

Summary and Explanation

The Council's Constitution

The Council's Constitution sets out how Sandwell Metropolitan Borough Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which specify the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations through the implementation of the Sandwell Plan. Articles 2 to 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- The Mayor of the Council (Article 5)
- Scrutiny Boards (Article 6).
- The Executive (Article 7)
- Regulatory and Other Committees (Article 8).
- The Standards Committee (Article 9).

- Area Committees and Forums (Article 10).
- Joint Arrangements and Partnering (Article 11).
- Officers (Article 12).
- Decision-making (Article 13).
- Finance, Contracts and Legal Matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, Interpretation and Publication of the Constitution (Article 16).

How the Council Operates

The Council is composed of 72 councillors with one-third elected in each of the first three years of a four-year period (there are no local elections in the fourth year). Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to be guided by a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council is the body that has over-arching responsibility for holding the Executive to account [see below].

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How Decisions Are Made

The principal aims of the Council's executive arrangements are to make decision-making more efficient, transparent and accountable so that it can be more open and responsive to the needs and aspirations of the communities it serves. Central to this is the access which the public has to decision-making and the decision-makers. The key characteristics of effective access are:

- It is publicly known who is responsible for decisions.

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader, who is appointed by the Council for a term of up to four years, and the Cabinet. The Leader is responsible for determining the size of the Cabinet and appointing councillors to serve on the Cabinet, including a Deputy Leader whose term of office runs concurrently with the Leader.

The Executive may only make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

- It is publicly known what decisions they are planning to take.
- People know how they can make an input to those decisions and what point in the process they can best influence them.

If decisions are to be discussed with council officers at a meeting of the Executive or by an individual Cabinet Member, provision will generally be made to enable the public to attend except where exempt or confidential matters are being discussed.

- People have access to information about decisions.

- People know what decisions have been taken and the reasons for them.
- Significant decisions are well publicised and consulted on so they should not be a surprise to those whom they affect.

When major [key] decisions are to be made, 28 days notice is given before the decision is made. The notice may be examined on the Council's website (www.sandwell.gov.uk) and at the Sandwell Council House, Oldbury.

The public can ask to see a copy of the agenda and of the public reports which accompany it, for any meeting of the Council, its committees and of the Cabinet. They may similarly be informed of items which are to be the subject of determination by a Cabinet Member, and may examine any public report on which the decision will be taken. These agendas, reports and details are also available via the Committee Management System (Mod.gov) on the Council's website. Except for a few instances, the Council will also produce a public version of reports that are to be considered in private session.

The Council aims to ensure that all its decisions whether they are the responsibility of the Executive or not, are made in accordance with the following principles:

- The action taken is proportionate to the desired outcome;
- Decisions are taken on the basis of due consultation and professional advice from officers;

Decisions taken by elected members will be based on information provided in a written report prepared by the responsible officer(s).

- Respect for human rights;
- A presumption in favour of openness;

Reports will only be considered in private where they contain confidential or exempt information as defined under specific legislative provisions (see Part 4 Access to Information Rules – Rules 10 and 11);

- Clarity of aims and desired outcomes;

The written reports submitted to elected members will contain a clear recommendation for every decision they are asked to take.

Scrutiny

There are six Scrutiny Boards which support the work of the executive and the Council as a whole. Their meetings are normally held in public, and they assist citizens to have a greater say in council matters by inquiring into matters of local concern. As a consequence, they may produce reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Scrutiny Boards also monitor the decisions of the Executive. They can “call-in” a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy. They can also scrutinise decisions after they have been made.

Since 2001, the Council’s scrutiny function has had the power to review and scrutinise matters relating to the health service within the authority’s area. In addition, legislation enables the Scrutiny Boards to focus on other non-Council agencies whose activities impact upon the lives and communities of citizens, such as the Police, in relation to the discharge of their crime and disorder function, and also partner organisations.

Town Lead Members

There are six Town Lead Members, one for each major town, to ensure effective working of the Neighbourhood Forums, to report to the Council on activities in the town and the local community and to provide political and community leadership, representing the Council's interests in the town at a borough level.

Town Service Improvement Boards

The Council has six Town Service Improvement Boards, each comprising the ward members for that area. The purpose of the Boards is to allow members as community leaders to engage with and respond to local community needs; to assist the Council in achieving continuous improvement and excellent service delivery; and providing a medium for the Council and its partners to keep local members up to date with service developments and a means of consultation if required.

The Council's Staff

The Council has people working for it (called "officers") to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example, as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this constitution.

Citizens have the right:

- ☞ to vote at local elections if they are registered;
- ☞ to contact their local councillor about any matter of concern to them;
- ☞ to request their ward councillor to pursue the councillor call for action process in respect of a problem occurring in the ward.
- ☞ to obtain a copy of the Constitution;
- ☞ to attend meetings of the Council and its committees, except where exempt or confidential matters are being discussed;
- ☞ to petition to request a referendum on a mayoral form of executive;
- ☞ to submit a petition to the Council on any issue relating to a function of the Council or to an improvement in the economic, social or environmental well-being of the Council's area to which any of its partner authorities could contribute;
- ☞ to ask questions of the Council where this facility is included on the agenda for any of the Council's meetings and contribute to investigations by scrutiny boards, committees and panels when invited to do so.
- ☞ to view the statutory notice of the intention of the Council's executive (the Cabinet) to:-
 - (a) consider a matter in private session and, in accordance with the process set out in the Access to Information Procedure Rules, make representations as to why the matter should be considered in public;
 - (b) make a key decision.

- ☞ to attend meetings of the Executive where key decisions are being discussed or decided (except where exempt or confidential items are to be discussed);
- ☞ to see reports and background papers, and any record of decisions made by the Council and Executive (excluding information defined as exempt or confidential items);
- ☞ to complain to the Council, to express dissatisfaction about the standard of service, actions or lack of action by the Council which affects an individual or a group of individuals. The Council will put the complaint through the established Comments and Complaints Procedure;
- ☞ to complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, the Ombudsman will normally only do this after the Council's own complaints process has been exhausted.
- ☞ to complain to the Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- ☞ to inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact any of the following officer in Democratic Services:

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