



PART 2

ARTICLES OF THE CONSTITUTION

1.0 ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the South Staffordshire Council.

The purpose of the Constitution is to:

- (i) enable the Council to provide clear leadership to the community in partnership with citizens, businesses, and other organisations;
- (ii) support the active involvement of citizens in the process of local authority decision-making;
- (iii) help councillors represent their constituents more effectively;
- (iv) enable decisions to be taken efficiently and effectively;
- (v) create an effective means of holding decision-makers to public account;
- (vi) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (viii) provide a means of improving the delivery of services to the community

1.3 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

2.0 ARTICLE 2 – COUNCILLORS

2.1 Composition and eligibility

Composition. The Council comprises 49 councillors. The District is divided into 25 wards. Each ward elects between 1 and 3 councillors as shown below:-

<u>Ward</u>	<u>No. of Councillors Elected</u>	<u>Ward</u>	<u>No. of Councillors Elected</u>
BILBROOK	2	KINVER	3
BREWOOD & COVEN	3	PATTINGHAM & PATSHULL	1
CHESLYN HAY NORTH & SAREDON	2	PENKRIDGE NORTH EAST & ACTON TRUSSELL	2
CHESLYN HAY SOUTH	2	PENKRIDGE SOUTH EAST	2
CODSALL NORTH	2	PENKRIDGE WEST	1
CODSALL SOUTH	2	PERTON DIPPONS	1
ESSINGTON	2	PERTON EAST	1
FEATHERSTONE & SHARESHILL	2	PERTON LAKESIDE	3
GREAT WYRLEY LANDYWOOD	2	TRYSULL & SEISDON	1
GREAT WYRLEY TOWN	3	WHEATON ASTON, BISHOPSWOOD & LAPLEY	2
HIMLEY & SWINDON	1	WOMBOURNE NORTH	3
HUNTINGTON & HATHERTON	2	WOMBOURNE SOUTH EAST	2
		WOMBOURNE SOUTH WEST	2

Eligibility. Only registered voters of the district; those living or working in the district, or those who have a material interest in land within the district (eg. as owner or tenant) will be eligible to hold the office of Councillor.

2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years, the next election being in 2011. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of all councillors

All councillors will:

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- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) participate in the governance and management of the Council;
- (iv) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (v) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (vi) balance different interests identified within the ward;
- (vii) represent their ward as a whole;
- (viii) be involved in decision-making;
- (ix) be available to represent the Council on other bodies; and
- (x) maintain the highest standards of conduct and ethics.

2.4 **Rights and duties**

- (i) Councillors will have the right to access documents, information, land, and buildings of the Council as necessary to enable them to carry out the duties and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council; nor will they divulge information given in confidence to anyone other than a councillor or employee entitled to know it;
- (iii) For these purposes, "confidential" and "exempt" information is defined in the Access to Information Rules in Part 4 of this Constitution.

2.5 **Conduct**

Councillors will at all times observe the Councillor's Code of Conduct and the Protocol on Councillor/Employee Relations set out in Part 5 of this Constitution.

2.6 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors' Remuneration Scheme set out in Part 6 of this Constitution.

3.0 ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' rights

Citizens have the following rights. (Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution):

- (a) **Voting and petitions:** Citizens on the electoral roll for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution;
- (b) **Information:** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (iii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Complaints:** Citizens have the right to complain to:
 - (i) the Council both generally and using its complaints scheme (<http://www.sstaffs.gov.uk>)
 - (ii) the ombudsman (normally after using the Council's own complaints scheme) (<http://www.lgo.org.uk/making-a-complaint/>)
 - (iii) South Staffordshire Standards Committee (<http://www.sstaffs.gov.uk>)

3.2 Citizens' responsibilities

Citizens must not be violent, abusive, or threatening to councillors or employees and must not wilfully harm things owned by the Council, councillors, or employees.

4.0 ARTICLE 4 – THE COUNCIL

4.1 Meanings

- (a) **Policy Framework** - The policy framework means the following plans and strategies, all of which are to be adopted by the Council:

Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (and any further or amendment regulations which may be made from time to time under Section 13 of the Local Government Act 2000) to be adopted by the Council

Sustainable Community Strategy (including the Crime and Disorder Reduction Strategy)

Development Plan documents that comprise the Council's Local Development Framework and the revocation or revision of such documents, (including any joint documents)

Food Law Enforcement Service Plan

Licensing Policy

Gambling Policy

Housing Investment Programme

Homelessness Strategy

Sustainable Development Strategy

Corporate Strategy

Any other plans and strategies which the Council may decided should be adopted by the Council meeting as a matter of local choice.

- (b) **Budget** - The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions

Only the Council will exercise the following functions:

- (a) adopting/amending the Constitution (including the Financial Procedure Rules and the Financial Regulations)
- (b) adopting the Council's Policy Framework and Budget ('Budget' encompasses the budgetary allocations to different services and projects, proposed taxation levels, reserves and balances, and any plan or strategy for the control of the authority's borrowings or capital expenditure)
- (c) approving/adopting the Council's Treasury Management Policies and Investment and Strategies

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- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of any function which is covered by the policy framework or the budget where the decision maker or decision making body is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
- (e) taking decisions which are not normally the responsibility of the Executive and which have not been delegated by the Council to Committees, sub-committees, and officers
- (f) making appointments to committees
- (g) making appointments to the Executive (including appointing the Leader of the Council).
- (h) appointing the Chief Executive (who shall be the Head of the Paid Service, Electoral Registration Officer, and Returning Officer).
- (i) appointing the Deputy Chief Executive
- (j) appointing the Chief Finance Officer for the purposes of Section 151 of the Local Government Act, 1972.
- (k) appointing the Monitoring Officer for the purposes of Section 5 the Local Government and Housing Act 1989
- (l) determining the scheme for and amounts of Councillor's allowances
- (m) approving/Adopting the Community Strategy (including the Crime and Disorder Reduction Strategy)
- (n) approving/Adopting Development Plan documents that comprise Council's Local Development Framework and the revocation or revision of any such document, (including any joint development documents)
- (o) approving/adopting all documents that comprise the Council's Ethical Governance Framework and the and the revocation or revision of any such documents (including any joint policy documents)
- (p) approving/adopting the Council's Food Law Enforcement Service Plan
- (q) approving/Adopting the Council's Licensing Policy
- (r) approving/Adopting the Council's Gambling Policy
- (s) the adoption of a "no casinos" resolution pursuant to Section 166 of the Gambling Act, 2005.
- (t) approving/Adopting the Council's Housing Investment Programme
- (u) approving/Adopting the Council's Homelessness Strategy
- (v) approving/Adopting the Council's Sustainable Development Strategy

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- (w) approving/Adopting the Council's Corporate Strategy
- (x) adopting the Code of Conduct for Councillors
- (y) the setting of the Council Tax and Other matters reserved to the Council pursuant to Section 67 of the Local Government Finance Act 1992
- (z) approving the change of name of the District
- (aa) approving the change of name of the Parish
- (bb) approving a petition for a charter to confer borough status
- (cc) appointing Review Boards (e.g. Council Tax/Discretionary Housing Payments)
- (dd) appointing to Outside Bodies
- (ee) approving the Council's Petition Scheme and considering in accordance with the scheme, any petitions signed by at least 2,000 qualifying persons

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.3 **Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

5.0 ARTICLE 5 – CHAIRING THE COUNCIL

5.1 Role and function of the Chairman

The Chairman and Vice-Chairman will be elected at the Annual Meeting of the Council. The Chairman of the Council and in his/her absence the Vice-Chairman will have the following roles and functions:

Ceremonial Role

The Chairman of the Council is the civic head of the Council and will represent the Council at such civic and ceremonial functions as the Council and he/she determines appropriate.

Other Roles

- (i) to uphold and promote the purposes of the Constitution;
- (ii) to preside over meetings of the Council ensuring compliance with the Rules of Procedure in the Constitution so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members determine the strategic objectives, policies and programmes to be followed; and
- (iv) to promote public involvement in the Council's activities and to maintain the dignity of the office and at no time to bring discredit to it

6.0 ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEE

- 6.1 The Council will appoint an Overview and Scrutiny Committee which will comprise all members of the Council except those who are members of the Executive. The Committee may co-opt non-councillor non-voting members.

Any member of the Council may refer a local government matter* affecting their ward to the Overview and Scrutiny Committee or at his/her discretion relevant Scrutiny Panel ("Councillor Calls for Action").

(*Defined as a matter which relates to the work of the local authority other than a local crime and disorder matter dealt with by the Police and Justice Act, 2006 or a matter which the Secretary of State has excluded by Order).

No member of the Council may scrutinise a decision made by that member or to which the member was a party to the making of.

The Committee will set up Scrutiny Panels or sub-committees where this is considered to be a more effective mechanism, and will annually, at its first meeting in each Municipal Year, appoint the following Scrutiny Panels.

- (a) Three Scrutiny Panels each comprising the Chairman of the Overview and Scrutiny Committee (who may not be the Chairman of a Scrutiny Panel other than the Health Scrutiny Panel (see below)) plus 14 other Members of that Committee responsible for portfolios as follows:-
- The Partnership and Strategic Services Scrutiny Panel
 - The Public Health Protection and Environmental Services Scrutiny Panel
 - The Direct and Support Services Scrutiny Panel

The Scrutiny Panels shall comply with the political balance rules in Section 15 of the Local Government and Housing Act, 1989; save that each member of the Overview and Scrutiny Committee shall be appointed to at least one Scrutiny Panel.

The Scrutiny Panels shall have the following functions relevant to their specific portfolio areas:

- To consider all key decisions proposed by the Executive or an individual member of the Executive
- To consider any proposed decision referred to scrutiny under the "call-in" provisions of the Scrutiny Procedure Rules in Article 5 of this constitution
- To review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- To consider any Councillor Calls for Action
- To make reports and/or recommendations to the Overview and Scrutiny Committee and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions
- To consider any matter affecting the area or its inhabitants

- To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - To consider and implement mechanisms to encourage and enhance community participation in the development of policy options
 - To liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- (b) A Health Scrutiny Panel comprising sixteen members these being the Chairman of the Overview and Scrutiny Committee, the County Council lead Member for Health Scrutiny, seven members from the Scrutiny Panel dealing with Partnership Services and seven members from the Scrutiny panel dealing with Environmental Services. The Health Scrutiny panel will discharge the Council's responsibilities under the Health and Social Care Act, 2000 in accordance with the agreement between Staffordshire County Council and South Staffordshire Council (including scrutiny of proposals for and by health service organisations and the promotion of health improvements for residents of the district).

The Council will appoint a Crime and Disorder Committee which comprises the members of the Partnership and Strategic Services Scrutiny Panel and which may, in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations, 2009, appoint such co-opted members the Committee considers appropriate to the exercise of its functions.

6.2 **General Role**

Detailed scrutiny will, primarily, be undertaken by the Scrutiny Panels, however the Overview and Scrutiny Committee may:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Executive;
- (e) to assist the Council and the Executive in the development of its budget and policy framework.
- (f) Consider any Councillor calls for action which do not fall within the remit of a Scrutiny Panel.
- (g) Consider, in accordance with the Council's Petition Scheme, any petition signed by at least 1,000 qualifying persons requesting a Senior Council Officer to give evidence at a public meeting.

6.3 Specific functions

- (a) **Policy Development and Review.** The Overview and Scrutiny Committee and any sub-committee or panel may:
- (i) assist the Council and the Chief Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community, and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and
 - (iv) question members of the Executive and employees about their views on issues and proposals affecting the area;
- (b) **Scrutiny.** The Overview and Scrutiny Committee and any sub-committee or panel may:
- (i) review and scrutinise decisions made by and performance of any member exercising Executive functions and employees both individually and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets, and/or particular service areas;
 - (iii) question any member exercising Executive functions and employees about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives, or projects;
 - (iv) make recommendations to the Executive and/or the Council arising from the outcome of the scrutiny process; and
 - (v) question and gather evidence from any person (with their consent).
 - (vi) question and gather evidence from any associated authorities for the purposes of the Local Strategic Partnership
 - (vii) consider and make recommendations on a Councillor Call for Action.
- (c) **Scrutiny of Regulatory Decisions.** The Overview and Scrutiny Committee may review policies and procedures in connection with any regulatory functions whether exercised by Regulatory and Licensing Committees, and Sub-Committees thereof, or officers, but such a review shall not include scrutiny of any such decision relating to an individual application for determination, consent, licence, permission etc.
- (d) **Finance.** The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to it.
- (e) **Employees.** The Overview and Scrutiny Committee shall exercise overall responsibility for the work programme of any employees employed to

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support its work and they will be independent of the Executive in that area of work.

6.4 **Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee and any sub-committee or Scrutiny Panel will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

7.0 ARTICLE 7 - THE EXECUTIVE

7.1 Role

The Executive will exercise functions which are not the responsibility of the Council or its Committees by law or under this constitution and will do so within the policy framework and budget set by the Full Council in accordance with these arrangements. The Executive has a key role in proposing the budget and policy framework to the Council. The Executive and its members will lead the community planning process and the drive for best value; lead the preparation of the Council's policies and budget; take in year decisions on resources and priorities, and be the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs. The Executive will also respond to any recommendations and reports from the Overview and Scrutiny Committee, and the Standards Committee.

The portfolios allocated to individual Executive members are agreed by the Leader of the Council and are set out in Part 3 of this Constitution.

In accordance with the provisions of the Local Government and Public Involvement in Health Act, 2007, the Council will on or before December, 2010, review its Executive arrangements and adopt one of the models of executive governance specified in the Act.

7.2 Form and composition

The Executive will consist of the Leader of the Council between 2 and 9 members of the Council appointed to the Executive by the Leader of the Council and known as Executive Members; one of whom the Leader of the Council will appoint Deputy Leader of the Council.

7.3 Leader of the Council

The Leader of the Council will be a councillor elected to that position at the first Annual Meeting of Council after a whole Council election until the day of the next post election Annual Meeting of Council. The Leader of the Council will hold office until or unless:

- (i) he/she resigns from the office; or
- (ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (iii) he/she is no longer a councillor; or
- (iv) he/she is removed from office by resolution of the Council.

7.4 Other Executive Members

The Executive Members will be councillors appointed to the Executive by the Leader of the Council and shall hold office until:

- (i) they are removed from office either collectively or individually by the Leader of the Council
- (ii) they resign from office; or

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- (iii) The Leader of the Council ceases to hold office (except that the Deputy Leader of the Council shall act as Leader of the Council until Council, appoints another Leader).
 - (iv) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - (v) they are no longer councillors.
- NB. One of the Executive Members will be appointed by the Leader of the Council as Deputy Leader of the Council.

7.5 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

7.6 Responsibility for functions

- (a) The Monitoring Officer will maintain a list in Part 3 of this Constitution setting out which individual members of the Executive, employees, or joint arrangements are responsible for the exercise of particular Executive functions; and
- (b) Where an Executive Member is unable to act, either through absence or otherwise, the Leader of the Council shall act in his/her place, if the Leader of the Council is unable to act, either through absence or otherwise, the Deputy Leader of the Council shall act in his/her place.

8.0 ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.1 Regulatory and other committees

The Council will appoint the following committees to discharge certain functions of the Council as set out in Part 3 of the Constitution – Responsibility for Council Functions:-

- Regulatory Committee
- Licensing Committee
- Audit Committee
- Crime and Disorder Committee
- Investigatory and Disciplinary Committee
- Disciplinary and Grievance Appeals Committee
- South Staffordshire Joint Parking Committee (in accordance with the agreement with Staffordshire County Council)

9.0 ARTICLE 9 – PANELS AND FORUMS

9.1 The Council will appoint the following panels to advise on the discharge of certain functions of the Council as set out in Part 3 of the Constitution (Responsibility for Council Functions)

- Housing Review Panel
- Scrutiny Panels
- Complaint Panels

9.2 A Member of the Executive may also be a Member of the Housing Review Panel and a Complaint Panel.

10. ARTICLE 10 – THE STANDARDS COMMITTEE

10.1 Standards Committee

10.1.1 The Council will establish a Standards Committee comprising:

- six councillors other than the Chairman and the Leader of the Council (of whom not more than one shall be a member of the Executive)
- six persons who are not Councillors or officers of the Council or any other body having a Standards Committee (independent members);
- six members of Parish Councils wholly or mainly in the Council's area and who are not a member of South Staffordshire Council (Parish Members), (N.B. a Parish Council may have only one Parish Member of the Standards Committee)

10.1.2 Independent Members and Parish Members will be entitled to vote at meetings.

10.1.3 The Standards Committee does not have to comply with political balance rules under Section 15 of the Local Government and Housing Act 1989. Notwithstanding this provision, the six councillors from South Staffordshire Council will be appointed to reflect the political balance of the Council.

10.2 **Parish Members**

At least one parish member must be present when matters relating to Parish Councils or their members are being considered.

10.3 **Chairing the Committee**

Only an independent member shall be eligible for election as Chairman of the Standards Committee or of a sub-committee of the Standards Committee.

10.4 **Quorum**

10.4.1 The quorum for a meeting of the Standards Committee shall be 5, which must include at least one independent member and 1 member of South Staffordshire Council (and is subject to the requirement at 10.2 when matters pertaining to Parish Councils or Parish Councillors are being considered).

10.4.2 The quorum for a meeting of a sub-committee of the Standards Committee shall be 3, which must include at least one independent member and 1 member of South Staffordshire Council (and is subject to the requirement at 10.2 when matters pertaining to Parish Councils or Parish Councillors are being considered).

10.5 **Roles and Function**

The Standards Committee will have the following roles and functions:

- To promote high standards of conduct by Councillors (including Parish Councillors).
- To advise the Council and the Parish Councils on the adoption or revision of their Code of Conduct.
- To advise the Council and the Parish Councils on the operation of the Code of Conduct.

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- To monitor that such Codes of Conduct have been adopted by the Council and the Parish Councils and that Members of the Councils concerned have signed to accept the provisions of the relevant Code.
- To ensure that arrangements are made for advice to be available to assist members to comply with the adopted Codes of Conduct.
- To ensure that arrangements are put in place for keeping and updating the Registers of Members' Interests for the Council and for the Parish Councils.
- Advising on training for Councillors, Parish Councillors and co-opted members on matters relating to the Code of Conduct.
- Functions relating to standards of conduct of councillors under any relevant statutory provision.
- To consider any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by the Standards for England to the Monitoring Officer or which falls within the remit of the Standards Committee under the Standards Committee (England) Regulations 2008, and making determinations thereon, or on any other matter which falls within the jurisdiction of the Monitoring Officer.
- The determination of applications from District and Parish Councillors for dispensations in accordance with statutory provision.
- The granting of exemptions to the restrictions attached to politically restricted posts.
- To monitor and to advise the Council on its Confidential Reporting Code "whistleblowing" policy.
- To monitor and to advise the Council on its Regulation of Investigatory Powers Act (RIPA) Policy.
- To monitor and to advise the Council on the Council's formal complaints procedure.
- To be the Standards Committee for the Parish Councils in the District of South Staffordshire.

11.0 ARTICLE 11 - JOINT ARRANGEMENTS

11.1 Arrangements to promote well being

The Council, acting through the Executive and subject to budget and policy, in order to promote the economic, social, or environmental well-being of its area, may:

- (i) enter into arrangements or agreements with any person or body;
- (ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (iii) exercise on behalf of that person or body any functions of that person or body.

11.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint executive members to a joint committee and those appointments need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:
 - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
 - the joint committee is between a county council and a single district council and relates to functions of the executive of the county council. In such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

11.5 Contracting out

The Council may contract out to another body or organisation functions which may be exercised by an employee and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

12.0 ARTICLE 12 – EMPLOYEES

12.1 General

The Council may engage such employees as it considers necessary to carry out its functions.

12.2 Chief Officers

The Council will engage persons for the following posts who will be designated Chief Officers

- Chief Executive
- Deputy Chief Executive

12.3 Head of Paid Service, Monitoring Officer, and Chief Financial Officer

The Council designates the following posts as shown:

- | | | |
|--|---|-----------------------|
| Chief Executive | - | Head of Paid Service |
| Director of Finance | - | Chief Finance Officer |
| Head of Governance and Scrutiny Services | - | Monitoring Officer |

Such posts will have functions described in Articles 12.5 – 12.7 below:

12.4 Structure

The overall structure of the Council showing the management and deployment of employees is set out in Part 7 of this Constitution.

12.5 Functions of the Head of Paid Service

a) Discharge of Functions by the Council

The Chief Executive is responsible to the Council for the manner in which the discharge of the Council functions is co-ordinated, the appointment of employees required for the discharge of functions, and the organisation and training of them.

b) Restrictions on Functions

The Chief Executive may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

12.6 Functions of the Chief Finance Officer

a) Ensuring Financial Prudence of Decision Making

After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council (and to the Executive in relation to an executive function) and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is otherwise unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

b) Administration of Financial Affairs

The Chief Finance Officer will have responsibility for:

- the proper administration of financial affairs of the Council under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1998, and
- conducting a continuous internal audit of the financial affairs of the Council as required by the Accounts and Audit Regulations and for maintaining an adequate and effective system of internal audit as required by those regulations.

c) Providing Advice

The Chief Finance Officer will, where appropriate in consultation with the Monitoring Officer, provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget framework issues to all councillors and will support and advise all councillors and employees in their respective roles.

d) Give Financial Information

The Chief Finance Officer will provide financial information to the media, the public, and the community in accordance with legislation.

e) Restrictions on Post

The Chief Finance Officer cannot be the Monitoring Officer, but may hold the post of Head of Paid Service.

12.7 Functions of the Monitoring Officer

a) Maintaining the Constitution

The Monitoring Officer will maintain an up to date version of the Constitution and ensure that it is widely available for consultation by members, employees, and the public.

b) Ensuring Lawfulness and Fairness of Decision Making

After consulting the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council (in relation to a non-executive function) and to the Executive in relation to an Executive function if he/she considers that any proposal, decision, or omission will give rise to unlawfulness or any decision or omission has given rise to maladministration. Such a report will have the effect of preventing the proposal or decision from being implemented until the report has been considered.

c) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

d) Receiving Reports

The Monitoring Officer will receive and act on reports made by the Council's Standards Committee and the Standards for England (including ethical standards officers).

e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the ethical standards officers or which otherwise falls within the jurisdiction of the Standards Committee and the Monitoring Officer and make reports or recommendations in respect of the same to the Standards Committee.

f) Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions, and relevant reports and background papers are made publicly available in accordance with legislation.

g) Advising whether Executive Decisions are within the Budget and

Policy Framework

The Monitoring Officer will advise whether the decisions of the Executive are in accordance with the Council's budget and policy framework.

h) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

i) Restrictions on Post

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.8 Duty To Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and the Chief Finance Officer with such office accommodation and other resources as are in their opinion are sufficient to allow their duties to be performed.

12.9 General References to Employees in this Constitution

a) In addition to the definitions set out above, the following definitions relating to certain employees are used throughout this constitution, and the constitution should be construed with reference thereto:-

- The Strategic Management Team
 - Chief Executive, Deputy Chief Executive and Directors

- Heads of Service
 - The Head of Governance and Scrutiny Services, and Human Resources Manager
- Service Managers
 - The managers of services within the portfolios operate under a variety of titles, but are referred to throughout this constitution uniformly as Service Managers

12.10 Conduct

Employees will comply with the requirements of the Council's Disciplinary Rules and Procedures relating to conduct, Employees Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this constitution.

12.11 Employment

The recruitment selection and dismissal of officers will comply with the employment rules as set out in Part 4 of this constitution.

13.0 ARTICLE 13 - DECISION MAKING

13.1 The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.2 Principles of decision-making

All decisions of the Council will be made in accordance with the following principles:

- (i) proportionality (i.e. the action must be proportionate to the desired outcome);
- (ii) due consultation and the taking of professional advice;
- (iii) due regard to the Members' Code of Conduct;
- (iv) a presumption in favour of openness;
- (v) clarity of aims and desired outcomes.
- (vi) explaining what options were considered
- (vii) giving the reasons for the decision
- (viii) consideration to ways in which human rights can be enhanced and protected by the Council's actions.

13.3 Types of decision –

- (a) **Decisions reserved to Council.** Decisions relating to the functions listed in Article 4 will be made by the Council and not delegated.
- (b) **Key decisions** (which should be included in the Forward Plan)
 - (i) A key decision is defined as a decision likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates or to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area. Additionally the Council had decided that any decision involving expenditure or savings over £300,000 excluding any decision relating to investment of Council monies as part of Treasury Management Procedures will be a key decision;
 - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in set out in Part 4 of this Constitution.

13.4 **Decision making by the Council**

Subject to Article 13.8, the Council will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.5 **Decision making by the Executive**

Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.6 **Decision making by the Overview and Scrutiny Committees**

The Overview and Scrutiny Committee will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.7 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rule set out in Part 4 of this Constitution as apply to them.

13.8 **Decision making by Council bodies acting as tribunals**

The Council, a councillor, or an employee acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

14.0 ARTICLE 14 – FINANCE, CONTRACTS, AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Procedure Rules set out in Part 4 of this Constitution.

14.2 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

14.3 Legal proceedings

The Director of Legal and Public Health Protection Services is, within budgetary provision and the policy framework, authorised to institute, defend, or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Legal and Public Health Protection Services considers that such action is necessary to protect the Council's interests.

14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive, Director of Legal and Public Health Protection Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. (Note: Council has given this authority to the Director of Revenue and Customer Services in relation to debt recovery relating to matters which fall within the Direct Services Portfolio).

Any contract with a value exceeding £50,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by the Chief Executive or appropriate member of the Executive or made under the common seal of the Council attested by a duly authorised person.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Monitoring Officer or Director of Legal and Public Health Protection Services or some other person authorised by the Chief Executive.

15.0 ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the constitution

The Monitoring Officer will monitor the operation and effectiveness of the Constitution and review it at least annually to ensure that the aims and principles of the Constitution are given full effect and that the content is up to date.

In undertaking this task the Monitoring Officer may:

- (i) observe meetings of different parts of the member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and
- (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

(a) Approval

Subject to (c) below changes to the constitution will only be approved by the Council and changes will only be approved after consideration of the proposals by the Chief Executive and the Monitoring Officer (and the Chief Finance Officer if the change impacts on his/her responsibilities).

(b) Change in the form of Executive

The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change the form of its Executive Governance arrangements.

(c) Interpretation and Consequential Changes

In the event of any issue arising as to the interpretation of the Constitution the matter will be referred to the Chief Executive whose decision in that regard shall be final. The Chief Executive, in consultation with the Monitoring Officer, shall also be authorised to make minor changes to the Constitution designed to give effect to the intention of the Council of ensuring a full, accountable, and transparent system of decision-making which enables scrutiny to take place of the Executive (save in cases of urgency) before the decision is actioned. The Chief Executive in consultation with the Monitoring Officer and the Chief Finance Officer shall also produce guidance and/or protocols to assist in the interpretation of the Constitution within these principles.

16.0 ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

- (a) **Limit to suspension** - The Articles of this Constitution may not be suspended. The Rules of Procedure relating to meetings of the Council, the Executive, Committees and Sub-committees may be suspended by the Council, the Executive, Committees and any Sub-committees to the extent permitted within the Council Procedure Rules and the Executive Procedure Rules included in Part 4 and the law.
- (b) **Procedure to suspend** - A motion to suspend any such rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

16.2 Interpretation

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.3 Publication

- (a) The Monitoring Officer will give a printed copy of this Constitution to each councillor upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies of this Constitution are available for inspection at the Council's offices, libraries, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee to be determined by him/her.
- (c) The Monitoring Officer will ensure that the Constitution is made available on the Council's website (www.sstaffs.gov.uk).

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 The Executive and the Executive Procedure Rules;
3. Article 11 (Joint arrangements) – councils should make clear the extent to which they apply, i.e. where area committees have functions delegated to them by the Executive;
4. Article 13 (Decision making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions).