

PART 1

SUMMARY AND EXPLANATION

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1. THE COUNCIL'S CONSTITUTION

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

The Constitution is divided into 10 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols towards the end of the document.

1.1 What's in the Constitution?

Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and this Constitution. Articles 2 – 10 explain the rights of citizens and how the key parts of the Council operate. These are:

- 1.1.1 Members of the Council (Article 2);
- 1.1.2 Citizens and the Council (Article 3);
- 1.1.3 The Full Council meeting (Article 4);
- 1.1.4 Chairing the Council (Article 5);
- 1.1.5 Officers (Article 6);
- 1.1.6 Decision making (Article 7);
- 1.1.7 Finance, contracts and legal matters (Article 8);
- 1.1.8 Review and revision of the Constitution (Article 9);
- 1.1.9 Suspension, interpretation and publication of the Constitution (Article 10).

1.2 How the Council Operates

The Council is composed of 39 Councillors. Councillors are democratically accountable to the residents of their wards. 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.

The Council currently operates a Leader and Cabinet (Executive) structure. Some councillors have specific responsibilities for an area of the Council's activities (a Portfolio Holder).

All councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

The Full Council is also responsible for appointing the Leader of the Council, who then appoints a Cabinet, and for appointing committees and sub-committees, of which the Overview and Scrutiny Committee has responsibility for overseeing and reviewing the decisions of the Cabinet, while others discharge regulatory responsibilities or other functions which by law may not be discharged by the Cabinet, for example planning and licensing.

1.3 **How Decisions are Made**

The Leader of the Council (“the Leader”) is responsible for the discharge of executive functions. The Leader may delegate such functions to the Council’s Cabinet and to others. The Cabinet is made up of the Leader together with at least three but up to a maximum of seven other Councillors appointed by the Leader. When major decisions are to be discussed or made, these are published in the Cabinet’s Notice of Intent to Make Key Decisions in so far as they can be anticipated. Where delegated, these key decisions are made at meetings of the Cabinet, which will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council’s overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Full Council as a whole to decide.

1.4 **Overview and Scrutiny**

There is one Overview and Scrutiny Committee who support the work of the Cabinet and the Council as a whole.

They allow a wider involvement in Council business by involving non-councillors from the wider public sector, voluntary and community groups to help them in their work. They may make reports and recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitor the decisions of the Cabinet and can “call-in” a decision of the Cabinet which has been made but not yet implemented. They may recommend that the Cabinet reconsider their decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions or the development of policy.

1.5 **The Council’s Staff**

The Council has people working for it (“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. The protocol set out in [Part 5](#) governs the relationships between officers and the councillors.

1.6 **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. Citizens’ Advice can advise on individuals’ legal rights.

Where members of the public use specific Council services they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- 1.6.1 vote at local elections if they are registered;
- 1.6.2 contact their local councillor about any matters of concern to them;
- 1.6.3 obtain a copy of the Constitution;
- 1.6.4 attend meetings of the Full Council and its committees except where, for example, personal or confidential matters are being discussed;
- 1.6.5 petition to request a referendum on a mayoral form of executive;
- 1.6.6 petition the Council, about a matter for which it has responsibility or which affects the Council's area;
- 1.6.7 ask questions at Full Council and Cabinet meetings on matters relevant to the Council's functions;
- 1.6.8 find out, from the Cabinet's Notice of Intent to Make Key Decisions, what key decisions and non-key decisions are to be discussed by the Cabinet or decided by the Cabinet and when;
- 1.6.9 attend meetings of the Cabinet except where personal or confidential matters are being discussed;
- 1.6.10 see reports and background papers, and any record of decisions made by the Full Council, its committees and Cabinet;
- 1.6.11 complain to the Council about the way a service has been delivered or about anything Full Council or the Cabinet have done or propose to do. A copy of the Council's Corporate Complaints Policy and Procedure can be obtained from the Monitoring Officer;
- 1.6.12 complain to the Ombudsman if they think the Council has not followed its procedures properly, or if they are unhappy about a service delivery. However, they should only do this after using the Council's own complaints process; and
- 1.6.13 complain to the Council's Audit and Governance Committee if they have evidence which they think shows that a councillor or a parish councillor has not followed their Council's Code of Conduct (a copy of which can be obtained from the Monitoring Officer); and
- 1.6.14 inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Monitoring Officer. A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the Access to Information Procedure Rules in [Part 4](#).