

# Part 1

# Summary and Explanation

## ***Part 1 - Summary and Explanation***

### **County Council's Constitution**

1. This Constitution was formally adopted by the County Council on 11 April 2001. It sets out how the County 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 the law, while others are a matter for the County Council to choose. The Constitution is divided into 16 Articles which set out the basic rules governing the County Council's business. The Articles refer to more detailed procedures and Codes of Practice which are provided in separate Rules and Protocols in the later parts of the document. The Notes in italics do not form part of the Constitution.

### **What the Constitution covers**

2. Article 1 of the Constitution commits the County Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations, to take decisions efficiently and effectively, to hold decision-makers to public account, and to improve the delivery of services to the community. Articles 2 to 16 explain the rights of citizens and how the key parts of the County Council operate. These are:
  - Members of the County Council (Article 2).
  - Citizens and the County Council (Article 3).
  - The full County Council (Article 4).
  - Chairing the County Council (Article 5).
  - Overview and scrutiny committees (Article 6).
  - The Executive (Article 7).
  - The Health and Wellbeing Board (Article 7A).
  - Regulatory boards and other committees (Article 8).
  - The Corporate Governance Committee (Article 9).
  - Area committees and forums (Article 10).
  - Joint arrangements (Article 11).
  - 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).

### **The County Council**

3. The County Council is composed of 55 county councillors elected every four years. County councillors are democratically accountable to residents of their electoral division. The overriding duty of county councillors in their representational role is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The County Council has adopted a Code of Conduct dealing with the conduct that is expected of members when acting in that capacity.
4. All county councillors meet together as the full County Council. Meetings of the full County Council are normally open to the public. Here county councillors decide the County Council's overall policies and set the Budget (which includes the annual revenue budget and capital programme) each year. The full County Council also approves the Policy Framework which comprises a series of major Plans. The Executive has to work within the Budget and Policy Framework approved by the County Council. The County Council can approve (or reject) any proposals from the Executive for action which is outside the Budget or Policy Framework.

### **The Leader, Cabinet and Executive**

5. The County Council appoints the Leader who in turn appoints the Cabinet. Cabinet members are designated Lead Members with responsibility for particular activities of the Council. The Council holds these members to account through Question Time and debating periodic Position Statements made by the Leader and other members of the Cabinet. The Leader will usually be the leader of the largest political group on the County Council. The Leader and the other members of the Cabinet together constitute the "Executive", which is the term used in the remainder of this Constitution. In the Articles and Rules which follow, the word "Executive" can be taken, in practice, to mean the Cabinet, whenever a meeting is involved.
6. Because the Leader is appointed by the full County Council, he or she is first and foremost the "Leader of the Council" - that is, having the political support of a majority of the County Council and, as such, leading the County Council forward and performing an important role in the County Council's external relations with other local authorities and local, regional and national organisations.
7. The Leader also has another, more internal, role as "Leader of the Executive" - that is, carrying the responsibilities and powers given to him or her by the Local Government Act 2000 and leading the work of the Executive.

8. The Leader will appoint one of the other members of the Cabinet as a Deputy Leader who will act in the Leader's place and preside at meetings of the Cabinet where the Leader is absent, in accordance with the law and the meeting procedure rules.

### **Non-executive members**

9. Those county councillors who are not members of the Executive make a contribution to the operation of the County Council through membership of the County Council's committees (some of which are called "boards") - in the "Regulatory" and "Overview and Scrutiny" areas. The boards and committees in the Regulatory area will take decisions on "non-executive" functions (such as licensing, planning, elections and members' code of conduct and allowances) which are outside the scope of the Executive. Many of the day-to-day decisions within the Regulatory area will, in practice, be taken by professional officers acting in accordance with published schemes of delegation but ultimately still accountable to the relevant board or committee or the full County Council, depending on the decision involved.
10. In addition to approving the Policy Framework and Budget at the full County Council, county councillors may also contribute to policy formulation and review through membership of panels as mentioned in the Overview and Scrutiny section below.

### **How executive decisions are made**

11. The Executive is the part of the County Council which is responsible for the more important executive decisions needed to implement the Policy Framework and Budget approved by the County Council. The Executive must consist of not fewer than three and not more than ten members – the Leader, Deputy Leader (if one is appointed) and the Cabinet. The Council may decide to appoint members to provide support and assistance to particular Cabinet Members. These are known as Cabinet Support Members and are not themselves members of the Executive.
12. The County Council has established a Health and Wellbeing Board as a Subcommittee of the Executive. It is responsible for producing the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and can also carry out such other functions as the Executive may permit.
13. Many day-to-day decisions are, in fact, taken by professional officers acting in accordance with published schemes of delegation but ultimately still accountable either to the Executive or the full County Council, depending upon the type of decision involved.
14. The Executive has to make decisions which are in line with the County 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 County Council as a whole to decide.

15. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be made at a meeting of the Executive, with professional officers present, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. In the case of all personal or confidential matters to be discussed, these will be included in the Forward Plan as far as can be anticipated.

*[Note: In adopting this Constitution the County Council went further than this: it decided, with the concurrence of the then Executive, that meetings of the Executive where any executive decisions (whether or not they are major) are to be taken, will generally be open to the public to attend, except where personal or confidential matters are being discussed. This is reflected in Article 7.06(a) in Part 2.*

*In addition, the County Council also decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting of the Cabinet or by professional officers under the published schemes of delegation. This is reflected in Article 7.08 in Part 2]*

### **Overview and Scrutiny**

16. A number of Overview and Scrutiny bodies have been established in relation to the activities of the County Council, in accordance with the provisions of the Local Government Act 2000. Some bodies also exercise functions in relation to the National Health Service in the County under the Health and Social Care Act 2001. The operation of these bodies is described in paragraphs 17 to 22 below.
17. Social Services authorities such as the County Council are required to establish arrangements to review and scrutinise matters relating to the Health Services in the Authority's area and to make reports and recommendations.
18. There are a number of standing (i.e. permanent) overview and scrutiny committees including the Scrutiny Commission. These overview and scrutiny committees support the Executive and the County Council as a whole. The Health Overview and Scrutiny Committee has the task of scrutinising health bodies in the County.
19. The County Council will establish a joint committee with other Social Services Authorities to scrutinise any health issue or consultation which has an impact on

an administrative area larger than the County Council where it considers it necessary or it is required to do so.

20. Scrutiny Committees allow citizens to have a greater say in County Council matters and things which the County Council is able to influence because at their meetings citizens may ask questions and present petitions provided that they have followed the correct procedures. The Committees produce reports which advise the Executive and the County Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive. The Health Overview and Scrutiny Committee is able to make recommendations on a health service matter to the County Council who in turn may refer the matter to the Secretary of State.
21. In the case of County Council activities, members of the Scrutiny Commission can “call in” a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsiders the decision, although the final decision will still remain with the Executive. They may also be consulted by the Executive or the County Council on forthcoming decisions and the development of policy.
22. At any one time, there are a number of *ad hoc* (i.e. temporary) review panels which carry out specifically targeted reviews on issues identified as requiring special attention. These review panels are wound up once they have completed their work; other new review panels, with new remits, take their place. The purpose of these panels is not to exercise any formal powers associated with overview and scrutiny (which are the preserve of the overview and scrutiny committees) but to contribute to and inform the overview and scrutiny process. The panels, therefore, do not constitute formal committees; however, their final reports are submitted to the relevant overview and scrutiny committee for approval prior to their submission to the executive and/or relevant partnership body.

### **The County Council's Staff**

23. The County Council has people working for it (called ‘officers’) to give advice, implement decisions and manage the day-to-day delivery of its services. Some professional officers have a specific duty to ensure that the County Council acts within the law and uses its resources wisely. The Codes in Part 5 of this Constitution govern the relationships between officers and members of the County Council.

24. Officers may be authorised, either by the County Council, the Executive or a board/committee in the Regulatory area, to take decisions. The scope of these delegated powers is defined in the general scheme of delegation approved by the County Council and in the record of specific delegations made in further decisions of the County Council, the Executive and the boards and committees in the Regulatory area. All of these are published and appear in Part 9 of this Constitution.

### **Citizens' Rights**

25. Citizens have a number of rights in their dealings with the County Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the County Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
26. Where members of the public use specific County Council services, for example as a parent of a school pupil, they may have additional rights. These are not covered in this Constitution.
27. Citizens have the right to:
- vote at local elections if they are registered;
  - contact their local county councillor about any matters of concern to them;
  - obtain a copy of the Constitution;
  - attend meetings of the County 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;
  - participate in question time at meetings of the standing overview and scrutiny committees and the boards and committees in the Regulatory area;
  - submit petitions to standing overview and scrutiny committees, the boards and committees in the Regulatory area, and, where fixed signatory thresholds are achieved, require senior officers to give evidence at a standing overview and scrutiny committee or prompt a debate at a meeting of the full County Council;
  - find out, from the Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when (Rule 14 in Part 4B);
  - attend meetings of the Executive where Key Decisions are being discussed or decided (Rule 12 in Part 4B);
  - see agendas, reports and background papers, and any record of decisions made by the County Council and Executive (Rules 5 to 8 in Part 4B);
  - find out, from the Forward Plan, what confidential or private matters are to be discussed or decided by the Executive;

- make representations to the County Council on why an exempt matter to be considered by the Cabinet should be considered in public, rather than in private.
  - complain to the County Council about the services which it provides, in accordance with its Corporate Complaints Procedure;
  - complain to the Ombudsman if they think the County Council has not followed its procedures properly. However, they should only do this after using the County Council's own Complaints Procedure;
  - complain to the Monitoring Officer if they have evidence which they think shows that a county councillor has not followed the County Council's Code of Conduct; and
  - inspect the County Council's accounts and make their views known to the external auditor.
28. The County Council welcomes participation by its citizens in its work. Further information on a citizen's rights in relation to the County Council can be obtained from the Chief Executive's Department at County Hall, Glenfield, Leicester, LE3 8RA. Telephone 0116 305 2583. Email - Democracy@leics.gov.uk

**[end of Part 1]**