

# Article 1 – The Constitution - Summary and Explanation

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## The Council's Constitution

This is the Exeter City Council constitution which sets out how the Council operates, how decisions are made, the procedures to ensure decisions are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The constitution sets out the mechanisms and processes that the Council operates to ensure that:

- councillors are able to play a significant role in the work of the City Council and represent their constituents;
- decisions are taken in as open and transparent way as possible;
- the view of residents and stakeholders are recognised as important influences on the way the Council operates and decisions are taken; and
- accountability is enhanced.

## Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this constitution.

## How the Council operates

The Council is comprised of 39 Councillors (Members) who serve for four years. One-third of these Councillors' terms of office expire in each of three years out of four.

Councillors are democratically accountable to residents of their Ward. There are 13 wards in the Exeter area. Details of the political composition and Councillors can be found on the [City Council Website](#).

(Amended [ ])

The overriding duty of Councillors is to the whole community, but they have a special duty to the constituents in their ward, including those who did not vote for them.

Councillors must adhere to the Members' Code of Conduct to ensure high standards in the way they undertake their duties. The Council's Audit and Governance Committee monitors the Members Code of Conduct and are responsible for investigating complaints. Any concerns about the conduct of a Member, residents can contact the City Council's Monitoring Officer.

Members must also register and declare certain interests, which can be viewed on the Councillor details, under Register of Interests on the Council's website.

Exeter City Council operates a Leader and Cabinet Governance model. The Cabinet is however referred to at the Council and throughout this constitution as the Executive. This governance model means that the Full Council will appoint a Leader of the Council, who will then appoint up to 9 other Councillors (Portfolio Holders) to the Executive, who are responsible for particular areas aligning with the Council's key priorities and Corporate Plan.

## **How decisions are made**

### **Full Council**

All Councillors meet together at the Full Council meeting which are open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints also the Lord Mayor who presides over the Council meetings. Council also appoints Councillors to sit on the various committees through political balance. Should the Lord Mayor not be available, the Deputy Lord Mayor chair Full Council

### **The Lord Mayor**

Exeter is very proud of its Mayoralty which dates back to the year 1200 and can claim to have the third oldest Mayoralty in the country. Exeter was awarded Lord Mayoralty in 2002 by Queen Elizabeth II

Each year, in May, a new Lord Mayor is elected, by fellow councillors, to serve for one year. The Lord Mayor's role is non-political. The Lord Mayor is supported during their year in office by a Deputy Lord Mayor.

The Lord Mayor presides over the Council's meetings, but the Lord Mayor also takes part in many civic ceremonies and functions such as Legal Sunday, Lammas Fair, University Graduations, Legal Sunday etc. On such occasions the Lord Mayor is in full regalia and accompanied by the Mace, Cap and Sword and an escort of Mace Bearers and processes with Honorary Aldermen, past Lord Mayors, Councillors and Freeman.

Although they elect to support one charity during the year, the Lord Mayor plays an important part in the community life of Exeter and becomes Honorary president of a variety of charitable and other organisations. The Lord Mayor and Deputy Lord Mayor attend, on average, approximately 300-400 functions a year.

### **The Executive Committee**

The Executive Committee is responsible for most day-to-day decisions which are not delegated to officers.

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. All meetings of the Executive will be open for the public to attend except where personal 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 or policy framework, this must be referred to the Full Council as a recommendation.

## **Scrutiny**

The work of Executive is supported by two scrutiny committees and allows citizens to have a greater say in Council matters by allowing members of the public to raise matters at meetings of these committees.

These can lead to reports and recommendations which advise the Executive and the Council on its policies, budget and service delivery issues. Scrutiny committees also monitor the decisions of the Executive. They can, in exceptional circumstances, 'call-in' a decision which has been made by the Executive but not yet implemented and ask that the Executive reconsider the decision. They will usually be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **Delegated Powers**

To ensure that business is conducted efficiently and that services are provided to a high standard, the Council, has delegated some powers to Officers, which are outlined in Chapter 2.

Decisions taken by officers carry the same weight as any decision taken by the decision-making body and officers will consider all implications of the decision-making principles prior to taking delegated decisions and must ensure the decision making principles contained within the Access to Information Procedure Rules are adhered to.

## **The Council's Staff**

### **Officers**

The Council's employees (or 'Officers') provide advice, implement decisions, manage and provide the day-to-day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. An Officer Code of Conduct governs the relationships between Officers and Members of the Council.

All Officers must comply with the Officers' Code of Conduct and the Protocol on Member/Officer Relations. To make certain decisions, Officers must consider finance and legal implications and they must comply with Finance, Contract and Legal Matters.

### **The Chief Executive**

The most senior Officer is the Chief Executive (Head of Paid Service), who reports to Council on how the Council's functions are co-ordinated, number and grade of Officers required for the discharge of the functions and organisation of Officers. The Chief Executive must ensure access to information in accordance with the Access to Information Procedure Rules.

The Head of Paid Service, is one of three Statutory Roles at the Council and the Chief Executive cannot take on the role of Monitoring Officer.

### **Monitoring Officer**

The Monitoring Officer is the second of three Statutory Roles at the Council and is responsible for maintaining an up-to-date Constitution and will ensure that it is publicly available. The Monitoring Officer provides advice on the scope of powers and has authority to take decisions and in relation to maladministration, financial, impropriety, probity and Budget and Policy framework issues to all Councillors and officers in their respective roles.

The Monitoring Officer also administers the process for determining complaints against Councillors. The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

### **Chief Finance Officer**

The Chief Finance Officer is the third of the three Statutory Roles at the Council and is responsible for the financial affairs of the Authority and for publishing financial information to the public, media, and the community.

The Chief Finance Officer provides advice on scope of powers and has authority to take decisions and in relation to maladministration, financial, impropriety, probity and Budget and Policy Framework issues to all Members and officers in their respective roles.

### **Chief Officers**

The Council's Strategic Management Board (SMB) comprises of the following Chief Officers:-

- Chief Executive (Head of Paid Service);
- Strategic Director for Corporate Resources (Chief Finance Officer);
- Strategic Director for People;
- Strategic Director for Place; and
- Strategic Director for Community Services.

The functions and responsibilities which the Council as given to the Chief Officers are listed in the Officer Scheme of Delegation.

Chief Officers are supported by their respective Heads of Service who function on an operational level.

### **Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – Members of The Council

*This Article 2 sets out the roles and responsibilities of the Members of the Council otherwise known as Councillors.*

### 2.01 Composition and eligibility

- (a) The Council consists of 39 elected members, known as Councillors. A Councillor is elected to represent one of the 13 wards in Exeter, with each ward electing three Councillors to serve on the Council.
- (b) To be eligible for the office of Councillor, an individual must be a registered voter in the City of Exeter or must live or work within the City of Exeter.

### 2.02 Election and Terms of Councillors

- (a) The ordinary election for one-third of all Councillors will take place on the first Thursday in May each year starting from 2020. There will however be no regular election in 2021 and every fourth year thereafter.
- (b) The terms of office of Councillors will be for four years:
  - (i) commencing on the fourth day after being elected; and
  - (ii) finishing on the fourth day after the date of the regular election four years later.

### 2.03 Ending a Councillor's Term

- (a) A Councillor may resign their position at any time by giving notice in writing to the Returning Officer and the resignation will be effective upon its receipt. A copy of the resignation shall also be sent to the Monitoring Officer.
- (b) If a Councillor does not attend any meeting of the Council for a continuous period of six months, they will cease to be a member of the Council unless the absence is due to a valid reason approved by the Council before the end of that period. Attendance may include meetings of any committee, sub-committee, joint committee, joint board or body where the Council's functions are carried out.
- (c) In the event of Article 2.3 (a) or (b) being engaged, the Council will arrange for a new Councillor to be elected by way of a by-election.

### 2.04 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) balance different interests identified within the ward and represent the ward as a whole;
  - (v) be involved in decision-making;

(Amended [ ])

- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics; and
- (viii) contribute to the good governance in the City of Exeter and actively encourage community participation and citizen involvement in decision making; and
- (ix) participate, as appropriate, and attend any mandatory training and development opportunities offered by the Council.

**(b) Rights and duties**

- (i) Councillors have rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not disclose any information which is considered confidential or exempt to the public without the consent of the Council. Councillors will also not divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) All agenda, reports and other documents and all proceedings of Committees, Sub-Committees and the Executive shall be treated as confidential unless and until they become public in the ordinary course of the Council's business
- (iv) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## **2.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on member/officer relations set out in Part 5 of this Constitution.

## **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

# Article 3 – Citizens and the Council

## 3.01 Citizens' rights

The Council welcomes participation by its citizens in its work.

Citizens have a number of rights as part of their engagement with the Council:

- vote at local elections (if they are registered);
- contact their local ward Councillor about any matters of concern to them. Councillor details can be found on the [Council's website](#);
- attend all public meetings of the Council and committees (except where confidential or exempt items are being discussed);
- to view and identify from the Executive's Forward Plan what key decisions will be taken by the Executive and when;
- to attend meetings of the Executive where key decisions are being discussed or decided;
- to see reports and background papers, and any record of decisions made by the Council and Executive (excluding confidential or 'exempt' information);
- to inspect the Council's accounts and make their views known to the external auditor;
- request information and to view a copy of the Constitution;
- to petition a request for a referendum on moving to an Elected Mayor and Cabinet form of governance;
- to ask questions at all meetings of the Council, Executive and at Scrutiny Committees, with the exception of Annual Council and Special meetings subject to giving notice to the Council. See [Details on public speaking](#) for more information;
- to speak at Planning Committee in support of or in opposition to a planning application being considered by that Committee subject to the agreed procedure. See [Details on speaking at Planning Committee](#) for more information;
- to use the Council's complaints procedure if they are unhappy about an aspect of the Council's service;
- to complain to the Ombudsman if they believe the Council has not followed its procedures properly (but only after using the Council's complaints process); and
- to complain to the Council's Monitoring Officer if there is evidence that a Councillor has not followed the Council's Member Code of Conduct.

Citizens' rights to information and participation are explained in more detail in the Access to Information Rules in Chapter 3 of this Constitution

Additional rights for members of the public using specific Council services e.g. council tenants, are not covered in this Constitution.

## 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

# Article 4 – Full Council Meetings

## 4.01 Introduction

The full Council is a formal meeting of all 39 Councillors. The full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The full Council provides a central forum for debate for all Councillors and they are able to ask questions. Members of the public are able, to ask questions about the Council or matters affecting the Council at all full Council meetings with the exception of the Annual Meeting.

## 4.02 Council meetings

There are three types of Council meetings:

- (a) the Annual Meeting;
- (b) Ordinary Meetings; and
- (c) Extraordinary Meetings.

## 4.03 Functions of Council Meetings

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive

## 4.04 Council Policy Framework

The policy framework is made up of a series of statutory plans and strategies as follows:

- those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- Those other plans and strategies which Chapter 2 of Department for Communities Local Government Guidance recommends should be adopted by the Council as part of the Policy Framework;
- Other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice. Other overarching corporate plans and strategies may become part of the policy framework as the need arises.

The Council's Policy Framework can be viewed on [Council Website](#).

## 4.05 Budget

Councillors will set the Council's budget each year at the Council meeting held in February and contains a number of components:

- (a) the allocation of financial resources to different services and projects;
- (b) proposed contingency funds;
- (c) the Council tax base;
- (d) setting Council tax;
- (e) decisions relating to the control of the Council's borrowing requirement;
- (f) the control of the Council's capital expenditure; and

(Amended [ ])



(g) the setting of virement limits.

#### **4.06 Housing Land Transfer**

Housing Land Transfer is:

- (a) the approval / adoption of applications (whether in draft form or not) to the Secretary of State to approve a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993; and
- (b) dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

# **Article 5 – The Lord Mayor and Chairing of the Council**

## **5.01 Role and function of the Lord Mayor**

Any elected Member of the Council is eligible for election to the office of Lord Mayor or Deputy Lord Mayor, with the only exception being for members of the Executive.

The Lord Mayor is elected each year from the 39 Councillors at Annual Council in May. The Deputy Lord Mayor is appointed at the same meeting.

The Lord Mayor throughout their term of office of one year should remain impartial in all matters of policy and should not be involved in the direction of affairs or be involved in any campaigns. The Lord Mayor should also not be involved in any Council policy or activities of a controversial nature.

The Lord Mayor may be a member without voting powers of every standing committee appointed by the Council (with the exception of the Executive) except where otherwise provided by statute or a scheme made under statutory authority.

Whilst the Lord Mayor is non-political during their term of office, the Deputy Lord Mayor remains politically active and may also be a committee member (with the only exception being for a member of Executive).

## **5.02 Civic Role**

The Council's Lord Mayor, supported by the Deputy Lord Mayor and their Consorts, will perform the Council's civic role. This entails representing, supporting and promoting the businesses and the people of Exeter.

The Lord Mayor will decide which civic and ceremonial functions during their year of office. These events:

- (a) promote the city through business and community activities;
- (b) support local charities and community organisations; and
- (c) raise funds for their own chosen charity.

## **5.03 Chairing the Council Meeting**

The Lord Mayor also has the following responsibilities:

- (a) 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;
- (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary; and
- (c) to ensure that the Council meeting is a forum for debate and the place at which members can be held to account.

# **Article 14 – Review and Revision of the Constitution**

## **14.01 Duty to monitor and review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and report to the Audit & Governance Committee.

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

- (i) Observe meetings of different parts of the Member and officer structure;
- (ii) Undertake an audit trail of a sample of decisions;
- (iii) Record and analyse issues raised with them by members, officers, the public and other relevant stakeholders as part of an annual review; and
- (iv) Compare practices in this Council with those in comparable authorities, or national examples of best practice.

The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in [ ] to the Constitution and shall make any necessary amendments and revisions as are required from time to time. They shall report any amendments made to the Financial Regulations to the Audit & Governance Committee.

## **14.02 Changes to the Constitution**

- (a) Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Audit & Governance Committee.
- (b) Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- a. A minor variation; or
- b. Required to be made to remove any inconsistency or ambiguity; or
- c. Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

In which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect and they will notify all Councillors of the minor amendments.

All changes to the Constitution will be recorded, giving the date of the change and the reason for the amendment.