

# **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 Councillor, 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

<b>LOCAL CHOICE FUNCTIONS</b>
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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