

ARTICLE 4 – THE COUNCIL

4.01 How the Council operates

The Council is composed of 81 councillors (or “Members”) elected every four years. Councillors are democratically accountable to electors in their electoral division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents.

The Council has a code of conduct for Members to ensure high standards in the way they undertake their duties. The Audit and Governance Committee provides training and advice to them on the code of conduct.

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 the Leader and holds him/her to account. It sets the framework in which the Cabinet operates through approval or modification of the budget and designated statutory and non-statutory plans.

4.02 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council’s Standing Orders in Part 4 of this Constitution.

4.03 Chairing the Council

The Chairman and Vice-Chairman of the Council will be elected by the Council annually. Both appointments will be subject to a valid enhanced criminal records check.

The Chairman will uphold and promote the purposes of the Constitution and interpret the Constitution when necessary.

The Chairman will preside over the meetings of the County Council. The Chairman will fulfil a range of ceremonial and public functions as the civic leader of the Council and act as the principal spokesman for the Council in this capacity. In both of these roles the Chairman will act on behalf of the whole Council and in a non-partisan manner.

The Vice-Chairman of the Council will fulfil the role of the Chairman in his/her absence.

4.04 Functions of the Council

Only the Council will exercise the following functions:

- (a) appointment and removal of the Leader of the Council;
- (b) approval of the Constitution and any changes to it, apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader/Cabinet and reported to the Council;

(Note: This includes the approval of standing orders, procurement standing orders and the appointment of proper officers.)
- (c) approval of the annual Budget, setting the Council Tax and issuing the precept;
- (d) approval of statutory and strategic plans within the policy framework;
- (e) making, amending, revoking, re-enacting or adopting statutory schemes, plans, bye-laws or other similar documents requiring formal ministerial sanction;
- (f) promoting or opposing the making of any local legislation or personal bills;
- (g) functions, status or boundaries of local authorities;
- (h) appointment of the Chairman and Vice-Chairman of the Council;
- (i) appointment of committee chairmen and vice chairmen as set out in Standing Order 6.8;
- (j) decisions in respect of any executive functions which are contrary to or not wholly in accordance with the agreed budget and policy framework, apart from those falling into the categories approved by the Council as in-year decisions which the Leader/Cabinet can take;
- (k) approval of a Members' Allowances Scheme;
- (l) confirmation of the appointment of the Head of Paid Service;
- (m) arrangements for enabling questions to be put on police matters at Council meetings;
- (n) functions which by law may not be delegated;
- (o) appointment of the Monitoring Officer.

(Note: Where legally permissible, certain of these functions may be delegated by Council).

4.05 Policy Framework

The policy framework means the following plans and strategies:-

Plans required by regulation:

- Community strategy
- Development Plan Documents (including Waste and Minerals Local Development Documents (LDDs))
- Local Transport Plan
- Civil Contingencies Plan
- Youth Justice Plan
- School Organisation Plan

Plans required from partnerships of which the Authority is a member:

- Drug and Alcohol Team Strategy
- Mental Health and Psychological Well-being Strategy
- Surrey Safeguarding Children's Board Report

Plans included at the Council's discretion:

- A Plan for Waste Management
- Corporate Strategy
- Admission Arrangements for Maintained Schools
- Children and Young People's Strategy

4.06 Principles of decision making

The following principles will apply to decisions taken by or on the Council's behalf, both in the general public interest and in the interests of ensuring that the Council is able to defend its actions against legal challenge:

- (i) That Members are fully and effectively advised by officers in exercising both executive and non-executive functions;
- (ii) That decisions by Members are only taken after the submission of written reports;
- (iii) That decisions have clear aims and desired outcomes;
- (iv) That relevant matters are fully taken into account in decision making;
- (v) That nothing irrelevant is taken into account;
- (vi) That decisions are proportionate to the desired outcome;
- (vii) That decision-making respects human rights;
- (viii) That there is a presumption in favour of openness;

- (ix) That the Council's Constitution is fully complied with; and
- (x) That decisions on executive functions are recorded and published, together with options considered and rejected, the reasons and relevant background papers.

4.07 Decision making by committees acting as tribunals

The Council, a Member or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Rights Act 1998.

4.08 Urgent decision making

In the event that any matters arise in circumstances rendering it impossible for the Leader/Cabinet or Council to give instructions within sufficient time in the normal conduct of their business for such matters to be properly dealt with, the Chief Executive (or in his/her absence a member of the Corporate Leadership Team) shall have delegated authority to take or authorise all necessary steps to deal with the matters sufficiently to protect the Council's and the public's interests, provided that he or she shall first consult the Chief Finance Officer and/or the Monitoring Officer (or their representative) and either the Leader (or in his/her absence, the Deputy Leader, or in his/her absence another Cabinet Member) (in respect of executive functions) and the Chairman (or in his/her absence, the Vice-Chairman or chairman or vice-chairman of the relevant committee) (in respect of non-executive functions).

Any decisions taken in accordance with Article 4.08 will be reported to the next meeting of the appropriate Member level body.

4.09 Budget

Throughout this Constitution the phrase "setting the budget" is used to denote the approving of the annual budget requirement (as regulated by the Local Government Finance Act 1992), and the determination of all of the components of the budget such as allocation to different services, schemes, and projects, proposed taxation levels, the creation of contingency funds (reserves and balances), the plan of capital expenditure, and strategy for funding capital expenditure through borrowing or other means.

The term "in-year budget" refers to the approved revenue budget, capital budgets, and respective funding plans for the year, together with contingency funds set aside at the start of the year (i.e. reserves and balances).

The budget and policy framework will be prepared in accordance with the arrangements described in the Budget and Policy and Framework rules on page 28.

4.10 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Leader/Cabinet.