

PART 1 - SUMMARY AND EXPLANATION

The Council's Constitution

Malvern Hills District Council's constitution sets out how the Council operates and how decisions are made, together with the procedures which are followed to ensure that these decisions are efficient, transparent and accountable to local people. The law requires some of these processes, while others are a matter for the Council to choose.

The Constitution is divided into 15 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to providing community leadership, encouraging public participation and to conducting its affairs in an open and transparent manner.

Articles 2-15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Article 2 – Members of the Council
- Article 3 – Citizens and the Council
- Article 4 – The Full Council
- Article 5 – Chairing the Council
- Article 6 – Overview and Scrutiny Committee
- Article 7 – Executive Committee
- Article 8 – Policy and Regulatory Committees
- Article 9 – The Standards Committee
- Article 10 – Joint Arrangements
- Article 11 – Officers
- Article 12 – Decision Making
- Article 13 – Finance, Contract and Legal Matters
- Article 14 – Review and Revision of the Constitution
- Article 15 – Suspension, Interpretation and Publication of the Constitution

How the Council operates

The Council is composed of 38 councillors elected every four years. The next ordinary election of Councillors will be in May 2011. 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.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises 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 (the policy framework) and set the budget and Council Tax each year. Council appoints committees to undertake functions on its behalf and provides the means by which those committees can subsequently be held to account for the decisions they make.

Council meetings also provides an opportunity for the public to raise issues and ask questions in accordance with the public participation scheme on matters relating to the Council or the District.

How Decisions Are Made

Whilst Council approves the overall policy framework, most policy decisions are made by one or other of the following two policy committees, both of which exercise executive powers on behalf of the Council:

- Executive Committee - implements policy and takes executive decisions (collectively) in respect of all Council matters and services which are not specifically reserved for Council or delegated to another Committee of the Council or to Officers.
- Planning Committee - deals with all matters of planning policy and advises Council in relation to the adoption of the Local Plan.

Other Committees carry out a number of regulatory functions as follows:

- Licensing and Appeals Committee - taxi licensing, homelessness appeals and certain employment matters.
- Licensing Act Committee – all Licensing applications and appeals under the licensing Act 2003.
- Area Development Control Committees – determination of planning applications

Meetings of all the above committees are open to the public except where personal or confidential matters are being discussed.

Overview and Scrutiny

There is also an Overview and Scrutiny Committee which monitors the decisions of the policy committees and supports the policy development process by conducting in-depth reviews.

The O&S Committee allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the policy committees and the Council, as a whole, on its policies, budget and service delivery.

Any five Councillors can 'call-in' a decision that has been made by the Executive Committee or Planning Committee (except decisions relating to individual planning applications) within five days of the decision being taken. This enables the Overview and Scrutiny Committee or full Council to consider whether the decision is appropriate. The Overview and Scrutiny Committee may also be consulted by policy committees on forthcoming decisions and the development of policy.

Meetings of the Overview and Scrutiny Committee are normally open to the public.

The Overview and Scrutiny Committee is supported in its work by Task and Finish Groups, which are formed to consider and review specific policy issues and make recommendations.

The Council's Staff

The Council has people working for it (called '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. There is an extensive Scheme of Delegation whereby officers are permitted to make decisions in accordance with previously determined policies. A code of practice governs the relationships between officers and Members of the Council.

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. The local Citizens' Advice Bureau can advise on an individual's legal rights.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- view or obtain a copy of the Constitution;
- attend meetings of the 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;
- ask questions or make any representations during the public participation sessions at the start of meetings of the Council, Executive Committee, Planning Committee (although not on individual planning applications or specific proposals in the local plan), Overview & Scrutiny Committee, Standards Committee and Audit Committee in accordance with the Scheme set out in Appendix 1 to the Constitution;
- make representations at Development Control Committees on planning applications, in accordance with the Planning Public Participation Scheme;
- see reports and background papers, and any record of decisions made by the Council or any of the committees that were open to the public (subject to statutory deadlines);
- complain to the Council if dissatisfied with any of the services it provides;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- inspect and obtain a copy of the Council's Members' Code of Conduct;
- inspect the Register of Members' Interests;
- complain to the Standards Board for England if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- 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 Democratic Services, The Council House, Avenue Road, Malvern (tel. 01684 862272) or committee@malvernhills.gov.uk