

# Part 1

## Summary and Explanation

### **The Council's Constitution**

Swindon Borough Council has agreed a constitution that sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols in Annexes at the end of the document.

### **What's in the Constitution?**

Article 1 describes the Constitution and is a statement of purpose. Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny Committees (Article 6).
- The Cabinet (The Council's Executive) (Article 7).
- Regulatory and Other Committees (Article 8).
- The Standards Committee (Article 9).
- Community Involvement (Article 10).
- Joint Arrangements (Article 11).
- The Council's Officers (Article 12).
- Decision Making (Article 13).
- Finance, Contracts and Legal Matters (Article 14).
- Review and Revision of the Constitution (Article 15).

- Suspension, Interpretation and Publication of the Constitution (Article 16).

## **HOW THE COUNCIL OPERATES**

The Council is composed of 57 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties ("The Members' Code of Conduct"). The Standards Committee recommends training on any aspect of conduct and behaviour for Councillors and assists them on their obligations in respect of the code of conduct.

All councillors meet together as the Council (Full Council). Meetings of the Council are normally open to the public. Here, councillors decide the Council's overall policies and set the budget each year. The Council will elect the Leader of the Council.

## **GOVERNANCE**

The Council has a key role in governing and leading the communities within the Borough of Swindon. Effective local government relies on public confidence in elected councillors, and officers. An effective system of corporate governance underpins the credibility and confidence in public services. The Swindon Local Code of Governance in Part 5 of the Constitution sets out the way in which the Council demonstrates that it has such an effective system.

## **HOW DECISIONS ARE MADE**

The Leader and Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet (or Executive) is made up of the Leader of the Council and a Cabinet of up to 9 Councillors to whom the Leader allocates portfolios (Cabinet Members). When major decisions are to be discussed or made, these will be published in the Cabinet's Work Programme / Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

To speed-up decision making and to allow the Cabinet to concentrate on major matters, the Leader and Cabinet Members have the delegated power to make day-to-day decisions in relation to the areas within their portfolio. In addition, specified Council officers have powers / functions delegated to them either under the scheme of delegation in Part 8 of the Constitution, or under other parts of the Constitution, or by the Leader or by resolution of a

committee or Council body. Councillors and officers operate in accordance with various agreed procedures and protocols as set out in Part 5 of this Constitution.

There are other Regulatory Committees that make decisions on planning applications, licensing matters and similar issues. The Council also has a Standards Committee which promotes and maintains high standards of conduct by Councillors and others, and an Audit Committee which provides independent audit assurance to the Council in respect of its governance and financial arrangements.

Cabinet Members may also, from time to time, appoint one or more Advisory Groups to assist them in the discharge of any or all of their Portfolio responsibilities. The Cabinet Member determines the membership of the Advisory Group and whether it shall be chaired by the Cabinet Member or his/her nominee. Advisory Groups are informal non decision-making bodies and do not exercise executive power. The Cabinet Member decides whether the public or other members of the Council shall be allowed to attend or be on the circulation list for papers prepared for an Advisory Group. The Monitoring Officer maintains a publicly register of such Advisory Groups.

### **SCRUTINY AND POLICY DEVELOPMENT**

There are six Overview and Scrutiny bodies (a Scrutiny Committee and five Overview and Scrutiny Committees) that support the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public hearings into matters of local concern. Also, a councillor can ask an Overview and Scrutiny Committee to discuss any local government matter under a 'councillor call for action'. These lead to reports and recommendations that advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision that has been made by the Cabinet whether or not it has been implemented. This enables it to consider whether the decision is appropriate. It may recommend either that the Cabinet or Cabinet Member reconsider the decision or that the matter be referred to the relevant Overview Committee for investigation. Currently, a Tenants Scrutiny Panel performs a similar function in relation to decisions affecting the Council's housing revenue account. The Overview and Scrutiny Committees may be consulted by the Cabinet or the Council on forthcoming decisions and help with the development of policy for both the Cabinet and the Council. The Council also participates with Wiltshire Council Members in a joint Police and Crime Panel, which undertakes a similar overview and scrutiny role for the Police and Crime Commissioner who first took office in November 2012.

### **HEALTH AND WELLBEING BOARD**

The Council has established a Health and Wellbeing Board. It is a "standing committee" of the Council as required by the Health and Social Care Act 2012. The Board is made up of Councillors, Council officers, and representatives of the Swindon Clinical Commissioning Group, the NHS Commissioning Board, Swindon Healthwatch and from the community,

voluntary and social enterprise sector. Its main statutory functions are to prepare Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies with a view to improving the health and wellbeing of Swindon's population and to reduce inequalities in health experienced by some communities. Its meetings are open to the public.

### **COMMUNITY INVOLVEMENT**

In order to give local citizens a greater say in Council affairs, the Council has provided local people and Councillors with the opportunity to raise community issues on a regular basis. This is achieved through Locality Panels, and other locality /local ward based meetings. Seven Locality Panels have been established which cover all wards in the Borough. Their purpose is to promote and focus local service delivery; encourage and enable community involvement; and build social capital. They currently have some local decision making powers. These arrangements are set out in more detail in Article 10.

### **PETITIONS**

Petitions from members of the public will be dealt with under the Council's Petitions Scheme which is set out in Part 4 of the Constitution.

### **THE COUNCIL'S STAFF**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

### **CITIZENS' RIGHTS**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

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;
- petition to request the Council to take action;

- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees;
- record and report on Council meetings that are open to the public using modern media in accordance with the Council's agreed protocol and guidance;
- find out, from the Cabinet's Work Programme / Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet, Cabinet Members or officers, and when. The Cabinet Work Programme / Forward Plan is available by way of the Council and Democracy pages of the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- attend meetings of the Cabinet where key decisions are being discussed or decided, where such decisions are taken in a part of the meeting that is open to the public;
- be informed at least 28 days in advance of either any key decision to be taken by the Cabinet, or of any decision / report where it is intended that the public and press will be excluded from a meeting of the Cabinet, or a report to Cabinet will be considered as being "Not for Publication".
- where a report is considered as being "Not For Publication", in such circumstances individuals will be able to express their views on why they believe such decisions should be taken in a meeting open to the public and the Cabinet will be required to respond to these representations and explain why it either supports or rejects the request. This is by way of "notices" on the Council and Democracy pages of the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- see reports and background papers, and any record of decisions made by the Council and Cabinet or Cabinet Members. Agenda, reports and minutes are available by way of the Council and Democracy pages of the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- complain to the Council - The procedure is set out in the Council's Customer Feedback Policy that is available on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Standards Committee if they have evidence that they think shows that a Councillor has not followed the Council's Code of Conduct; and

- inspect the Council's Accounts and make their views known to the Council's External Auditors.

The Council welcomes participation by its citizens in its work.

Citizens have the right to inspect Council agendas and reports and attend meetings providing that the subject or the relevant papers /meetings are not confidential or contain confidential (known as "exempt") information.