



Title:	Constitution of the Council (Part 4K: Simple guide to decision-making)
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HOW THE COUNCIL MAKES DECISIONS – A SIMPLE GUIDE

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1 INTRODUCTION

- 1.1 This guide is to help Officers and others to understand how the Council makes decisions. It does not have any legal effect and does not change any of the other parts of the Constitution – you should make sure that you are familiar with them. Where there is any conflict between this guide and another document in the Constitution, that other document takes precedence.
- 1.2 The Council is a large and complex organisation that delivers lots of different services. To deliver these services decisions have to be made. These decisions determine the Council's priorities, how it allocates resources and how it delivers its services.
- 1.3 As a Council officer you need to know how the Council works to make sure you are able to properly contribute to the decision making process. This will help ensure decisions are made at the right time and Councillors are supported in their role as community leaders.
- 1.4 This guide explains how the Council works by setting out:
 - 1.4.1 Who makes decisions;
 - 1.4.2 The rules for making decisions;
 - 1.4.3 The role and work of the Democratic Services Team.
- 1.5 The guide aims to simplify the decision making process, and explain the role that officers can play within that process. It will also discuss the rules which govern the decision making process and what these enable officers to do.
- 1.6 Because the Council is such a large and diverse organisation it makes many different types of decisions. Some decisions could affect large numbers of the Borough's residents, while others might only have a very small effect. The level of impact that a decision might have on the Borough's residents will affect how the decision is made within the Council. To make sure the Council makes its decisions in the right way there are rules setting who can make which decisions and how these decisions can be made. These rules are set out in a document called the Constitution. The Council is required by law to have a constitution.
- 1.7 The Constitution is a large document which has 7 parts. Most of the rules governing the decision making process can be found in Parts 3 and 4. Part 3 outlines who can make decisions within the Council and shows the rules to be followed when making these decisions. Part 4 contains some further procedures and policies.

- 1.8 If you need any advice about how the Council works you should contact Democratic Services (01283) 508306.

2 WHO MAKES DECISIONS AND HOW?

- 2.1 Within the Council there are different people who can make decisions. There are Councillors who are democratically elected community leaders representing the Borough's residents, and there are officers who are paid employees of the Council.
- 2.2 Councillors (sometimes called "Members"), as community leaders, are at the heart of the Council's decision making process. The Council has 39 Councillors who represent 21 wards across East Staffordshire. In each ward we have up to 3 Councillors. Elections take place every 4 years.
- 2.3 Councillors can make decisions in different ways. They can either make decisions as a full Council (where all 39 Councillors can vote on issues) or as groups of Councillors who make decisions on particular parts of Council business. This might include regulatory committees, such as the Planning Committee and the General Licensing Committee. Details of the different decision making groups, and the decisions they can make are given below.
- 2.4 Not all decisions are taken by Councillors meeting together. Some decisions can, if necessary, be made by individual Councillors who are Cabinet Members. Some decisions can be made by officers who have authority delegated to them.
- 2.5 As part of the decision making process Councillors and Officers interact on a regular basis. This relationship is supported by a Councillor/Officer protocol which sets out the standards expected of Councillors and Officers. This protocol can be viewed elsewhere in the Constitution.
- 2.6 The Constitution sets out the rules about decision making, particularly what type of people need to be involved and how decisions are made.
- 2.7 In very simple terms decisions are made in the following ways:

FULL COUNCIL

- 2.8 Meetings of the Full Council are attended by all 39 Councillors. It meets on average 4 times a year in the Council Chamber at the Town Hall, Burton upon Trent.
- 2.9 Only Full council can make decisions about certain parts of the Council's business. These are set out in Part 3 of the Constitution.

- 2.10 A key role of Full Council is setting out which Councillors attend which decision making bodies. It does this when it meets at the start of the municipal year in May and on other occasions when required. At these meetings it determines the Leader/Leader of the Opposition and the chairs and members of various committees.
- 2.11 Meeting papers of the Full Council are available to view online at www.eaststaffsbc.gov.uk.

CABINET

- 2.12 The Council Cabinet comprises of five Councillors called ‘Cabinet Members’. It is chaired by the Leader of the Council and each Cabinet Member has a ‘portfolio’ setting out their areas of responsibility. The areas of responsibility are detailed in Part 3Ca of this Constitution.
- 2.13 Each of the five portfolios defines the Cabinet Members’ responsibilities and more detail of each portfolio can be found at Part 3Ca of the Constitution.
- 2.14 The Cabinet meets each month (usually at the Town Hall, Burton upon Trent) and its meetings are usually open to the public. Cabinet mainly deals with ‘key decisions’: These are decisions:
- 2.14.1 that significantly impact on two or more wards;
 - 2.14.2 where any revenue, expenditure, savings or increase in income is estimated to be over £100,000; or
 - 2.14.3 that involve any capital project with an estimated value of over £150,000.
- 2.15 Cabinet also considers some business that has to be approved by Full Council. In cases like this, Cabinet is not making the decision but is considering the issue and making a recommendation to the Council.
- 2.16 The Council publishes a list of decisions it is likely to make, this is called the ‘Forward Plan’. This can be viewed online at www.eaststaffsbc.gov.uk.
- 2.17 If you are working on something which is going to need an executive decision (not including purely administrative decisions), then it needs to go in the Forward Plan. This is to provide an up-to-date record of the forthcoming executive decisions so that members of the public can see what decisions are going to be taken. It’s a good idea when working on an issue that will require such an executive decision to think about the Forward Plan for four months before the decision is taken.

- 2.18 If you need advice about including something on the Forward Plan, Democratic Services can help you. There is a template for adding new items. For more information please call 01283 508306.
- 2.19 Decisions of the Cabinet are published in the minutes within 10 working days of the meeting. These are available) via the Council’s website.
- 2.20 If you want to know more about the Council’s Cabinet or the Full Council contact Democratic Services by telephoning 01283 508306.
- 2.21 The Cabinet Members can, if necessary, make decisions individually about matters which are within their area of responsibility. The Cabinet Members portfolios outline what these matters are.
- 2.22 To assist Cabinet Members in their roles informal meetings take place with the Chief Executive and Heads of Service. These meetings present a good opportunity for the senior officers of the Council to support Cabinet Members in their roles as community leaders. This is not just in terms of making Cabinet Members aware of key issues, but also by seeking endorsement of decisions to be made by the Cabinet. These meetings are also a good way of getting support for initiatives and projects and raising the profile of services.

SCRUTINY

- 2.23 The Scrutiny Committees monitor performance and scrutinise the Council’s activities and those of the Council’s key partners.
- 2.24 Details of the Scrutiny Committees and their terms of reference are available within Part 3 of the Council’s Constitution.
- 2.25 Recommendations from the Scrutiny Committees are usually reported to Cabinet. Minor implications would be sent to the relevant Cabinet Member for consideration.
- 2.26 For further information on other scrutiny matters, telephone the Monitoring Officer on 01283 508267

HOLDING THE CABINET TO ACCOUNT

- 2.27 Although the Cabinet makes decisions independently of the rest of the Council, this does not mean that the Cabinet cannot be held to account.
- 2.28 Councillors have the power to ‘call-in’ decisions the Cabinet has made, if they believe that the decision has not been made in accordance with the Council’s

decision making procedure. A Cabinet decision can only be 'called-in' when 10 Councillors request it in writing stating their reasons. This can only be done once the decision is published, and must be done within three working days of publication or the decision can be acted upon.

- 2.29 Once a call-in is triggered the matter will be considered at a Scrutiny Committee as soon as practicable and in any event within 15 working days.
- 2.30 The Scrutiny Committee will consider the decision and has three options:
 - 2.30.1 To do nothing and allow the decision to stand;
 - 2.30.2 To refer the decision back to the decision taker with a request to reconsider, including the reasons in writing for doing so;
 - 2.30.3 To refer the matter directly to the Full Council for debate (this will only usually be in exceptional circumstances such as when the decision is contrary to the Policy Framework or the Councils budget).
- 2.31 More details of the 'call-in' procedure are set out in the Constitution.

REGULATORY COMMITTEES

- 2.32 These Committees deal with certain types of the Council's business. They have a specific purpose and in some cases legal powers to make decisions about particular issues. They are given authority to do this by the Full Council. They are made up of Councillors with officers attending to give advice. The business they deal with is covered by specific pieces of legislation. The Council has the following Regulatory Committees:-

AUDIT COMMITTEE

- 2.33 Dealing with internal audit, risk management, control, anti-fraud/corruption, corporate governance and accounts. The Council also has a separate committee simply to sign off the annual Statement of Accounts.

GENERAL LICENSING COMMITTEE

- 2.34 Dealing with policy relating to the licensing of alcohol, gambling and taxis and related issues.

GENERAL LICENSING SUB-COMMITTEE

- 2.35 Dealing with applications for and review of licences relating to alcohol, gambling and taxis and related issues.

PLANNING COMMITTEE

- 2.36 Dealing with decisions relating to town and county planning and related issues under planning legislation.
- 2.37 Further information on the regulatory committees can be found in the Constitution.

OTHER COMMITTEES

- 2.38 There are a number of other committees that make decisions about particular issues. Some involve Councillors and others involve independent people due to the nature of the business they deal with. For example, the Council has a Standards Committee, which deals with the Councillor Code of Conduct. Some of these committees also deal with appeals against decisions that have been made by the Council on certain issues – such as the Appeals Panel, which deals with appeals against disciplinary action and dismissal.
- 2.39 The examples provided are not exhaustive and there other committees which are not listed in this guide. However the main decision making bodies that you need to be aware of are listed. The Constitution sets out all the committees that have decision making powers. These are set out in Part 3 of the Constitution ‘Responsibility for Functions, Procedures and Delegation of Powers’.

COUNCIL OFFICERS

- 2.40 Council officers need to make decisions as part of their work. Some officers such as the Chief Executive and Heads of Service have delegated powers and duties that are necessary for them to discharge the Council’s functions. These powers and duties are set out in Part 3 of the Constitution ‘Responsibility for Functions, Procedures and Delegation of Powers’. If necessary the officer involved will consult other officers who have technical and professional expertise on a particular area before making a decision.
- 2.41 The Constitution sets out the officers that can make certain decisions. It also sets out which officers have the power to administer and enforce legislation. Where the Chief Executive or Chief Officer has delegated powers relating to specific pieces of legislation they may in turn authorise other officers to administer and enforce this.
- 2.42 As budget holders, Council officers need to make decisions about spending and saving. The Constitution (at Part 4 Procedures) sets out the ‘Financial Regulations’. These rules set out the financial duties and powers of the Chief executive and the

Heads of Service, who can authorise other officers to carry out some of these functions.

- 2.43 Also within Part 4 of the Constitution are the ‘Contracts Procedures Rules’ setting out the rules about tenders and contracts. These rules set out specific procedures that must be followed relation to obtaining, receiving, evaluating, selecting and awarding contracts. A full copy of all the procedure rules can be found in Part 4 of the Constitution.

3 THE RULES FOR MAKING DECISIONS

- ~~3.1~~ The Constitution sets out rules governing how the Council operates and how it makes decisions. It does this by setting out which meetings and which Councillors can make decisions. It also sets out which officers can make certain types of decision through the delegated authority given to them.
- 3.2 There are regular occasions when an issue will be reported to a number of different meetings as part of the decision making process. This particularly happens when a strategy or policy has to be approved by Full Council.
- 3.3 The presentation of a report through a number of meetings is often part of the decision making process and helps to ensure the decision is made properly and the right people have contributed to the process.
- 3.4 If you need advice on any part of the rules for making decisions then contact Democratic Services on 01283 508306

4 THE ROLE AND WORK OF THE DEMOCRATIC SERVICES TEAM

- 4.1 The Team services a wide range of meetings as set out in this guide; it also supports a number of other meetings which aren’t mentioned and fulfils other functions.
- 4.2 Democratic Services deal with all aspects of the decision making process, particularly setting up meetings, organising and despatching agendas, recording decisions and producing minutes.
- 4.3 When the Council holds public meetings (for example Full Council, Cabinet or Scrutiny Committee), the agenda and papers must be available at least 5 clear days in advance of the meeting. This is a legal requirement.
- 4.4 Officers who have reports which need to go out in advance of the meeting should try and get the reports signed off by the Head of Service, the Monitoring Officer

and the Chief Finance Officer as quickly as possible, and with enough time to meet the legal requirements – so you should aim to get reports to Democratic Services at least 10 days before the meeting takes place. Further information is available in the Protocol for completion of Report Template which is available to officers in the Global area.

- 4.5 If you have reports for meetings that are not public you should still aim to have reports ready and with Democratic Services as early as possible. This facilitates efficient decision making as it gives everyone enough time to read and understand the reports.
- 4.6 If you are dealing with a piece of work that needs to be reported to a meeting you need to ask yourself some simple questions to make sure things are done properly. These are:

WHICH MEETING(S) DOES THE REPORT HAVE TO GO TO?

- 4.7 The Constitution lays out which matters can be dealt with by which person or committee. Your colleagues may also be able to advise you on where reports need to go. If you are unsure, then help and advice is always available from Democratic Services.
- 4.8 If something needs to go to Cabinet it should go in the Forward Plan – if so you need to contact Democratic Services immediately to make sure it is included in the plan as early as possible.
- 4.9 When thinking about this you need to work back from the date when a final decision needs to be made to factor in enough time for the issue to be reported to the right meetings. Democratic Services can help you with this.

IS IT SUBJECT TO ACCESS TO INFORMATION RULES?

- 4.10 In simple terms if the public can attend the meeting then the law requires the agenda and reports to be sent out 5 clear days in advance. This doesn't include the day the agenda is despatched and the day of the meeting. If the issue needs reporting to a number of meetings then you need to factor this into the reporting timescale. If you need advice on this then contact Democratic Services as soon as possible.

WHEN IS THE NEXT MEETING?

- 4.11 Details of the times and dates of meetings scheduled are available from the website.

- 4.12 It is a good idea to speak to Democratic Services at this stage to make them aware of something that is going to need to go on an agenda for a forthcoming meeting. This will also ensure you get the papers ready so the agenda and report can be sent out early and comply with the rules relating to access to information.
- 4.13 If you have any questions on this Guide, or any part of the decision making process then please contact Democratic Services on 01283 508306
- 4.14 If you want to find out dates and times of meetings and look at agendas and reports then look on the Council's website.
- 4.15 If you have any comments on this Guide and think you can help us make it better then please call Democratic Services on 01283 508306
- 4.16 We value your feedback.