



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

<b>Title of Report:</b>	Updating the Council's Constitution (annual review 2023)	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team [15 <sup>th</sup> November 2023]	X
	Pre Cabinet [23 <sup>rd</sup> November 2023]	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group [30 <sup>th</sup> November 2023/6 <sup>th</sup> December 2023]	X
	Full Council [11 <sup>th</sup> December 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>	[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 .....

Interim Chief Finance Officer: **Stephen Fitzgerald**

Date 3/11/2023..... Signature

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Full Council**

**Date: 11<sup>th</sup> December 2023**

**REPORT TITLE:** General update and amendment of the Constitution.  
**PORTFOLIO:** Legal and Assets – Leader of the Council  
**HEAD OF SERVICE:** John Teasdale  
**CONTACT OFFICER:** John Teasdale Ext. No. x1267  
**WARD(S) AFFECTED:** N/A

**1. Purpose of the Report**

1.1. To seek the approval of amendments made to the Councils Constitution as part of the annual update.

**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 July 2023 following a meeting of Full Council.

2.3. The most recent phase of Constitutional amendments have been drafted and are appended to this report. Tracked changes have been used to identify any amendments.

**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:

- Parts: 2, 3, 3A, 3CA, 3D, 3EA, 3G, 5C – have undergone minor changes so that Heads of Service are now referred to as Chief Officers;
- Part 3A – if a proposed Amendment is lengthy, complex, or for example proposes several recommendations, there should be copies of that written amendment for circulating amongst Councillors;
- Part 3K – removal of Parish Council members from the quorum of Standards Committee. Parish Council participation is not a legal requirement but Parish Councillors will continue to participate;

- Part 3EB – replaced the email of officers with the generic email address for Democratic Services;
- Parts 3la, lb ,lc ,ld – expressly stating that members can respond in writing;
- Part 3LE – subject public participation during scrutiny committee to relevant Council policy, such as the Council’s VATB register;
- Part 3Z – refining of Monitoring Officer responsibilities, specifying also in particular that the Monitoring Officer can also negotiate settlements (previously the Constitution did not state this);
- Part 4A – refined reference to legislation;
- Part 4C – updating of the Council’s complaints process (renamed to ‘Compliments, Comments and Complaints Procedure’) so as to clarify the different stages and requirements during each step of the complaints process. The Council’s procedure regarding unreasonable behaviour towards staff has also been incorporated into this Part;
- Part 4K – replaced the email of officers with the generic email address for Democratic Services and added telephone number;
- Part 4L – replaced the email of officers with the generic email address for Democratic Services;
- Part 5E – further clarification re Councillor contact with agents, developers and applicants;
- General review of typo’s, spacing, grammar and formatting across all Parts connected with this report.

## **6. Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: Stephen Fitzgerald*

- 6.1. There are no direct financial issues arising from the recommendations of this Report.
- 6.2. However, the constitution is key to the governance of the authority including the proper conduct of financial affairs.

## **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 review and improve the Council’s governance framework will reduce the risk of challenge.
  - 7.2.2. The amendments will better reflect and refine the Council’s processes and look to enhance procedures.

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

7.3.1. Not reviewing the Constitution potentially leaves the Council's processes and procedures open to challenge.

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 (Appendix 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  
<http://www.eaststaffsbc.gov.uk/council-democracy/committees/council/2023-12-11> .