

Appendix 1

Birmingham City Council Constitution – Change Log – May 2024

Part A – Summary and Explanation

Section	Change	Reason
Page 4 - How the Council Operates - para 1	<p>The Council is composed comprised of 101 <u>Councillors</u>, one of whom is elected as Leader. Elections for Councillors are held every four years.</p> <p>The Leader is elected by the Councillors, normally for a four-year term of office. 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.</p>	Clarification as previously the only reference to the election of Councillors was for the Leader.
Page 4 - How the Council Operates – new paras 2 and 3	<p>All Councillors meet together as the Council (sometimes called Full Council). The Council has responsibility for all Non-Executive functions including approving the policy framework and budget. The Council, as a whole, retains responsibility for regulatory functions and has a role in holding the Executive to account.</p> <p>Local Authorities decision making arrangements are structured in such a way, as to distinguish between Executive and Non-Executive functions. Executive functions are all of the council’s functions that are not full council functions or non-executive functions, which includes regulatory matters such as the consideration of planning applications. Executive functions are carried out by the Cabinet or Executive. These functions can also be undertaken by officers and individual members where specified in the constitution. Additionally, Executive functions can be carried out in partnership with other organisations, again, this will be specified in the constitution.</p> <p>The constitution provides a description of responsibilities and these can be found under the relevant committee terms of reference, local choice functions and the scheme of delegation. (check B2)</p>	Clarification to the Executive and Non-Executive function descriptions. See also the change to B2 in Section B below *

Section	Change	Reason
Page 4 - How the Council Operates – new final para	The Council holds and updates contact details for all the Council's elected representatives (Councillors). Contact details for all of Birmingham City Council's Councillors are available on the Council's website.	Clarification as the constitution was previously silent on this matter.
Page 10 – Review, Revision and Suspension of the Constitution – para 4	All changes made by officers the Monitoring Officer under delegated authority will be recorded as delegated decisions and reported to Council.	Clarification and ensures all changes made under the appropriate delegated authority are reported to Council for information.
Page 10 – Suspension of the Constitution – para 3	The ruling of the Lord Mayor as to the construction interpretation 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 Part A.	Clarification.

Part B – Roles, Functions and Rules of Procedure

Section	Change	Reason
B1 – para 1.7 Officers	See Annex 1	This updates the senior officer structure to reflect current working arrangements within the authority.
B2 – para 2.1, 1 (ii), 2.1, 2 and 2.3 – change to headings	Council (Non-Executive) Functions	Clarification. Same amendment for all headings and reference (See above *)

Section	Change	Reason
B3 – new para 3.1 F xvi	Where an urgent and or late report is required to be considered, following notification of the relevant meeting having already been given, the report will only be accepted for consideration with the consent of the relevant committee Chair. In all cases, the reasons for urgency and lateness will be specified in the report.	Clarifies the position for dealing with urgent business for all committees. The constitution is currently unclear.
B4 – Para 4.4 K iv (voting)	The Lord Mayor, as Chair of Council, or any Member presiding over the meeting of Council in the Lord Mayor's absence shall, in the case of an equal division of votes, have a second or casting vote. The ability of a Chair of a committee to exercise a casting vote where there is an equal division of votes, applies to all of Birmingham City Council's formal committee meetings, with the exception of any committee chaired by a non-elected member.	Reflects the fact that the casting vote applies to all committees but not for committees chaired by a non-elected member The constitution is silent on this matter.
B4 – paragraph R i	Council rules of procedure (Part B, Section 4.4 of this Constitution) may be suspended by resolution of the Council, with the exception of the provisions set out in Part B, Section 4.4, paragraphs B vii, D, K, M and N. provided that a motion to extend the time of the meeting may only be moved by the Leader or Deputy Leader (or their nominee) of one of the Party Groups and seconded by the Leader or Deputy Leader (or their nominee) of another Party Group.	It is appropriate to prevent procedures from being suspended. It is suggested that paragraphs B vii, D, K, M and N are not suspended. <i>[B vii relates to guillotine restrictions, D is record of attendance and quorum, K is voting, M is conduct at meetings and N is disturbance by members of the public.]</i>
B5 – paragraph 5.1 and 5.3	See Annex 2	This revises the roles and procedures for the Council Business Management Committee (CBMC) and reflects the fact that employment matters will now be the responsibility for a new Employment Committee, as opposed to CBMC.
B5 – para 5.1 viii revised bullet point two	viii. Financial & Other Matters <ul style="list-style-type: none"> To discharge the Council's functions, relating to local government pensions, under the Superannuation Acts Public 	Updates on the legislative framework and reflects current arrangements, namely that BCC is a member of the West Midlands Pension Fund.

Section	Change	Reason
	<p>Service Pensions Act 2013, Local Government Pension Scheme Regulations 2013 and other relevant statutory requirements, regulations or other directions. (NB. The Council is currently part of the West Midlands Pension Fund, the administering authority is Wolverhampton City Council under the Local Government Pension Scheme Regulations 2013 and the scheme manager under the Public Service Pensions Act 2013. The Council appoints a representative to the Local Pensions Board, convened by Wolverhampton City Council, which meets on a quarterly basis).</p>	
<p>B6 para 6.5 ii a, b, d, e</p>	<ul style="list-style-type: none"> a Promote the reduction in hHealth inequalities across the City through the commissioning decisions of member organisations; b Report on progress with against reducing health inequalities to the Cabinet and the various Clinical Commissioning Group Board Integrated Care Boards; d Deliver and implement the Joint Local Health and Wellbeing Strategy for Birmingham; e Participate in the annual assessment process to support Clinical Commissioning Group authorisation; the Integrated Care Board; 	<p>Reflects the governance change from Clinical Commissioning Groups to Integrated Care Boards.</p>
<p>B6 para 6.5 iii bullet points 2, 3, 4 and 6</p>	<ul style="list-style-type: none"> o The Director for Adult Social Care Directorate (Director for Adult Services); o The Director for Children and Families Education & Skills (Director for Children's Services); o Nominated rRepresentatives of each the Integrated Care Board; Clinical Commissioning Group in Birmingham o Nominated Rrepresentative of Healthwatch Birmingham 	<p>Corrects job titles and makes minor grammatical changes.</p>

Section	Change	Reason
B6 – para 6.7 i	i. In an emergency an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Council Political Groups and subject to the consent of the Chair of the relevant Overview and Scrutiny Committee, or in the absence of the relevant Chair the Lord Mayor, for key decisions. See Part E: Scheme of Delegations for further details and the call-in procedure rules in paragraph B 11.9. An emergency decision is defined as one which has to be taken immediately. An emergency decision may still be a key decision pursuant to B3.1 vi) above.	Provides clarity to the procedures for call in.
B6 – para 6.9 ii	ii. The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a “Request for call-in” (please refer to the call-in procedure rules in paragraph B 11.9) is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet).	Provides clarity by making reference to the procedures for call in.
B7 – para 6.9 iv delete	<p style="text-align: center;">Officer Delegated Decisions</p> <p>iv. All decisions with a value of £50,000 or more made by Officers under delegated powers should be recorded in writing and a single copy for each Directorate sent to the Chief Executive and the Leader/Deputy Leader on the 30th September and 31st March of each year.</p>	Reflects current arrangements. The scheme of delegation is the subject of a more detailed review being undertaken by the Monitoring Officer.
B7 – 6.10 i	i. If the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in his/her absence) and subject to the consent of the Chair of the relevant Overview and Scrutiny Committee for key decisions, or in the absence of the relevant Chair, the Lord Mayor; may	Aligns with legal requirements and current arrangements. See also Part E, para 4.3.

Section	Change	Reason
	<p>designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period. The Leaders of the two main Opposition Groups will be notified.</p>	
<p>B9 – para 9.2 Joint committees new iii, and iv</p>	<p>iii. More detailed information can be found on the West Midlands Combined Authority (WMCA) website.</p> <p>iii. The WMCA Board is the legal and accountable body for funding devolved to the WMCA. It is responsible for a range of functions including transport, housing, skills, economic development, and regeneration functions including post 18 education and training across the West Midlands region. The WMCA Board exercises all its powers and duties in accordance with the law and the Constitution and agrees policies and delegated responsibilities to conduct its business.</p> <p>iv. Members of the WMCA Board are appointed by the Constituent and Non-Constituent Authorities designated by the Orders establishing the WMCA. Members must be elected Members of their appointing Authority and must be replaced if they are no longer elected Members. Members of other Committees of WMCA are nominated by their Authority and appointed to Committees by the WMCA Board.</p>	<p>Provides additional clarification on the purpose and remit of the WMCA.</p>
<p>B9 – para 9.2 Joint committees new para after iv</p>	<p>West Midlands Police and Crime Panel</p> <p>i. The Police Reform and Social Responsibility Act 2011 introduced significant changes in police governance and accountability, in particular replacing the Police Authorities with directly elected Police and Crime Commissioners (Commissioners) and Police and Crime panels in each force area.</p>	<p>Makes reference to the West Midlands Police and Crime Panel and provides details of the purpose and remit of the panel.</p>

Section	Change	Reason
	<p data-bbox="472 236 1346 432">ii. The Act also requires the local authorities in each police force area to establish a police and crime panel (panel), as a non-executive joint scrutiny body, primarily to scrutinise the commissioner. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business.</p> <p data-bbox="472 472 1346 568">iii. The West Midlands Police and Crime Panel, is made up of 12 elected (councillor) members from the seven West Midlands councils and two independent (non-political) members.</p> <p data-bbox="546 608 815 632">Terms of Reference:</p> <ul style="list-style-type: none"> <li data-bbox="595 676 1368 735">a. To review and make a report or recommendation on the draft police and crime plan. <li data-bbox="595 743 1368 871">b. To review and make recommendations on the level of Council Tax the Commissioner intends to collect to support policing. The Panel has the power to veto the proposal and demand the level is made higher or lower. <li data-bbox="595 879 1368 975">c. To review, put questions to the Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report. <li data-bbox="595 983 1368 1142">d. To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments (Chief Executive, Chief Financial Officer and Deputy Police and Crime Commissioner) made by the Commissioner. <li data-bbox="595 1150 1234 1214">e. To review and make a report on the proposed appointment of the Chief Constable. <li data-bbox="595 1222 1357 1286">f. To appoint an Acting Police and Crime Commissioner if necessary. <li data-bbox="595 1294 1357 1382">g. To handle complaints against the Commissioner (and Deputy Commissioner if appointed), working to resolve non-criminal complaints, conducting in-depth scrutiny 	

Section	Change	Reason
	<p>inquiries into police and community safety topics to make recommendations and suggestions for the Commissioner to consider.</p>	
<p>B11 – para 11.4 Membership</p>	<p>ii. Membership of each of the O&S Committees will be eight; with the exception of the Corporate and Finance Overview and Scrutiny Committee Co-ordinating Overview and Scrutiny Committee, which will consist of 42 11 members: the chair of the committee and the six seven other Overview and Scrutiny Committee chairs along with four places for opposition group members to ensure proportionality. Education, Children and Young People O&S Committee will have an additional four co-opted places, as set out below.</p> <p>iii. Quorum for the Corporate and Finance Co-ordinating O&S Committee and Education, Children and Young People O&S Committee shall be four; and three for the other O&S Committees.</p>	<p>Reflects the changes to the Council’s scrutiny arrangements.</p>
<p>B11 – para 11.5 i Terms of Reference</p>	<p>i. There shall be seven eight Overview and Scrutiny Committees as set out in the terms of reference below. See Annex 3</p>	<p>Reflects the changes to the Council’s scrutiny arrangements.</p>

Section	Change	Reason
B11 – para 11.9 ii	The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a “Request for call-in” is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet). The “Request for Call-in ” should state the reason for call-in and is subject to the approval of the Monitoring Officer in consultation with the Chair of Corporate and Finance O&S Committee, in accordance with the call-in criteria.	The constitution is currently silent on the application of the call-in criteria. This brings the process into line with best practice and reflects, in part, current arrangements.
B11 – para 11.9 iii	Once a “Request for Call In” has been received, the Chair of Co-ordinating Corporate and Finance O&S Committee will agree which Overview and Scrutiny Committee should hear the call-in. That Committee must meet to consider the request. The meeting should take place not later than 15 clear working days after the original publication of the decision.	Reflects the changes to the Overview and Scrutiny Committees.
B11 – para 11.9 NEW vi	Where a decision is urgent and an exception to the call-in procedures is required, please refer to the arrangements outlined in paragraphs 6.7 6.9 and 6.10.	Provides reference to the relevant provisions in the constitution.
B14 – para 14.6	<ol style="list-style-type: none"> 1. Members of the Audit Committee, and its Independent Chair, are appointed by Full Council. There are eight elected members of the council appointed to serve on the committee, and the quorum is three elected members. 2. The Chair of Audit Committee, who shall be an Independent Person appointed specifically for this role, should not be appointed to serve as a director on any of the City Council’s wholly owned companies. 3. An Independent Technical Advisor (ITA) should be appointed to support the Committee. The ITA would be appointed via a skills-based route and having identified where any skills gaps in Audit 	Amends the constitution to reflect the fact Chair of Audit Committee will be an Independent person.

Section	Change	Reason
	<p>Committee were identified.</p> <p>4. An Independent Person to act as Chair to the Audit Committee should be appointed on an annual basis and approved by Council.</p> <p>5. The Independent Person appointed to act as the Chair of the committee is not be a voting member thus the Chair's casting vote does not apply to this role.</p>	
B16 – 16.1, i (d)	Determining complaints brought by members of the public alleging a breach of the Code of Conduct by Councillors.	This reflects the legal position.
B16 new 16.3	<p>16.3 Standards (Hearings) Sub-Committee</p> <p>1. Purpose</p> <p>1.1 In consultation with the Monitoring Officer to consider any commissioned reports to determine whether the matter should be referred to a formal hearing.</p> <p>1.2 In the event that a hearing of the Standards Committee is required, to hear and determine any allegation that a member or co-opted member of the council has failed, or may have failed to comply with the Council's code of conduct, and apply appropriate sanctions.</p> <p>2. Membership</p> <p>2.1 Any Sub-Committee must consist of at least 3 Councillors, with at least 1 from each of the 3 largest political groups represented on the Council.</p>	This reflects changes to the Standards Committee arrangements.

Section	Change	Reason
	<p>2.2 If appropriate, a political party may appoint a substitute from another Group who is also a member of the Standards Committee.</p> <p>2.3 Any Sub-Committee must also consist of at least two non-voting lay members.</p>	
B16 new 16.4	<p>16.4 Dispensations</p> <p>The Monitoring Officer is authorised to grant dispensations to enable members to participate and vote in matters where a member may have a disclosable interest. In such instances, the Monitoring Officer will consult with the Chair or Deputy Chair of Standards where at all possible.</p>	<p>This ensures the parity with the scheme of delegations as set out in Part E E7 (j) which provides: Grant of dispensations re restrictions on Members participation in the meetings</p>
New B18 (NB: existing B18 becomes B19)	See Annex 1 and Annex 1 (i)	<p>This revises the constitution in accordance with the changes to Employment Committee and reflects current working arrangements within the authority. <i>(NB: Check quoracy ahead of final report)</i></p>

Part C – Codes and Protocols

Section	Change	Reason
C7 – Employment Procedure Rules – Employment Committee	See Annex 4	<p>These rules remove member appeals against the dismissal for misconduct for Deputy Chief Officers and below, and reflect both legislation and ACAS best practice. The role of the Commissioners' is also revised roles.</p>

Section	Change	Reason
C10 – Members Allowances Scheme	<p>i. The City Council’s Members Allowances Scheme, made under Section 18 of the Local Government and Housing Act 1989 and as amended on 30th April 2001, is agreed annually by City Council, taking into consideration and giving due regard to the recommendations made by the Independent Remuneration Panel. was agreed by the City Council at the meeting on 14 June 2022.</p> <p>ii. The Scheme can be found here.</p>	Clarifies the position regarding the process for adopting the City Council’s Members Allowance Scheme.

Part E – Scheme of Delegations

Section	Change	Reason
E4 - para 4.2	<p><i>Urgent Key Decisions</i></p> <p>Where the decision is a “key decision” pursuant to B3.1 vi) the Chief Executive, (or may designate a Chief Officer) shall follow the procedures set out below to obtain agreement that the making of the decision is urgent and cannot be reasonably deferred; from the following:</p> <p>(i) consult with the Leaders of the Council each of the Political Groups; and</p> <p>(ii) seek the consent of the Chair of the relevant Overview and Scrutiny Committee; or</p> <p>(iii) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, the Lord Mayor (or in their absence the Deputy Lord Mayor).</p>	This brings the constitution into line with the call-in provisions as highlighted in Part B above.

Section	Change	Reason
	(iv) inform the Leaders of the main Opposition Groups.	
E4 - para 4.2	<p><i>Urgent Non-Key Decisions</i></p> <p>(ii) that the Chief Executive, or designated Chief Officer, before making a decision shall consult with the Leaders of the Council and inform the Leaders of the two main Opposition each of the Political Groups;</p>	This brings the constitution into line with the provisions highlighted in Part B above.
E4 - Para 4.3	<p>If the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in his/her absence) and subject to the consent of the Chair of the relevant Overview and Scrutiny Committee, or in the relevant Chairs absence the Lord Mayor, for key decisions; may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period.</p> <p>The exercise of such power will be clearly noted on the record of the decision.</p> <p>In such instances the Leaders of the two main Opposition Groups will be notified.</p>	Brings into line with legal requirements and current arrangements. See also Part B7, para 6.10 i
E1 – E13	See Appendix 3	<p>Officer designations in the scheme of delegation have been revised to reflect recent changes agreed by the Commissioners to delete the post of Strategic Director Council Management and create new posts of Director of Finance, Chief Operating Officer and Director Intervention and Delivery.</p> <p>NB The scheme of delegation is the subject of a more detailed review being undertaken by the Monitoring Officer.</p>