



<b>Title:</b>	<b>Constitution of the Council (Part 1: Summary and Explanation)</b>
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**Adopted by Full Council on 12<sup>th</sup> December 2022**



# CONSTITUTION OF THE COUNCIL

## PART 1 – SUMMARY AND EXPLANATION

### 1 THE COUNCIL'S CONSTITUTION

- 1.1 East Staffordshire Borough Council has agreed a constitution which 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.
- 1.2 The Constitution includes 15 articles which set out the basic rules governing the Council's business and also includes more detailed rules, procedures and codes of practice.

### 2 WHAT'S IN THE CONSTITUTION?

- 2.1 Article 1 of the Constitution commits the Council to operate fairly, within the law, in consultation with the community and for the good of the community. Articles 2 – 15 explain the rights of citizens and how the key parts of the Council operate. These are:
  - 2.1.1 Councillors (Article 2).
  - 2.1.2 Citizens and the Council (Article 3).
  - 2.1.3 The Full Council (Article 4).
  - 2.1.4 Chairing the Council – The Mayor (Article 5).
  - 2.1.5 The Executive – Cabinet (Article 6).
  - 2.1.6 Regulatory and Other Committees (Article 7).
  - 2.1.7 Scrutiny Arrangements (Article 8).
  - 2.1.8 Joint arrangements (Article 9).

- 2.1.9 Officers (Article 10).
- 2.1.10 Decision making (Article 11).
- 2.1.11 Finance, contracts and legal matters (Article 12).
- 2.1.12 Honorary titles of Freeman and Aldermen (Article 13).
- 2.1.13 Review and revision of the Constitution (Article 14).
- 2.1.14 Suspension, interpretation and publication of the Constitution (Article 15).

### 3 HOW THE COUNCIL OPERATES

- 3.1 The Council is composed of 39 councillors elected every 4 years. Councillors are democratically accountable to residents of their ward but the overriding duty of Councillors is to the whole community. However they have a special duty to their constituents, regardless of whether or not they voted for them.
- 3.2 Councillors are bound by a Code of Conduct to ensure high standards in the way they undertake their duties.
- 3.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public but on occasions may have to be held in private, depending on what is discussed and what is stipulated by law<sup>1</sup>. It is at meetings of the Council where Councillors decide the Council's overall policies and set the budget each year.
- 3.4 In terms of governance, the Council operates the Strong Leader Model.
- 3.5 The Council will appoint a Leader of the Council every four years after ordinary elections to the Council. The Leader of the Council will, from time to time, appoint no less than 2 and no more than 9 other members as Cabinet Members who, along with the Leader, comprise the Cabinet. These Cabinet Members will be involved in making decisions collectively as the Cabinet and individually in accordance with the allocation of functions made by the Leader of the Council

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1972/70/section/100A>

## 4 HOW DECISIONS ARE MADE

- 4.1 Most decisions are executive decisions taken by Cabinet, Cabinet Members or officers. Cabinet Support Members (if appointed) do not have any executive decision making powers.
- 4.2 There are certain things that, by law, cannot be executive functions and these are dealt with by Council, specific Committees (the Planning Committee, the Licensing Committee, etc.) or officers.
- 4.3 The Borough Council publishes a Forward Plan showing those important decisions that are likely to be taken in a four month period. The publishing of a Forward Plan is a voluntary process but is considered by the Borough Council to be good practice.
- 4.4 Decisions are made at a meeting of the Cabinet, but on occasions may have to be held in private, depending on what is discussed and what is stipulated by law. Generally however, meetings will be open for the public to attend except where personal or confidential matters are involved<sup>2</sup>.
- 4.5 Cabinet, Cabinet Members and Officers have to make decisions that are in line with the Council's budget and policy framework. If they wish to make a decision that is outside certain limits on the budget or outside the policy framework, then they must follow the procedures set out in this Constitution.
- 4.6 A Simple Guide to Decision-Making is set out in Part 4 of this Constitution.

## 5 SCRUTINY

- 5.1 The Borough Council has 3 Scrutiny Committees that monitor performance and scrutinise the Council's activities and those of its key partners:
- Scrutiny (Community Regeneration) Committee
  - Scrutiny (Environment and Health and Well Being) Committee
  - Scrutiny (Value for Money Council) Committee

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/1972/70/section/100A>

- 5.2 The Council also participates in Joint Scrutiny Committees to oversee the work of the Greater Birmingham and Solihull Local Enterprise Partnership and also the Stoke-on-Trent and Staffordshire Local Enterprise Partnership.

## 6 THE COUNCIL'S STAFF

- 6.1 The Borough Council employs staff (officers) to give advice, make decisions (under delegated powers), implement decisions of Cabinet, Cabinet Members, Council and committees and manage the day-to-day delivery of its services. Statutory officers have a specific duty to ensure that the Borough Council acts within the law and uses its resources wisely. Codes of practice govern the behaviour of officers and the relationships between officers and Councillors.

## 7 CITIZENS' RIGHTS

- 7.1 Citizens have a number of rights in their dealings with the Council. These are set out in detail in Article 3 (Part 2 of this Constitution). Some of these are legal rights, whilst others depend on the Council's own processes.
- 7.2 A Citizen for the purpose of this constitution is a person who lives, works or studies in the Borough.
- 7.3 Where Citizens use specific Council services, for example as a housing benefit claimant or as a council tenant, they have additional rights. These are not covered in this Constitution.
- 7.4 Citizens have the right to:
- 7.4.1 vote at local elections if they are registered as a borough elector
  - 7.4.2 contact their local Councillor about any matters of concern to them
  - 7.4.3 obtain a copy of the Constitution
  - 7.4.4 attend meetings of the Council except where, for example, personal or confidential matters are being discussed
  - 7.4.5 petition to request a referendum on a mayoral form of Cabinet

7.4.6 ask questions at Council and Committee meetings and, when invited, to assist investigations by the Overview and Scrutiny committees

7.4.7 find out from the Cabinet's Forward Plan what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when

7.4.8 attend meetings of the Cabinet except where, for example, personal or confidential matters are being discussed.

7.4.9 see most reports and background papers and any record of decisions made by Council, Cabinet and committees, except where any decision is exempt in accordance with the law.

7.4.10 complain to the Council using the Council's complaints procedures

7.4.11 complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly, but generally only after using the Council's own complaints process

7.4.12 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; and

7.4.13 inspect the Council's accounts and make their views known to the external auditor

7.5 The Council welcomes participation by its Citizens in its work. For further information on your rights as a Citizen, please contact the Council's Democratic Services Department: 01283 508306/ 01283 508608