



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

<b>Title of Report:</b>	General update and amendment of the Constitution (annual review 2024)	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team [13 <sup>th</sup> November 2024]	X
	Pre Cabinet [21 <sup>st</sup> November 2024]	X
	Leader's Advisory Group [28 <sup>th</sup> November 2024] Leader of the Opposition's Advisory Group [4 <sup>th</sup> December]	
	Full Council [9 <sup>th</sup> December 2024]	
	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



<p><b>Is this an Executive Decision:</b></p>	<p>NO</p>	<p><b>Is this a Key Decision:</b></p>	<p>NO</p>
<p><b>Is this in the Forward Plan:</b></p>	<p>Yes</p>	<p><b>Does this report contain Confidential or Exempt Information:</b></p> <p><b>If the report Contains Confidential Information, please provide reason.</b></p> <p><b>If the report contains Exempt Information, please state relevant paragraph from Schedule 12A LGA 1972:</b></p>	<p>NO</p> <p>N/A</p> <p>N/A</p>

**Essential Signatories:**

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



Monitoring Officer: **John Teasdale**

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

Chief Finance Officer: **Lloyd Haynes**

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

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Full Council**

**Date: 9<sup>th</sup> December 2024**

**REPORT TITLE: General update and amendment of the Constitution**

**PORTFOLIO: Monitoring Officer**

**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 September 2024, following a meeting of Full Council. This amounted to a simple change to Part 3HA, Development Plan Committee; increasing the number of Councillors on the committee and also the quorum.

2.3. This most recent phase of Constitutional amendments are part of an annual and more extensive update. Amendments have been drafted and are appended to this report. Tracked changes within each Part have been used to identify any amendments.

2.4. The changes made to Parts 4E, 4H, 4I and 5B of the Constitution have been considered by senior officers in HR and Finance, given the nature of these Parts. Legal colleagues have subsequently inputted.

2.5. A further amendment to the Constitution will be before Full Council again in February 2025. This is to implement the changes required by the coming into force of the Procurement Act 2023 on 24<sup>th</sup> February 2025.

### **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. The recommended changes to the Constitution can now be summarised as follows:

- Part 2 (Articles) – signposting of the Council’s urgency provisions and further emphasis on the ‘Principles of Decision Making’ with regards to Call-In. Inclusion also of a summary of the different types of urgent decisions which can be taken;
- Part 3 – update to the Council’s urgency provisions so as to improve clarity and also consistency with other Parts of the Constitution. Moreover, deletion of the Call-In ‘criteria’ with amended reference to the ‘Principles of Decision Making’ only;
- Part 3Ca – the addition of ‘Complaints’ and ‘Civic Function Suite’ under the Leader’s responsibilities;
- Part 3H – referring to ‘Chief Officers’ instead ‘Heads of Service’;
- Part 4A – updating the Council’s urgency provisions so as to ensure clarity but also consistency with other Parts of the Constitution;
- Part 4C – updated to reflect LGO recommended processes but also to include equality considerations as part of the complaints process;
- Part 4D – update to the Council’s sealing provisions so as to ensure consistency with other Parts of the Constitution (Part 2);

*\*Note – Part 4D will come before Full Council again in February 2025 to approve further and more substantial changes required by the implementation of the Procurement Act 2023. Commencement date of 24<sup>th</sup> February 2025.*

- Part 4E – updated generally to reflect current workings of the Council and remove historic references; Moreover, removal of reference to Sustainable Community Strategy as part of the policy framework;
- Part 4H – updated generally to reflect current workings of the Council and remove historic references. Moreover, removal of reference to Sustainable Community Strategy as part of the policy framework;
- Part 4I – updated generally to reflect current workings of the Council and remove historic references;
- Part 4K – updated generally, but also to include signposting to the Call-In process;
- Part 5B – general update undertaken by HR but also by Climate Change colleagues to reflect the current Sustainable Staff Travel Plan;
- General review of typo’s, spacing, grammar and formatting across all Parts referred to in this report.

## **6. Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: Lloyd Haynes*

- 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. Environmental Impacts

Consider impacts related to the Climate Change & Nature Strategy aims:

- Reducing greenhouse gas emissions (climate change mitigation)
- Preparing for future climate change (adaptation)
- Protecting and enhancing nature
- Using resources wisely and minimising waste and pollution

12.1. Does the proposal have any positive or negative environmental impacts? **N/A.**

12.2. If so, are these impacts **significant**?

(If No, the report author can complete paragraph 12.3. If Yes, the report should be forwarded to the Council's Climate Change and Adaptation Officers for enhanced consideration)

(note – a **significant** impact will likely result from any project, policy, procurement exercise or service change that has a direct or indirect effect on energy or fuel use, water use, land use, other physical resource use, waste generation, pollution, regeneration or construction - If unsure contact the Council's Climate Change and Adaptation Officers)

12.3. Please detail the positive/negative environmental impacts and any mitigation:



12.3.1. Positive impacts (Benefits/Opportunities) **N/A**

12.3.2. Negative impacts (Threats/Mitigation) **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.