

Part 1

Summary and Explanation



The Council's Constitution

South Hams District Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these 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 decide.

Part 2 of the Constitution is divided into fourteen 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 in Parts 3 – [67](#).

~~The main features of the Constitution are as follows:~~

~~the **Council** meeting will set the overall budget and policy framework and enables motions and recommendations in respect of issues relating to the Council's areas of responsibility and questions to the Executive (See Part 3);~~

~~an **Executive** body consisting of a Leader and other Executive Members will make decisions within the policy and budget framework established by full Council. Decisions will be delegated to the Executive as a body.~~

~~an **Overview & Scrutiny Panel** will hold the Executive to account, can make recommendations to the Executive or Council (or both) arising from the outcome of the Scrutiny process and may review not only areas of Council activity but also matters of wider local concern. The Overview & Scrutiny Panel will also promote high standards of conduct and support Members' observance of their Code of Conduct;~~

~~an **Audit Committee** will provide independent assurance of the adequacy of the risk management framework and the associated control environment and independent scrutiny of the Council's performance in financial and non financial matters;~~

~~most "regulatory" decisions (this term is defined below) will continue to be made by bodies of the Council;~~

~~the functions of the Council as harbour authority under the Pier and Harbour Order (Salcombe) Confirmation Act 1954 stand referred to the **Salcombe Harbour Board** which is charged with operating, improving, maintaining and managing the whole of the Salcombe Harbour Estuary for the benefit of users.~~

What's in the Constitution?

Article 1 of the Constitution commits the Council to principles of good governance, community leadership, public involvement and efficient, effective, transparent and accountable decision making. Articles 2 – 14~~6~~ explain the rights of citizens and how the key parts of the Council operate. These are:

Members of the Council (Article 2);

Citizens and the Council (Article 3);

The Full Council and Chairman of the Council (Article 4);

Overview and Scrutiny (Article 5);

The Executive (Article 6);

Regulatory and Other Bodies of the Council (Article 7);

Salcombe Harbour Board (Article 8);

Joint Arrangements (Article 9);

Officers (Article 10);

Decision Making (Article 11);

Finance, Contracts and Legal Matters (Article 12);

Review and Revision of the Constitution (Article 13); and

Suspension, Interpretation and Publication of the Constitution (Article 14).

Part 3 of the Constitution contains the description of the functions of the Council and how they are carried out – whether by the Council itself, a committee, a Member of the Executive or officers.

Part 4 contains the Rules by which the Council and its committees work, and how information can be made available to the public.

Part 5 contains codes and protocols governing how Members of the Council and officers should behave.

Part 6 contains the Scheme for Members' Allowances.

~~Part 7 contains the managerial structure of the Council's staff.~~

How the Council operates

The Council is composed of **thirty-one** 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 a Code of Conduct (set out in Part 5 below) to ensure high standards in the way they undertake their duties. The Overview & Scrutiny Panel is responsible for ensuring that Members are sufficiently trained on the Code of Conduct.

All Members meet together in Council. Meetings of the Council are normally open to the public. At Council meetings, Members decide the Council's overall policies, ~~particularly Statutory Plans~~ and they set the budget each year, ~~and policy framework for the Council's business overall.~~

The Council appoints the Leader of the Council who appoints a Deputy Leader of the Council at the first Council meeting after an election. The Leader and Deputy Leader hold office for the next four years. The Council appoints other Members of the Executive, chairmen, vice-chairmen and Members of all the other bodies of the Council and most representatives on Outside Bodies at the Annual Meeting of Council.

~~The Council may question the performance and decisions of the Executive and of other bodies of the Council. It receives annual and other reports from the Leader of the Council, Executive portfolio holders, chairmen of other bodies and individual Councillors.~~

There is a list of functions that are reserved to the Council (in Article 4). Many other functions are delegated to bodies of the Council or officers (see below), but the Council may determine those matters not within the remit of any of its reporting bodies.

Council meetings may include formal decision making, wider debates and presentations. The Council may also meet informally in workshops and seminars.

How decisions are made

Meetings of the Council's Committees are, by law, publicised well in advance and are open to the public except where personal or confidential matters are being discussed. The Access to Information Procedure Rules in Part 4 of the Constitution contain details of when the public may be excluded from meetings.

Executive

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council, the Deputy Leader of the Council and ~~between three and eight other Members~~ all appointed by the Council. The Members of the Executive are each individually responsible for a particular service area, or portfolio, of Council functions, namely:

Head of Paid Service and ~~Executive Director (Strategy and Commissioning);~~
Executive Director (Service Delivery and Commercial Development);
Business Development;

SHDC Constitution
Commercial Services;
Customer First; and
Support Services.

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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. If these major decisions are to be discussed at a meeting of the Executive, the meeting 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 or policy framework, this must be referred to the Council as a whole to decide.

Scrutiny and Audit

An Overview & Scrutiny Panel supports and reviews the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public enquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.

The Overview & Scrutiny Panel also monitors the decisions of the Executive. It can 'call-in' a decision which has been made by the Executive but not yet implemented in order to consider whether the decision is appropriate. The Scrutiny Panel may recommend that the Executive or the Council reconsider the decision.

The Overview & Scrutiny Panel may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Audit Committee has a more specific role in relation to the Council's financial affairs including the internal and external audit functions and monitors the internal workings of the Council (known broadly as "governance"). It is responsible for making sure that the Council operates in accordance with the law and laid-down procedures, and is accountable to the community for the spending of public money.

Regulatory Committees

A 'Regulatory Committee' is a term often used by councils to describe committees which deal with Local Authority business which the Executive ~~is~~ not allowed to deal with, such as licensing and planning. Regulatory Committees also normally deal with applying legislation and statutory regulations which have a degree of public or environmental protection.

In this Constitution, they include:

- the Development Management Committee (which deals with planning matters);
and
- the Licensing Committee (which licenses pubs ~~and taxis for example~~s, ~~taxis and a host of other things~~).

Meetings of the Council's Regulatory Committees are open to the public except where exempt or confidential matters are being discussed.

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. A protocol governs the relationships between officers and Members of the Council (Part 5 refers).

Citizen's Rights

Citizens have a number of rights in connections with 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.