

West Berkshire Council Constitution

Part 1

Summary and Explanation

Document Control

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Author:	Moira Fraser – Democratic Services Manager		
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Change History

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1	May 2007	Original document	
2	Sept 2009	Changes to reflect revised Scrutiny operation and removal of Area Forums	1.1, 1.2, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10
3	May 2011	Changes to reflect current governance structures and changes to legislation	1.3,1.4,1.5,1.9 and 1.11
4	April 2012	Changes to reflect new Senior Management Structure and impact of Localism Act	1.3, 1.8 and 1.11
5	March 2014	Minor corrections	1,2 , 1,4, 1,5, removal of reference to Select Committees, 1.11
6	January 2015	Minor Corrections	1.2 and 1.4



Version	Date	Description	Change ID
7	July 2015	Merging of the Governance and Audit and Standards Committees	1.7 and 1.8 (deleted) and remaining sections therefore renumbered
8	February 2016	Add text in 1.4 in relation to the Forward Plan and remove reference to the Citizen's Advice Bureau in 1.10	1.4 and 1.10
9	May 2016	Change to reflect introduction of Select Committees	1.5
10	February 2017	Minor corrections	1.4, 1.7, 1.10
11	May 2019	Change number of Councillors from 52 to 43	1.3
12	July 2019	Amended Head of Strategic Support to Head of Legal and Strategic Support throughout the document to reflect the revised management structure.	

Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:

<http://www.opsi.gov.uk/legislation/uk>

West Berkshire Council Constitution

If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact Moira Fraser on 01635 519045 who will be able to help.



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1.1 The Council's Constitution

West Berkshire District Council has produced a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these decisions are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose. The Constitution is divided into 14 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 at the end of the document.

All reports presented at public meetings (except for those deemed as exempt or confidential), agendas and minutes, decisions made, timetables of meetings and the West Berkshire Council Forward Plan can also be found on the website at www.westberks.gov.uk/forwardplan.

1.2 What is in the Constitution

The Constitution is divided into 15 Parts.

Part 1 is this summary and explanation.

Part 2 contains 14 sub sections called 'the Articles'. Article 1 of the Constitution commits the Council to using the Constitution to help fulfil its corporate aims and values. Articles 2 to 14 explain the rights of citizens and how the key parts of the Council operate. These are:

- Citizens and the Council (Article 2)
- Members of the Council (Article 3)
- Decision-Making (Article 4)
- The Full Council (Article 5)
- The Executive (Article 6)
- Overview and Scrutiny (Article 7)
- Regulatory and Other Committees (Article 8)
- Joint Arrangements (Article 9)
- Officers (Article 10)
- Finance, Contracts and Legal Matters (Article 11)
- Review and Revision of the Constitution (Article 12)
- Suspension, Interpretation and Publication of the Constitution (Article 13)
- Description of Executive Arrangements (Schedule 1)

Part 3 sets out the functions that have been delegated by 'the Council' to the Executive, Overview and Scrutiny Management Commission, regulatory and other committees, individual Elected Members and employees of the Council, known as 'officers'.

Parts 4, 5, 6 and 7 set out the rules of procedure under which the Council's decision-making bodies operate.

Part 8 explains the public's right of access to information.

Part 9 details the Council's budget and policy framework rules of procedure.

Parts 10, 11 and 12 outline the financial, contractual and personnel rules of procedure.

Part 13 details a range of codes and protocols by which Members and officers must abide, including the Code of Conduct.

Part 14 sets out the Members' Allowances Scheme.

Part 15 sets out the management structure of the Council.

1.3 How the Council Operates

The Council is composed of 43 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. Councillors have to agree to follow the Code of Conduct to ensure high standards in the way they undertake their duties. The Governance and Ethics Committee recommends appropriate training and advice 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 is responsible for electing the Strong Executive Leader and is ultimately responsible for holding the Executive to account.

1.4 How Decisions are Made

The Executive is the part of the Council which is responsible for most day-to-day decisions, most of the operational decision making is, however, delegated to officers. The Executive is made up of the Leader and an Executive (or Cabinet) of up to nine Councillors who the Leader appoints annually. When key decisions are to be discussed or made, these are published on West Berkshire Council's Forward Plan. The Forward Plan must be published 28 clear working days before the decision is made, unless an urgent decision is required. All these key decisions will be discussed at meetings of the Executive. Officers will be in attendance to advise Councillors at these meetings.

These meetings will generally be open for the public to attend except where exempt or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide (see Part 9 Budget and Policy Framework – Rules of Procedure).

Decisions can also be made by individual Executive Members, provided that the item is included in the West Berkshire Council Forward Plan and is in accordance with the approved individual decision making protocol (see Rule 5.1.8 (Decisions by Individual Portfolio Members of the Executive) and Appendix B of Part 13).

1.5 Overview and Scrutiny Management Commission

There is one Overview and Scrutiny Management Commission under which sub-committees and time limited task groups can be set up. The Commission supports the work of the Executive and the Council as a whole by providing a mechanism through which the actions of the Executive can be challenged. It prepares reports and recommendations which advise the Executive on its policies, budget and service delivery, consulting within and outside the Council.

The Overview and Scrutiny Management Commission also monitors the decisions of the Executive. Any five Members of the Council may 'call in' a decision which has been made by the Executive but not yet implemented. This enables the Overview and Scrutiny Management Commission to consider whether the decision is appropriate. It may recommend that the Executive reconsider the decision. It may also be consulted by the Executive or the Council on forthcoming decisions.

1.6 Planning and Licensing Committees

The Council has established a District Planning Committee, two Area Planning Committees and a Licensing Committee to deal with a range of regulatory functions (set out in Article 8) relating to planning applications and licensing policies and applications.

1.7 Governance and Ethics Committee

The main roles of the Governance and Ethics Committee are to challenge and provide independent assurance on the Risk Management Framework and associated internal controls of the Council, consider and make recommendations to the Council on proposed changes to the Constitution, review the Council's financial statements and review the external auditors annual audit letter.

The Committee also promotes and maintains high standards of conduct throughout the Council and determines whether breaches of the relevant Code of Conduct have occurred. They promote, educate and support Councillors (both District and Parish) in following the highest standards of conduct and ensuring that those standards are fully owned locally.

An Advisory Panel has been established to deal with any complaints received in respect of District or Parish Councillors' behaviour where a potential breach of the Code of Conduct has been identified. The Advisory Panel makes recommendations to the Governance and Ethics Committee.

1.8 The Personnel Committee

The Personnel Committee is responsible for agreeing and making changes to the Council's Human Resources and Health and Safety Policies and Procedures, appointing staff at Head of Service level or above by means of an Appointments Panel and for determining requests for the early release of pensions (although the financial implications of each request have to be considered and approved by the Executive).

1.9 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 of the Officers 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 Officers and Members of the Council (see Part 13 – Section 13.3).

1.10 Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 2. Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific Council services, for example as a parent of a school pupil or a social services client, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections provided they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Council's Constitution (available on the Council website at www.westberks.gov.uk/constitution);
- attend public meetings of the Council and committees except where, for example, exempt or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- ask questions at certain Council and Executive meetings and contribute to investigations, on request, by the Overview and Scrutiny Management Commission;
- find out, from the West Berkshire Council's Forward Plan, what key decisions are to be discussed by the Executive or decided by the Executive, individual Executive Members or Officers, and when;
- in accordance with Government Regulations, to see reports and background papers, and any record of decisions made by the Council and Executive and any Committees (except personal or confidential information);
- complain to the Council about something the Council should have done or something that they have done but should not have;
- complain to the Council concerning an Officer's attitude or actions;
- 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;
- complain to the Monitoring Officer or Governance and Ethics Committee if they have evidence which they think shows that a District or Parish/Town Councillor has not followed the relevant Code of Conduct;

- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by citizens in its work. For further information on your rights as a citizen, please contact:

Head of Legal and Strategic Support West Berkshire Council
Council Offices Market Street Newbury Berkshire RG14 5LD