



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

<b>Title of Report:</b>	Amendment of the Constitution and inclusion of public participation during Scrutiny Committees.	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team [21 <sup>st</sup> June 2023]	X
	Pre Cabinet [22 <sup>nd</sup> June 2023]	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group	N/A
	Full Council [3 <sup>rd</sup> July 2023]	
	Audit Committee [DATE] / Scrutiny Community Regeneration Committee [DATE] / Scrutiny Environment and Health and Well Being Committee [DATE] / Scrutiny Value for Money Council Services Committee [DATE]	N/A



<b>Is this an Executive Decision:</b>	NO	<b>Is this a Key Decision:</b>	NO
<b>Is this in the Forward Plan:</b>	[YES/NO]	<b>Is the Report Confidential:</b>  <b>If so, please state relevant paragraph from Schedule 12A LGA 1972:</b>	NO  N/A

**Essential Signatories:**

**ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE**

Monitoring Officer: **John Teasdale**

Date ..... Signature .....

Chief Finance Officer: **Lisa Turner**

Date ..... Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Full Council**

**Date: 3<sup>rd</sup> July 2023**

<b>REPORT TITLE:</b>	<b>Amendment of the Constitution and the inclusion of public participation during Scrutiny Committees.</b>	
<b>PORTFOLIO:</b>	<b>Legal and Assets – Leader of the Council</b>	
<b>HEAD OF SERVICE:</b>	<b>John Teasdale</b>	
<b>CONTACT OFFICER:</b>	<b>John Teasdale</b>	<b>Ext. No. x1267</b>
<b>WARD(S) AFFECTED:</b>	<b>N/A</b>	

**1. Purpose of the Report**

1.1. To seek the approval of amendments made to the Councils Constitution.

**2. Executive Summary**

2.1. The Council's Monitoring Officer is required to review the Council's Constitution each year to ensure that its aims and principles are given full effect in accordance with Part 2 paragraph 14 of the Constitution. The Monitoring Officer is also required to update the Constitution as required during each year, to reflect accurately the arrangements of the Council.

2.2. The Council's Constitution was last amended in December 2022 following a meeting of Full Council. Many of the changes made reflected changes in legislation and accepted practice, however a small number of the changes were points of contention between voting Councillors.

2.3. These points were:

- The reduction in member speaking time from 10 minutes to 5 minutes;
- The ability for motions at Full Council which fell within the remit of Cabinet, to stand referred to Cabinet;

- The use of the word 'vexatious' in the Council's Petition Scheme.

2.4 The Council has recently undergone a change in administration and the points identified in paragraph 2.3 are to be addressed via amendments to the Constitution. Alongside these points, it is also the intention of the Council's administration to introduce public participation during the Council's Scrutiny Committees.

2.5 The Constitutional amendments referred to in paragraphs 2.3 and 2.4 have been drafted and are appended to this report.

### **3. Governance Framework**

3.1 The Monitoring Officer has a duty to keep the Constitution under review and updated as required. He has delegated authority to amend the Constitution, however the following Parts of the Constitution (other than re-numbering where necessary) can only be approved by a decision Full Council:

- Part 1 – Summary and Explanation
- Part 2 – Articles
- Part 3 – Responsibility for Functions, Procedures and Delegation of Powers
- Part 3A – Council Meeting Procedure Rules
- Part 3B – The Full Council
- The Functions set out in Parts, 3D, 3E, 3F, 3G, 3H, 3Ia, 3Ib, 3Ic, 3Id, 3J and 3K (the Committees can change their own procedures and they can change their own delegation of powers to Sub-Committees &/or Officers).
- Part 3Z – Officers
- Part 3Zb – Statutory Officers
- Part 4D – The Contract Procedure Rules
- Part 4E – The Corporate Governance Statement
- Part 4F and Part 4G – Disciplinary Procedures for Chief Officers and Statutory Officers
- Part 4H – The Financial Regulations
- Part 4I – The Officer Employment Rules
- Part 5A – Code of Conduct for Councillors
- Part 5C – Protocol for Councillor/Officer Relations
- Part 5D – Councillors' Code regarding Gifts & Hospitality
- Part 5E – Councillors' Planning Code of Conduct
- Part 6 – Councillors Allowance Scheme

3.2 Some of the proposed changes to the Constitution fall into the above Parts and therefore require the approval of Full Council.

### **4. Contribution to Corporate Priorities**

4.1. This report links to the Corporate Priority of 'improving local democracy.'

### **5. Main Body of Report**

5.1. Following meetings with the Council's Leader, the suggested changes to the Constitution can now be summarised as follows:

- Part 1: the Constitution has been amended to reflect the Council's current number of Members;
  - Removal of reference to Greater Birmingham and Solihull Local Enterprise partnership (GBSLEP), also.
- Within Part 3A, Member speaking time has been increased to ten minutes, (and it remains that the Mayor has discretion to extend speaking time further);
- Also within Part 3A, the paragraph '*any motion of which notice comes solely within the powers, duties and responsibilities of Cabinet shall, once debated by Full Council, stand referred to Cabinet to determine*' has been removed, along with subsequent and associated paragraphs;
- Public participation has been introduced during the Council's Scrutiny Committees and a new Part 3le has been created as a protocol to reflect this;
- The removal of the word 'vexatious' from Part 4J, the Council's Petition Scheme;
- Throughout the attached Parts, amendments to reflect the Council's Scrutiny arrangements have been incorporated. For example, to reflect that there are now 4 Scrutiny Committees instead of 3, alongside the re-naming of those committees;
- General review of typo's, spacing, grammar and formatting for those Parts appended to this report.

## **6. Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: [Lisa Turner]*

6.1. There are no direct financial issues arising from the recommendations of this Report.

## **7. Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

7.2.1. Continuing to improve governance framework will reduce the risk of challenge.

7.2.2. The amendments will better reflect and refine the Council's processes and structure and also provides for public participation during Scrutiny Committees.

### 7.3. **Negative** (Threats):

7.3.1. Leaving the Constitution in its current format will not reflect current Scrutiny arrangements.

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

## 8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:  
John Teasdale*

8.1. The main legal issues arising from this Report are as follows:

8.2. The Council is required by statute (principally the Local Government Acts 1972 and 2000, and the Local Government and Housing Act 1989) to regulate its proceedings and to have an up to date Constitution which is fit for purpose.

8.3. A Constitution which does not accurately reflect and accommodate the processes and intentions of the Council could lead to a legal challenge.

8.4. An updated Constitution provides a clear governance framework that will further support effective, efficient and lawful decision making and processes.

## 9. **Equalities and Health**

9.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

## 10. **Data Protection Implications – Data Protection Impact Assessment (DPIA)**

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or

process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

**11. Human Rights**

11.1. There are no Human Rights issues arising from this Report.

**12. Sustainability (including climate change and change adaptation measures)**

12.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures)

12.2. N/A

**13. Recommendation(s)**

13.1. To adopt the amended Parts of the Constitution (Appendice A).

13.2. That the Monitoring Officer be authorised to make any necessary further changes to the draft document in relation to formatting, numbering or such other changes consequential to or incidental to the intentions of Full Council.

13.3. Subsequent to paragraph 13.2, that the revised Constitution becomes effective following any such changes being implemented by the Monitoring Officer.

**14. Background Papers**

14.1. N/A

**15. Appendices**

15.1. Appendice A - revised parts of the Constitution.