

Summary and explanation

The councils' constitution

1. South Oxfordshire and Vale of White Horse district councils have agreed a constitution which sets out how the councils operate, how decisions are made and the rules and 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 a matter for each council to choose.
2. The constitution is for the benefit of people who use council services, those who do business with the council, councillors and officers.

What's in the constitution?

3. The constitution is divided into three sections:
 - Summary and explanation – this section sets out how the councils operate.
 - Decision making – this section sets out how decisions are made including the remit of Cabinet and each of the councils' committees, details of the councils' decision making mechanisms and a scheme of delegation setting out who is responsible for taking which decision.
 - Codes, protocols and procedure rules – this section sets out the expected standards of behaviour for officers and councillors and includes financial, contracts and officer employment procedure rules.

How the councils operate

COUNCILLORS

4. South Oxfordshire District Council is made up of 36 councillors and Vale of White Horse District Council is made up of 38 councillors elected every four years with elections due in May 2023. Councillors are elected for an area known as a 'ward' and are democratically accountable to residents of their ward, but they also have an overriding duty to the whole community, including people who did not vote for them.
5. All councillors will:
 - (a) collectively be the ultimate policy-makers and carry out a number of strategic functions;
 - (b) represent their communities and bring their views into the council's decision-making process, i.e. become the advocate of and for their communities;
 - (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (d) balance different interests identified within the ward and represent the ward as a whole;
 - (e) be involved in decision-making;
 - (f) be available to represent the council on other bodies; and
 - (g) maintain the highest standards of conduct and ethics.

6. Councillors have the right to access council documents, information, land and buildings that they need to carry out their functions. Councillors will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. Councillors who are not members of a committee may attend committee meetings, including where confidential or exempt information is being discussed.
7. Councillors must follow the councillors' code of conduct and the protocol on councillor/officer relations set out in part 3 of this constitution to ensure high standards in the way they undertake their duties. The Joint Audit and Governance Committee oversees the code of conduct and complaints arising.
8. Councillors are entitled to allowances and expenses, in accordance with the councillors' allowances scheme as set out in part 3 of this constitution that have been determined by each Council after considering a report by an Independent Remuneration Panel (consisting of people who are not councillors).
9. All councillors meet together as the Council, at meetings that are normally open to the public. Here, councillors decide the council's policy framework and set the budget each year.
10. Both councils operate a leader and executive model of governance. This means each council elects its own leader every four years. He/she then appoints up to nine other councillors to form the Cabinet, one of whom will be the deputy leader. The leader and deputy leader will act as chair and vice-chair respectively of the Cabinet. As a balance, each council's Scrutiny Committee holds the Cabinet to account.
11. Councillors also make decisions in relation to regulatory functions, for example determining planning applications and licensing matters. Council appoints committees of councillors to make decisions on these matters. Full details of the councils' committees are set out in part 2 of this constitution.

THE CHAIR

12. Each council will elect a chair annually from the membership of the council.
13. The chair (or in his/her absence, the vice-chair) will have the following roles and responsibilities:
 - (a) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
 - (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
 - (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not in the Cabinet or hold committee chair positions are able to hold the Cabinet and committee chair to account;
 - (d) to promote public involvement in the council's activities; and
 - (e) to attend such civic and ceremonial functions as the council and/or he/she determines appropriate or to appoint a representative to attend on his/her behalf.

LEADER OF THE COUNCIL

14. The council appoints a leader, who then appoints councillors to the Cabinet. The leader of the council may delegate executive responsibilities to Cabinet members. The detail is set out in Part 2 of this Constitution under the Cabinet arrangements and procedure rules.

LEADER OF THE OPPOSITION

15. For South Oxfordshire District Council, the opposition political group which holds the highest number of seats is known as the 'majority opposition group' with its leader known as the leader of the majority opposition group. If there are two or more larger opposition groups of the same size, the right of the title will alternate as agreed between the leaders of the groups or, in the absence of agreement, by Council.
16. For Vale of White Horse District Council, the opposition political group which holds the highest number of seats is known as the 'majority opposition group' with its leader known as the leader of the opposition. If there are two or more larger opposition groups of the same size, the right of the title will alternate as agreed between the leaders of the groups or, in the absence of agreement, by Council.

How decisions are made

17. Decisions relating to certain functions must be taken by Council. Council delegates most of the decision making to a number of committees and officers. Details are available under the responsibility for functions section in part 2 of this constitution.

PRINCIPLES OF DECISION MAKING

18. All decisions of the councils will be made in accordance with the following principles:
 - (a) proportionality – i.e. the action should be proportionate to the desired outcome;
 - (b) decisions will be taken on the basis of due consultation and professional advice from officers;
 - (c) respect for human rights;
 - (d) a presumption in favour of openness;
 - (e) clarity of aims and desired outcomes; and
 - (f) in accordance with the law and the council's agreed procedures, as set out in this constitution.

COUNCIL MEETINGS

19. Meetings of Council, which are chaired by the chair of the council, are more formal than Cabinet or committee meetings. Decisions are taken following a debate by councillors in which motions setting out recommended action are discussed. Amendments to these motions may also be discussed as part of the debate.

THE EXECUTIVE (CABINET)

20. The executive (known as the Cabinet at each council) is responsible for most day-to-day decisions. These decisions can be delegated by the leader to the Cabinet, committees of the Cabinet and individual councillors on the Cabinet or officers.

21. The Cabinet is made up of the leader and up to nine other councillors appointed by the leader. Councillors appointed to the Cabinet are given specific areas of responsibility known as portfolios. These members of Cabinet are also known as 'portfolio holders'.
22. When 'key' decisions are to be made, these are published in the Cabinet work programme insofar as they can be anticipated. Meetings of the Cabinet 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 Cabinet considers a matter which is outside the budget or policy framework, this must be referred to the Council for determination.

KEY DECISIONS

23. A key decision is a decision of the Cabinet, individual Cabinet member or an officer acting under delegated powers which is likely:
 - (a) to incur expenditure, make savings or to receive income (except government grant) of more than £75,000;
 - (b) to award a revenue or capital grant of over £25,000; or
 - (c) to agree an action that, in the view of the chief executive or the relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.

SCRUTINY

24. Each council is required to appoint at least one district Overview and Scrutiny Committee (usually called a 'Scrutiny Committee') each year. The councils also have a Joint Scrutiny Committee. These committees hold inquiries in public into matters of local concern and may make reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery and performance. The scrutiny committees may set up such panels as they consider appropriate to deal with reviews of service provision and delivery. The committees may also consider matters of wider local concern, which are not the council's direct responsibility.
25. Each council's district Scrutiny Committee monitors the decisions of its Cabinet and can 'call-in' a key decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate and to make recommendations, e.g. that the Cabinet reconsiders the decision. Scrutiny Committee may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

OTHER COMMITTEES

26. The committee system consists of a number of service-based committees and panels taking decisions within their terms of reference agreed by full Council. The main committees are:
 - Planning Committee;
 - Climate and Ecological Emergencies Advisory Committee (South only);
 - Climate Emergency Advisory Committee (Vale only);
 - Licensing Acts Committee;
 - General Licensing Committee; and
 - Community Governance and Electoral Issues Committee.

27. The councils also operate joint committees. Currently these are the Joint Scrutiny Committee, Joint Audit and Governance Committee and Joint Staff Committee.

JOINT ARRANGEMENTS

28. Council may establish joint arrangements with one or more local authorities to exercise functions that are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities and the delegation of functions to the joint committee. Currently the council is involved in the Five Councils Partnership Corporate Services Joint Committee and Joint Scrutiny Committee.
29. Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities and the delegation of functions to the joint committee. Currently the council is involved in the Oxfordshire Growth Board.

Meetings of the Council, Cabinet and committees

NOTICE OF MEETINGS

30. The council will give at least five clear working days' notice of any statutory meeting by publishing the agenda and reports which are to be considered on the relevant council's website, unless the meeting is convened at shorter notice as a matter of urgency.

RECORDING ATTENDANCE AT MEETINGS

31. The attendance of councillors and officers present at each meeting shall be recorded in the minutes.
32. At Vale of White Horse District Council, the minutes shall also record when a councillor joins the meeting after the meeting has started or leaves before the end.

EXCLUSION OF PRESS AND PUBLIC

33. Members of the press and public will be asked to leave a meeting if it is likely that confidential or exempt information will be disclosed.

Exempt information is information falling into one or more of the following categories as specified in part 1 of schedule 12A of the Local Government Act 1972 and as amended by the Local Government (Access to Information) (Variation) Order 2006:

1. information relating to any individual;
2. information which is likely to reveal the identity of an individual;
3. information relating to the financial or business affairs of any particular person (including the authority holding that information);
4. information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;

5. information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
 6. information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime; and
 7. information which reveals that the authority proposes:
 - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) to make an order or direction under any enactment.
34. Information which falls within any of paragraphs (a) to (g) above is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Confidential information means information given to the council by a government department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by court order.

The council's staff

35. The councils employ staff (called officers) to give advice, implement decisions and manage the day to day planning and delivery of the wide range of functions undertaken for the councils on a non-party political basis. Some officers have a specific duty to ensure that the council acts within the law and to use its resources wisely. A protocol in part 3 of this constitution governs the relationships between officers and councillors. The councils' most senior officers are set out below with details of their responsibilities:

| Post | Functions and area of responsibility |
|------------------------|--|
| Chief executive | Head of paid service Overall corporate management and operational responsibility (including overall management responsibility for all officers) Provision of professional advice to all parties in the decision making process |
| Deputy chief executive | Place Partnerships Transformation and operations |
| Heads of service | Corporate services Finance Legal and democratic Development and corporate landlord Housing and environment Policy and programmes Planning |

Structure

36. The head of paid service will determine and publicise a description of the overall departmental structure of the councils showing the management structure and deployment of officers.
37. In addition, the councils are required to appoint three statutory officers whose roles are set out below:

| Post and designation | Role and responsibilities |
|--|---|
| Head of paid service (chief executive) (Cannot be the monitoring officer but may hold the post of the chief finance officer if a qualified accountant.) | <p>Discharge of functions by the council. The head of paid service is the councils' principal advisor and is responsible for the overall discharge of the councils' functions.</p> |
| Monitoring officer (head of legal and democratic) (Cannot be the chief finance officer or the head of paid service) | <p>Maintaining the constitution. The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by councillors, officers and the public.</p> |
| | <p>Ensuring lawfulness and fairness of decision making. After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the Cabinet in relation to a Cabinet function if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.</p> |
| | <p>Standards of councillor conduct. The monitoring officer will contribute to the promotion and maintenance of high standards of conduct of councillor conduct and will receive and act on code of conduct complaints.</p> |
| | <p>Proper officer for access to information. The monitoring officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.</p> |
| | <p>Advising whether executive decisions are within the budget and policy framework. The monitoring officer will advise whether decisions of the Cabinet are in accordance with the policy framework.</p> |

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| | Providing advice. The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors. |
| Chief finance officer (Head of finance) (Cannot be the Monitoring Officer) | Ensuring lawfulness and financial prudence of decision making. After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the Cabinet in relation to a Cabinet function, and the council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the council is about to enter an item of account unlawfully. |
| | Administration of financial affairs. The chief finance officer will have responsibility for the administration of the financial affairs of the council, in accordance with the provisions of Section 151 of the Local Government Act 1972. |
| | Contributing to corporate management. The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice. |
| | Providing advice. The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles. |
| | Give financial information. The chief finance officer will provide financial information to the media, members of the public and the community. |

38. The councils are required to provide the monitoring officer and chief finance officer with sufficient officers, accommodation and other resources to allow them to perform their duties.
39. The councils approve an annual pay policy statement before the start of the financial year, and this includes details of the remuneration of senior officers. It can be accessed on the councils' websites.
40. Officers must comply with the employee conduct policy available on the intranet and the protocol on officer/councillor relations set out in part 3 of this constitution.
41. The recruitment, selection and dismissal of officers will comply with the officer employment procedure rules set out in part 3 of the constitution.

Rights of members of the public

42. The public have a number of rights in their dealings with the councils. Some of these are legal rights, whilst others depend on the councils' own processes.
43. The public have the right to:
- (a) vote at elections if they are registered;
 - (b) contact their local councillor about any matters of concern to them;
 - (c) obtain a copy of the constitution;
 - (d) attend meetings of Council and committees except where, for example, personal or confidential matters are being discussed;
 - (e) petition to request a referendum on a mayoral form of executive;
 - (f) participate in meetings of Council, committees and panels and contribute to investigations by the scrutiny committees as set out in part 2 of this constitution;
 - (g) find out, from the Cabinet work programme, what major decisions are to be discussed by Cabinet or to be decided by Cabinet members or officers, and when;
 - (h) attend meetings of Cabinet where key decisions are being discussed or decided, except where confidential or exempt information is being discussed;
 - (i) see reports and background papers, and any record of decisions made by the Council and Cabinet;
 - (j) complain to the council, in accordance with the council's complaints procedure, about any service for which the council is responsible;
 - (k) complain to the Local Government 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;
 - (l) complain to the council's monitoring officer if they have evidence which they think shows that a councillor has not followed the council's code of conduct; and
 - (m) inspect the councils' accounts and make their views known to the external auditor.
44. The councils welcome public participation in their work. For further information on your rights, or if you would like to inspect agendas and reports or attend any Council, Cabinet or committee meetings please see the councils' websites www.southoxon.gov.uk or www.whitehorsedc.gov.uk or contact democratic services at democratic.services@southandvale.gov.uk

Authentication of documents

45. Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the head of legal and democratic, the chief executive, the legal services manager or a senior lawyer unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

Common seal of the council

46. The common seal of the council will be kept in a safe place in the custody of the head of legal and democratic. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents, which in the opinion of the

head of legal and democratic should be sealed. The affixing of the common seal will be attested by the head of legal and democratic, the chief executive, the legal services manager or a senior lawyer, or another senior officer authorised by the chief executive.

47. The use of electronic signatures and sealing is permitted in accordance with the process established and approved by the Head of Legal and Democratic.

Review and revision of the constitution

48. The monitoring officer will monitor and regularly review the operation of the constitution.
49. Changes to the constitution will only be approved by Council and after consideration of a report by the monitoring officer. The Joint Constitution Review Group may consider proposals and make recommendations to Council.