

PART 1

CONSTITUTION

The Constitution

Part 1 - Summary

1. What is the purpose of the Constitution?

- 1.1 This Constitution provides a single point of reference as to how Boston Borough Council operates.
- 1.2 Boston Borough Council is a local authority established under the Local Government Acts 1972 and 1992. The contents of this Constitution therefore derive from:
 - (i) Statute - Acts of Parliament and Regulations
 - (ii) Decisions of the Council
 - (iii) Decisions of the authority's Cabinet
- 1.3 The Constitution is divided into 10 parts which set out the basic Rules governing the Council's business.

2. How the Council Operates

- 2.1 The Council is composed of 30 Councillors. Each Councillor is elected to represent an area in the district (called a ward) for a period of 4 years. Some wards have more than one Councillor to represent them. Borough Council elections are usually held every four years.
- 2.2 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.
- 2.3 The Council has adopted a Code of Conduct for Members, and all Councillors have to agree to comply with this Code to ensure high standards in the way they undertake their duties. The Monitoring Officer is responsible for overseeing training and advising Members on the Code of Conduct and for dealing with complaints of breach of the Code whilst the Audit and Governance Committee has a role in overseeing the arrangements.
- 2.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public unless they are discussing matters which are confidential or contain exempt information. Here Councillors decide the Council's

overall policies and set the Budget each year. The Council appoints the Leader who in turn appoints Members of the Cabinet.

3. How decisions are made

- 3.1 The Council is responsible for setting the authority's Budget and principal policies, for regulatory functions and for appointing Statutory Officers. The Council also elects a Councillor to be the Executive Leader ("the Leader") who then appoints a number of other Councillors to make up the Executive ("the Cabinet").
- 3.2 The Leader / Cabinet are responsible for most day-to-day decisions. All major ("Key") decisions to be made by the Cabinet or by Members of the Cabinet will be published in advance in the Cabinet's Forward Plan in so far as they can be anticipated. Decision making meetings of the Cabinet will generally be open for the public to attend except where confidential or exempt matters are being discussed.
- 3.3 The Leader / Cabinet must make decisions in line with the Council's overall policies and Budget. If the Cabinet wishes to make a decision which is not in line with the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

4. Executive Arrangements

- 4.1 The Executive, which is called the Cabinet in Boston Borough Council, is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and Councillors whom the Leader appoints. When major decisions (known as 'Key Decisions' which are defined in Article 1 of the Constitution) are to be discussed or made, these are published in the Executive / Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt/personal or confidential matters are being discussed.
- 4.2 The Council's executive arrangements are described in Part 3 of the Constitution.

5. Overview and Scrutiny

- 5.1 The Council appoints two Overview and Scrutiny Committees, which have three roles, and the functions of these committees are contained in Part 3.

- 5.2 The first role of the Overview and Scrutiny Committees is to support the work of the Cabinet and the Council as a whole by considering and making recommendations on policy.
- 5.3 Secondly, the Committees are the main bodies scrutinising decisions made by the Cabinet and for holding it to account. They have the power to consider decisions made by the Cabinet but not yet implemented and can ask the Cabinet to reconsider those decisions or, if they consider that a decision may be contrary to the Policy Framework and/or contrary to or not wholly in accordance with the Budgetary Framework, they may refer the matter on to full Council.
- 5.4 Finally, they are also responsible for reviewing matters relating to a wide range of partner organisations, including those relating to health, to education and to law and order, to ensure that the public authorities that operate in the Borough of Boston are acting in an effective and co-ordinated manner, in the public interest.

6. Regulatory Committees

- 6.1 Decisions about applications for planning permission or licenses are not the responsibility of the Cabinet. There are two Regulatory Committees
- Planning Committee
 - Licensing/Regulatory and Appeals Committee
 - Audit and Governance Committee
- 6.2 The functions of these committees are contained in Part 3.

7. The Council's Staff

- 7.1 The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. The officer scheme of delegation is contained in Part 3. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between Officers and Members of the Council. The Protocol for Member / Officer Relations is contained in Part 5.

8. Resident's Rights

- 8.1 For the purposes of this Constitution, the term residents includes (where appropriate) those people who live, study, work or have businesses in the borough or who receive services for which the Council is responsible.
- 8.2 Boston's residents have a number of rights in their dealings with the authority. These are set out in more detail in Article 3, later in this chapter. Some of these are legal rights, whilst others depend on the authority's own processes.
- 8.3 The authority welcomes participation by residents in its work. The Constitution sets out the public's rights of access to the Council's agendas, to reports that are to be considered at meetings and to background papers relating to those reports. The Access to Information Procedure Rules governing these are contained in Part 4.
- 8.4 Residents also have separate rights of access to documents held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 8.5 Residents have the right to:
- vote at local elections if they are registered
 - contact their local Councillor about any matters of concern to them
 - Inspect and obtain a copy of the Constitution
 - attend meetings of the Council and its Committees except where, for example, personal / exempt or confidential matters are being discussed
 - petition to request a referendum on a mayoral form of executive
 - participate in the Council's question time, speak on planning applications, present petitions and contribute to investigations by the Overview and Scrutiny Committees
 - find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet Members or Officers, and when
 - attend meetings of the Cabinet where key decisions are being discussed or decided;

- complain to the Boston Borough Council about its services and receive a timely response
- complain to the Ombudsman if they think that Boston Borough Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- 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
- inspect the Council's accounts and make their views known to the external auditor, and
- make their views known to the Council on any matter

8.6 Residents' rights to present petitions to the Council, to ask questions at meetings of the Council, to speak on planning applications and to be involved in the Scrutiny process, are set out in more detail in Article 3, later in this chapter.