

PART 1 – INTRODUCTION

1. The Constitution

2.1. The Constitution is divided into the following sections:

Part 1 - Introduction

Sets out general information about what is included, the decision-making processes, how key parts of the Council operate, councillors' key duties and the rights of the public to become involved.

Part 2 – Responsibility for Functions

Sets out how decisions are made, including the responsibilities and terms of reference of the Council's committees and boards, the Cabinet and other Executive functions.

Part 3 - Rules Governing How the Council Operates

Sets out detailed procedure rules (standing orders), covering how meetings operate, including Full Council, Cabinet, Scrutiny and other committees.

Part 4 - Codes and Protocols

Explains how members and officers of the Council must conduct themselves according to the various codes of conduct and protocols, such as the Access to Information Rules, Member/Officer Relations and the members Allowances Scheme.

Purpose

2.2. The Council exercises its powers and duties in accordance with the law and this Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that they are efficient, transparent and accountable to local people.

2.3. The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of the public in the process of local authority decision-making;
- (c) help councillors to represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;

- (e) create a powerful and effective means of holding decision-makers to public account;
 - (f) ensure that decision-makers are clearly identifiable and that they explain the reasons for decisions;
 - (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
 - (h) provide a means of improving the delivery of services to the community;
 - (i) set out the respective responsibilities of members and officers of the Council and how they inter-relate.
- 2.4. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that is closest to the purposes stated above.

Review, Publication and Amendment

- 2.5. The Director of Governance (as Monitoring Officer) monitors the operation of the Constitution to ensure that its aims and principles are given full effect, and to make recommendations for it to be amended in order better to achieve the purposes set out above.
- 2.6. The Director of Governance will maintain an up-to-date version of the Constitution and will ensure that a copy of the Constitution is:
- (a) available to each member of the Council either via the Council's website, or in hard copy if requested, upon receipt of that member's declaration of acceptance of office on first being elected to the Council;
 - (b) accessible for public inspection at council offices, libraries and other appropriate locations. Access by electronic means shall be sufficient for these purposes.
- 2.7. Changes to the Constitution will only be approved by Full Council after consideration by the Director of Governance or a body established for that purpose.
- 2.8. However, the Director of Governance is authorised to make minor and/or consequential amendments to the Constitution for the purpose of keeping it up to date, clarifying its content or interpretation, correcting any errors or omissions, complying with the law or otherwise giving effect to the intentions or decisions of the Council, the Cabinet or a committee. Councillors will be notified of any such amendments.

Finance, Contracts and Legal Matters

- 2.9. The Finance and Contract Procedure Rules (see Part 3 Section 6) govern the management of the Council's financial affairs and every contract made by the Council.

- 2.10. All matters in respect of the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Director of Governance (and their duly authorised officers) who is authorised to institute, defend, settle, discontinue or otherwise participate in any such proceedings, or take any other action considered necessary to give effect to decisions, or protect the interests of the Council.
- 2.11. The common seal of the Council is kept in a safe place in the custody of the Director of Governance. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the Director of Governance should be sealed. The affixing of the common seal will be attested by the Director of Governance or some other person authorised by them.

2. Councillors

- 2.12. Cheshire West & Chester Council is composed of 70 elected councillors (or members) representing 45 wards¹. Each ward elects between one and three councillors (depending on the size of the ward) to represent them.
- 2.13. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community of Cheshire West and Chester, but they have a specific duty to their constituents, including those who did not vote for them.
- 2.14. Councillors must agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 2.15. The phrase ‘the Council’ is generally used to refer to Cheshire West & Chester Borough Council as a whole. The term “the Council” is used to mean all 70 members acting collectively to make the policies and take decisions that shape the future of the Borough and determine its priorities. Councillors are also referred to as “elected members”, or simply “members”.

Eligibility

- 2.16. Only registered voters living or working in the Borough during the 12 months prior to an election are eligible to stand as a councillor. They must be a citizen of the United Kingdom, the Republic of Ireland or the Commonwealth, or a relevant citizen of the European Union and be at least 18 years old.

Election and Terms of Office

- 2.17. The ordinary election of all councillors is held on the first Thursday in May in every four years. The terms of office of councillors is for four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

Transitional Arrangements

¹ [The Cheshire West & Chester \(Electoral Changes\) Order 2018](#)

- 2.18. Unless they resign or become disqualified, the Chair of the Council and the Executive Leader remain in those posts (but without voting rights) until their successors are appointed at the Annual Meeting of the Council even if, in an election year, they are not re-elected at that election.
- 2.19. Where a member holds another post described in this Constitution and they are re-elected at an election, they continue in that post until the Annual Meeting of the Council immediately following that election. If they are not re-elected then the post is vacant until a replacement is appointed.

Roles and Responsibilities

2.20. It is the role of all members to:

- (a) provide community leadership and promote active citizenship by promoting equality, tolerance and democracy and helping their communities understand and participate in the Council's decision making processes;
- (b) be a visible, recognisable and accessible presence in the community by taking measures such as holding ward surgeries and supporting local partnership organisations;
- (c) recognise and balance different interests within their wards and represent the ward as a whole, fairly and constructively, whilst providing a voice for all sectors of their communities;
- (d) represent the views of their communities wherever possible in the Council's decision-making processes by liaising with other members, officers, and partner organisations to ensure that the needs of the local communities are identified, understood and supported;
- (e) represent individual constituents and local organisations, undertaking casework on their behalf as necessary and serving all fairly and equally.

Chair and Deputy Chair of the Council

- 2.21. The Chair of the Council is the Council's ceremonial figurehead and acts as an ambassador for the Council and for the area of Cheshire West & Chester.
- 2.22. The Chair's position is laid down by the Local Government Act 1972. This requires them to be elected annually by the Council from among its elected members.
- 2.23. The Chair and Deputy Chair cannot preside at their own election and must not be members of the Cabinet.
- 2.24. The Council may pay to the Chair a reasonable allowance to enable them to meet the expenses of office.
- 2.25. The Deputy Chair of the Council is responsible for assisting and supporting the Chair and discharging the duties of the Chair in their absence.

- (a) In the absence of both the Chair and the Deputy Chair, members will elect a Chair for the meeting concerned by a simple majority vote. The person presiding at the meeting may exercise any power or duty of the Chair for that meeting.

Substitute Members

- 2.26. Political groups may nominate some or all their councillors to be substitutes for appointed members of committees, joint committees, sub-committees, working groups and panels (and the Director of Governance shall have authority to give effect to those nominations in accordance with this procedure rule), provided that in the case of the:
- (a) Regulatory committees and sub-committees, substitutes must have received suitable training
- (b) Scrutiny committees and Audit and Governance Committee, all councillors except Cabinet members are permitted to be substitutes
- 2.27. Each political group shall keep a list ('Substitute Members List') containing the name of each substitute member and, in respect of each substitute member, which committees, joint committees, sub-committees, working groups and panels they may serve on.
- 2.28. A substitute member may only be drawn from the most recent Substitute Members List notified to the Director of Governance no fewer than five days before the date of the meeting in question.
- 2.29. Notice of substitution stating the name of the substitute must be given to Democratic Services before the commencement of the meeting concerned.
- 2.30. Cancellation of the intention to substitute will not be effective unless Democratic Services is notified before the commencement of the meeting.
- 2.31. If, after notice of substitution has been given, the original appointed member is present when the meeting begins, the substitution will not have effect for that meeting.
- 2.32. If the original appointed member arrives when the meeting is in progress, the substitution will remain effective and the original appointed member will not be allowed to participate in the decision making. It is not possible to substitute for part of a meeting only.
- 2.33. The chair shall inform the meeting of any substitutions before the commencement of the meeting.
- 2.34. The substitute member will take the place of the original appointed member only for the duration of the meeting in question, or any adjournment of it, following which the original appointed member will resume their position on the committee.

2.35. Substitute members have all the powers and duties (including compliance with any mandatory training requirements) of any appointed member but are not able to exercise any role or duties exercisable by the appointed member, such as Chair, etc.

Executive Leader

2.36. The Leader is elected to that office by all of the other members of Council. The Leader appoints the Deputy Leader and other Cabinet Members and is Chair of the Cabinet and the political figurehead for the Council.

2.37. The Leader is responsible for providing strong, clear leadership in the co-ordination of policies, strategies and service delivery and acts as the principal political spokesperson for the Council.

2.38. The Deputy Leader is responsible for assisting and supporting the Leader and discharging the duties of the Leader in their absence.

Opposition Political Group Leaders and Shadow Cabinet Members

2.39. Two or more members may form a political group under the Local Government (Committees and Political Groups) Regulations 1990 and appoint a leader of that group. The wishes of the group are taken to be those expressed by its leader.

2.40. Opposition Political Groups ('Groups') are those political groups that do not form the administration. Each Group will elect a leader.

2.41. The role of a Group Leader is to provide a political figurehead, point of contact and spokesperson for their Group. Group Leaders do not exercise any executive powers and do not operate as spokespersons on behalf of the Council.

2.42. Opposition Groups may, if they wish, appoint shadow Cabinet Members, usually aligned to the portfolio appointments made by the Leader.

3. Citizens

Citizens' Rights

3.1. The Council welcomes participation by members of the public in its work. Members of the public who grow up, study, work, live and visit the Borough have a number of rights in their dealings with the Council, including:

(a) vote at local elections if they are registered as an elector in the Borough

(b) contact their local councillor about any matters of concern

(c) obtain a copy of the Constitution

(d) be notified of and attend meetings that are being held in public and speak or ask questions at those meetings

- (e) find out from the Key Decisions Plan what Key Decisions are going to be made and how to engage in the process
- (f) inspect agendas, reports, background papers and minutes relating to meetings that are being held in public
- (g) present petitions to require an issue to be debated at the Council:
 - (i) requesting the establishment of a parish council or similar Community Governance Review
 - (ii) for a referendum to be held on whether the Borough should have an elected mayor
 - (iii) on any matter within the Council's purview
- (h) inspect the following documents:
 - (i) the Constitution
 - (ii) the Register of Members' Interests
 - (iii) the Council's accounts as part of the annual audit and make their views known to the External Auditor
 - (iv) pay and remuneration policies for chief and senior officers
- (i) access other information as set out in the Access to Information Rules (see Part 4 Section 1)
- (j) make complaints about services to:
 - (i) the Council, under its customer complaints scheme
 - (ii) the Ombudsman, after using the Council's complaints scheme
 - (iii) the Director of Governance (as Monitoring Officer), about alleged breaches of the member Code of Conduct
- (k) ask questions at most meetings
- (l) contribute to the discussions of Scrutiny committees at the discretion of the Chair of the meeting
- (m) take part in the Council's consultation activities
- (n) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011

Petitions

- 3.2. The Council welcomes petitions and recognises that petitions are one way that people express their concerns about issues affecting communities within the Borough.
- 3.3. Details of the Council's Petition Scheme can be found on the website here or can be requested by post from the Director of Governance, Cheshire West & Chester Council, 4 Civic Way, Ellesmere Port, CH65 0BE.

Community Rights

- 3.4. The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.
- 3.5. Details of the Community Rights can be found on the website here or can be requested by post from the Director of Governance, Cheshire West & Chester Council, 4 Civic Way, Ellesmere Port, CH65 0BE.