

GUIDE TO THE 2020 CONSTITUTION

As at January 2020

Elected Councillors (Members)

COUNTY COUNCIL

CABINET (THE EXECUTIVE)

Leader plus 9 Cabinet Members with Responsibility for:

- Adult Social Care
- Economy and Infrastructure
- Education and Skills
- Children and Families
- Environment
- Health and Well-being
- Highways
- Communities
- Transformation and Commissioning

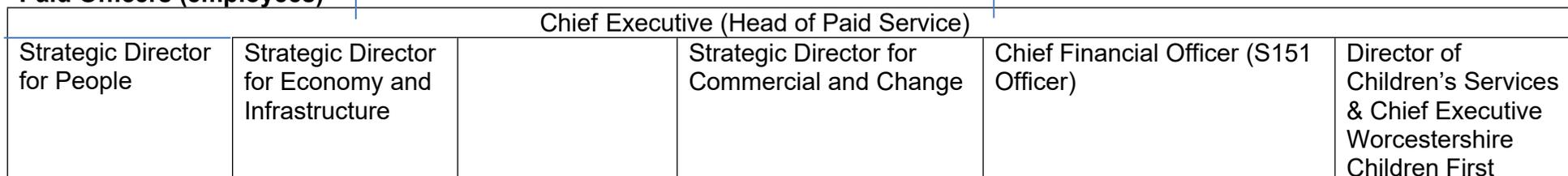
OVERVIEW AND SCRUTINY

- Overview and Scrutiny Performance Board (overarching)
- Health Overview and Scrutiny Committee
- 4 Overview and Scrutiny Panels (Scrutiny Task Groups as needed)
 - Adult Care and Well-being
 - Children and Families
 - Economy and Environment
 - Corporate and Communities

OTHER NON-EXECUTIVE BODIES

- Planning and Regulatory Committee
- Waste Credit Governance Committee
- Pensions Committee
- Standards and Ethics Committee
- Audit and Governance Committee
- Appointments etc Panel
- Health and Well-being Board

Paid Officers (employees)



Assistant Director for Legal and Governance (Monitoring Officer)

Director for Public Health

Other member bodies

1. Joint Member/Employee Committees operate under separate constitutions.
2. The West Mercia Energy Joint Committee is a joint committee of the executives of the County Council, Herefordshire Council, Shropshire Council and Telford and Wrekin Council.
3. The Joint Museums Committee is a joint committee of the executives of the County Council and Worcester City Council.
4. The West Mercia Police and Crime Panel is a statutory joint committee of the 10 local authorities in the West Mercia Police area.

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CONSTITUTION SUMMARY

ARTICLES

1. The Constitution
2. Members of the Council
3. Citizens and the Council
4. The full Council
5. The Chairman of the Council
6. The Cabinet
7. Decision Making
8. Overview and Scrutiny Arrangements
9. Planning, Regulatory, Audit and Appellate Functions
10. The Standards and Ethics Committee
11. Joint Arrangements
12. Area Arrangements
13. Officers
14. Finance, contracts and legal matters
15. Review and Revision
16. Suspension, Interpretation and publication

APPENDICES

1. Responsibility for Functions
2. Procedural Standing Orders
3. Cabinet Procedure Rules
4. Overview and Scrutiny Procedure Rules
5. Access to Information Rules
6. Budget and Policy Framework Rules
7. Financial Regulations
8. Contracts Standing Orders
9. Officer Employment Rules
10. Members' Code of Conduct
11. Officers' Code of Conduct

1. INTRODUCTION

1.1 Worcestershire County Council has a constitution which sets out:

- how the Council operates
- how decisions are made and
- the procedures which are able to be followed to make sure these are efficient, transparent and accountable to local people.

Some of these processes are required by law, and others are processes which the Council has chosen.

[N.B This Guide reflects the Constitution as it stands in August 2019, and which is subject to change at any time.]

1.2 The purpose of this Guide is to assist the public, elected Members (County Councillors) and Officers (paid staff) by outlining how the Constitution works, and to focus on some of the practical consequences, both in relation to the role of Members of the Council, and that of officers. The terms 'Member' and 'Councillor' are interchangeable.

1.3 The Guide has to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. So if the reader is in any doubt, look up the Constitution itself on the website or take advice from the Assistant Director for Legal and Governance or his staff, who are here to help Members and officers with constitutional advice.

1.4 Agendas, reports and minutes for meetings of Council, Cabinet and Committees are accessible from County Hall and online at <http://worcestershire.moderngov.co.uk/uucoverpage.aspx?bcr=1>

2. WHAT'S IN THE CONSTITUTION?

2.1 The Constitution is divided into Articles which set out the broad overview of the Constitution. More detailed procedures and codes are contained in the Appendices.

2.2 The Structure diagram inside the front cover shows the relationships between the Council, the Executive (the Cabinet), the Overview and Scrutiny structure, the other Committees and Panels (non-executive) and the officer structure.

2.3 Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and the Constitution.

2.4 Articles 2 to 16 explain how the key parts of the Council operate and the rights of citizens. They are:

- Members (elected Councillors) of the County Council (Article 2)
- Citizens and the County Council (Article 3)
- The full Council (Article 4)

- The Chairman of the County Council (Article 5)
- The Cabinet (Article 6)
- Decision-making (Article 7)
- Overview and scrutiny arrangements (Article 8)
- Planning, Regulatory, Audit and Appellate functions (Article 9)
- The Standards and Ethics Committee (Article 10)
- Joint Arrangements (Article 11)
- Area Arrangements (Article 12)
- Officers (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16).

2.5 Citizens have a number of rights in their dealings with the Council. These are set out and referred to in Article 3. Some of these are legal rights, whilst others depend on the County Council's own processes.

2.6 Where members of the public use specific Council services, for example as a recipient of social care, they may have additional rights which are not covered in this Constitution or Guide.

2.7 Citizens have the right to:

- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- view the County Council's constitution (or obtain a copy of it for a fee)
- attend formal meetings of the County Council, the Cabinet and Committees of the Council except where, for example, personal or confidential matters are being discussed
- participate at formal meetings of the Council, the Cabinet and Committees of the Council in accordance with the Constitution
- find out, from the Forward Plan, what Key Decisions are to be discussed by the Cabinet or considered by Cabinet Members with Responsibility, and when
- see agendas, reports and background papers of matters discussed in public, and any record of decisions made by the Council, the Cabinet, Cabinet Members with Responsibility and Committees of the Council
- complain to the County Council about the services which it provides, or actions or lack of action by the Council or its staff
- complain to the Ombudsman about maladministration if they think the County Council has not followed its procedures properly. However, they should only do this after using the Council's own corporate representations procedure
- complain to the Council's Assistant Director for Legal and Governance if they have evidence which they think shows that a councillor has not followed the County Council's Code of Conduct for Members, and
- inspect the County Council's accounts and make their views known

to the external auditor.

- 2.7 The County Council welcomes participation by its citizens in its work. For further information on your rights and limitations as a citizen under the Constitution, please see Appendix 2 or contact the Assistant Director for Legal and Governance.
- 2.8 Information about our services, our councillors and our meetings or how to complain can be found on our website www.worcestershire.gov.uk.

3. HOW THE COUNTY COUNCIL OPERATES

3.1 Composition and Role

- 3.1.1 The Council comprises 57 County Councillors elected at the same time every 4 years. They are democratically accountable to residents of their Division 'through the ballot box'. They are often referred to as "Members". The Council operates executive arrangements under the 'Leader and Cabinet' model. A fundamental legal concept is the split in political responsibility between executive (Leader and Cabinet) and non-executive (Council and Committees) functions. Officers (paid staff) of the Council may exercise both executive and non-executive functions as long as they have been delegated to them.
- 3.1.2 "Full Council" (meetings of all 57 Councillors) take place around 6 times a year. The job of the full Council is to approve the Council's Corporate Plan and main policies (the policy framework as set out in Appendix 1) and the Annual Budget (both revenue and capital) and hold the executive (Leader and Cabinet) to account. There are other matters reserved to the full Council to decide. These are set out in the scheme of assignment of responsibility for functions (Appendix 1), and include the appointment of the Leader of the Council, adopting and making changes to the Members' Code of Conduct, and approving the Members' Allowances Scheme.
- 3.1.3 The County Council is also responsible for electing its Chairman and Vice-Chairman (for the civic leadership of the Council), the Leader of the Council (for political leadership), and for establishing certain other committees and member bodies and appointing their chairmen and vice-chairmen. Some of these are responsible for assisting in policy development, scrutinizing and reviewing the decisions of the Cabinet (such as the Overview and Scrutiny Performance Board), while others have statutory non-executive responsibilities to discharge (such as Planning and Regulatory Committee).
- 3.1.4 The Cabinet is chaired by the Leader, who has responsibility for political decisions which are the responsibility of the 'Executive' and are taken by the Cabinet collectively or by individual Cabinet Members with Responsibility.
- 3.1.5 The Council receives regular reports from the Cabinet, which may make recommendations on Council matters (for example, the Budget), and will also report on decisions already made. The Council and its committees cannot take decisions which are the responsibility of the Executive (which we call the 'Cabinet'). The Cabinet cannot take decisions which are the responsibility of the the Council and its committees (non-Executive functions) but makes recommendations to Council on the Budget and Policy framework.

- 3.1.6 The Council also receives regular reports from its other Committees and Cabinet Members with Responsibility.
- 3.1.7 The Chief Executive (as Head of Paid Service), the Assistant Director for Legal and Governance (as Monitoring Officer) and the Chief Financial Officer all have the right as statutory officers to submit reports directly to the full Council.
- 3.1.8 As a result of executive arrangements then unless the matter is one which:
- is for the full Council or its Committees to determine (as set out in the Constitution, particularly the scheme of assignment of responsibility for functions in Appendix 1)
 - is contrary to the policy framework or not wholly in accordance with the County Council's budget
 - cannot in law be the responsibility of the Cabinet

then the Council or its other Committees cannot take a decision about that matter (or overturn a decision of Cabinet or Cabinet Member). That responsibility rests with the Leader and Cabinet. Similarly, the Cabinet or Cabinet Member cannot take a decision which is the responsibility of the Council or its Committees.

- 3.1.19 Responsibility for some matters remains with full Council, either because the law requires this or because it has chosen to retain responsibility as allowed by the law. The Scheme of Assignment of Responsibility of Functions sets out the position in Appendix 1.

3.2 Meetings of the Council

- 3.2.1 Meetings of the Council are relatively formal. The Council's Procedural Standing Orders (Appendix 2 of the Constitution) govern how a meeting of the Council is conducted and its agenda items. Many Standing Orders also apply to the Overview and Scrutiny Performance Board and other Committees. The Cabinet may choose and does apply them or parts of them to its own proceedings. Meetings are presided over by the relevant Chairman.
- 3.2.2 The report of the Cabinet to the Council will be presented by the Leader of the Council. The Leader may respond on behalf of the Cabinet to questions, or he may arrange for a question to be answered by a Cabinet Member with Responsibility (CMR).
- 3.2.3 At each meeting of the Council there are 30 minutes available for members to ask written questions (previously submitted) of the Leader of the Council, CMRs, or Committee Chairmen. The Leader of the Council, CMR, Chairman of the Overview and Scrutiny Performance Board and Chief Executive also present, on a programmed basis, a report to the Council outlining current issues and principal developments within their area. Council has decided that the Leader, Chief Executive and Chairman of the Overview and Scrutiny Performance Board will report annually, and each CMR on a rolling basis.
- 3.2.4 Where the Council considers a scrutiny report, the Member who led that scrutiny will generally present it, and may be questioned on it.

- 3.2.5 Reports of other Committees of the Council and certain other bodies (eg Hereford and Worcester Fire Authority) will be presented by their respective Chairmen or representatives, of whom questions can also be asked, although normally the report will be of decisions taken which cannot be overturned by Council.
- 3.2.6 Members of the public may participate at each meeting of the Council by presenting a petition, asking a question or making a comment in accordance with the Procedural Standing Orders and at the discretion of the Chairman. They need to notify the Assistant Director for Legal and Governance of the nature and content of their proposed participation by 9am the working day before the meeting in question.
- 3.2.7 The Council has also made provision for debates on 'key issues' to be held. No decisions or votes will be taken in such debates, but key points will be considered by the Cabinet and/or Council in determining future policy.
- 3.2.8 The Council can also consider, debate and (if a non-executive function) vote on a motion put forward by members and received in compliance with the Procedural Standing Orders contained in Appendix 2 of the Constitution – normally called 'Notices of Motion', as the process requires prior notice to be given of the Motion before it can be debated.

4. THE CABINET

4.1 Composition and Role

- 4.1.1 The Council has chosen to retain executive arrangements and therefore is required by law to have an 'Executive', and has chosen the "Leader and Cabinet" model from the options available. The Leader is appointed by full Council and who is then responsible for making arrangements to discharge executive functions, whether through the Leader personally, Cabinet collectively, individual CMRs, or officers.
- 4.1.2 The Cabinet is not a Committee and is not required to be politically balanced. Its formal meetings are open to the public unless an item qualifies to be dealt with in private (we call it exempt session') in accordance with the Access to Information Rules.
- 4.1.3 The Council appoints the Leader at the first Annual Meeting of the Council after elections for a 4 year term (but can subsequently remove the Leader and appoint another).
- 4.1.4 The Leader is responsible for appointing a Deputy Leader and other members of the Cabinet. The Cabinet comprises the Leader of the Council and up to 9 other Cabinet Members (CMRs). The Cabinet cannot have fewer than 3 members. Council does not appoint CMRs.
- 4.1.5 The Leader presides at meetings of the Cabinet with the Deputy Leader presiding in the Leader's absence. There are no substitutes allowed on Cabinet.
- 4.1.5 The Leader determines the number of areas of political responsibility and their allocation to members of the Cabinet (Cabinet Members with Responsibility -

CMRs). The Leader has decided that 9 members, other than the Leader (who also has responsibility for Finance), shall be CMRs, leading on the matters within the following remits:

- Adult Social Care
- Children and Families
- Economy and Infrastructure
- Educational Skills
- Environment
- Health and Well-being
- Highways
- Communities
- Transformation and Commissioning.

4.1.7 A Cabinet Member with Responsibility can establish ad hoc member advisory groups to assist in policy development or to advise on any difficult issues.

4.1.8 The Leader (or Cabinet) may authorise individual CMRs to take decisions relating to Executive functions either generally or in respect of particular decisions.

4.1.9 The Cabinet (or individual CMRs as delegated) can take decisions on all matters relating to the executive functions of the Council but not those matters which are non-executive functions which:

- are reserved to the full Council (e.g. Budget and Policy Framework, Members' Allowances and Code of Conduct)
- are ones which by law the Cabinet cannot take (e.g. deciding Planning applications and Standards and Ethics matters)
- by choice have not been allocated to the Cabinet.

4.1.10 In general terms, as most functions are the responsibility of the executive, it is the Cabinet or its CMRs who will take the main 'political' decisions in relation to nearly all Council services, as long as they are in line with the Council's Budget and Policy Framework.

4.1.11 Many decision-making powers are delegated to professional officers to allow the day to day operation of services to continue, or the implementation of political policy. The standing delegations are wide-ranging but there are limitations e.g. officers will not generally be taking 'Key Decisions' (see below). The scheme of assignment of responsibility for functions contains the scheme of delegation to officers which allows Directors to sub-delegate further (Appendix 1).

4.1.12 Collectively and individually the Cabinet are subject to the overview and scrutiny arrangements which the Council has established (Section 5 below) as part of the checks and balances for executive arrangements.

4.2 Key Decisions

4.2.1 Certain types of decision which are the responsibility of the Leader and Cabinet are called 'Key Decisions'. Only the Cabinet or CMRs take Key Decisions; and

(generally) 28 days advance notice has to be given of them in a public document known in Worcestershire County Council as the Forward Plan (see 4.3 below).

4.2.2 Key decisions are ones discharging executive functions which are likely:

- to result in the County Council incurring expenditure or 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 their effects on communities living or working in an area comprising two or more County electoral divisions (Article 7 of the Constitution).

4.3 The Forward Plan

4.3.1 A Forward Plan provides notice of anticipated Key Decisions to be taken by the Cabinet and CMRs. It is prepared on a rolling basis and contains information about the matter for decision, when the decision is likely to be taken and by whom. For transparency, our Forward Plan also includes, as far as practicable, non-Key Decisions going to Cabinet and to CMRs.

4.3.2 The purpose of the Forward Plan is to alert the public and members to when Key Decisions are to be taken so that they are aware of the topic to be considered and can comment to their local Councillor or members of the Cabinet, or attend or view the meeting of Cabinet on webcast.

4.3.3 The Forward Plan is updated on a rolling basis so that as more details become available, more information can be included in the Plan. It is available on the Council's website:
http://www.worcestershire.gov.uk/info/20088/about_your_council/681/worcestershire_county_councils_forward_plan

4.3.4 The detailed requirements in relation to the Forward Plan are set out in paragraphs 13 - 16 of Appendix 5 (Access to Information Rules).

4.3.5 The Forward Plan will describe the following (so far as available):

- the matter in respect of which the Key Decision is to be taken
- the membership of the Cabinet or the decision-making body
- whether the decision is to be made in public or private
- the date or period for the taking of the decision

4.3.6 There are detailed procedures in Appendix 5 of the Constitution about taking Key Decisions which for some reason have not been included in the Forward Plan in time (paragraph 15) or which are very urgent (paragraph 16). The Overview and Scrutiny Performance Board also has a right to require the Cabinet to report to the Council on Key Decisions which they believe to have been taken otherwise than in accordance with the required procedures (paragraph 17).

4.4 Meetings of the Cabinet

- 4.4.1 The Cabinet will meet regularly (usually monthly) during the year, in public unless the matter to be discussed is confidential or exempt and the law allows the meeting in private (e.g. to protect commercial confidentiality). The Leader and Cabinet have agreed to the same public participation rights at public meetings of the Cabinet as for the Council.
- 4.4.2 The Constitution allows certain members to speak at Cabinet meetings (but not to vote). In practice the Leader generally allows any member to contribute to Cabinet discussions. The Chief Officers (or their representatives) will be entitled to be present at all meetings of the Cabinet.
- 4.4.3 The Cabinet will consider reports usually from CMRs, containing recommendations for Cabinet to consider. In addition to notification in the Forward Plan, the reports will normally be publicly accessible at least 5 clear working days before the proposed decision, unless the topic is confidential or exempt
- 4.4.4 As part of the 'checks and balances', decisions taken by the Cabinet or CMRs are subject to the 'call-in' procedures referred to in Section 5 below. Save in the limited circumstances referred to, decisions will not take effect until the fifth working day after publication of the decision to allow the possibility of call-in. The public notice of the decision must say whether implementation is so urgent that it cannot await the outcome of possible call-in and why (see paragraph 4.4.8 below). Urgency of implementation should be specifically addressed in reports.
- 4.4.5 The Leader or Cabinet can delegate CMRs to take decisions, which are not taken in public. However, notice of the topics to be considered by a CMR is published in the Forward Plan, and reports published in advance of the decision.
- 4.4.6 A formal record of decisions of the Cabinet and of CMRs is published and every member notified to commence the potential call-in period; a copy will also be publicly available for inspection on the website and at County Hall, Worcester. These decisions will be published within three working days of the decision (normally circulated on the day of decision) and are the formal record of decisions which acts as the "trigger" for the 'call-in' procedure (see 5.2 below). They will also indicate which items (if any) are urgent so that they are not subject to 'call-in' but fall to be dealt with under the urgency procedures of paragraph 17.16 of Appendix 4 of the Constitution, summarised in 4.4.7 below.
- 4.4.7 Urgent implementation cases will be those where delay likely to be caused by the call-in process could seriously prejudice the Council's or the public's interests, or the interests of any person to whom the decision relates, and the Chairman (or in his absence Vice-Chairman) of the Overview and Scrutiny Performance Board agrees that the decision is urgent and cannot reasonably be deferred. These provisions allow a 'check and balance' allowing a person outside the Cabinet to decide whether or not there should be urgent implementation without the risk of call-in suspending the decision.
- 4.4.8 The Cabinet's own procedures are governed by Appendix 3 of the Constitution. The Cabinet is not a Committee of the Council and can largely govern its own procedure.

4.5 Consultation with others

- 4.5.1 Reports to the Cabinet by CMRs or officers about proposals relating to the Council's Policy and Budget Framework must contain details of the nature and extent, and outcome, of consultation with stakeholders and the Overview and Scrutiny Performance Board as appropriate. Reports on other matters will set out the details and outcome of consultation where appropriate.
- 4.5.2 The Cabinet and individual CMRs may make arrangements for consultation about matters for which they are responsible.

5. OVERVIEW AND SCRUTINY ARRANGEMENTS

5.1 Composition and Role

- 5.1.1 The Council operates executive arrangements and as part of the 'checks and balances' is required by law to have arrangements for Overview and Scrutiny which help develop policies and service delivery, and monitor the performance of the Council and can scrutinise decisions of the Cabinet etc.
- 5.1.2 Any bodies established to carry out Overview and Scrutiny functions have no delegated powers to take decisions on behalf of the Council or overturn decisions of Cabinet or CMRs.
- 5.1.3 The Council has established an over-arching Overview and Scrutiny Performance Board, a Health Overview and Scrutiny Committee, and 4 Overview and Scrutiny Panels, all of which are committees and must be politically balanced. The Overview and Scrutiny Performance Board can establish, as required, specific Scrutiny Task Groups to conduct specific scrutiny tasks e.g. in depth scrutiny issues.
- 5.1.4 The Overview and Scrutiny Performance Board comprises a Chairman and 7 other County Councillors who are known as Scrutiny Lead Members. The Health Overview and Scrutiny Committee comprises 15 Members of which 9 are County Councillors and the remainder are representatives from each of the 6 District Councils in the County. The remaining Overview and Scrutiny Panels comprise the number of County Councillors as determined by Council and are politically balanced.
- 5.1.5 The size of any informal Scrutiny Task Group will vary according to the purpose for which it is established. Task Groups need not be politically balanced, so as to allow Members with a particular knowledge or interest or commitment to take part, and are not formal committees.
- 5.1.6 The Overview and Scrutiny Performance Board, Panel or a Scrutiny Task Group when dealing with education matters will co-opt in a voting capacity non-Councillors as required by law (church and parent governor representatives). Scrutiny Task Groups invite other non-Councillors to serve in a non-voting capacity to assist in their work.

- 5.1.7 Cabinet Members cannot serve on the Overview and Scrutiny Performance Board or any other scrutiny body.
- 5.1.8 The main responsibilities of the Overview and Scrutiny Performance Board include agreeing the Scrutiny Work Programme (subject to Council approval), commissioning work for the Panels, establishing Scrutiny Task Groups to carry out scrutiny exercises, and agreeing their terms of reference and reports. It also advises on the Council's Policy Framework, such as the Corporate Plan and can deal with the call-in of decisions made by the Cabinet. The Health Overview and Scrutiny Committee scrutinises matters relating to health services in the County and responds to consultation from the National Health Service on substantial proposed developments.
- 5.1.9 The Overview and Scrutiny Bodies have extensive powers to conduct research, carry out consultations, investigate, undertake visits, encourage community participation, liaise with other organisations, gather evidence, invite advisers and experts to assist them and question Cabinet members and (in some circumstances) Chief and senior officers about their decisions and performance.
- 5.1.10 As part of the Scrutiny role members have certain additional rights to documents set out in paragraphs 23 and 24 of Appendix 5 (Access to Information Rules).
- 5.1.11 Decisions taken by officers under delegated powers cannot be called-in. This does not however prevent a questioning of a Chief or senior officer as part of a wider scrutiny exercise.
- 5.1.12 Scrutiny arrangements are governed by the Overview and Scrutiny Procedure Rules in Appendix 4 of the Constitution.

5.2 Call-in

- 5.2.1 In monitoring the decisions of Cabinet or of individual CMRs, a specified number of members who are not on the Cabinet can "call-in" a non-urgent decision which has been made but not yet implemented. The right of call-in should only be used in exceptional circumstances when there is evidence to suggest that the Cabinet or CMR has departed from the principles of decision-making set out in the Articles. It is not there to be used just because other members do not agree with the decision!
- 5.2.2 All members will receive an electronic link to the decisions of Cabinet within three working days (usually earlier) and, unless it is identified as urgent, the decision which the Cabinet has taken will not take effect until the fifth working day after the publication of the decision. During the intervening period:
- no fewer than 2 members of the Overview and Scrutiny Performance Board **or**
 - 8 members of the Council who are not members of the Cabinet
- may "call-in" (with reasons) the Cabinet decision. It will then be referred to a meeting of the Overview and Scrutiny Performance Board which will decide on the most appropriate way of dealing with the call-in.
- 5.2.3 The called-in Cabinet decision is then not implemented until either:

- the Overview and Scrutiny Performance Board has accepted the decision (with or without comment), or
- the Overview and Scrutiny Performance Board has referred the decision back to the Cabinet for reconsideration, and it has been reconsidered by Cabinet.

5.2.4 The right of call-in is an important 'check and balance' in enabling members who are not Cabinet members to challenge Cabinet decisions before they are implemented.

5.2.5 The first three members exercising the right of call-in and who are not either 'local members' or members of the Overview and Scrutiny Performance Board, Panel or Scrutiny Task Group set up to consider the call-in, are entitled to attend the meeting at which the called-in matter is discussed and to speak on it (but not vote).

5.2.6 The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board may attend and speak (but not vote) at the meeting of the Cabinet at which the Board's views are being considered.

5.2.7 Reference to the full Council would only be appropriate if the decision called-in is one which the Overview and Scrutiny Performance Board believes:

- the Cabinet cannot in law take, or
- is reserved to the full Council, or
- raises issues of such exceptional significance and public interest to justify reference to the full Council, although the final decision rests with the Cabinet, or
- is contrary to the policy framework or contrary or not wholly in accordance with the budget.

5.2.8 Details of the call-in procedure are included in the Overview and Scrutiny Procedure and Budget and Policy Framework Rules (Appendix 4 and 6 respectively of the Constitution).

5.2.9 The operation of call-in is monitored and the Council may change the arrangements if the arrangements are being abused (paragraph 17.1 of Appendix 4).

6. OTHER COMMITTEES etc

6.1 Composition and Roles

6.1.1 Certain 'non-executive' matters cannot by law be dealt with by the Cabinet. Apart from those reserved to the full Council, these are in the main planning and regulatory functions, though there are some others.

6.1.2 The Planning and Regulatory Committee carries out the planning, and other licensing, registration and regulatory functions which cannot be the responsibility of the Cabinet.

- 6.1.3 The Audit and Governance Committee's main role is to consider and approve the Council's annual statement of accounts, to assure the Council about the objectivity and fairness of the financial reporting and performance of the Council, the adequacy of the risk management framework and associated controls within the Council, and that any issues arising from the drawing up, auditing and certifying of the Council's accounts are properly dealt with.
- 6.1.4 The Waste Credit Governance Committee considers the Council's role as lender to the Waste Contractor, and the Pensions Committee acts as the superannuation scheme manager. The Pensions Committee acts as the local government pension manager.
- 6.1.5 The Council has an Appellate Panel from which the Assistant Director for Legal and Governance will select a small number of members to form individual panels to carry out various appellate functions.
- 6.1.6 The Standards and Ethics Committee is responsible for the ethical framework for members within the Council and for promoting and maintaining high standards of conduct by members and co-opted members. It can establish sub-committees to deal with complaints about alleged breaches by a member of the Code of Conduct.
- 6.1.7 An Appointments etc Panel is called when required to carry out the functions set out in the Officer Employment Procedure Rules such as appointment and dismissal in relation to the Chief Executive (Head of Paid Service), Directors and Heads of Service.
- 6.1.8 Joint consultation/negotiation member/employee committees exist under separate constitutions.
- 6.1.9 The Cabinet has established a West Mercia Energy joint committee and a Joint Museums Committee. Partnership arrangements are also in place for the Health and Well-being Board and the West Mercia Police and Crime Panel.
- 6.1.10 Details relating to all the above Committees are contained in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

7. MEMBERS

7.1 Service on the Cabinet

- 7.1.1 Every member of the Council, except the Chairman and Vice-Chairman of the Council, is eligible to serve on the Cabinet.

7.2 Service on the Scrutiny bodies

- 7.2.1 Every member is eligible to serve on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Task Groups, except Cabinet Members.

7.2.2. Members who serve on Scrutiny bodies will have been selected because of their knowledge, interest or commitment and will have a substantial input into the scrutiny of the policies of the Council and decisions of the Cabinet/CMRs, and monitoring of performance. Members' roles will increasingly focus on contributing to and influencing future policy; and reviewing, scrutinising and calling to account the policies and decisions of the Cabinet/CMRs in the context of their impact on the Council and on the communities and people the Council serves.

7.2.3 Members also have the opportunity of questioning the Leader of the Council and CMRs at meetings of the Council.

7.3 Service on Other Committees, etc

7.3.1 All members of the Council are eligible to serve on the Planning and Regulatory and Audit and Governance Committees.

7.3.2. All members of the Council are eligible to serve on the Standards and Ethics Committee, except that not more than one member of the Cabinet (who cannot be the Leader) may serve.

7.3.3. All members of the Council are eligible to serve on appeals panels unless they have had prior involvement in the particular case.

7.3.4 All members of the Council are eligible to serve on an Appointments etc Panel, except that each Panel must include at least 2 Cabinet members (3 in the case of the Head of Paid Service).

7.3.5 The Chairman and Vice-Chairman of the Council may not concurrently be the Chairman of any other Committee of the Council (with the exception of SACRE – an advisory body on religious education).

7.3.6 Members may be nominated to some outside or other bodies.

7.4 Substitution

7.4.1 There can be no substitution for members of the Cabinet.

7.4.2 There can be no substitution on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee or any Overview and Scrutiny Panel or Task Group.

7.4.3 Substitution may be allowed on any other Committee provided the substitute member is eligible to serve (e.g. having undertaken relevant specific training required for the Planning and Regulatory Committee).

7.5 Local Member

7.5.1 If an item coming before the Cabinet, a Committee or Scrutiny body is likely to be of particular interest to a member representing an electoral division to which the item relates or affects, he or she can attend and speak at (but not vote) at the meeting – and may submit written representations.

7.6 Involvement in Budget and Policy Framework

- 7.6.1 Budget and Policy Framework Procedure Rules are set out in Appendix 6. These set out the procedure by which the Cabinet in consultation with the Overview and Scrutiny Performance Board will draw up proposals for the budget and policy framework of the Council. It includes provision for situations in which the Council does not accept the proposals of the Cabinet, in which case the Council's decisions will only come into effect after 5 working days unless the Leader of the Council objects, in which case a further meeting of the Council will be held. The rules also set out the procedure for dealing with decisions (including urgent ones) outside the budget and policy framework.

7.7 Members' Allowances

- 7.7.1 Members may receive the allowances contained in the Scheme for the Payment of Councillors' Allowances (Appendix 13 of the Constitution). These are set by Council having regard to any recommendations made by an Independent Remuneration Panel.

7.8 Ethical Framework

- 7.8.1 Appendix 10 sets out the Members' Code of Conduct. The Council also has a Member Planning Code of Conduct. The Council, other members, officers and the public are entitled to expect high standards of conduct from members.
- 7.8.2 A protocol for member/officer relationships is included at Appendix 12 of the Constitution.

7.9 Access to Information

- 7.9.1 The Constitution sets out in Appendix 5 (Access to Information Rules) arrangements for public access to information linked to the democratic process.
- 7.9.2 The Rules also prescribe other information available in connection with overview and scrutiny arrangements (paragraph 23) and additional rights of access for members (paragraph 24).

7.10 Member Role Descriptions

- 7.10.1 A number of role descriptions have been produced setting out the duties and responsibilities of a councillor and various other positions held (such as the Leader, CMR's and Overview and Scrutiny Performance Board Chairman, etc). These are included in Appendix 12 of the Constitution.

8. OFFICERS

The County Council has paid staff working for it ("officers") to give advice, implement decisions taken by Councillors and manage and take operational or professional day to day decisions in the delivery of the Council's services.

8.1 Designations

8.1.1 Some officers have, by law, a specific duty to ensure that the Council acts within the law and e.g. uses its resources wisely. The following officers have been designated to hold four statutory offices:

- Head of Paid Service – Chief Executive
- Monitoring Officer – Assistant Director for Legal and Governance
- Chief Financial Officer
- Scrutiny Officer – Democratic Governance and Scrutiny Manager.

8.1.2 Officers are organised into a number of Directorates, each led by a Strategic Director (sometimes known as a Chief Officer) reporting to the Chief Executive.

- Chief Executive
- Strategic Director for People
- Strategic Director for Commercial and Change
- Strategic Director for Economy and Infrastructure

8.1.3 Each Chief Officer has staff to undertake the tasks of delivering the Council's services and supporting the corporate management of the Council.

8.2 Delegations

8.2.1 Chief Officers have delegated powers to take a range of decisions on behalf of the Cabinet and the other Committees etc with decision-making powers. In turn Chief Officers can delegate to other officers. The scheme of assignment of responsibility for functions (Appendix 1) sets out the scheme of delegation to officers; local schemes of sub-delegation will be held by Directorates.

8.2.2 The scheme sets out general delegations and responsibilities which all Chief Officers have, such as the need to act within the policies and budget of the Council, its constitution, the taking of decisions in connection with staff employment and establishment matters, the management of assets allocated to the respective service and the entering into of partnership or contractual arrangements. It also sets out functions and responsibilities specifically delegated to a particular Chief Officer.

8.2.3 It also contains restrictions on the way officers carry out their functions and reminds officers that whilst day to day operational decisions will mainly be taken without consultation with members, there is a need in certain circumstances to consult with relevant members before deciding whether to exercise delegated powers.

8.2.4 It is the duty of any Chief Officer or other officer exercising delegated powers to keep relevant members including local members properly informed of activity arising within the scope of delegated powers in accordance with the Constitution. Significant decisions which affect the public or a locality, made by an officer, will normally be recorded and published on the website.

8.3 Financial Regulations

8.3.1 Financial Regulations are set out in Appendix 7 and establish a framework for the proper administration and control of the Council's financial affairs.

8.3.2 In essence, the Financial Regulations set out the frameworks for:

- Financial Administration
- Accounting Systems / Accounting Records
- Audit
- Budget Responsibilities
- Budget Preparation
- Procurement of Works, Goods, Materials and Services
- Payment for Works, Goods, Materials and Services
- Payments to Employees and Former Employees
- Income
- Banking
- Borrowings, Other Capital Financing and Investments
- Trustees, Receivers, Appointees and Agents
- Assets
- Insurance
- Ex Gratia Payments
- Preparation of Statutory Financial Statements
- Applications and Claims for Grant or Subsidy.

8.3.3 To supplement these framework provisions, the Chief Financial Officer will issue detailed Financial Procedures which must be complied with as if they were Financial Regulations.

8.4 Contract Standing Orders

8.4.1 Appendix 8 includes the Council's Current Contract Standing Orders which set the framework for the acquisition and disposal of goods, works and services.

8.4.2 The Corporate Procurement Strategy and Code set out detailed arrangements.

8.5 Employment Procedures

8.5.1 Appendix 9 of the Constitution sets out the Officer Employment Procedure Rules.

8.5.2 In essence, all appointments other than:

- Chief Executive
- Strategic Directors

- Assistant Directors (including the Director for Public Health)

must be made by officers and cannot be made by Members. Appointments of all posts of Head of Service of above will be made by the Appointments Etc Panel who also deal with the discipline and dismissal of those officers; appointment of the Chief Executive must be made by full Council. Council has additional roles in respect of dismissals of the Chief Executive (as Head of Paid Service), Monitoring Officer and Chief Financial Officer as set out in that Appendix.

8.5.3 The power delegated to Directors to take decisions about staffing and personnel matters is set out in Appendix 9.

8.6 Officers' Code of Conduct

8.6.1 The Council's Officers' Code of Conduct is contained in Appendix 11.

9. CONCLUSION

9.1 This Guide seeks to simplify some of the complexities of the Constitution but is not a substitute - reference should be made to the Constitution for the detailed provisions applicable in any situation or circumstance under discussion or ask for advice from the Assistant Director for Legal and Governance or Democratic Governance and Scrutiny manager. A printed copy of the Constitution is available in the members' area, and it is available on the Council's website.

9.2 The Assistant Director for Legal and Governance Services and his staff will always try to assist on any point of interpretation of the Constitution, or on what is said in this Guide.

Simon Mallinson
Assistant Director for Legal and Governance
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