

Article 3 – Citizens of the Council

Article 3 - Citizens and the Council

Aim:

The Council's Constitution seeks to engage the public wherever possible. This article sets out what citizens can expect from the Council and what rights they have. However, with rights come responsibilities, and the Constitution shows how the Council expects to be treated by its citizens in return.

3.01 Citizens' Rights

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

- (a) **Voting** - Citizens included on the electoral register for the area have the right to vote in Local, and Parliamentary elections and any other elections or Referenda which may from time to time be called for.

- (b) **Information** - Citizens have the right to:
 - (i)(a) attend meetings of the Council and its committees, and the Cabinet. Citizens may not attend for that part of a meeting where the public are formally excluded because exempt or confidential information is likely to be disclosed;

 - (i)(b) record that part of the proceedings of the Council, Cabinet and committees of the Council in accordance with the protocol for recording meetings detailed in section 3.03 below.

 - (ii) 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;
 - (iii) see reports and background papers, (except where confidential or exempt information may be disclosed) and any records of decisions made by the Council, its committees, the Executive and officers acting under delegated powers;
 - (iv) inspect the Council's accounts and make their views known to the external auditor;
 - (v) request a permanent copy of the personal information held about them under the provisions of the UK GDPR and Data Protection Act 2018, subject to any of the exemptions to disclose contained in that Act applying;
 - (vi) request information held by the Council relating to Council business under the provisions of the Freedom of Information Act 2000 and Environmental Information Regulations 2004, subject to any of the exemptions to disclosure contained within the respective legislation applying.
- (c) **Participation** - Citizens have the right 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.
- (d) **Councillor Call for Action** – Citizens have the right to request their ward member to pursue the councillor call for action process in respect of a problem occurring in the electoral ward.

This process, introduced by the Local Government and Public Involvement in Health Act, 2007 allows a councillor to ask for a matter to be considered by the appropriate scrutiny body when all other methods to resolve the issue have failed. The process covers Council services and services provided by partner organisations but is subject to some statutory exclusions.

A ward councillor has the right to refuse to champion a resident's issue but must give reasons for doing so.

The councillor call for action process also covers crime and disorder matters in accordance with the relevant provisions of the Police and Justice Act, 2006. If the ward councillor declines to champion a crime and disorder matter through the councillor call for action process, the citizen may refer the issue direct to the Cabinet Member for Communities who shall consider the matter and respond to the citizen, indicating what action they intend to take, or shall refer it to the Safer Neighbourhoods and Active Communities Scrutiny Board [the designated Crime and Disorder Committee] to be considered under the councillor call for action process.

More information about the councillor call for action process is set out under Part 4 – Scrutiny Procedure Rules.

- (e) **Complaints** - Citizens have the right to complain to:
- (i) the Council itself under its complaints scheme;
 - (ii) the local government Ombudsman after completing the Council's own complaints scheme;
 - (iii) the Council's Ethical Standards and Member Development Committee [through the Council's Monitoring Officer] about the conduct of a local elected councillor. The Members' Code of Conduct is set out in Part 5 of the Council's Constitution;

- (v) the office of the Information Commissioner where the citizen feels their rights under the UK GDPR or Data Protection Act have been breached or where the citizen considers the Council has failed to deal with a request under the Freedom of Information Act properly and the Council's own review process has been concluded.
- (f) **Petitions** – Citizens have the right to:
- (i) ask a member of the Council to present a petition to the Council on their behalf if it relates to a strategic policy issues or issues which are of Borough-wide significance;
- (ii) present petitions relating to issues of local concern to:
- A ward councillor
 - The appropriate Town Lead Member
 - The Head of Paid Service [the Chief Executive] or the offices of the relevant service area
 - The local Neighbourhood Forum
- (iii) Such petitions will be dealt with in accordance with the Council's petitions scheme which is appended to this Article, and includes the right to request a scrutiny body to review the adequacy of the steps taken by the Council in response to a petition.
- (g) **Local Governance** – Citizens on the electoral register for the area have the right to sign a petition to request a referendum for an elected mayor or a directly elected executive, within the provisions of the Local Government Act 2000 (as amended by the Local Government and Public Involvement Act 2007).

3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers, whether in person or through the mail, social media or other means of communication.

Citizens must not wilfully or without due regard for the consequences, remove, damage, destroy or harm or cause to be damaged, destroyed or harmed, things owned by or in the possession of the Council, councillors or officers and must respect any confidentiality that is afforded to them in the provision of information.

3.03 Recording the Proceedings at Meetings

(i) Recording by the public and press

Members of the public and press are now allowed by law, to film, audio record, take photographs, blog or tweet the public session proceedings of meetings of the Council, its committees and the Cabinet.

The person chairing the meeting will ask if anyone is intending to film record or take photographs. This is to allow any member of the public present to say whether they consent to being filmed, or to sit where they cannot be filmed, or to allow them to leave the meeting if they prefer.

A person intending to film or record may only film or record the councillors and officers who are taking part in the proceedings of the meeting, and must not, in law, film any member of the public unless the person has given their specific consent.

Citizens filming the meeting must do so without interfering with or causing disruption to the meeting and must cease recording if permission is not granted or withdrawn. The decision of the person chairing the meeting is final and cannot be challenged at the meeting.

Citizens who film or record the proceedings must not edit or otherwise manipulate any recording with the intention of portraying the events at a meeting of the Council, its committee or the executive in any manner that is not a true reflection of the proceedings.

The Council reserves the right to take appropriate action against any person so doing.

(ii) Rights of Persons attending the meeting

Citizens and members of the public generally have a right not to be filmed. If a person does not wish to be filmed they should bring this to the attention of an officer when first attending the meeting or to the attention of the person chairing the meeting at the commencement of the meeting.

Under no circumstances should any person film a child or vulnerable adult without the consent of the adult, a parent, guardian or other person in whose care the child or vulnerable adult is, during the filming.

If the person chairing the meeting considers that these requirements are not being met, the Chair will instruct that all filming or recording being carried out by the citizen, must cease.

(ii) By the Council

The Council may record the proceedings of its meetings for its own purposes and for webcasting. The person presiding will announce at the start of the meeting that filming is taking place in order to allow any member of the public present the opportunity to sit where they cannot be filmed, or to allow them to leave the meeting if they prefer.

To this end, the public gallery within the Council Chamber at the Sandwell Council House is not filmed.

The recordings made by the Council will remain the property of the Council. The Council reserves the right to broadcast images or recordings of any person attending a meeting where they have not exercised their right to be excluded from such.