

PART 1 - INTRODUCTION

1.1 Why we have a Constitution

1.1.1 This is the Constitution of Torfaen County Borough Council (The Council). This Constitution aims to:

- Establish a framework for the participation of Councillors in the work of the Council;
- Provide for the separation of the executive and scrutiny roles within the Council's political management arrangements;
- Facilitate efficient, effective and accountable decision making;
- Provide Councillors with a clear framework through which to exercise their representational role and engage more directly with the local community.

1.1.2 The Constitution also specifies in Part 2 the rights of citizens and the means by which the public can participate and gain access to information about the Council's political management process.

1.1.3 More details of public rights to information can be found in paragraph 4.27 and other appropriate sections of this Constitution.

1.2 Arrangements for Review and Suspension

1.2.1 The Monitoring Officer, working with Councillors, will monitor and evaluate the operation of the Constitution and will make recommendations to the Council for improvements to it as necessary.

1.2.2 Elements of the Constitution may be suspended by resolution of the Council, following the advice of the Monitoring Officer.

1.2.3 With regard to rules of proceedings the Cabinet or individual Committees are able to suspend specific elements by resolution of two thirds of those present.

1.3 Interpretation

1.3.1 Any dispute as to the interpretation of this Constitution shall be determined by the Presiding Member upon the advice of the Monitoring Officer.

1.3.2 References to the Chief Executive, Monitoring Officer or Chief Financial Officer shall apply to their nominated deputy in their absence.

1.3.3 'Proper Officer' means the Chief Executive, the Monitoring Officer or one or more Officers appointed by the Chief Executive for this purpose.

1.3.4 Any reference to specific posts or offices such as the Chief Executive, Chief Financial Officer etc) shall deemed to be to the post holder or officeholder for the time being and if the title of the post or office is changed or the functions of the post or office are

varied then the reference will be to the employee of the Council for the time being undertaking the relevant functions.

1.4 The Model

1.4.1 The model of the Council's arrangements provides in broad terms for the following:

- a Cabinet comprising the Leader and Executive Members

Note the Council allocates certain areas of responsibility to the Cabinet and to members of the Executive. It is the practice of the Council to appoint a Councillor to the Cabinet who is not a member of the majority party but ordinarily no portfolio or specific responsibilities are allocated to that member

- each portfolio held by an Executive Member relates to a service area or function and a 'cross-cutting' issue;
- all of the executive portfolios are scrutinised by an Overview and Scrutiny Committee. The Executive Members cannot be members of such Committees, but can participate by invitation. The role of the Committee is one of scrutiny/challenge, making recommendations on policy development and performance review;
- the Leader and Deputy Leader of the Council hold overarching portfolios which are strategic in their content;
- there is an Ethics and Standards Committee;
- there is a Governance and Audit Committee;
- there is a Planning Committee;
- there are Licensing Committees;
- there are other Committees which perform other functions – such as the Members' Services Working Party and the Appointments Committee.

*NB The Executive as defined in the Local Government Act 2000 is also known as the Cabinet within the Constitution of Torfaen County Borough Council.

1.5 The Performance of Functions

1.5.1 The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 as amended specify those functions which must be performed by the Council; those functions which must be performed by the Cabinet; those functions which are to be performed partly by the Council and partly by the Cabinet; and those functions which the Council may choose to allocate to the Council or to the Cabinet. These latter functions are referred to as local choice functions and this constitution sets out the allocation of the local choice functions. Appendix 8 sets out how the local choice functions have been allocated.

1.5.2 The separation of functions and decision making operates on the following broad

principles:

- determination of the Authority's policy framework and budget and other constitutional/quasi-legislative functions is the responsibility of the Council;
- functions which involve either determining an application from a person for a license, approval, consent, permission or registration or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecution) are not the responsibility of the executive;
- all other functions are the responsibility of the executive.

1.5.3 The composition and membership of the Cabinet is determined by the Council. Seats on Committees of the Council (excluding the Ethics and Standards Committee) are allocated in accordance with rules which are intended to mean that overall the composition of the committees reflect the political balance of the Council. The number of seats given to each of the political groups will be calculated as a ratio of the number of seats available on Committees and the number of Members in each of the political groups. The Council is under a duty to give effect to the wishes of each political group in the appointment to seats on each committee within the allocation.

1.5.4 The Council and the Cabinet may delegate their functions except where the law does not allow. The Council may delegate its functions to a committee or sub-committee of the Council or to an employee (sometimes employees of the Council are referred to as officers). The Cabinet may delegate its functions to a committee of the Cabinet or to an officer. An Executive Member may delegate his or her functions to an officer.

End of Part One

