

Part 1

Introduction, Summary and Explanation

This document is the Council's Constitution. It contains details of how the Council works, how decisions are made and where you can find out information about it.

It also details the rights of Members of the Public and how they can use them. Cumberland Council wants to be a community led Council and believes that we should work with our residents, businesses and service users to create strong and resilient communities and ensure that Cumberland is a great place to live, work, and visit. We want to actively encourage and support people getting involved in meeting these aspirations.

You will see boxes at the beginning of each section like this which will give you a summary of what information you can expect to find within the document and provide you with a brief introduction.

1 INTRODUCTION

- 1.1 On 1st April 2023, a new council, namely Cumberland Council (usually referred to in this document as simply “the Council”), took on responsibility for local government services previously delivered by Allerdale Borough Council, Carlisle City Council and Copeland Borough Council. It also took on the powers of the former County Council within its boundary. It was created by the Cumbria (Structural Changes) Order 2022 (also referred to as “**the 2022 Order**”). It has responsibility for most of the functions which were previously carried out by those districts’ councils as well as the former county council for the area.
- 1.2 Cumberland Council covers a large geographic area with diverse and different communities.
- 1.3 This constitution sets out
 - 1.3.1 How the Council operates.
 - 1.3.2 How its decisions are made; and
 - 1.3.3 What procedures will be followed.
- 1.4 The Council is required by the Local Government Act 2000 to maintain a constitution and, whilst some of the processes in this constitution are required by law, others are needed to make sure that those responsible for delivering public services are accountable, that decisions are transparent and that they are in the public interest.
- 1.5 Generally speaking, the Council will exercise its powers and duties in accordance with the Constitution, unless the law requires the Council to do something else or the relevant provisions are waived.
- 1.6 The constitution governs the actions of elected Councillors, any persons co-opted to its decision-making arrangements, its officers, contractors and where identified, third parties.
- 1.7 The constitution can only be changed by full council, in public session, unless there are minor or consequential changes which can be completed by the Monitoring Officer. (A consequential change is one which arises from a change in the law or a decision made by the council on another matter, which means that the wording in the constitution needs to be changed to reflect the impact of that – e.g. a change of name of a committee or an officer post).
- 1.8 Defined terms are included in the Glossary in **Part 6**. They are shown in bold **like this**.
- 1.9 Wherever possible, this constitution is written in plain English because the Council wants to provide a clear and accessible explanation of how the council operates. If you have suggestions as to how the constitution can be improved, then please contact Clare Liddle who is the Monitoring Officer and responsible for the upkeep of the constitution.

- 1.10 The Monitoring Officer's contact email address is Monitoring.Officer@cumberland.gov.uk.

2 THE CONSTITUTION

- 2.1 The constitution is divided into seven parts.

Part 1 is this summary and explanation.

Part 2 sets out which parts of the Council are responsible for carrying out the various functions of the Council.

Part 3 contains the various Procedure Rules which set out how the Council conducts its business, including how it makes decisions and how meetings are conducted.

Part 4 includes codes and protocols that govern how members of the Council (also known as "Councillors") and officers of the Council must behave in performing their duties.

Part 5 is the Members' Allowance Scheme, which sets the level of financial allowances which Councillors receive for performing their duties.

Part 6 contains a Glossary which explains some of the terminology used in this document. Terms in the glossary and Parts of the Constitution are shown in bold.

Part 7 contains diagrams of the Council's management structure.

- 2.2 There are a number of other codes, protocols and policy documents which govern how the council operates which do not form part of this constitution. Where the constitution refers to these documents, they will be made available on the council's website via a hyperlink.

3 HOW THE COUNCIL OPERATES

Councillors

- 3.1 The Council has 46 councillors (also known as "members") who are elected by and are democratically accountable to the people in their wards. There are 46 wards in the council's area. Each ward has one councillor. The wards are described in the 2022 order and are subject to review by the Electoral Commission from time to time.
- 3.2 Councillors are directly accountable to their constituents for the running of the council. They have a duty to represent all their constituents, including those who did not vote for them, combined with a duty to make decisions in the interests of the whole area of Cumberland, over and above any particular part of it.

- 3.3 Only registered voters of the Council's area or people living or working here are eligible to stand to be elected as a councillor.
- 3.4 The regular election of Councillors is usually held on the first Thursday in May every four years, for all Councillors at once. The term of office of Councillors starts on the fourth day after being elected and will finish on the fourth day after the date of the next regular election (except for the Chair and Deputy Chair; and the leader and deputy leader whose term of office continues until the following Annual Council meeting even if they are not re-elected). Find out when the next election will take place on the Council's website www.cumberland.gov.uk.
- 3.5 A full list of Councillors' names, contact information, terms of office, and membership of political groups is available here on the Council's website along with details of the committees and bodies on which they serve.
- 3.6 Councillors have to adhere to a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee and the Monitoring Officer advise Councillors on the Code of Conduct; promote high standards of behaviour, and monitor standards of conduct. The Council maintains a Register of Interests declared by Councillors which is open to inspection by members of the public and available on the Council's website. If you have any concerns about a Councillor then you can contact the Monitoring Officer who is responsible for upholding ethical standards.
- 3.7 Councillors are entitled to receive allowances in accordance with the Member Allowances Scheme set out in Part 5 of this Constitution.
- 3.8 All Councillors have the following roles and functions
 - 3.8.1 representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;
 - 3.8.2 contributing to the good governance of the area and encouraging community participation;
 - 3.8.3 dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
 - 3.8.4 balancing different interests identified within the Ward and representing the Ward and the Council as a whole;
 - 3.8.5 maintaining the confidentiality of confidential and exempt information and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the Councillors' Code of Conduct);
 - 3.8.6 being involved in decision-making;
 - 3.8.7 being involved in decision-making;
 - 3.8.8 being available to represent the Council on other bodies; and

- 3.8.9 promoting and maintaining the highest standards of conduct and ethics.
- 3.9 All Councillors meet together as the Council (sometimes called “Full Council”). Formal meetings of the Council are normally open to the public with the exception of **confidential or exempt items**. At these meetings, Councillors decide upon key strategies and policies for how the Council operates and will set the budget each year. The Council appoints the leader who in turn appoints councillors to be part of the **Executive** and may delegate powers and responsibilities to them. Each year, the Council also appoints **Committees** to carry out certain local government functions, such as planning and licensing, and political groups will nominate councillors to be members of those committees. Most committees are politically balanced, which means that membership will reflect the political make-up of the whole council.
- 3.10 The Council is responsible for holding the Executive to account for its actions and does this by questioning Councillors who are members of the Executive and by allowing the public to do the same. It also appoints **Overview and Scrutiny Committees** which act as a “critical friend” to the Executive by reviewing the decisions of the Executive and helping to formulate policies.
- 3.11 Councillors will work closely with **officers** in developing policies and strategies, to give directions to the Council’s vision and values and to ensure services are effectively delivered in accordance with its wishes. Councillors do not, however, have a role in the actual delivery of services and cannot be employed by the Council in any capacity.

Council offices

- 3.12 The Council has people working for it to give advice, take steps which are needed to implement decisions and manage the day-to-day delivery of services.
- 3.13 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council’s services. Some officers have specific responsibility by law to make sure that the Council acts lawfully and uses resources effectively, economically and efficiently. These are the Council’s **statutory officers**:
- 3.13.1 **Head of Paid Service**, responsible for the Council’s officers (at Cumberland Council this is the Chief Executive);
- 3.13.2 **Monitoring Officer**, responsible for making sure that the Constitution is followed, that Councillors obey the Code of Conduct, and for reporting upon illegality and maladministration in council business; and.
- 3.13.3 **Chief Finance Officer**, responsible for the proper administration of the Council’s financial affairs.
- 3.14 The Council’s Senior Management Structure is set out in **Part 7**.
- 3.15 All Council Officers must comply with a Code of Conduct which is set out in Part 4. The recruitment, selection and dismissal of officers will comply with the Officer

Employment Procedure Rules set out in Part 3 of this Constitution. Officers are paid in accordance with the Council's Pay Policy. The Councillor/Officer Protocol governs the relationship between officers and Councillors and is set out in Part 4 of this Constitution.

4 HOW THE COUNCIL MAKES DECISIONS

Principles of Decision Making

- 4.1 Decisions within the Council can either be made by elected **Councillors** or **Officers**. Generally, Councillors make important strategic decisions on policy and Officers make the operational decisions within those policies. It is important that Councillors and Officers work together for the benefit of Cumberland.
- 4.2 When the Council makes decisions, we will make sure that we do the following:
 - 4.2.1 Make sure that the action we are taking is proportionate to the results we need to achieve;
 - 4.2.2 Make sure that we consult where appropriate to do so;
 - 4.2.3 Respect human rights;
 - 4.2.4 Ensure that the decision represents **best value** for Cumberland;
 - 4.2.5 Ensure that we are open and transparent in the way we make decisions;
 - 4.2.6 Be clear about what we trying to achieve and what the outcomes will be;
 - 4.2.7 Consider whether an alternative option is more appropriate; and
 - 4.2.8 Give reasons for why we have made decisions.

Types of Decision and Decision Takers

Full Council

- 4.3 All Councillors meet together a number of times each year as the **Council**. You can find details of the calendar of Council meetings on the Council's website. Annual Council is held once a year to appoint a Chair and Deputy Chair who preside over the Council meetings, to review this Constitution and to appoint Councillors to Committees.
- 4.4 Council is responsible for setting the Budget and Policy Framework. The Budget and Policy Framework sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Council can change the Budget and Policy Framework. Council sets the Council's budget each year.

- 4.5 Council also appoints a number of committees to deal with regulatory functions such as Planning and Licensing. See details of the Council's Committees.
- 4.6 Meetings of the Council and other decision-making bodies are open to the public, except where personal or confidential matters are being discussed (see Access to Information Procedure Rules in **Part 3**).
- 4.7 This diagram shows the overall structure of the Council's decision making arrangements.

Executive

- 4.8 The Council has adopted an executive form of governance. This means that members of the Council elect a **Leader** of the Council. The Leader then appoints a minimum of 2 and no more than 9 other Councillors who, together with the Leader, form the **Executive** and are responsible for certain decisions such as policy matters, including recommending the Budget and Policy Framework to Council, housing, education, social care, land and property and economic regeneration.
- 4.9 Councillors that are not part of the Executive or the opposition shadow Executive are known as backbenchers. These Councillors are largely responsible for the scrutiny of executive decisions and for making the types of decisions which are not permitted to be made by the Executive. Backbench Councillors may sit on the Council's Committees.
- 4.10 The Executive is the part of the Council which is responsible for most day to day decisions.
- 4.11 The Executive is made up of the Leader and up to 9 additional Councillors and can be formed from a single political party. The Council has decided that the Leader will be elected every four years, beginning at its first Annual Meeting after the elections, or when a vacancy arises. A vacancy would arise if the Leader resigns or is disqualified from office as a Councillor, or there is a vote of Council to remove the incumbent, which may happen before the end of the four year period.
- 4.12 Executive decisions may be taken by the Leader, a committee of the Executive, an individual member of the Executive or by an officer as authorised under the Officer Scheme of Delegation in Part 2. A decision may also be taken under joint arrangements by or with another authority.
- 4.13 Each of the Councillors who are members of the Executive are responsible for a particular area of the Council's activities (called "**Portfolios**"). Members of the Executive are also sometimes called **Portfolio Holders**. Details of how the Executive operates and the current Executive Portfolios can be found on the Council's website.
- 4.14 The Executive has to make decisions that are in accordance with the Council's overall policies and budget. If it wants to make a decision that is outside (ie not in accordance with) the Budget or Policy Framework this must be referred to Council to decide.

- 4.15 Executive will usually make decisions in a meeting open to the public. Where Executive intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the agenda for the meeting becomes available.
- 4.16 When "**key decisions**" are to be discussed or made then special notice procedures must be followed – usually 28 days' public notice is given (although there are special rules where this is not possible). These procedures are set out in the Access to Information Procedure Rules in Part 3.
- 4.17 Some decisions, as a matter of law, are not decisions which the Executive may make. These decisions include Planning, Licensing and staffing matters. The Council has set up a number of committees to deal with these matters, with some matters reserved to a meeting of the full Council.
- 4.18 It is the duty of the Executive to work constructively and openly with backbench, opposition Councillors and officers to make sure that the overview and scrutiny process is working correctly.

Overview and Scrutiny Committees

- 4.19 **Overview and Scrutiny Committees** support the work of the Executive and Council as a whole. Their role is to hold the Executive to account and provide reviews into Council functions where appropriate. Individual Councillors may ask for items related to Council functions to be placed on the agenda of an Overview and Scrutiny Committee. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.
- 4.20 The Overview and Scrutiny Committees also monitor the decisions of the Executive. Councillors who are not on the Executive can 'call-in' a key decision that has been made by the Leader or Executive, but not yet implemented. This enables the relevant Overview and Scrutiny Committee to consider whether the decision is appropriate. The Overview and Scrutiny Committee may recommend that the Executive reconsider the decision.
- 4.21 The Overview and Scrutiny Committees may also be consulted by the Executive or the Council as a whole on forthcoming decisions and the development of policy.

5 OTHER ARRANGEMENTS

- 5.1 The Council has other committees which make decisions on public functions (eg Planning and Licensing). These are described in more detail in Part 2. In addition, the Council has the following arrangements which will enable it to work closely with Members of the Public and other partnership bodies.

Community Panels

- 5.2 The Council has appointed Eight Community Panels in order to give members of the public, service users and residents a greater say in Council affairs, to

improve service delivery in the context of **best value** and to ensure more efficient, transparent and accountable decision making.

- 5.3 The role of the Community Panels is to encourage community engagement and local decision making and they may report on matters of local concern to the Executive, Overview and Scrutiny Committee, or the Council. Each Community Panel will work with the community to develop a plan setting out the priorities for their area. The Community Panels may be given, or may request, some Executive and non-Executive responsibilities, may be given budgets and have maximum spending limits. The exercise of their responsibilities is subject to following the Council's decision making requirements and applicable Procedure Rules set out in this Constitution, including the Financial Procedure Rules and Contract Procedure Rules. The Community Panels comprise those Councillors who have been elected in each particular area, as detailed on the Council's website, and meetings are normally held in public.
- 5.4 The Council and the Executive will include details of any delegations to the Community Panels in Part 2 Section 5 of this Constitution, including the functions delegated (showing which are the responsibility of the Executive and which are not), budgets and any limitations on delegation.
- 5.5 The Council will consult with the chairs of relevant parish and town councils and other relevant persons/ organisations when considering delegation of functions to Community Panels.

The Health And Wellbeing Board

- 5.6 The Health and Wellbeing Board ("the Board") brings together key NHS, public health and social care leaders in the Council's area to work in partnership to assess the broad health and wellbeing needs of the local population and to lead the statutory joint needs assessment. The Board will develop a joint high-level health and wellbeing strategy and may also commission work on policy research, service improvement and local needs.

Joint Committees

- 5.7 Some functions will be delivered in conjunction with Westmorland and Furness Council, either by this Council providing a service which also affects residents of that Council's area, or by Westmorland and Furness Council providing a service to residents in Cumberland. Some of these arrangements are time limited and some are intended to be permanent. The Constitution describes the arrangements for joint decision making and management of these services.

6 THE ROLE OF THE CHAIR

- 6.1 The Chair is the “first citizen” of the Council’s area.
- 6.2 The Chair serves a one-year term of office and is appointed at Annual Council. Their role is non-political and includes the following responsibilities (which in their absence shall be carried out by the Deputy Chair):
 - 6.2.1 promoting public involvement in the Council’s activities;
 - 6.2.2 promoting the Council as a whole, acting as a focal point for the community, attending civic functions and fulfilling such civic duties as the Council and the Chair decide are appropriate;
 - 6.2.3 presiding over meetings of the Council so that Council business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, including deciding the order of business;
 - 6.2.4 ensuring that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive are able to hold the Executive and committee chairs to account;
 - 6.2.5 keeping order at Council meetings and ensuring that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
 - 6.2.6 exercising a second or “casting” vote in the event of a tied vote;
 - 6.2.7 subject to the advice and guidance of the Head of Paid Service, Chief Finance Officer or Monitoring Officer during Council meetings, interpreting the Constitution as and when necessary; and
 - 6.2.8 when in debate or question time, reading the “sense of the meeting” and when, in the Chair’s belief, debate or questions already put shall have represented the views of the Council, the Chair shall decide to move on to the next item of business under the Procedure Rules in Part 3.

7 RIGHTS OF MEMBERS OF THE PUBLIC

- 7.1 Members of the public, service users and residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council’s own processes.
- 7.2 Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the Constitution.
- 7.3 Members of the public have the right to:

- 7.3.1 vote at local elections if they are registered on the electoral roll;
- 7.3.2 stand for election as a Council if they live or work in the Council's area, in line with guidance from the Electoral Commission;
- 7.3.3 attend the Council's meetings except where confidential or exempt information is being discussed (see Access to Information Procedure Rules in Part 3);
- 7.3.4 attend the Council's meetings except where confidential or exempt information is being discussed (see Access to Information Procedure Rules in Part 3);
- 7.3.5 attend the Council's meetings except where confidential or exempt information is being discussed (see Access to Information Procedure Rules in Part 3);
- 7.3.6 contact local Councillors about any matters of concern;
- 7.3.7 contribute to reports and investigations by the Overview and Scrutiny Committee;
- 7.3.8 complain where there are problems with Council services;
- 7.3.9 complain to The Local Government and Social Care Ombudsman after having first used the Council's own complaints procedure and given the Council a chance to respond to the complaint. The Ombudsman will normally allow the Council 8 to 12 weeks for a response, but the Ombudsman may get involved earlier if there are extenuating circumstances;
- 7.3.10 complain to the Monitoring Officer if there is evidence that a Councillor has not followed the Council's Code of Conduct for Councillors;
- 7.3.11 inspect the Council's accounts and make views known to the Council's external Auditor;
- 7.3.12 be consulted as individuals on certain changes to service delivery, where invited, although the Council is not always obliged to consult on service changes. The Council may have a duty to consult under specific legislation; or to consult representatives of the public and service users in connection with the Council's overall approach to the way services are delivered;
- 7.3.13 find out from the notices of forthcoming key decisions what significant decisions will be taken by the Leader, Executive or officers and when;
- 7.3.14 see reports and background papers, and any records of decisions made by the Council and the Executive (except where those reports and papers contain confidential or exempt information). Hard copies of documentation can be obtained from the main council offices at Cumbria House, Botchergate, Carlisle; and

- 7.3.15 ask questions, present petitions and take part in meetings of the Council and its Committees in accordance with the Council's Rules set out in part 3, which may include:
- a. addressing meetings of Council to ask questions (where prior notice is given);
 - b. Addressing meetings of Executive to ask questions (where prior notice is given);
 - c. Speaking at Planning Committee about a planning application (in accordance with the Committee's rules on public speaking);
 - d. making representations to the Licensing and Regulatory Committees as applicants or objectors in respect of individual applications;
 - e. speaking at Committee meetings on certain items (in accordance with the Committee's rules on public speaking); and
 - f. reporting on the proceedings at all open meetings of the Council by filming, photographing, audio-recording, using social media such as tweeting and blogging, or by any other means, and providing written commentaries during a meeting and oral commentaries outside of a meeting. Recordings should not show or identify council officers or other members of the public as this may be a breach of their rights under data protection laws.

8 DUTY TO MONITOR AND REVIEW THE CONSTITUTION

- 8.1 Council is responsible for adopting and agreeing changes to the Constitution.
- 8.2 The Monitoring Officer will monitor and review the operation of the Constitution on a regular basis, in order to ensure that it is up-to-date, and is empowered to make changes to ensure that:
- 8.2.1 legislative references are updated;
 - 8.2.2 it reflects the Council's structures and decision-making requirements;
 - 8.2.3 consequential amendments are made as a result of Council decisions; and
 - 8.2.4 any other required changes are made as appropriate.
- 8.3 Substantive changes to the Constitution will only be approved by the Council.
- 8.4 In the event of a proposed change of governance arrangements from a Leader and Executive form of executive to alternative arrangements (or vice versa), the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

9 SUSPENSION OF THE CONSTITUTION

- 9.1 Any requirement of the Constitution may be waived or suspended by Council (or the Executive in relation to Executive functions) to the extent permitted within the procedure rules in Part 3 of this Constitution and the Law.

10 PUBLICATION

- 10.1 Copies of the Constitution are available to view on the Council's website (which is the definitive version) or from the Monitoring Officer whose email address is monitoring.officer@cumberland.gov.uk.
- 10.2 The Monitoring Officer will make available a printed copy of this Constitution for Councillors if requested, but every Councillor has access to this Constitution online, which ensures it is always the most up to date version.
- 10.3 The Monitoring Officer will ensure this Constitution is available for inspection on the Council's website and at the designated Council offices. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.