



Rutland County Council

CONSTITUTION
& ARTICLES

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CONSTITUTION OF THE COUNCIL

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DEFINITION OF TERMS USED IN THE CONSTITUTION INDEX (move to the end)

- 1) Unless the context otherwise requires, the singular includes the plural and the plural includes the singular.
- 2) Throughout the Constitution the term “he” shall equally mean “she” and “his” shall mean “her” where the context is appropriate. Other references of a masculine nature shall also equally apply to feminine references where the context is appropriate.
- 3) Throughout this Constitution references to the term Chief Executive shall equally mean the Acting Head of the Council's Paid Service if the Chief Executive is absent.
- 4) Any reference in a part of this Constitution to a numbered paragraph is a reference to a paragraph in the same part of the Constitution unless the context demands otherwise.
- 5) In the event of any matter contained in one of the Council's Procedure Rules, Financial Procedure Rules or Contract Procedure Rules which appears to contradict or be in variance with any other matter contained in the other documents then the document which received the most recent approval from the Council will take precedence.
- 6) In this document the following terms have the meaning assigned to them unless the context demands otherwise:

Authorised Representative of a Political Group - a member of a political group on the Council who has been authorised by the members of that political group to act on behalf of its Leader in matters relating to the Local Government (Committees and Political Groups) Regulations 1990, as amended.

Authority - Rutland County Council District Council acting by any means which it may lawfully adopt.

Budget Framework - the detailed contents of the budget approved by the Council each year. The Cabinet may take decisions within the Budget Framework where authorised to do so by law or by the delegated authority of the Council. Should the Cabinet take a decision outside or not wholly in accordance with the Budget Framework and the decision is subsequently ‘Called-In’ by the non-executive members, then the decision may be referred to the Council for review. The Chief Finance Officer is responsible for determining if decisions taken by the Cabinet are outside or not wholly in accordance with the Budget Framework.

Cabinet - the collective name given to the Leader of the Council and the other executive members.

Call-In - the process by which key decisions of the Cabinet can be postponed from being implemented by Scrutiny Committee members until either the Cabinet or the Council have reconsidered the matter. If the decision is outside the policy framework or not wholly in accordance with the budget framework, the Council

may reconsider the matter. If the decision is within the policy or budget framework then the Cabinet reconsiders its earlier decision. The Monitoring Officer is responsible for determining whether a decision is within the policy framework and the Chief Finance Officer is responsible for determining whether the decision is outside or not wholly in accordance with the budget framework.

Catmose - any reference to Catmose shall be taken to mean the administrative headquarters of Rutland County Council. It shall also apply equally to the buildings known as Catmose Cottage and the Rutland County Museum.

Chief Officer - a statutory or a non-statutory chief officer such as the Head of the Paid Service, designated under Section 4(1) of the 1989 Act; a statutory Chief Officer mentioned in paragraphs (a), (c) or (d) of Section 2(6) of the Act; a non-statutory Chief Officer (within the meaning of Section 2(7) of the Act); or any officer designated as Head of a Service.

Chief Finance Officer - the Officer appointed under Section 151 of the 1972 Act to be responsible for the Council's financial affairs.

Committee - a Committee appointed by the Council to discharge any of its powers and duties. It is not a reference to a Scrutiny Committee.

Council - Rutland County Council District Council acting by any means which it may lawfully adopt.

Deputation - a submission on behalf of one or more individuals or on behalf of a body or bodies but not where any of the individuals or bodies are themselves the applicant or an applicant's agent for any planning or relevant permission.

Employee - an employee of the authority or the holder of a paid office under the authority other than the Chairman, Vice-Chairman and any local officer of dignity appointed by the authority under powers conferred by a Royal Charter.

Head of Paid Service - the person designated under Section 4 of the 1989 Act to be the Head of the Council's Paid Service.

In writing - a communication in a written form. An electronic communication by e-mail or by fax will be accepted as fulfilling this requirement if the originator is clearly obvious and the electronic signature conforms to statutory requirements. Most e-mails do not currently comply with this requirement but a scanned signature in a document attached to an e-mail is acceptable.

Key Decision - a 'key decision' means an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising two or more wards in Rutland. In determining the meaning of 'significant' above regard must be paid to any guidance issued by the Secretary of State.

Leader and Deputy Leader of a Political Group - the Leader and Deputy Leader of a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990, as amended.

Leader and Deputy Leader of the Council – the Leader of the Council is such person as the Council shall so designate by resolution; the Deputy Leader of the Council is such person as so designated by the Leader of the Council.

Majority Group - a political group to which belong either:

- a) more than half of the Members of the Council; or
- b) exactly half of the Members of the Council, including the Chairman of the Council.

Meeting - a meeting of the Council, a Committee, Sub-Committee, Scrutiny Committee or Cabinet as the case may be.

Member - in relation to the Council, a councillor elected to the Council. In relation to any Committee, Sub-Committee Scrutiny Committee or Cabinet a person appointed as a Member of that body, whether or not elected as a councillor or entitled to vote.

Minority Group - a political group which;

- a) where there is a majority group among the Members of the Council, is not that majority group; or
- b) in any other case, is designated as such by a resolution of the Council.

Monitoring Officer - the person designated under Section 5 of the 1989 Act (designation and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness, the person nominated as his deputy under subsection (7) of that Section.

Non-Executive Member - a Member who is not appointed to the Cabinet.

Number of Members - the number of persons who may act at the time as Members of the Council. In relation to a Committee, Sub-Committee, Scrutiny Committee or Cabinet, the number of persons who may act at the time in question as voting members of that body.

Person presiding - the person entitled, or appointed, to preside at any meeting.

Political Group - a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990, as amended.

Policy Framework - the collective name given to the policy decisions taken by the Council in respect of its functions. The Cabinet may take decisions within the policy framework where authorised to do so by law or by the delegated authority of the Council. Should the Cabinet take a decision outside the Policy Framework and the decision is subsequently 'Called-In' by the non-executive members, then the decision may be referred to the Council for consideration. The Monitoring

Officer is responsible for determining if decisions taken by the Cabinet are within or outside the Policy Framework.

Proper Officer - the person designated by the authority to carry out a specific duty which has been assigned to a proper officer in legislation. This is also known as a Proper Officer Appointment.

Received in writing - where a document or written instruction must be received in writing, it is the responsibility of the person submitting the document to ensure that it is received by the intended recipient by the deadline. **It can be received electronically by Email to the Council's mailbox Governance@rutland.gov.uk or physically by post or hand.** Leaving the document in the Council's Customer Service Centre, Council's main letterbox or at any Council building does not qualify as being received by the recipient. The document must be physically received by the recipient or authorised deputy before the stated time to qualify as being received.

Recommendation - these are decisions of a Committee, Sub-Committee, Scrutiny Committee or Cabinet meeting for which they do not have relevant delegated authority or powers. These decisions have to be ratified by the Council before any action can be taken.

Resolution - decisions which are taken under delegated authority or powers. Action may be taken from the moment the decision is made subject to the expiry of any time allowed for a referral of the decision to Council or for a decision to be Called-In.

Scrutiny Committee - the name in Rutland which is given to overview and scrutiny Committees as defined in the Local Government Act 2000. Scrutiny Committee will also be read as Scrutiny Review Meeting in relation to procedure rules that are appropriate to this part of the scrutiny process.

Section 151 Officer - the Chief Finance Officer appointed under Section 151 of the 1972 Act to be responsible for the Council's financial affairs.

~~**Standing Committee** - a Committee appointed by the Council to discharge specific functions and powers on behalf of the Council for the whole of the Municipal Year.~~

~~**Standing Scrutiny Committee** - a Scrutiny Committee appointed by the Council to discharge specific functions in relation to overview and scrutiny functions for the whole of the Municipal Year.~~

Sub-Committee - a body appointed by a Committee to discharge the Committee's powers and duties under delegated authority.

~~**Task and Finish Scrutiny Committee** - a Scrutiny Committee appointed by the Council to discharge a specific function in relation to the overview and scrutiny function and when this function has been completed the Committee is disbanded.~~

The 1972 Act - the Local Government Act 1972.

The 1989 Act - the Local Government and Housing Act 1989.

The 2000 Act - the Local Government Act 2000.

The 2011 Act – the Localism Act 2011

The Whole Number of Members - in relation to the Council, the total number of persons who may become Members of the Council, disregarding anyone who is a Member of the Council only by virtue of Section 3(3) or Section 5(2) of the 1972 Act (Chairman and Vice-Chairman to remain Members until replaced).

Without comment - in relation to the moving, seconding or putting of a Motion, without any person speaking except to indicate the wording of the Motion, the fact that it is being moved, seconded or put, or (in the case of the person presiding) the effect of adopting the Motion.

Working Days - working days is used as a reference to clear days within the meaning of the Access to Information Rules and excludes the day of despatch of the agenda, the day of the meeting, Bank Holidays, Saturdays and Sundays and any days set aside for public celebration or mourning.

Working Party - references to a Working Party shall also include a Forum, Working Group and any other meeting to which the requirements of the Local Government (Committees and Political Groups) Regulations 1990, as amended, do not apply.

RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

PART 1 - INTRODUCTION

Summary and Explanation

THE COUNCIL'S CONSTITUTION

- 1) Rutland County Council District Council adopted its constitution with effect from September 2001. The Constitution 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 the law, while others are a matter for the Council to choose. The Constitution is divided into 15 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.

Purpose of the Constitution

This is a document to help residents, businesses, partners, stakeholders, councillors and officers understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are coloured blue like this.

If you have any queries about anything in this Constitution, please contact: Governance Team

What's in the Constitution?

- 2) Article 1 of the Constitution commits the Council to a series of principles for decision making on services and exercising community leadership.
- 3) Articles 2 – 15 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 meeting (Article 4).
 - Charing Meetings of the Council. (Article 5)
 - Scrutiny Committees (Overview and scrutiny of decisions) (Article 6).
 - The Cabinet (Article 7)
 - Regulatory and other Committees in the Council (Article 8).
 - Area Committees and Forums (Article 9).
 - Joint Arrangements (Article 10).
 - Officers (Article 11).
 - Decision making (Article 12).
 - Finance, contracts and legal matters (Article 13).
 - Review and revision of the Constitution (Article 14).
 - Suspension, interpretation and publication of the Constitution (Article 15).
 - Schedule 1 – Description of the Executive Function.

HOW THE COUNCIL OPERATES

- 4) The Council is composed of 27 councillors elected every four years. The next elections will be held in 2023, and every 4 years thereafter. 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.
- 5) Councillors are bound by a code of conduct to ensure high standards in the way they undertake their duties. The Conduct Committee ~~trains~~ **arranges training** and advises them on the code of conduct.
- 6) 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 appoints the Leader of the Council and the members of Council Committees ~~and Overview and Scrutiny Committees, which are known as Scrutiny Committees in Rutland.~~ The Leader of the Council appoints the other members of the Cabinet. The Council also plays a role in holding to account the Cabinet, Council Committees and Scrutiny Committees. **Decisions made by Council**
- ~~7) Committees can be referred to the Council by two members and Scrutiny Committees can refer decisions of the Cabinet to the Council if they are not made in line with the Council's overall policies and/or budget.~~

CABINET

- 7) The Cabinet is the part of the Council which is responsible for most day-to-day decisions. There are some decisions which, by law, can only be made by the Council. These are set out in a schedule at the end of Part Three of this Constitution. The Cabinet is made up of a Leader appointed by the Council and up to nine councillors who are appointed by the Leader. When key decisions are to be discussed or made, these are published 28 days in advance in so far as they can be anticipated. If these key decisions are to be discussed with Council Officers at a meeting of the Cabinet, the meeting will generally be open for the public to attend except where personal, exempt 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 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.

OVERVIEW AND SCRUTINY

- 8) ~~There are three~~ **The Council must have at least one** overview and scrutiny committees, **known locally as Scrutiny Committees, to support** the work of the Cabinet and the Council as a whole. ~~The Overview and Scrutiny Committee~~ **They** allows Cabinet decisions to be examined and matters of local concern to be considered. These lead to reports and recommendations **which to** advise the Cabinet, **Partners** and the Council as a whole on ~~its~~ policies, budget and service delivery. **The Overview and Scrutiny Committee** also monitors the decisions of the Cabinet. ~~It~~ **They** can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables ~~it~~ **them** to consider whether the decision is appropriate. ~~It~~ **They** may recommend that the Cabinet reconsiders the decision. ~~It~~ **They** may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

- 9) 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 code of practice governs the relationship between officers and members of the Council.

Citizens’ Rights Rights of Residents and Members of the Public

- 10) ~~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.
- 11) Where members of the public use specific council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.
- 12) ~~Members of the Public-Citizens~~ have the right to:
- vote at local elections if they are registered;
 - contact their local councillor and the Leader of the Council about any matters of concern to them;
 - view the Constitution;
 - attend meetings of the Council, its Committees and Scrutiny Committees except where exempt, for example, personal, or confidential matters are being discussed;
 - petition to request a referendum on a mayoral form of executive;
 - participate by submitting petitions, deputations and questions to Council, its Committees and Scrutiny Committees and may in some instances contribute to investigations by the Scrutiny Committees as co-opted members **or witnesses**;
 - find out, from the Cabinet’s Forward Plan, what key decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
 - attend meetings of the Cabinet where decisions are being discussed or decided (in most cases);
 - see reports and background papers, and any record of decisions made by the Council and Cabinet;
 - complain to the Council about something the Council has done, failed to do, or has done in a way that is considered unsatisfactory. A copy of the Complaint Procedure can be found online;
 - 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 Complaint Procedure;
 - complain to the Monitoring Officer 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.
- 13) The Council welcomes participation by **members of the public** ~~its citizens~~ in its work. For further information ~~on your rights as a citizen~~, please contact the Governance Team Manager who will be able to advise you on the procedures for submitting petitions, questions and deputations to meetings of the Council, its Committees and Scrutiny Committees.
- 14) ~~Members of the Public-Citizens~~ have the right to inspect agendas and reports and attend meetings of the Council, its Committees, **Overview and** Scrutiny Committees and the

Cabinet unless a matter is being discussed for which it is necessary to exclude the public and press. Agenda and reports can be inspected in the Customer Services Centre at Catmose and on the council's website on the day of publication as required by the law and in some instances these documents may be made available at an earlier date. Copies of these documents will also be made available in all the Council's public libraries.