each body or individual through the constitution and the individual lists of powers allocated to committees and officers leads to a high risk of conflict, omission or duplication. There are also places where the delegations have become very broad to allow discretion to act in times of urgency. This level of delegation is however open to abuse and there are ways of building in opportunities for urgent decisions in exceptional circumstances without changing the general levels of delegation. Where this is the case it is suggested some changes to the levels of delegation should be considered as part of this review to ensure a consistent approach in relation to all officers. Where there is a need for specific exceptions eg through temporary delegations (such as those achieved through a Cabinet report by law are limited to six month in duration) then these should form part of a separate list of exceptions.
21. It is suggested that in reviewing the description of the functions of each decision maker the description could be replaced with a new comprehensive description based on the legislative framework and the existing delegations be summarised and rephrased as a simple description of matters which can be taken by that body. It should be hierarchical ie Council delegates to Committees so can make any decisions which it has delegated to a Committee or officers (subject always to advice of officers as to the merits in doing so).
22. It should be made clear that Council is not able to take decisions which are by law the responsibility of the Executive or delegated by the Executive to officers. It should also be made clear that when an officer is appointed as a Proper Officer eg the Local Returning Officer this has the effect of legislation providing powers directly to an officer role and these powers cannot be exercised by any other decision maker than a properly appointed deputy.
23. In reviewing the delegations to officers the extent of officer delegation should be made transparent and will need to be kept current in order to ensure that the Council is not open to challenge. If each individual officer power is listed there is a high risk that a power may be missed. Recognising this many authorities have adopted the approach of reversing the scheme so that officers are delegated all powers within a certain functional area EXCEPT .... and the exceptions would make clear those matters which officers could not decide and which must be reserved to Members. This provides greater clarity about matters which are reserved to Members whilst reducing the risk that the scheme becomes out of date or misses a relevant power. It also avoids the need to amend the scheme with each change of legislation.
24. The Exceptions will be detailed under a number of headings:
  - Financial
  - Legal
  - Contractual

- Land
- Planning
- Temporary delegations

25. The scheme would set out which individuals/bodies are required to make decisions at each level. Where consultation is required with a particular officer eg the s151 Officer, this would be detailed within the scheme. Decision making would always sit with a single body or person (not more than one) so that there is clear accountability for the decision and no risk of conflicting decisions being made. Decisions to be made by officers in urgent or emergency situations should be limited to the Chief Executive or her appointed deputy in her absence in consultation with the Leader (where the powers do not already sit with the Executive) or her Deputy. This could include the need to spend in the event of a civil emergency carrying out the actions detailed within the Council's emergency plan and could also include the need to take investment decisions swiftly to take advantage of a time limited opportunity – exceptions to the Chief Executive would be separately described and therefor more transparent than individual exceptions within the body of the Officer Scheme.

### **Consultation**

26. Consultation is taking place at this stage with Regulation and Appeals Committee Members. Consultation would also be required with key officers including those responsible for governance. The result would be presented to Regulation and Appeals Committee before being referred to Council for consideration and approval.

### **Conclusions**

27. Members are requested to consider the proposals in the report and provide views on the form of draft which they would like to see referred to a future meeting.

### **Next Steps**

28. It is proposed that an initial revised draft is prepared based on the comments received from the Committee and this draft be referred to the next meeting of the Committee.

### **Background Papers**

The Council's Constitution.

Local Government Act 2000

New Council Constitutions: Guidance to English Authorities

# Agenda Item 4.

## INTRODUCTION

### What is the Constitution?

It is a document which sets out how the Council operates; how decisions are made, and the procedures which are followed. 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 to ensure that it is 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 approved and amended by all Members of the Council sitting together as Full Council, however, consequential amendments can be made by the Head of Democratic, Legal and Policy Services to reflect decisions made in accordance with the procedes set out.

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

Copies are available on request from Democratic Services by telephoning or emailing [democratic@wycombe.gov.uk](mailto:democratic@wycombe.gov.uk). Alternatively it can be viewed on the Council's website [www.wycombe.gov.uk](http://www.wycombe.gov.uk).

If you require any further assistance or advice about the Constitution, please contact Democratic Services using the contact details above.

## SUMMARY AND EXPLANATION

### Introduction

1. The Council's Constitution is in four parts. This document is a summary of 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 which set out how the Council operates are in part two 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 60 Councillors on Wycombe District Council and all of them together comprise the Full Council and represent the wards which make up the District.
4. The wards each have one, two, or three Councillors. The boundaries of the Wards are reviewed from time to time by the Local Government Boundary Commission for England.
5. General information about the Councillors, the Wards they represent and their addresses are available on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.gov.uk) or by emailing                      or by telephoning 01494 461000.

## **Election and Councillors' Length of Office**

6. Once elected, a Councillor normally remains a Councillor for four years. This Council holds 'all out' election, 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 Wycombe were held in May 2015 and the next ones will be held in 2019.
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. Most European Union citizens who live in the Wycombe District are entitled to be registered as local government electors. Every year we send a registration form to every house, usually around the end of August. If you aren't sure if you're on the register then you can see a copy at the Council Offices or you can contact Democratic Services by telephoning                      or by emailing  
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## **The Chairman**

9. The Chairman is appointed annually. The Chairman is the figurehead of the Council at civic and ceremonial events. The Chairman also spends many hours each week representing the Council on official visits to groups and events – almost all in the District.
10. The Chairman has a few formal powers. For instance, the Chairman chairs the meetings of the Full Council. If the Council takes a vote and the number is equal then the Chairman has a second or 'casting' vote to overcome the deadlock.

11. Further details on the role and responsibilities of the Chairman are available on the Council's website or by telephoning .

### **The Leader**

12. The Leader may be removed during his/her four-year term of office by a vote of the majority of Council Members. The Leader has the power :
- To decide the size of Cabinet, a minimum of three and a maximum of nine Members;
  - To appoint the Deputy Leader and the Cabinet, and allocate the Portfolios; and
  - To make most of the decisions on his/her own and draw up the budget and new policies alone or with Cabinet.

The Leader is able to delegate Executive functions to other Sub-Committees, individual Cabinet Members and Officers.

### **Roles and Functions of Councillors**

13. 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.

### **Code of Conduct**

14. 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 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.

15. Councillors also abide by a local protocol on Member and Officer Relations.

### **Councillors' Interests**

16. 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 on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.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.

## **Scheme of Allowances**

17. 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.

## **Decision Making**

18. All decisions of the Council are made in accordance with a number of principles, namely:- proportionally (ie. 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**

19. There are four types of Council meeting, which are conducted in accordance with the Council Procedure Rules :

- the annual meeting;
- ordinary meetings;
- special meetings; and
- extraordinary meetings.

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.

20. 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.

21. 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.

22. The Council and the Executive (Cabinet) have each authorised Officers to make decisions and a list of these is set out in the Officer's Scheme of Delegation.

## **Role of the Executive (Cabinet)**

23. The Executive'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.
24. The Executive (Cabinet) exercises the majority of its responsibilities collectively. However, the Leader can make most decisions on his/her own. The Leader is able to draw up the budget and new policies alone or with the Cabinet. However, some of the Cabinet's functions can be delegated to a Cabinet Committee; individual Cabinet Members or Officers. Further details on those delegations and the portfolio responsibilities, can be found in the Responsibility for Functions Section.

## **Overview and Scrutiny**

25. The Council has appointed the IRC Committee to scrutinize the Executive. An important part of their role is to review areas of the Council's business and recommend improvements to Cabinet.
26. Individual decisions can be called in to review the decision before the decision is implemented. The IRC does not have the power to take the decision itself – but it can ask Cabinet to reconsider.
27. Details of the IRC's responsibility and how it operates can be found in the Scrutiny Procedure Rules. The Council's Procedure Rules, apply IRC in the same way that they apply to all Council Committees.
28. IRC 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**

29. 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.
  - **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.

- **Standards 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.
- This Committee manages the Council's role as an employer. There are a number of panels which hear appeals and make appointments.

### **Officer Decisions**

30. The Council and the Executive have delegated some functions to Officers, and as detailed in the Responsibility for Functions Section.

### **Area Committees and Forums**

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

### **Joint Arrangements**

32. 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**

33. 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.

34. The Monitoring Officer is the District Solicitor and 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 Head of Finance and Commercial Services for investigation.

35. The Head of Finance and Commercial Services is the Council's Chief Finance Officer. The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs. The Officer must report to Full Council if the Council has spent money illegally or is about to spend money illegally.

36. Further information on the Statutory Officer posts can be seen in the Responsibility for Functions Section.



37. 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**

38. The Council is responsible for 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 audit by external auditors. As part of the Annual Accounts process, there is a set period for the public to inspect the accounts as well.
39. The Council has rules that govern the way in which goods, materials and services are procured to ensure value for money.
40. Full details of this can be found in the Council's Financial and Contract Procedure Rules.

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

41. The Council publishes 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 decisions to exclude the public must meet specific criteria. More information on this can be found in the Access to Information Procedure Rules.
42. The Council produces a Forward Plan which contains advance notice of 'Key Decisions' to be made by Cabinet anticipated within a rolling period of four months. This plan must be published 14 days before the start of the period covered. More information about the requirements of the Forward Plan can be found in the Cabinet Procedure Rules.
43. Copies of the agenda and reports for any meeting open to the public, will be available at least five clear working days before the meeting. 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.
44. 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.

45. The Council also publishes a publication scheme that lists the information freely available. This will tell you what information the Council publishes.

46. We also keep a number of registers which are open to public inspection. These include a record of the personal interests of all Councillors.

47. 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 IRC 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 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 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 IRC 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 either trigger a debate at a full Council meeting or trigger the opportunity to hold a senior officer to account (see procedure attached at Appendix 2 to the Scrutiny Procedure Rules).

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 (01494) .

## **Part 1**

# **Summary and Articles of the Constitution**

# Wycombe District Council Constitution Summary and Articles

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# **Article 1**

## **THE PURPOSE OF THE CONSTITUTION**

### **1. Summary and Explanation**

Wycombe District Council's Constitution sets out how the Council works and how decisions are made to ensure efficiency, transparency and accountability to its residents. Some of these processes are required by the law, while others are a matter for the Council to choose. The behaviour of individuals and groups is regulated through codes of conduct, methods of working and standing orders.

The Constitution contains a number of Parts which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in the Council's Code of Conduct, Standing Orders, Financial Regulations and other sections.

### **2. Powers of the Council**

The Council will use all its powers and duties in accordance with the law and this Constitution. Where the Council chooses between different courses of action, it will always aim to choose that option which it thinks is closest to the purposes set out below.

### **3. Principles And Aims of the Constitution**

This is to:

- Work towards the Council's vision
- Provide clear democratic leadership in partnership with its residents, local businesses and other representative organisations
- Involve its residents in decision making
- Help councillors to represent their constituents effectively
- Enable decisions to be taken efficiently and effectively
- Create a powerful and effective means of holding decision-makers to public account
- Ensure that no one will review or scrutinise a decision in which he or she was directly involved
- Ensure that the person making the decision is clearly identified and gives reasons for decisions to local people
- Provide a means of improving service delivery within the Council's priorities and strategic objectives

### **4. Review and revision of the Constitution**

The Regulatory and Appeals Committee will monitor and review the operation of the Constitution to ensure that it achieves its purposes, drawing attention to any particular strengths and weaknesses and making recommendations for ways in which the purposes could be better achieved. In order to achieve this, the Committee may:

- Observe any meetings
- Undertake an audit of a sample of decisions
- Record and analyse issues raised by Councillors, officers, the public or other relevant stakeholders
- Compare practices in Wycombe with other authorities, especially national examples of good practice

The Committee will report its findings to full Council.

## 5. **Changes to the Constitution**

The Head of Democratic, Legal and Policy Services has delegated authority to effect any consequential changes to the Constitution arising from changes to legislation which are mandatory on the Council. In addition, this authority includes amendments to effect changes in Officer Job titles, Service Departments (arising from restructurings), Cabinet Member portfolio details, names of Committees, etc.

Other changes to the Constitution will only be approved by full Council following consideration of proposals from the Regulatory and Appeals Committee.

Before any proposal is put forward to change from a Leader and Cabinet system to alternative arrangements or a mayoral system, reasonable steps would need to be taken to consult with local electors and other interested persons. In the case of a change to a mayoral system, the Council must also hold a binding referendum<sup>1</sup>.

## 6. **Interpretation of the Constitution**

The Chairman of the Council's ruling on the Council Procedure Rules within the Constitution may not be challenged at a Council meeting.

## 7. **Suspension of the Constitution**

The Council's procedural Standing Orders<sup>2</sup> (except Standing Order 31 – suspension of standing orders and those standing orders prescribed by law) may be suspended if the following procedure is followed:

- At least half of the number of councillors entitled to be present at a meeting is actually present
- The extent and duration of the suspension must be proportionate to the result to be achieved
- Any suspension must take account of the purposes of the Constitution<sup>3</sup>

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<sup>1</sup> Section 27, Local Government Act 2000

<sup>2</sup> See Part 3 of the Constitution

<sup>3</sup> See paragraph 3 above

## 8. **Publication of the Constitution**

Every Councillor upon his or her acceptance of office shall be provided with the appropriate link to the web site to gain access to the Constitution. On request an electronic copy of the Constitution will also be provided. Copies will also be available via the Intranet and Internet.

## 9. **How the Council works**

The Council has 60 councillors who are elected once every 4 years. Their main duty is to the whole District, but they have a special duty to people who live in the ward they represent and to whom they are democratically accountable. This duty is to all the ward's constituents including those who did not vote for them.

All Councillors meet together as the full Council. The Council decides overall priorities and policies and sets the budget and holds to account the Cabinet and Committees<sup>4</sup>.

## 10. **The Cabinet**

The Cabinet is responsible for most decisions. It is made up of the Leader, who is appointed by the Council, and up to 9 other councillors whom he/she appoints.

When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan and in the Cabinet agenda for a particular meeting. Agendas are published 5 clear days before a meeting and the meeting itself is open to the public unless exempt or confidential matters are being discussed<sup>5</sup>. The Cabinet can only make decisions on matters within the Council's overall policies and budgets<sup>6</sup>.

## 11. **Overview and Scrutiny**

The Council must have at least one Overview and Scrutiny Committee which at Wycombe is known as the Improvement and Review Commission.

Its main role is to propose ideas which will lead to improvements in Council services and it does this by investigating specific issues. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. It may also preview Cabinet proposals and may be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Improvement and Review Commission also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented provided certain criteria are met<sup>7</sup>. This enables it to consider whether the decision is appropriate. The Commission may recommend that the Cabinet reconsiders the decision<sup>8</sup>. Cabinet has the final decision.

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<sup>4</sup> See Section 4 for full details of the Council's roles and responsibilities

<sup>5</sup> See Access to Information Procedure Rules for details of the type of information not open to the public

<sup>6</sup> See Section 6 for full details of how the Cabinet works and the section on Policy and Budget Framework rules

<sup>7</sup> See the Improvement and Review Protocol in Part 3 of the Constitution for full details of the "Call-In" procedure criteria to be applied prior to call-in

<sup>8</sup> See Section 5 for full details of the Improvement and Review Commission



## 12. **The Council's Staff**

The Council employs 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 Councillors of the council<sup>9</sup>. Many officers make decisions on matters delegated to them<sup>10</sup>.

## 13. **Residents' Rights**

Residents have a number of rights in their dealings with the Council, including the right to vote, contact their local councillor, attend meetings open to the public and inspect the Council's accounts<sup>11</sup>.

## 14. **Description of Executive and Non Executive Arrangements**

This set out in Part 2 of the Constitution.

# Article 2 COUNCILLORS

### 1. **How many are there?**

Wycombe District Council has 60 councillors who between them represent 28 wards. Each ward has either one, two or three Councillors who are elected by the voters of that ward. The boundaries of each ward and the number of Councillors are decided by the Department for Communities and Local Government upon recommendation from the Electoral Commission.

### 2. **Eligibility**

Only people registered as voters in Wycombe District, living or working in Wycombe, or have occupied property as owner or tenant in the area for at least the past 12 months, are eligible to stand or hold office as a councillor<sup>12</sup>.

### 3. **Election and term of office**

All Wycombe District Councillors are elected every 4 years with the election being held on the first Thursday in May.

Once elected, the term of office starts on the fourth day after being elected and finishes on the fourth day after the date of the next regular election, except for that of the Leader (Standing Order 5 of the Council Procedure Rules).

If a vacancy occurs, a by-election will be held unless there is less than 6 months to go before the next scheduled elections. Any Councillor elected at a by-election holds office only until the next scheduled election.

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<sup>9</sup> See Part 5 of the Constitution

<sup>10</sup> See Schemes of Delegation for more details

<sup>11</sup> See Section 3 for more details

<sup>12</sup> Representation of the People Acts and regulations made thereunder

#### 4. **Roles and functions of all Councillors**

All Councillors are collectively and individually responsible for:

- Setting strategic direction
- Being the ultimate policy makers
- Promoting the interests of the community
- Promoting or improving the social, economic and environmental well-being of the district<sup>13</sup>
- Participating in good governance
- Encouraging community participation and citizen involvement in decision making
- Developing open government
- Effectively representing the interests of their ward and of individual constituents (whether or not that constituent voted for them)
- Dealing with individual casework
- Acting as an advocate for constituents in resolving particular concerns or grievances fairly and impartially
- Participating fully and effectively as a Councillor of any committee to which they are appointed
- Undertaking appropriate training if appointed to a quasi-judicial committee
- Providing 2 way communication between the Council and any outside body to which they are appointed
- Respecting the requirement that the party whip is not applied at meetings of the Improvement and Review Commission, its Task and Finish Groups, Planning Committee, Licensing Committee or whilst exercising any quasi-judicial function

#### 5. **Access to Information**

Every Councillor can access such documents, information, land and buildings belonging to the Council as are necessary for the proper discharge of his or her legal functions.

No Councillor may make confidential or exempt<sup>14</sup> information public without the specific consent of the Council or divulge information given in confidence to him or her other than to another Councillor or officer entitled to know it.

A Councillor who is not a member of a Committee may, with the prior consent of the Chairman, attend a meeting to make a statement on behalf of his or her constituents on any item on the agenda which directly affects his or her Ward.

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<sup>13</sup> Section 4 Local Government Act 2000

<sup>14</sup> The Access to Information Rules in Part 3 of the Constitution give definitions of this type of information

In these circumstances, the Chairman's consent must not be withheld unreasonably.

A Councillor who is not a member of a Committee may, at the Chairman's discretion, and with the Chairman's prior consent, speak on any item on the agenda whether or not affecting his or her Ward.

At meetings of the full Council, every Councillor has the right to ask questions of the Cabinet or a Committee Chairman<sup>15</sup>.

## 6. **Conduct**

Councillors are expected to act at all times in accordance with the Councillors' Code of Conduct and any other codes or guidance adopted by the Council<sup>16</sup>.

The Members' Code of Conduct is set out in Part 5 of the Constitution.

## 7. **Allowances**

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme, as set out in Part 4 of the Constitution.

## 8. **Honorary Aldermen**

In some cases, a long standing Councillor may be made an Honorary Alderman upon his or her retirement as a local Councilor, in accordance with the Scheme for Honorary Aldermen, as set out in Part 5 of the Constitution.

# Article 3 RESIDENTS AND THE COUNCIL

Residents have a number of rights in their dealings with the Council and these are set out below. Some of these are legal rights and some depend on the Council's own processes. Councillors or officers are available to help and advise on an individual's rights and the Citizens Advice Bureau can also advise.

### 1. **Voting and petitions**

Individuals registered on the electoral roll may vote at local and national elections or referenda and petition to request a referendum for an elected mayor.

### 2. **Obtaining information**

Any citizen can:

- contact local Councillors about any issue of local concern
- obtain a copy of the Constitution
- ask questions of Cabinet Members at meetings of the full Council<sup>17</sup>
- speak at meetings of the Planning Committee on issues within the local area<sup>18</sup>

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<sup>15</sup> See procedural Standing Order 11 in Part 2 of the Constitution

<sup>16</sup> The Current Code of Conduct was adopted by the Council in July 2012 and has since been amended.

<sup>17</sup> See Standing Order 10 for details of the procedure to follow

<sup>18</sup> See Part 3 Section I for details of the procedure to be followed

### 3. **Meetings**

All meetings of the Council, the Cabinet and Committees are open to the public unless exempt or confidential information<sup>19</sup> is being discussed. The Cabinet publishes a Forward Plan of items which are expected to be considered at each meeting. This is updated on a rolling basis and published on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.gov.uk).

The Improvement and Review Commission takes evidence from local people and experts on particular issues of local concern. Any citizen can volunteer to give evidence or submit information to the Commission.

With the exception of exempt and confidential items, all agenda papers and minutes of meetings are freely available either in hard copy or via the Council's website. Any item which is drafted by relying on other reports or information must state that fact, and that information (known as background papers) is also available for inspection.

Agendas and minutes must be available for a period of 6 years from the date of a meeting, and background papers for 4 years.

A statement summarising the rights of residents to inspect agendas and minutes and attend meetings is available for inspection at the Council Offices in Queen Victoria Road, or on the Council's website.

### 4. **Accounts**

Every resident can inspect the Council's accounts as provided by law and make his or her views known to the external auditor. Public notice is given in local newspapers and on the Council's website when the accounts are available.

### 5. **Complaints**

The Council has a formal complaints procedure which will be followed whenever a complaint is made to it about service problems<sup>20</sup>. If a complainant is unsatisfied at the end of this process, then a complaint can be pursued with the Local Government Ombudsman<sup>21</sup>.

Any complaint about a Councillor's conduct should be addressed to the Complaints Officer, Wycombe District Council (email [complaints@wycombe.gov.uk](mailto:complaints@wycombe.gov.uk)).

Any complaint about an officer's conduct should be addressed to the appropriate Head of Service (if known) or the Chief Executive.

### 6. **Behaviour**

Residents must treat Councillors and officers with respect and are entitled to expect the same courtesy.

Violence, abusive or threatening behaviour and wilful harm to Council property will not be tolerated.

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<sup>19</sup> See the Access to Information Rules in Part 3 of the Constitution for details

<sup>20</sup> Have we got it right? leaflet

<sup>21</sup> [www.lgo.org.uk](http://www.lgo.org.uk)

## **Article 4**

# **ROLES AND RESPONSIBILITIES OF FULL COUNCIL**

## **STATUTORY FUNCTIONS**

### **1. Meetings**

There are 3 types of Council meeting conducted in accordance with the Council's procedural Standing Orders and rules of debate<sup>22</sup>

- **Ordinary Meetings**

These are held in February, April, July, October and December each year.

Regular items of business include questions from members of the public, questions from councillors and consideration of the minutes of Cabinet, the Improvement and Review Commission and the various committees. From time to time the Council receives presentations, petitions, or debates motions from councillors on specific subjects

- **The Annual Meeting**

This meeting is a legal requirement and is held in May each year. It deals with a number of matters including:

Election of the Chairman and Vice Chairman of the Council and the Leader of the Council

Report from the Leader of the Council

Committee and outside body appointments

- **Extraordinary Meetings**

These are held at the express request of 5 Councillors of the Council and if the Chairman of the Council does not call such a meeting, then after 7 days, any 5 Councillors of the Council may immediately call an extraordinary meeting.

All Council Meetings are held in the Council Chamber in the Queen Victoria Road Offices starting at 6.30pm. Notice of meetings will be given at least five clear working days before the meeting

### **2. Public Participation**

The public is entitled to attend all Council meetings unless exempt or confidential business is being discussed<sup>23</sup>. All agendas and minutes are published on the Council's website. The public may ask questions of the Leader of the Council or any Cabinet member at ordinary meetings of the Council. Questions must be submitted not later than 12 noon on the Thursday of the week preceding the Council meeting<sup>24</sup>

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<sup>22</sup> See Part 3 of the Constitution for full details especially SO 6 - 16

<sup>23</sup> For details of the type of information likely to be considered without the press and public present see the Access to Information Rules in Part 3 of the Constitution

<sup>24</sup> Full details of the procedure to be followed can be found in Standing Order 10

### 3. **The Constitution**

Full Council is responsible for adoption and subsequent changes except for those authorised by Article 1.5 above.

### 4. **Executive arrangements**

Changes to the form of Executive, e.g. replacing the Cabinet system with an elected mayor

### 5. **The draft policy framework<sup>25</sup>**

This is specified in the Local Government Act 2000 to be particular plans and strategies. Currently these are:

- Crime and Disorder Reduction Strategy
- Licensing Authority Policy
- Sustainable Communities Strategy
- Wycombe Development Framework, including approval of draft proposals for public consultation purposes associated with preparation of alterations to, or the replacement of the Development Plan

The Council may decide to include other appropriate plans and strategies from time to time

### 6. **The draft budget framework**

The budget includes the allocation of resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, its investment strategy<sup>26</sup> and the setting of virement limits

### 7. **Setting the Council Tax**

This includes specific functions referred to in Section 67 of the Local Government Finance Act 1992 (Council Tax calculations etc) and special expenses resolutions

### 8. **Decisions not in accordance with agreed policies and budgets**

If a decision of the Cabinet or a Cabinet Member is not in accordance with the approved policy or budget framework then it is for the full Council to decide subject to the urgency provisions in the Access to Information Rules<sup>27</sup>

### 9. **Officer Reports**

- Reports of the Chief Finance Officer relating to proposals / decisions in connection with non-executive functions which are considered to involve unlawful expenditure, or to be unlawful and likely to cause a loss to the Council, or to involve a potential unlawful item of account<sup>28</sup>

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<sup>25</sup> A procedure must be adopted by the full Council to deal with conflict resolution in the event of dispute between the Council and Cabinet over the setting of either the policy or budget framework

<sup>26</sup> Including the determination of borrowing limits under the Local Government and Housing Act 2003

<sup>27</sup> See Rule 15 under Access to Information Procedure Rules in Part 3 of the Constitution

<sup>28</sup> Section 114 Local Government Finance Act 1998

- Reports of the Head of Paid Service on co-ordination of the carrying out of Council functions, the number and grade of officers required for this purpose, and the organisation of officers<sup>29</sup>
- Reports of the Returning Officer or Electoral Registration officer relating to electoral matters<sup>30</sup>
- Reports of the Monitoring Officer relating to proposals/decisions in connection with non-executive functions which are considered to give rise to unlawfulness, or in some cases, maladministration.<sup>31</sup>

## 10. Officer Appointments

Making or confirming the appointments of Head of the Paid Service, Returning Officer, Electoral Registration Officer, Corporate Directors, Monitoring Officer and Chief Finance Officer. The Council has also reserved to itself the appointment of Councillors to first tier appointment committees in accordance with Standing Orders<sup>32</sup>

## 11. Appointment of Committees

Deciding which committees will be set up, determining their terms of reference and composition, number of Councillors, term of office, any area of the District to which their operation is to be restricted, and making appointments to them. Membership of committees will be determined in accordance with political balance rules<sup>33</sup> unless the full Council (with no Councillor voting against) decides otherwise. The method of appointment will be as set out in Standing Order 18 and the names will be recorded in the minutes of the Annual Meeting of the Council

## 12. Scheme of delegation

Maintaining a list of functions delegated to committees or officers<sup>34</sup>

## 13. Standing orders

Making and approving standing orders for the formal procedure of the Council and its committees and for contracts and financial regulations<sup>35</sup>.

## 14. Chairman and Vice-Chairman of the Council

The Chairman and Vice-Chairman of the Council will be elected at the Annual Meeting of the Council. If both the Chairman and Vice-Chairman are absent from a Council meeting, another person must be elected to chair the meeting<sup>36</sup>. The Chairman or in his/her absence the Vice-Chairman will:

- Be the first citizen of the district

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<sup>29</sup> Section 4 Local Government and Housing Act 1989

<sup>30</sup> Local Government Act 1972, Representation of the People Acts and regulations made thereunder

<sup>31</sup> Section 5 Local Government and Housing Act 1989

<sup>32</sup> See Standing Order 28

<sup>33</sup> Section 15 to 17 of the Local Government and Housing Act 1989

<sup>34</sup> See the detailed schemes of delegation to committees and officers in Part 2 of the Constitution

<sup>35</sup> See Part 3 of the Constitution

<sup>36</sup> See Standing Order 13

- Provide a ceremonial focus for the district
- Chair Council meetings and major consultations impartially and in a politically neutral way so that business can be carried out efficiently and with regard to the rights and interests of councillors and citizens

The Chairman must be a serving Councillor of the Council, but unless he or she resigns or becomes disqualified to be a Councillor, the Chairman will remain in office until a successor is elected. Even if not standing, or defeated at the district council elections, the Chairman continues to be a Member of the Council until a successor is appointed at the Annual Meeting. However, if the Chairman remains a Councillor solely because of this provision, then he or she is unable to vote in the election for a successor unless the Chairman's casting vote is exercised.

**15. Enrolment of Honorary Aldermen**

To confer the honour of Honorary Alderman upon past councillors who have fulfilled the requirements and been nominated in accordance with the Council's Scheme<sup>37</sup>.

**16. Electoral matters**

Any matters not by law the responsibility of the Returning Officer or Electoral Registration Officer or not delegated to Committee.

**17. Legislation**

Any Local Act functions and the promotion or opposing of local legislation or personal Bills.

**18. Bye-laws**

Making, amendment, revocation, re-enactment or adoption.

**19. Standards and ethics**

Overall responsibility, including:

- Resolution adopting or revising new Codes of Conduct for Councillors and officers
- Setting up of Standards Committee

A Register of Councillors' Disclosable Pecuniary Interests and of gifts and hospitality received is maintained and open for public inspection upon application. All Councillors must abide by the Council's Code of Conduct and other guidance adopted from time to time.<sup>38</sup>

**20. Name of the District**

Any application to change the name of the District including a petition to confer borough status

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<sup>37</sup> See Scheme for the Enrolment of Honorary Aldermen in Part 5 of the Constitution

<sup>38</sup> Details can be found in Part 5 of the Constitution



21. **Scheme of Allowances**

Consideration of the report of the Independent Remuneration Panel and the adoption of the Scheme of Councillors' Allowances<sup>39</sup>

22. **Housing Land Transfers**

Any application to the Secretary of State in respect of Housing Land Transfer<sup>40</sup>

23. **Other Matters**

Any other matters required by law to be dealt with by full Council

## LOCAL CHOICE FUNCTIONS

1. **Leader of the Council**

To elect the Leader of the Council in accordance with Standing Order 5

2. **Boundary or re-organisation proposals**

Final decision or recommendation to government as necessary on any boundary or re-organisation affecting the district

3. **Judicial Review**

Authorisation of proceedings relating to non-executive functions, unless a Corporate Director after consultation with the Chairman of the Improvement and Review Commission considers that such proceedings relate to a planning application or appeal. Also see Head of Democratic, Legal and Policy Services delegation in Part 2 of the Constitution.

4. **Joint Working**

Endorsement of the overall strategy for joint working with other bodies.

5. **Outside Bodies**

Appointment of representatives to outside bodies unless the appointed has been delegated by the Council or is a Cabinet appointment.

6. **Call-In**

Issues called-in to full Council.

7. **High Wycombe Town Centre Redevelopment**

Approval or adoption of any strategies relating to the High Wycombe Town Centre redevelopment (Eden) (including any amendments, modifications, variations or revocations).

8. **Plans and Strategies**

Approval, adoption, amendment, modification, variation, or revocation of any plan or strategy unless the Cabinet is authorised by the Council to make the

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<sup>39</sup> See Part 6 of the Constitution for details of the current allowances

<sup>40</sup> Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of certain land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985

same at the time the plan or strategy is approved or adopted or which is a matter the responsibility of the Cabinet by law.

#### 9. **Policies**

Major changes to existing policies or new policies for non-executive functions, unless specifically delegated to a committee.

## **Article 5**

### **IMPROVEMENT AND REVIEW COMMISSION**

#### 1. **What is the Improvement and Review Commission?**

The Local Government Act 2000 as amended (the Act) requires that the Council must appoint at least one improvement and scrutiny committee. Wycombe DC had decided that this Committee should be known as the Improvement and Review Commission.

#### 2. **What does the Commission do and what are its terms of reference?**

The Commission's functions are to scrutinise effectively and openly decisions and performance and to discharge the functions set out in section 21 of the Act. By law the Commission has no power to carry out functions itself; its role is to propose improvements to the Cabinet, the Council or other Committees and to scrutinise Cabinet (or individual Cabinet Member or officer) decisions.

It has no powers other than those set out in the Local Government Act 2000.

#### 3. **General Functions**

The Commission's remit covers the whole range of Council functions. It is required to hold the Cabinet to account on behalf of the whole Council and it may assist in the review and development of Council policy across all Cabinet and other Committee functions.

The Commission must conduct its work in accordance with the Improvement and Review Protocol<sup>41</sup> and Council Standing Orders<sup>42</sup>.

The Commission has more specific functions as shown below.

#### 4. **Policies**

To review the policies of the Council, its Committees and the Cabinet and to recommend to the Council or the Cabinet whether:

- any new policies are required
- any existing policies should be revoked, amended or made more effective

#### 5. **Review of Functions**

To review how the Cabinet discharges its functions and to recommend to the Council or the Cabinet whether:

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<sup>41</sup> See Part 3 of the Constitution for further details of the protocol

<sup>42</sup> See Part 3 of the Constitution for Procedural Standing Orders

- any action should be taken to improve the economy, efficiency and effectiveness of those functions or their co-ordination, either within the authority or with the functions of another person or body
- the function should continue or continue in another way

The Commission may recommend that a particular issue should be included in the Cabinet's Forward Plan<sup>43</sup>.

Subject to the "call-in" procedures<sup>44</sup> set out in the Improvement and Review Protocol, to review and scrutinise any decisions or proposed decisions of the Council, the Cabinet, or officers and to report or recommend to the Council or the Cabinet whether:

- the decision should be reconsidered or amended and if so how
- any further action should be taken to ensure proper or better implementation of decisions
- any lessons can be learned from that decision to improve future decision-making

The Improvement and Review Commission will not routinely scrutinise decisions of another Committee of the Council, especially decisions in respect of development control and other quasi-judicial functions<sup>45</sup>. Improvement and Review is not an alternative to normal appeals procedures, but it may look at particular issues and make recommendations for improvements.

## 6. Improvements

To consider any matters which affect the Council's area or its inhabitants and to make recommendations or reports to the Council or the Cabinet

## 7. References from Council or Cabinet

To consider any matter referred to it by the Council or the Cabinet and recommend or report to the Council or the Cabinet accordingly. The Commission has an automatic right to consider the following before they are actioned if it so wishes:

- reports of statutory inspections (including Best Value inspections)
- reports from the External Auditors (if appropriate)
- draft policies, plans and strategies which are recommended by the Cabinet to the Council for approval
- the draft budget which is recommended to the Council by the Cabinet
- any proposals from the Cabinet for a modification of the authority's Constitution
- Ombudsman reports which include a finding of maladministration

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<sup>43</sup> The Cabinet is required to publish a schedule of subjects on which it will be making decisions known as the Forward Plan

<sup>44</sup> Certain decisions may be 'called-in' by the Commission prior to implementation. See the Improvement and Review Protocol in Part 3 of the Constitution for full details of the 'call-in' procedures and tests to be applied prior to call-in

<sup>45</sup> See Part 2 of the Constitution for full details of the quasi-judicial functions of the Council

## 8. Reference from Members

- To deal with references from Members of the Commission of matters which are relevant to the functions of the Commission
- To deal with references from Councillors who are not Members of the Commission of any non-excluded local government matter which is relevant to the functions of the Commission.

## 9. Criteria which the Commission will use in its work

When carrying out reviews and considerations, the Improvement and Review Commission must consider whether:

- the relevant criteria were used
- the decision is in accordance with the Policy and budget framework<sup>46</sup> set by the Council
- the decision or action was within the powers of the Authority
- the decision was lawful
- the decision contributes to the efficient, effective and economic discharge of the function

## 10. How will the Commission work?

Part 3 E of the Constitution sets out the Improvement and Review Commission Protocol, outlining how the Commission operates.

## 11. Preparation and publication of reports

The recommendations of the Commission will either be published in a separate report or summarized within its minutes. Copies of the report or recommendations on any Cabinet matter will be given to the Cabinet or the appropriate Cabinet member. This will usually be by way of an item on the next Cabinet agenda.

When a Member of the Commission raises an issue under the procedure described in paragraph 8, a copy of the report or recommendation must be provided to that Member. In a matter involving an improvement target for a partner authority specified in the local area agreement, that partner must receive a copy of any report or recommendation.

## 12. Membership

Membership will be determined in accordance with political balance rules under Section 15 to 17 of the Local Government and Housing Act 1989, or as the full Council shall determine with no Councillor voting against. The numbers and method of appointment will be as set out in Council Procedure Standing Orders. The names of Councillors so appointed will appear in the Minutes of each Annual General Meeting of the Council.

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<sup>46</sup> See Part 3 of the Constitution for details of the policy and budget framework

### 13. **Chairman and Vice Chairman**

The Chairman and Vice Chairman are responsible for leading the work of the Commission, liaising with Cabinet and Committee Chairmen on behalf of the Commission and ensuring that Commission and Task and Finish Group members receive appropriate training<sup>47</sup>.

### 14. **Speakers**

Cabinet Members, other Councillors, Officers, representatives of outside bodies, external experts or any resident of the District or person with a legitimate interest in the subject under consideration at the Commission or one of its Task and Finish Groups may be requested to attend a meeting and speak or give evidence as appropriate<sup>48</sup>.

When any Member raises an issue under the procedure described in paragraph 8, he or she will have the right to attend the meeting of the Commission when it is to be discussed.

## **Article 6 CABINET**

### 1. **What are the Cabinet's functions?**

The Cabinet carries out all the Council's functions which by law are not the responsibility of either the Council itself or any of its Committees or officers<sup>49</sup> or which the Constitution states will be the Cabinet's responsibility<sup>50</sup>.

The Council's responsibilities as Trustee of the Higginson Park Trust to provide parks, open spaces and recreational facilities at Court Garden and Higginson Park, Marlow are also the function of the Cabinet, an individual Cabinet Member or officers<sup>51</sup>.

The detailed arrangements for which Cabinet member, committee of the Cabinet or officer carries out which function are set out in Part 2 of the Constitution<sup>52</sup>.

### 2. **Who is in the Cabinet?**

The Cabinet consists of a maximum of 10 Councillors - the Leader of the Council, the Deputy Leader of the Council and not more than 8 other Councillors appointed as Cabinet members by the Leader of the Council.

### 3. **The Leader of the Council**

The full Council appoints the Leader of the Council on a four year term of office. If there is a clear political majority, only that party is permitted to put forward a nomination.

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<sup>47</sup> See job descriptions at the end of Part 2 of the Constitution for more details

<sup>48</sup> See the Improvement and Review protocol for details of procedures to be followed and documentation to be made available

<sup>49</sup> Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations made thereunder

<sup>50</sup> See Part 2 of the Constitution for full details

<sup>51</sup> See Part 2 of the Constitution for full details

<sup>52</sup> See Part 2 of the Constitution

If there is no clear political majority then specific provisions apply<sup>53</sup>.

The Leader of the Council holds office for a 4 year term in accordance with the Local Government and Public Involvement in Health Act 2007 or until:

- He or she resigns as Leader of the Council
- He or she is no longer a Councillor
- He or she is removed as Leader of the Council by resolution of the full Council

There is no limit on the number of times that a Councillor may be re-elected as Leader of the Council.

#### 4. **Appointment of Cabinet Members**

Cabinet members<sup>54</sup> usually take up their appointments at the Annual Council meeting. At other times any appointment takes place two working days following written notification by the Leader of the Council to the Head of Democratic, Legal and Policy Services.

A Cabinet Member may be appointed for up to 4 years at any one time or until:

- He or she resigns from office
- He or she is no longer a Councillor
- He or she is removed / dismissed from office by the Leader of the Council who must give written notice of the removal to the Head of Democratic, Legal and Policy Services. For the avoidance of doubt, a Councillor may be re-appointed as a Cabinet Member on any number of occasions.

Names and functions for individual Cabinet members are published and updated regularly and are available on the Council's website [www.wycombe.gov.uk](http://www.wycombe.gov.uk).

#### 5. **How does the Cabinet operate?**

The Cabinet's method of operation is set out in detail under Cabinet Procedures and processes in Part 3 D of the Constitution.

#### 6. **Notice of decisions**

The Cabinet publishes details of its decisions on the third working day following a Cabinet meeting. A weekly list of all individual decisions made by Cabinet members is also published.

No decision may be implemented until the expiry of 5 working days to allow for the possibility of call-in by members of the Improvement and Review Commission<sup>55</sup>

If any urgent decisions are made, the Leader of the Council must report a summary of such decisions to the next full Council meeting.

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<sup>53</sup> See Standing Order 5

<sup>54</sup> Name, address and ward represented of each Cabinet member is set out in Part 2 of the Constitution and on the Council's website [www.wycombe.gov.uk](http://www.wycombe.gov.uk)

<sup>55</sup> See Improvement & Review Protocol in Part 3 of the Constitution

## **Article 7 COMMITTEES**

The Council may set up committees to cover any of its functions. Committees may set up sub-committees to deal with any of its functions. The Localism Act 2011 permits the Council to appoint a Standards Committee.

The full Council has to act in accordance with its procedural Standing Orders and many of these also apply to its Committees<sup>56</sup>.

### **1. The different types of Committees**

Committees may be either 'standing' or 'ad hoc'.

Standing committees are appointed for at least one Council year and usually for several years. Typically they will cover a range of functions and will meet in accordance with a timetable drawn up and published a year in advance. Most committees will meet 5 or 6 times per year, although special meetings may be called from time to time.

Some standing committees are also 'quasi-judicial' committees and as the name implies deal with matters prescribed by law. The Planning Committee dealing with planning applications is probably the best known. Unlike other committees, the Planning Committee meets every 4 weeks.

Ad hoc committees are time limited and usually set up to deal with a single issue.

### **2. The appointment of Committees**

Standing Committees are set up at the annual meeting of the Council. Ad hoc committees may be set up at any Council meeting during the year. The Council determines the number of Councillors who will serve on each Committee, their term of office, the committee's terms of reference, and any particular area of the district in which the committee may operate.<sup>57</sup>

The full Council also appoints the Chairmen and Vice Chairmen.

### **3. Proportionality**

Seats on Committees and Sub Committees are distributed among the political groups in line with the proportion of seats which that group has overall on the Council, unless the full Council determines an alternative composition and no Councillor votes against<sup>58</sup>. Places for independent Councillors are allocated at the full Council's discretion.

### **4. Standing Deputies**

With the exception of the Cabinet (where standing deputies are not permitted), standing deputies are appointed in accordance with an agreed formula<sup>59</sup>.

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<sup>56</sup> See Part 3 of the Constitution for full details of the procedural Standing Orders

<sup>57</sup> See Part 2 of the Constitution for details of the terms of reference etc

<sup>58</sup> Sections 15 to 17 of the Local Government and Housing Act 1989

<sup>59</sup> Standing Order 22 sets out the formula to be applied

## 5. **Records of attendances**

The names of all Councillors attending a meeting are recorded and published in the minutes.

## 6. **Training**

No Councillor may serve on a quasi-judicial committee, e.g. Planning or Licensing, unless he or she has completed a specified training programme.

## 7. **Rights of access to committee meetings**

All meetings are open to the public unless exempt or confidential information is being discussed<sup>60</sup>. Public speaking is permitted at meetings of the Planning Committee with prior notice.

A Councillor who is not a member of a Committee may, with the prior consent of the Chairman attend a meeting to make a statement on behalf of his or her constituents on any item on the agenda which directly aspects his or her ward. In these circumstances, the Chairman's consent must not be withheld unreasonably.

A Councillor who is not a member of a Committee may, at the Chairman's discretion and with the Chairman's prior consent, speak on any item on the agenda whether or not affecting his or her ward.

If a motion has been referred to a committee by full Council, the mover of that motion has the right to attend the appropriate meeting and speak to the motion.

Meetings take place at the Council Offices in Queen Victoria Road, usually in the evening starting at 18:30. Custom and practice is that meetings finish by 22:00.

## 8. **Access to documents**

Agendas (with the exception of exempt or confidential items) and minutes are available for inspection at the Council Offices. Copies are also published on the Council's website ([www.wycombe.gov.uk](http://www.wycombe.gov.uk)) and are freely available at the actual meetings.

All agenda documents are available 5 clear working days before the meeting takes place.

## 9. **Terms of Reference of Standing Committees**

A summary of the broad areas of responsibility and the main functions of each of the Council's Committees is set out in Part 2 of the Constitution.

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<sup>60</sup> The Access to Information Rules in Part 3 of the Constitution give details of the categories of information covered



## **Article 8**

### **JOINT ARRANGEMENTS**

1. The Council has the power<sup>61</sup> to take steps to promote the social, environmental or economic well being of the Wycombe District, and to this end the Council may take direct action itself. Alternatively, for the same purpose, the Cabinet may enter agreements or make arrangements with a third party, or co-operate with them or help them with their activities, or act on their behalf.
2. In relation to any of their powers or duties, the Cabinet (or the Council in respect of non Cabinet activities) may enter into joint arrangements with one or more other authorities, and this might include the creation of a joint committee.<sup>62</sup>
3. Generally speaking, the Cabinet may only appoint Cabinet members to a joint committee, and those members need not reflect the political composition of the Council. Exceptions relate to the appointment of ward Councillors on area committees covering an area smaller than two fifths of the District's population.<sup>63</sup>
4. Details of joint arrangements operated by the Council are shown in the Cabinet scheme of Delegation in Part 3 of this Constitution. These are currently the Chilterns Crematorium Joint Committee and the Joint Waste Committee for Bucks.
5. Joint committees are subject to the same access to information rules as the Cabinet.<sup>64</sup>
6. Certain activities of the Council may be contracted out where the relevant legislation permits.
7. The Leader reports to each Annual Council meeting on joint arrangements for the forthcoming year.<sup>65</sup>

## **Article 9**

### **OFFICERS**

#### **1. Management Structure**

All staff employed by Wycombe District Council are known as 'officers'.

The Council itself approves the appointment of the Chief Executive and Head of Paid Service, the Corporate Directors, the Chief Finance Officer and the Monitoring Officer. The Corporate Directors are then responsible for recruiting Heads of Service. Heads of Service appoint all other staff.

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<sup>61</sup> Section 2 Local Government Act 2000

<sup>62</sup> Section 101 Local Government Act 1972 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 as amended

<sup>63</sup> See the above Regulations

<sup>64</sup> See Access to Information Procedure Rules at page 3B – 1 to 15 of this Constitution

<sup>65</sup> See page 3D – 1 of this Constitution

Post	Summary of functions and areas of responsibility
Chief Executive and Head of Paid Service	<p>The Chief Executive is the Council's most senior officer<sup>66</sup>. The Council determines the officer structure at first tier level and the Chief Executive as Head of Paid Service then determines the management arrangements to ensure that all the Council's functions can be properly carried out and co-ordinated. A diagram of the structure is set out in Part 6 of the Constitution.</p> <p>The Chief Executive is also the Returning Officer and Electoral Registration Officer.</p> <p>The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.</p>
Corporate Directors	Corporate Directors are first tier officers and are responsible for performance managing Heads of Service and leading on major cross-cutting projects.
Heads of Service	These are second tier officers <sup>67</sup> .
Chief Finance Officer <sup>68</sup>	<p>The key functions of this post are:</p> <ul style="list-style-type: none"> <li>• Ensuring lawfulness and financial prudence of decision making</li> <li>• Consulting the Head of Paid Service and the Monitoring Officer and reporting to full Council or Cabinet if he or she thinks that unlawful expenditure may take place</li> <li>• Administration of the Council's finances</li> <li>• Provision of professional financial advice and information to Councillors, officers, media and the public</li> </ul>
Monitoring Officer <sup>69</sup>	<p>The key functions of this post are:</p> <ul style="list-style-type: none"> <li>• Ensuring lawfulness and fairness of decision making</li> <li>• Consulting the Head of Paid Service and the Chief Finance Officer and reporting to full Council or Cabinet if he or she thinks that an unlawful decision or omission may take place or give rise to a claim of maladministration against the Council</li> </ul>

<sup>66</sup> For full details of responsibilities see Part 2 of the Constitution

<sup>67</sup> For full details of responsibilities see Part 2 of the Constitution

<sup>68</sup> For full details of responsibilities see Part 2 of the Constitution

<sup>69</sup> For full details of responsibilities see Part 2 of the Constitution

Post	Summary of functions and areas of responsibility
	<ul style="list-style-type: none"> <li>• Advice and support to the Standards Committee including arranging for any investigations to be carried out</li> <li>• Advising whether Cabinet decisions comply with the budget and policy framework rules<sup>70</sup></li> <li>• Providing advice on the legality of powers, authority to take decisions, maladministration, impropriety or probity</li> </ul> <p>The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service</p>

## 2. Duty to provide resources

The law requires that the Council must provide the Returning Officer, the Electoral Registration Officer, the Chief Finance Officer and the Monitoring Officer with sufficient officers, accommodation and other resources as in their opinions are adequate to allow their duties to be performed.

## 3. Conduct

All officers are required to comply with the Code of Conduct<sup>71</sup>, the Protocol on Councillor/Officer relationships<sup>72</sup> and any other codes or protocols currently in force.

# Article 10

## RESPONSIBILITY FOR DECISION MAKING

### 1. Who does what?

Wycombe District Council publishes and keeps up to date schedules of what part of the Council or individual may make which decisions in which areas<sup>73</sup>.

### 2. Principles of Decision Making

All decisions, whether made by the Council, the Cabinet, a Committee or an individual Councillor or officer must be made in accordance with the following principles:

- Proportionality (i.e. the action must be proportionate to the outcome)
- Respect for human rights
- Presumption in favour of openness
- Clarity of aims and desired outcomes

<sup>70</sup> See part 3 of the Constitution for the detailed Policy and Budget Framework Rules

<sup>71</sup> See Part 5 of the Constitution for full details

<sup>72</sup> See Part 5 of the Constitution for full details

<sup>73</sup> See Part 2 of the Constitution for full details

- All relevant matters must be taken into account and irrelevant matters must not be taken into account
- All necessary officer advice must be sought
- Standing orders, Financial Regulations and Contract Standing Orders must be complied with
- The Council's Procurement Strategy must be complied with
- Any decision must be in accordance with approved terms of reference and schemes of delegation
- Any declaration of interest must be made and if necessary dealt with in accordance with the Code of Conduct<sup>74</sup>.
- The decision must be properly recorded and published within the approved timescale
- A clear audit trail for the decision and the reasons for it must be available

### 3. Types of Decision makers

#### **Full Council**

Any decision made by full Council must follow the procedures set down in the Council's procedural Standing Orders<sup>75</sup>. Some decisions may only be made by the full Council and cannot be delegated<sup>76</sup>.

#### **Cabinet**

The Cabinet will follow the procedure set down in its own rules when making a decision<sup>77</sup>. When making a key decision<sup>78</sup> additional requirements are imposed. Individual Cabinet Members may only make a decision if the Leader of the Council has delegated the necessary authority for this purpose<sup>79</sup>.

#### **Improvement and Review**

The Improvement and Review Commission will follow the procedures set down in its own protocol when making a decision or putting forward a recommendation to the Council, the Cabinet or another decision making body<sup>80</sup>.

#### **Other Committees**

All other decision making bodies will follow the appropriate parts of the Council's procedural Standing Orders<sup>81</sup> when making decisions.

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<sup>74</sup> See Part 5 of the Constitution

<sup>75</sup> See Part 3 of the Constitution

<sup>76</sup> See Section 3 above and Part 3 of the Constitution

<sup>77</sup> See Cabinet Procedures and Processes in Part 4 of the Constitution

<sup>78</sup> See Section 3 on decision making in Cabinet Procedures and Processes for a full explanation

<sup>79</sup> See Section B of Part 3 of the Constitution for full details of delegations

<sup>80</sup> See Section E Improvement and Review Protocol in Part 3 of the Constitution

<sup>81</sup> See Section A of Part 3 of the Constitution

## **Officers**

Certain statutory responsibilities and day to day management of services is delegated to officers to carry out<sup>82</sup>. When making a decision, officers must also ensure that that decision complies with financial regulations and contract standing orders currently in force and the Council's procurement strategy.

### **4. Quasi-judicial decisions**

Whenever the Council, a Committee, a Councillor or an officer considers or determines a matter in a quasi-judicial manner which affects the civil rights or criminal responsibility of any person, a proper procedure will be followed which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### **5. Miscellaneous matters**

The management of the Council's financial affairs and resultant decisions will be conducted in accordance with the Council's Financial Regulations and Contract Standing Orders currently any decisions in respect of legal proceedings brought by and against the Council will be made according to the rules and procedures set out in the relevant Schemes of Delegation and terms of reference<sup>83</sup>.

Documents may only be authenticated and the Council's seal applied as provided for in the Council's procedural Standing Orders<sup>84</sup>.

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<sup>82</sup> See Parts 2 and 3 of the Constitution

<sup>83</sup> See Part 2 of the Constitution

<sup>84</sup> See Section A of Part 3 of the Constitution

# What is the Constitution?

It is a document which sets out how the Council operates; how decisions are made, and the procedures which are followed.

The Council has to exercise all its powers and duties in accordance with the law and the Constitution.

The Constitution also explains how the Council relates to its citizens, communities and partners.

## Can it be Amended ?

The Constitution can only be approved and amended by all Members of the Council sitting together as Full Council. But if the law changes then the Council's Solicitor can amend the Constitution to reflect the law.

## How do I obtain or view a copy?

Copies are available on request from Democratic Services by telephoning or emailing [democratic@wycombe.gov.uk](mailto:democratic@wycombe.gov.uk). Alternatively it can be viewed on the Council's website [www.wycombe.gov.uk](http://www.wycombe.gov.uk).



## 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 to ensure that it is accountable to local people.

## Summary And Explanation

The Council's Constitution is in four parts. This part is a summary of how the Council works. We have tried to make it easy to follow. The detailed rules are set out in Part 2.

# Composition of the Council

There are 60 elected Councillors (or members) who serve on Wycombe District Council and all of them together comprise the Full Council and represent the wards which make up the District.

Each ward is represented by one, two, or three Councillors. The boundaries of the Wards are reviewed from time to time by the Local Government Boundary Commission for England.

General information about the Councillors, the Wards they represent and their addresses are available on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.gov.uk).



# Election and Councillors' Length of Office

Once elected, a Councillor normally remains a Councillor for four years. This Council holds an 'all out' election, 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 Wycombe were held in May 2015 and the next election will be held in 2019.

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.





# Electors

Who can vote?

Most European Union citizens who live in the Wycombe District are entitled to be registered as local government electors.

Every year we send a registration form to every house, usually around the end of August. If you aren't sure if you're on the register then you can see a copy at the Council Offices or you can contact Democratic Services by telephoning or by emailing



# The Chairman

The Chairman is appointed annually. The Chairman is the figurehead of the Council at civic and ceremonial events. The Chairman also spends many hours each week representing the Council on official visits to groups and events – almost all in the District.

The Chairman has a few formal powers. For instance, the Chairman chairs the meetings of the Full Council. If the Council takes a vote and the number is equal then the Chairman has a second or 'casting' vote to overcome the deadlock.

Further details on the role and responsibilities of the Chairman are available on the Council's website or by telephoning



Councillor Suzanne Brown - Chairman

# The Leader

The Leader may be removed during his/her four-year term of office by a vote of the majority of Council Members.

The Leader has the power :

- To decide the size of Cabinet, a minimum of three and a maximum of nine Members;

- To appoint the Deputy Leader and the Cabinet, and allocate the Portfolios; and

- To make most of the decisions on his/her own and draw up the budget and new policies alone or with Cabinet.

The Leader is able to delegate Executive functions to other Sub-Committees, individual Cabinet Members and Officers. To appoint the Deputy Leader and the Cabinet, and allocate the Portfolios; and



Katrina Wood – Leader of Wycombe District Council



# Councillors

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

# Agenda Item 5.

## **WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGES AND COMMERCIAL ADVERTISING ON LICENSED VEHICLES**

**Officer contact:** Caroline Steven

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Email: [caroline.steven@wycombe.gov.uk](mailto:caroline.steven@wycombe.gov.uk)

**Wards Affected:** All

### ***PROPOSED DECISIONS***

1. That the current policy requiring that all wheelchair accessible hackney carriage vehicles are side loading is maintained.
2. That from the 1<sup>st</sup> January 2018, drivers of wheelchair accessible vehicles should be required to undergo refresher training on disability awareness on a three yearly basis as a requirement of their licence.
3. That further consideration should be given as to appropriate wheelchair accessible vehicle type once government guidance on this issue has been published.
4. That the current policy prohibiting commercial advertising on licensed vehicles is maintained.

### **Executive Summary**

Members will recall that various amendments to the Hackney Carriage and Private Hire Policy were considered at the meeting in February this year and that an amended policy was approved. Two matters remained undetermined at the conclusion of this meeting, however, and it was agreed that these would be reconsidered at the next meeting of the committee. These matters relate to commercial advertising on licensed vehicles and the loading point of wheelchair accessible hackney carriage vehicles.

Unfortunately the sub group was unable to make any recommendations due to problems with meetings and at the committee meeting on the 24<sup>th</sup> July it was decided that another sub group should be convened to consider both issues.

After careful consideration of all the relevant evidence, the sub group has recommended that there should be no changes to the current policy in respect of either issue, but that work should be carried out with Bucks County Council to ensure that the hackney ranks are safe and suitable for both rear loading and side loading vehicles.

### **Corporate Implications**

The Council is required by law to license the operation of taxis and private hire vehicles. The paramount consideration in this respect is the safety and convenience of those travelling in licensed vehicles. The Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to place conditions on licensed private hire and hackney carriage drivers and vehicles. Conditions and requirements should be aimed at improving service and protecting the users of licensed vehicles.

### **Policy/Community Plan Implications**

The suggested decisions would contribute to all of the objectives set out in the Corporate Plan.

### **Detailed Report**

## Rear Loading Wheelchair Accessible Vehicles

1. The draft revised policy included a proposal to permit rear loading wheelchair accessible vehicles. This type of vehicle has not previously been authorised as a hackney carriage. Several comments were received from individuals in support of this proposal, which was also generally supported by the private hire trade. A large section of the hackney carriage trade, however, is opposed to this proposal on the grounds of public safety.
2. Following the committee meeting in February, the High Street rank was inspected by the Division's Health and Safety Officer and the use of rear loading vehicles (one of which had been provided for this purpose by a private hire operator) was considered.
3. It was the opinion of the health and safety officer that a wheelchair could not be safely loaded into a rear loading wheelchair accessible vehicle from the High Street rank.
4. It was agreed that this issue would be considered by a sub group of the committee and this group has met on several occasions for this purpose. These meetings have included an inspection of all of the ranks within the town centre and two demonstrations of wheelchair users being loaded into different types of vehicle at the High Street rank. One of these demonstrations was attended by Neil Stannett in his capacity as a health and safety adviser and Alan Switalski, the Council's Equalities Officer. It was also kindly assisted by Alison Lewis of Wycombe Area Access for All, who is the user of a powered wheelchair.
5. It became apparent during these demonstrations that the High Street rank is not safe or suitable for the use of rear loading wheelchair accessible vehicles. The only means by which such a vehicle can be properly positioned to load a wheelchair user entails the front end of the vehicle protruding into the High Street, which is a main bus route. The tailgate on the vehicle demonstrated also covered a large part of the pavement at head height which would not only cause an obstruction to pedestrians but would also be likely to cause a health and safety hazard.
6. This view was shared by all Members and officers present at the demonstration.
7. The majority of the remainder of the ranks within the town centre are also deemed to be unsuitable for this type of vehicle for similar reasons, although it is considered that the ranks in Frogmoor and Lilys Walk could reasonably easily be adapted for use by rear loading vehicles.
8. As a result of the above, it is considered that rear loading hackney carriage vehicles are not currently suitable or safe to be used as a result of the design and layout of the town centre ranks. The sub group has therefore recommended that the current policy should remain in force (which permits only side loading wheelchair accessible hackney carriage vehicles) and that this policy should remain in place until the ranks can be made safe and suitable, at which point it can be reconsidered.
9. It is proposed that joint meetings will take place between relevant officers and Members from this authority and Bucks County Council with this intention of moving this issue forward as quickly as possible.

## Vehicle Type

10. During the sub group's research, concerns were raised that some of the side loading vehicles did not appear to be fit for purpose for wheelchair users. The main concerns raised in this respect were that there was insufficient head room when loading a wheelchair user and that it was not possible to manoeuvre the passenger so that they were required to travel facing out of the off side of the vehicle. This is neither a pleasant experience for the user nor safe in the event of an accident. The majority of the vehicles which were a cause for concern were converted by non-specialist garages.
11. It is a current requirement of the Council's policy that a certificate of compliance / conformity is provided for any vehicle which has been modified in any way since manufacture, although it was considered that this requirement may not be sufficient alone to ensure that only appropriate vehicles are licensed.
12. As a result of the implementation of parts of the Equalities Act 2010 earlier this year, the government have confirmed that specific guidance will be issued on the subject of wheelchair accessible vehicles. It is hoped that this guidance will be published later this year or in the spring of 2018.
13. The sub group have recommended that the specific type of vehicle permitted to be used as a wheelchair accessible hackney carriage (whether side or rear loading) should be reconsidered once the guidance in this respect has been issued. Any future recommendations may include minimum interior dimensions for vehicles or other relevant matters such as lowered floors.

## Training of Drivers of Wheelchair Accessible Vehicles

14. One issue that has been raised by various disabled users and bodies representing wheelchair users has been that it is not considered that drivers of wheelchair accessible vehicles currently receive sufficient training in terms of dealing with disabled passengers. This was particularly evident in terms of a lack of refresher training.
15. All drivers of wheelchair accessible vehicles are currently required to successfully undertake the Passenger Assistant Training course which is provided by Bucks County Council. This training covers various different types of disability and includes instruction on how to safe load, secure and unload wheelchair users.
16. Given the current low usage of hackney carriages by wheelchair users at ranks, it is likely that some drivers may carry very few during the course of any given year. It is therefore quite likely that, due to a lack of usage, their training in this respect may become far less effective over a period of time.
17. Although not frequent, the Licensing Unit do receive occasional complaints that drivers are unable to properly load or secure wheelchair users in their vehicles.
18. It is accepted that types of wheelchair and advice in relation to the use of them change over time and advice also changes on the best ways of dealing with different disabilities. It was therefore recommended by the sub group that, as part of their continuing professional development and to better assist them in carrying out their duties, drivers of wheelchair accessible vehicles should be required to



undertake refresher training on a three yearly basis and that such refresher training should be a requirement of their licence.

19. If approved by the committee, it is suggested that such a requirement should become effective from the 1<sup>st</sup> January 2018 to enable officers to source an appropriate training package which is likely to take in the region of a half to one day to complete.

### Commercial Advertising

20. The private hire trade requested that commercial advertising is permitted on private hire vehicles. This subject was discussed at the committee meeting in February and it was decided that a sub-group be set up to consider the issue further.
21. Benchmarking was carried out nationally which resulted in sample advertising policies / conditions being received for the sub-group's consideration. It was also confirmed that a large majority of local authorities throughout England and Wales do not permit commercial advertising on licensed vehicles.
22. The sub group have now considered this matter. Having taken all of the relevant information into account, there were concerns that additional signage on licensed vehicles may detract from the vehicle's main purpose and may cause confusion to members of the public.
23. It was felt that there is generally signage already present on all four vehicle doors which is intended to make the vehicle easily identifiable as a private hire vehicle. It was not considered appropriate for any other signage to be placed on the rear of the vehicle due to the presence of the licence plate. Safety concerns were also raised about the possibility of placing signage on the rear window or any other glass on the vehicle.
24. As a result of the above it is the recommendation of the sub group that the current prohibition on commercial advertising on licensed vehicles is maintained.

### **Background Papers**

Files in Environmental Services

# Agenda Item 6.

## STATUTORY DESIGNATED LIST OF WHEELCHAIR ACCESSIBLE VEHICLES

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**Wards Affected:** All

### ***PROPOSED DECISION***

That the committee consider whether it is appropriate to designate a list of wheelchair accessible vehicles under section 167 of the Equality Act 2010 and if so, to approve a consultation exercise on this issue with relevant parties.

### **Executive Summary**

Provisions of the Equality Act 2010 relating to wheelchair accessible private hire vehicles and hackney carriages came into force on the 6<sup>th</sup> April 2017. These provisions permit local authorities to specify a designated list of such vehicles. Once such a list has been designated and published on the Council's website, it becomes an offence for the driver of such a vehicle to fail to comply with the duty to provide mobility assistance. This would include matters such as refusing to carry an assistance dog or charging a disabled person more than an able bodied customer.

The designation of such a list would provide advantages to the hackney carriage and private hire trades in terms of additional publicity and new business opportunities and also to disabled customers in terms of being able to easily access details of companies which provide such vehicles and ensuring equal treatment.

Exemptions can be given to drivers further to specific medical advice from their own doctor's practice.

Local authorities are now being strongly encouraged to designate and publish such lists by the Department of Transport

### **Corporate Implications**

The Council is required by law to license the operation of taxis and private hire vehicles. The paramount consideration in this respect is the safety and convenience of those travelling in licensed vehicles. Conditions and requirements should be aimed at improving service and protecting the users of licensed vehicles.

### **Policy/Community Plan Implications**

The implementation of such a statutory list would contribute to all of the objectives set out in the Corporate Plan.

### **Detailed Report**

1. The Equality Act 2010 (Commencement No.12) Order 2017 was made on 7 February 2017, and brought into effect sections 165 (passengers in wheelchairs) and 167 (lists of wheelchair- accessible vehicles) of the Equality 2010 on the 6<sup>th</sup> April 2017.
2. Section 167 provides that for the purposes of Section 165 of the Act, a licensing authority may maintain a list of vehicles which are either licensed private hire or hackney carriages and which conform to such accessibility requirements as the licensing authority thinks fit.

3. Section 165 of the Act imposes duties upon the drivers of designated vehicles when dealing with disabled persons in wheelchairs or a person who wishes to be accompanied by a disabled person in a wheelchair. Those duties are set out in Section 165(4) as follows:
  - to carry to passenger whilst in the wheelchair;
  - not to make any additional charge for doing so;
  - if the person chooses to sit in a passenger seat, to carry the wheelchair;
  - to take such steps as are reasonably necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
4. Section 165(7) of the Act creates an offence where the driver of a designated hackney carriage or private hire vehicle fails to comply with a duty imposed upon them under the section. This is punishable on summary conviction by a fine not exceeding scale 3 on the standard scale (currently £1,000).
5. Section 166 of the Act makes provision for licensing authorities to issue exemptions to drivers where they are satisfied it is appropriate to do so:
  - On medical grounds; or
  - On the ground that the person's physical conditions makes it impossible or unreasonably difficult for the person to comply with those duties.
6. A driver can only be exempt if an exemption certificate has been issued and the notice is exhibited on the vehicle in the prescribed manner. The Equality Act 2010 (Taxis and Private Hire vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017 also came into force on 6 April 2017 and prescribes the form of the notice and where and how it should be exhibited.
7. The provisions contained within Section 167 of the Act are discretionary. The Council must therefore determine whether it intends to designate a list of vehicles. Without such a list the duties imposed on drivers will have no effect as it only relates to those private hire vehicles and hackney carriages designated under section 167. It is strongly recommended by Government that authorities exercise this power and it is suggested that the designation of such a list would assist the independence and mobility of disabled persons and increase business opportunities for businesses and individuals.
8. The committee is therefore asked to consider whether it would be appropriate to designate a list under section 167 of the Act.
9. If the committee so decides, a full consultation exercise will be undertaken with the private hire and hackney carriage trades along with disability groups and other relevant parties to ascertain their views prior to bringing the issue back before this committee for a final decision.

## **Background Papers**

Files in Environmental Services