

CHAPTER 1 – SUMMARY AND EXPLANATION

1. The Council's Constitution

- 1.1 Medway 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 whilst others are matters for the Council to determine.
- 1.2 The Constitution is divided into 15 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 in other parts of the Constitution.

2. What's in the Constitution?

- 2.1 Article 1 of the Constitution sets out the purpose of the Constitution. Articles 2-15 explain the rights of local people and how the key parts of the Council operate. These are:-
 - Members of the Council (article 2);
 - Local people and the Council (article 3);
 - The Full Council (article 4);
 - Chairing the Council (article 5);
 - Overview and Scrutiny Committees (article 6);
 - The Leader and Cabinet (article 7);
 - Regulatory and other committees (article 8);
 - Councillor Conduct Committee (article 9);
 - Joint arrangements (article 10);
 - Employees (article 11);
 - Decision making (article 12);
 - Finance, contracts and legal matters (article 13);
 - Review and revision of the Constitution (article 14);
 - Suspension, interpretation and publication of the Constitution (article 15).

3. How the Council operates

- 3.1 The Council is composed of 59 Councillors, elected every four years. 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.
- 3.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Councillor Conduct Committee advises them on the code of conduct and organises appropriate training.
- 3.3 All Councillors meet together as the 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 appoints a Leader for a four-year term who appoints the Cabinet. The Council also appoints committees.

4. How decisions are made

- 4.1 The Cabinet is the part of the Council that is responsible for most decisions. The Cabinet is made up of a Leader and up to nine Councillors. When major decisions are to be discussed or made, as far as possible, these are published in the Cabinet's forward plan. Cabinet meetings will generally be open to the public except where exempt 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.

5. Overview and Scrutiny

- 5.1 There are four Overview and Scrutiny Committees which support the work of the Council as a whole. They allow Councillors and local people to have a greater involvement in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet. They can 'call-in' a decision that has been made by the Cabinet or employees but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the decision is reconsidered by the decision maker or refer the matter to Full Council. The Cabinet and the Council will sometimes consult a scrutiny committee on forthcoming decisions and the development of policy.

6. The Council's staff

6.1 The Council has people working for it to give advice, implement decisions and manage the daily delivery of its services. Some employees 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 employees and members of the Council (this is set out in Chapter 5 of this Constitution).

7. Local people's rights

7.1 The Council welcomes participation by local people in its work and will often offer local people the chance to be consulted on matters of interest and concern.

7.2 Local people 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, while others depend on the Council's own rules. The local Citizens' Advice Bureau can advise on individuals' legal rights.

7.3 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 extra rights. These are not covered in this Constitution.

7.4 Local people have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- attend meetings of the Council and its committees except where, for example, exempt or confidential matters are being discussed;
- participate in the Council's question time and contribute by invitation to investigations and reviews undertaken by the overview and scrutiny committees;
- to make representations about why a Cabinet meeting, or part of a Cabinet meeting, should be open to the public when notice of an intention to meet in private is published;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by Cabinet members or employees, and when;
- attend meetings of the Cabinet where decisions are being discussed or decided unless exempt or confidential information is being discussed;

- see reports and background papers, and any record of decisions made by the Council, the Cabinet and officers (in certain circumstances);
- complain to the Council;
- complain to the Local Government Ombudsman¹ if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints procedure;
- complain to the Councillor Conduct Committee if they have evidence which they think shows that a Councillor has not followed the Council's code of conduct;
- petition to request a referendum on whether to have a mayor;
- inspect the Council's accounts and make their views known to the external auditor;
- obtain a copy of this Constitution;
- submit a petition to the Council and receive a response under the Council Petition Scheme;
- to report on meetings subject to guidelines published on the Council's website and available at meetings.

If you would like more information about your rights or how the Council works contact the Assistant Director, Legal and Governance, or visit our web site at www.medway.gov.uk

¹ Or, through a designated person, to the Housing Ombudsman in relation to social housing matters.