

VOLUME A
THE CONSTITUTION

Website
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THE CONSTITUTION****TABLE OF CONTENTS**

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Summary and Explanation

The Council's Constitution

Birmingham City Council has agreed a ~~new~~ Constitution which governs how the Council operates, how decisions are made, and the procedures which are followed to ensure efficiency, transparency and accountability to local people.

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business (Volume A). More detailed procedures and codes of practice are provided in separate rules and protocols (Volume B).

Values and Objectives

The Council is the largest in Britain and Europe and leads a modern and focused local government for the benefit of the nation's second city. The Council's annual budget totals over £3.2b and over 33,500 staff are employed, including Council staff employed in schools.

Underpinning this role are a number of key values and objectives:

- Maintaining the highest standards of propriety and accountability
- Being open and transparent
- Being agile and efficient in making decisions and taking actions
- Respecting the importance of the democratic mandate
- Leading to ensure a clean and safe city
- Protecting vulnerable people of all ages
- Improving health and well-being
- Helping people into work and improving education and skills
- Collaborating between service areas and other public agencies

Citizens' Rights

Citizens have a number of rights in their dealings with the Council, and in particular in terms of participation, rights to information, complaints and petitions;

- Vote at local elections if they are registered
- Contact their local Councillors about matters of concern to them
- Obtain a copy of the Constitution
- Attend meetings of the Council, the Cabinet and committees
- See reports, background papers and records of decisions made by the Council, the Cabinet and Committees
- Complain to the Council about service delivery

- Complain to the Ombudsman
- Complain to the Council's Standards Committee if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct
- Inspect the Council's accounts during a statutory period and make their views known to the external auditor

How the Council operates

The Council is composed of 120 Councillors, one of whom is elected as Leader (3 Councillors for each of the City's 40 Wards). 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.

The Leader and all Councillors meet together as the Council. These meetings are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

The Leader appoints the Cabinet which has, as a main role, the task of developing and implementing policy on behalf of the Council.

The Council has established Cabinet Committee Local Leadership, District and Ward Forums which provide for public participation, representation and decision making at a local level.

A number of Overview & Scrutiny Committees monitor the decisions of the Cabinet and the implementation of policy. They can also recommend policies to the Cabinet and Council. They allow citizens to have a greater say in Council matters and are consulted by the Cabinet on developing policies.

Overview & Scrutiny Committees can "call-in" a decision which has been made by Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision.

The Council also appoints Regulatory Committees to perform the Council's regulatory functions such as planning and licensing. Other specialist committees are appointed by the Council from time to time.

The Council has established a Standards Committee to advise on the adoption and implementation of a Code of Conduct for Councillors. All Councillors have agreed to follow the Code so as to ensure high standards in the way they undertake their duties. The Standards Committee ensures there is appropriate training and advice on the code.

How Decisions Are Made

The Cabinet have to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is a change to the budget or policy framework, this must be referred to the full Council to decide.

Key decisions are made by Cabinet and Cabinet Committee Local Leadership and are published in the Cabinet's Forward Plan in so far as they can be anticipated.

Non-Key decisions are made by District Committees and Ward Forums and jointly by Cabinet Members and Chief Officers.

Meetings of the Cabinet are open for the public, except where personal or confidential matters are being discussed.

The Council's Employees

The Council's employees, "officers", give advice to the Councillors, implement decisions and manage the day to day delivery of its services. All officers must ensure that they act within the law when carrying out the Council's work.

Article 1 – The Constitution

This Article sets out the fundamental provisions of 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. This Constitution complies with the requirements of the Local Government Act 2000, related regulations and government guidance on constitutional matters.

1.2 The Constitution

Volume A is the statutory Constitution of Birmingham City Council. **Volume B** of this Document contains essential non-statutory and supporting documents, including details of Cabinet Member portfolios

1.3 The Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear political and managerial leadership to the citizens of Birmingham;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors to more effectively and efficiently represent and support their constituents;
- (d) enable decisions to be taken in an effective and efficient manner having regard to the law, appropriate policies, procedures and ethical standards;
- (e) create an effective, efficient and appropriate mechanism to hold decision-makers to public account.

Article 2 – Members of the Council (Councillors)

This Article sets out the composition of the Council and deals with the rights and duties of Members.

2.1 Composition and eligibility

- (a) **Composition.** The Council comprises 120 Members otherwise called Councillors. Three Councillors are elected by the voters in each of the 40 Wards.
- (b) **Eligibility.** Only eligible persons, as defined by elections law, will be permitted to hold the office of Councillor.

2.2 Election and terms of Councillors

Local elections are, usually, held on the first Thursday in May of each year and the date may, on occasions, be changed by Parliament. In 2013 and every fourth year thereafter, there will be no local elections, unless there are changes to election law. A third of all Councillors will normally stand for election and the term of office of Councillors will, normally, be four years and four days.

2.3 Roles and functions of all Councillors

- (a) **Key roles.**
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions for the City Council;
 - (ii) contribute to the good governance of Birmingham and actively encourage community participation and citizen involvement in decision making;
 - (iii) ~~effectively represent the interests of their Ward and of individual constituents;~~ responsibility to represent the interests of all the residents of the City Council area with special responsibility to the residents of their ward
 - (iv) respond to constituents' enquiries and representations, fairly, promptly and impartially;
 - (v) balance different interests identified within the Ward or District levels and represent the Ward or electoral division as a whole;
 - (vi) maintain high standards of ethical conduct and behaviour.
- (b) **Rights and duties**
 - (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (ii) Councillors will not publicise information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Meetings Administration Rules in **Volume B**.

2.4 Conduct

Councillors will at all times abide by Birmingham City Council's Code of Conduct for Members and the Member/Officer Relations Protocol guidance set out in **Volume B**.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in **Volume B**.

Article 3 – Citizens and the Council

This Article sets out the general rights of citizens with regard to Council matters.

3.1 Citizens' rights

Citizens have general rights with regard to the business of the Council. Their right to information and /or to participate in Council business are explained in more detail in the Meetings Administration Rules in **Volume B**.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote, and all citizens may present petitions.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council, and to film, record and report the proceedings of said meetings Cabinet and Committees except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
 - (ii) find out from the Forward Plan which key decisions are likely to be taken and when;
 - (iii) 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;
 - (iv) inspect the Council's accounts during any prescribed statutory period(s) and make their views known to the external auditor; and
 - (v) such other information as may be specified in the Council's Freedom of Information Act 2000 Publication Scheme.
- (c) **Participation.** Citizens have the right to ask questions at Full Council Meetings. Citizens may be granted the right, if invited to do so by the Chairman of the relevant Committee, to participate and contribute to the discussion, except where confidential or exempt information is likely to be disclosed, and the meeting is held in private.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council under its complaints scheme;
 - (ii) the Council's Monitoring Officer in respect of any unlawful behaviour by Members and Officers;
 - (iii) the Ombudsman after using the Council's own complaints scheme;

3.2 Citizens' responsibilities

Citizens must not be abusive, threatening, insulting or violent towards Members and Officers and must not wilfully harm or damage property owned by or belonging to the Council, Members or Officers.

Article 4 – The Full Council

The Council has responsibility for all Non-Executive functions and 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.

4.1 Role of the Full Council

The Full Council's primary role is to consider and approve the Council's Policy Framework and Annual Budget. The Council's secondary role is to hold to public account the Members of the Executive, Overview & Scrutiny and Regulatory Committees.

4.2 Policy Framework

The Policy Framework means the plans or strategies to be approved by the Full Council: [as follows or as required by legislation](#)

Adult Learning Plan
Birmingham Cultural Strategy
Birmingham Sustainable Community Strategy 2026
Community Safety Strategy
Council Business Plan – including Budget and Long-Term Financial Strategy
Development Plan for Birmingham
Heritage Strategy
Housing Strategy / Homelessness Strategy
Local Development Framework Plans
Pay Policy
Statement of Licensing Policy under the Licensing Act 2003
West Midlands Local Transport Plan

4.3 Powers of the full Council

Only the full Council will exercise the following functions:

- (a) adopting and approving changes to the Constitution, save where the Council Business Management Committee make any necessary minor "in-year" changes;
- (b) approving the overall revenue budget, the allocations of revenue resources to Directorates, the capital programme at the commencement of each year, the level of Council Tax, the Prudential indicators, the Prudential borrowing limit, the treasury management strategy and policy.
- (c) making decisions on matters which could have been (but were not) covered by the Policy Framework;
- (d) electing the Leader of the Council every four years or as and when required;

- (e) agreeing and/or amending the terms of reference for committees (other than Cabinet Committees), deciding on their membership and making appointments to them, including the Chairman, subject to the legal rules regarding proportionality between the different political parties;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been specifically delegated by the Council;
- (g) adopting and approving the Members Allowances Scheme;
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;
- (k) determine the agenda and procedure for the conduct of meetings of Full Council;
- (l) receiving and considering reports referred to it from Cabinet Members, Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and
- (m) all other non-executive matters which by law must be reserved to Council.

4.4 All other non-executive matters are delegated to Council Business Management Committee or any of its sub-committees, or delegated to regulatory committees.

4.5 **Council meetings**

There are three types of Council meeting:

- (a) the Annual General Meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings. (five Members required to petition the Lord Mayor)

and they will be conducted in accordance with the Council Standing Orders set out in **Volume B**.

Article 5 – The Lord Mayor

This Article sets out details with regard to the Lord Mayor, and Deputy Lord Mayor.

5.1 Role and function of the Lord Mayor

The Lord Mayor and in his/her absence, the Deputy Lord Mayor, will have the following roles and functions:

(a) Ceremonial Role

The Lord Mayor, as the “First Citizen of Birmingham”, will uphold and preserve the dignity and honour of the office. In particular, the Lord Mayor will remain apolitical and attend civic and ceremonial functions.

(b) Chairing the Council Meeting

The Lord Mayor (and in his/her absence the Deputy Lord Mayor) will chair Council meetings. The Lord Mayor will be elected annually by the Council.

The Lord Mayor will have the following responsibilities:-

- (i) to uphold and promote Birmingham, its Constitution, and to give rulings on the Constitution during Council Meetings;
- (ii) to preside over meetings of the Council so that its business can be carried out in an effective, orderly and efficient manner and in the interests of the citizens of Birmingham;
- (iii) to promote public awareness, knowledge and participation in the business of the Council.

5.2 Consorts To The Lord Mayor And The Deputy Lord Mayor

Whilst accompanying the Lord Mayor (or the Deputy Lord Mayor), the consort must support the work of the Lord Mayor (or the Deputy Lord Mayor) during his / her term of Office and uphold and preserve the dignity and honour bestowed upon the Lord Mayor (or the Deputy Lord Mayor) and the political impartiality of the Office.

5.3 Deputy Lord Mayor

- (a) Members who are nominated and elected to the Office of Lord Mayor do so on the understanding that they will serve a full term as Deputy Lord Mayor for the following Municipal Year;
- (b) should a Member, due to take up the Deputy Lord Mayoralty, fail to be re-elected to the City Council, or an incumbent is unable to complete his or her term, owing to ill health or similar disposition, the Party Group of the outgoing Deputy Lord Mayor will be asked to make an alternative nomination. This will be the last Member of their Group to hold the position of Deputy Lord Mayor prior to the outgoing Deputy. Should that Member be unwilling to take up the Office, previous Lord Mayors of that Party will be

approached, in reverse chronological order, until a Member willing to take on the role can be found; and

- (c) should the Party Group be unable to put forward an alternative name by this process, the Office shall then be offered to the previous Deputy Lord Mayor, regardless of their Party affiliation. If that individual is unwilling to assume the role, the previous Lord Mayors will be approached, again in reverse chronological order, until a Member, regardless of Party affiliation, willing to take on the role can be found.

Article 6 – The Executive

This Article sets out details with regard to the role of the Executive which is Cabinet, Cabinet Committees, Cabinet Members, District and Ward Committees.

6.1 Role

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

The Executive has the power to make necessary minor changes to any Executive arrangements, through the year, for operational effectiveness and efficiency reasons.

6.2 Cabinet

The Cabinet will consist of the Leader of the Council and up to a maximum of 9 Cabinet Members.

In addition to taking "key decisions", Cabinet will also consider:-

- (a) The draft Budget or a draft of the Council's "policy framework" plans. The Cabinet's role in relation to these matters will be to consider a draft which will then be presented to the full Council for approval;
- (b) Other decisions which are considered by the Leader of the Council to have significant cross-cutting or corporate implications; and
- (c) Any Cabinet, Cabinet Committee or District/Ward Committee decision(s) 'called-in' by any Overview & Scrutiny Committee.

6.3 The Leader of the Council

- (a) The Leader of the Council must be appointed by the Council for a four year term or for up to the end of his / her term of office as a Member, whichever is shorter.
- (b) The Leader of the Council will hold office until:
 - (i) s/he resigns from Office; or
 - (ii) s/he is ~~suspended-disqualified~~ from being a Councillor (although he/she may resume office at the end of the period of ~~suspension~~~~disqualification~~); or
 - (iii) s/he is no longer a Councillor; or
 - (iv) s/he is removed from Office by a resolution of no confidence passed by a simple majority resolution of the Council.

- (c) The Leader of the Council is empowered to make necessary in-year changes to the Cabinet Member Portfolios (**Volume B**); and
- (d) In the event of the post of the Leader of the Council becoming vacant for any of the reasons stated in (b) above, the Council shall appoint another Member of the Council to complete the remainder of the four year term of Office or up to the end of the new Leader's term of Office as a Member, whichever is shorter.

6.4 Cabinet Members

- (a) Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Lord Mayor nor the Deputy Lord Mayor may be appointed to the Cabinet. Cabinet Members may not be Members of any Overview and Scrutiny arrangements although they are permitted to serve on the Regulatory Committees– and on District and Ward Committees.
- (b) Up to nine Cabinet Members may be appointed by the Leader of the Council and one should be designated as Deputy Leader. If it becomes necessary, to appoint replacement(s) the Leader of the Council shall report his/her decision(s) at the next meeting of the Council. Cabinet Members shall hold office until:
 - (i) they resign from Office or if they are dismissed, either collectively or individually, by the Leader of the Council; or
 - (ii) they are ~~suspended-disqualified~~ from being Councillors (although they may resume office at the end of the period of ~~—suspension~~ disqualification).
 - (iii) they otherwise leave or are required to leave office.
- (c) Individual Cabinet Members have delegated authority jointly with Chief Officers in respect of all executive decisions and virements between the Chief Officer limit of £200K and £500K (revenue) and £1M (capital).
- (d) The functions of individual Cabinet Members are set out in each Cabinet Member Portfolio (**Volume B**).

6.5 Cabinet Proceedings

- (a) The quorum for a meeting of the Cabinet shall be 4 Cabinet Members (inclusive of the Leader of the Council if present) and for a meeting of a Cabinet Committee the quorum shall be 2 Cabinet Members (inclusive of the Leader of the Council, if present).
- (b) Only Cabinet Members are entitled to vote at meetings of the Cabinet or at Cabinet Committee meetings.

- (c) Executive decisions shall only be taken by Cabinet based on written report(s) from Chief Officers and after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- (d) The Cabinet is empowered to establish, dissolve and determine the membership and terms of reference of Cabinet Committees (including whether the same should discharge "key decisions").

6.6 Non-Cabinet Members attending 'Private Sessions' of Cabinet meetings

- (a) A maximum of two of the major Opposition Group members and a maximum of one of the other Opposition Group members – to include their Group Leader(s) – may receive notice of Cabinet meetings, the relevant papers and remain and participate during the deliberations of the private sessions of the Cabinet.
- (b) The Chairs of any of the Council's relevant Overview & Scrutiny Committees (or their nominee from the relevant committee) shall be entitled to attend Cabinet meetings and to remain and participate during the deliberations of the Cabinet during any of its 'Private Sessions'.
- (c) The Chairs of all District Committees and Assistant Leaders shall be entitled to attend Cabinet meetings and to remain and participate during the deliberations of the Cabinet during any of its 'Private Sessions'.

6.7 The rules relating to District and Ward ~~Committees-forums~~ are found in **Article 10**.

6.8 Executive decisions, whether taken by Cabinet, Cabinet Members jointly with Chief Officers, District Committees, Ward Committees or Chief Officers alone where delegated to them by Cabinet or in any case where the value exceeds £200k, shall all only be taken based upon written reports with a completed checklist in the approved form and after advice from the Monitoring Officer and Chief Finance Officer.

6.9 Committees

The Health and Wellbeing Board is constituted as a Committee under the chairmanship of the Cabinet Member - Health and Social Care in order to discharge the functions of a Health and Wellbeing Board as set out in the Health and Social Care Act 2012, including the appointment of Board Members as set out in the schedule of required Board Members in the Act.

7.0 Cabinet Committee Local Leadership

This Cabinet Committee will be established by the Cabinet with the following membership:

- The Leader
- Another Cabinet Member as deemed appropriate by the Leader
- The Leaders of the official opposition party and the next largest opposition party

- The Chairs of the District Committees
- Four Assistant Leaders (see below)
- Assistant Leaders will be able to attend meetings of the Cabinet but will not have a right to vote on any item of Cabinet business.

The quorum for the Committee shall be six and this number must include both of the Cabinet Members and one of the Leaders of the opposition groups as well as one of the Assistant Leaders.

The Committee will include four Councillors designated as Assistant Leaders. These councillors will be charged with taking forward the agenda of the Cabinet Committee Local Leadership between meetings, under the management of the Leader of the Council. They will not have decision making powers independently of the Committee. They will each be responsible for an area of the city, to be specified by the Cabinet.

- 7.1 (i) These terms of reference are subject to change by Cabinet as and when necessary to reflect the changing shape of the devolution and Future Council agenda. The City Council is committed to the ongoing development of devolved community governance through a process of reviewing devolved ways of working and considering new innovations; it is recognised that further devolution is necessary given the scale, size and diversity of challenges, opportunities and varied needs across the city.

(ii) The Cabinet Committee will conduct a review of the existing devolved arrangements consulting and engaging with the community, other stakeholders and Members. During the period of review local areas will be supported in bringing forward and piloting new ways of working in relation to devolved arrangements; the Cabinet Committee with the Assistant Leaders will support, oversee and evaluate the new ways of working for potential wider use within the City.

(iii) The Cabinet will set out the detailed coverage of this review, but it will include assessing the effectiveness of all existing arrangements for local engagement and partnership working, preparations for the new ward arrangements to be introduced in 2018 and new ways of working such as parish councils.

(iv) The Assistant Leaders with the Cabinet Committee will play a leading role in taking forward the following council strategic priorities:

- Local Leadership – conducting the review set out above at paragraphs (ii) and (iii) and reporting to Full Council and Cabinet as appropriate
- Every Place Matters – overseeing the development of area focused policies and programmes to address inequalities between areas of the city
- A Better deal for Neighbourhoods – the committee will work to improve services in neighbourhoods and responsiveness to local communities and individual service users and to support local initiatives to improve the environment and street scene

- Supporting local councillors – through the devolution process
- Fostering and applying new approaches to local leadership.

7.2 Assistant Leaders: Role Description

The Leader of the Council will set clear success criteria and outcome targets for the Assistant Leaders and the Cabinet Committee, for approval by the Cabinet and these will be monitored alongside officer work programmes to ensure the work remains on track and delivers a successful transition to future arrangements.

The strategic role of the Assistant Leaders will be to:

- Provide leadership to policy development as directed by the Leader and working in conjunction with Cabinet Members, with the aim of realising the full potential of city policies for Place – making a difference in all Birmingham neighbourhoods. This will include the strategic priorities of Local leadership, Every Place Matters (regeneration and investment outside the city centre) and A Better Deal for Neighbourhoods (improving local services)
- Drive forward the review of devolved arrangements within the city and the successful transition to the post 2018 environment as directed by the Cabinet and the Leader.

Within their area of the city Assistant Leaders will:

- Promote and support changes to the practice, culture and capabilities underpinning the role of “front line councillor”
- Shape and support local partnership working and engagement with communities and local stakeholders
- Shape neighbourhood governance and neighbourhood delivery plans working alongside District Chairs
- Ensure that arrangements are in place to move beyond the districts model whilst capturing the learning and the partnerships developed in previous years and supporting the role and contribution of all local councillors
- Ensure that local issues and innovations are reflected in strategic decision making with regard to Local Leadership, Every Place Matters and A Better Deal for Neighbourhoods.

~~8.0 Group of Executive Committee~~Cabinet Committee – Group Company Governance

~~This Cabinet Committee will be established by the Cabinet with the following membership.~~

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- The Deputy Leader
- Another Cabinet Member as deemed appropriate by the Deputy Leader
- The Membership of the Committee ~~will be based on Political proportionality~~ shall be based on cross party representation.
- To include non-executive directors from the Wider Business Community (none voting)

The quorum for the Committee shall be ~~six~~ determined by the Committee and this must include ~~both of the~~ Cabinet Members and a member of the Opposition.

The role of the Committee is to ensure that the Council's strategic objectives are met across the group and to support the development of the group in line with the Council's regulations and ambitions

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8.1 The Committees responsibilities include

- Holding entity ~~b~~Boards to account for their performance with the necessary powers to make and drive immediate change through the Boards
- Supporting the development of entities and making decisions on the disposal/dissolution of companies (below Cabinet limit on value) and matters such as varying Articles of Association, varying ownership and structure and varying share rights
- Identification of entities' business support requirements
- Provides subsidiaries with clear direction and support in its role as sole shareholder
- Evaluation of effectiveness of entity board governance structure, processes and recommend changes as required
- Reviewing business plans and strategies of the entities to ensure compliance with the Council's strategic direction
- Ensuring compliance of the entities with the Council's interests including the Birmingham Business Charter for Social Responsibility
- Oversight of compliance to ensure that taxation, legal and financial interests of the Council are consideration and protected
- Oversight of compliance to EU procurement or other such legislative regulations and Council Standing Orders to avoid any conflict of interest where any organisation listed in appendix 2 is involved in the process
- Ensuring that risk relating to the entities is at a suitable level for the Council to bear
- Receiving and reviewing entity performance reports
- Advising Cabinet of issues

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Article 7 – Overview and Scrutiny Committees

This Article sets out details with regard to the Overview and Scrutiny arrangements. These Committees will, normally, meet in public to discuss and make recommendations on the development of policies and on improving service performance, and to hold the Executive to account for their actions.

All Councillors, except Cabinet Members (and the Lord Mayor) can be members of an Overview and Scrutiny Committee. Chairs of these committees are appointed by the Full Council and Deputy Chairs are elected by each committee at its first meeting, for the purpose of substitution for the Chair if absent.

Good Overview and Scrutiny adds value to councils in many ways, for example it:

- Provides “critical friend” challenge to executive policy-makers and decision-makers;
- Enables the voice and concerns of the public and its communities to be heard;
- Is carried out by ‘independent minded members’ who lead and own the scrutiny process;
- Drives improvement in public services.

7.1 General role

Overview and Scrutiny Committees will:

- (a) make reports and/or recommendations to the full Council, the Executive and / or other organisations in connection with the discharge of the functions specified in their terms of reference;
- (b) consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; and
 - i. is relevant to the Council's strategic objectives; and/or
 - ii. is relevant to major issues faced by officers in managing a function of the Council; and
 - iii. is likely to make a contribution to moving the Council forward and achieving key performance targets.
- (c) exercise the “request for call-in” and “call-in” any Executive decisions made but not yet implemented by the Executive.

Overview and Scrutiny Chairs should maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the council's policy priorities in a timely way.

7.2 Specific functions

- (a) **Policy development and review**

Overview and Scrutiny Committees may:

- (i) assist the Council and / or the Executive in the development of its budget and Policy Framework by appropriate analysis of policy and budget issues;
- (ii) conduct appropriate research, community and other consultation in the analysis of policy and budget issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and
- (v) liaise with other external organisations operating in the city, whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

Overview and Scrutiny Committees may:

- (i) review and scrutinise the Executive decisions made by and performance of the Executive and/or Chief Officers in relation to decisions taken by them or in relation to their areas of responsibility / department;
- (ii) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and / or particular service areas – including the areas of responsibility of the Regulatory and Non-Executive Committees, but not the actual decisions of the Regulatory and Non-Executive Committees;
- (iii) make recommendations to the Executive, Chairmen of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;
- (iv) review and scrutinise the performance of other relevant public bodies in Birmingham (including Health Authorities) and to invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
- (v) question and gather evidence from any person (with their consent)
- (vi) establish short life working groups to carry out specific time limited enquiries as agreed with the five Overview and Scrutiny Committee Chairs and subject to available resources.

7.3 Terms of Reference of Overview and Scrutiny Committees

There shall be five Overview and Scrutiny Committees as set out in the terms of reference below, each to have a Chair (appointed by Full Council) and Deputy Chair (to be elected by each Committee at its first meeting).

CORPORATE RESOURCES AND GOVERNANCE COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to governance, resources, performance (including customer services), finance, human resources, partnerships, transparency, regional working (including Combined Authority), inequality, public engagement, council wide efficiency, commissioning and procurement.

ECONOMY, SKILLS AND TRANSPORT COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating principally economic, growth and jobs, inward investment, promotion of the city, land use planning, transport strategy and highways, skills, libraries, arts, culture, sports and museums.

SCHOOLS, CHILDREN AND FAMILIES COMMITTEE

The Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (one);
- (b) Roman Catholic diocese representative (one); and
- (c) Parent Governor representatives (two).

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning the schools, vulnerable children, child safeguarding functions of the council.

HEALTH, WELLBEING AND THE ENVIRONMENT COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to cleaner neighbourhoods, waste management, environment, [Adult](#) safeguarding, social care and public health and to discharge the relevant overview and scrutiny role set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, including:

- The appointment of Joint Overview and Scrutiny Committees with neighbouring authorities; and
- The exercise of the power to make referrals of contested service reconfigurations to the Secretary of State as previously delegated to the Health and Social Care Overview and Scrutiny Committee by the Council.

HOUSING AND HOMES COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to housing, homes, land use planning, cleaner neighbourhoods, social cohesion and community safety (including domestic violence).

This Committee shall be the Crime and Disorder Committee (Police and Justice Act 2006).

This Committee shall also undertake the authority's statutory functions in relation to the scrutiny of flood risk management (Flood and Water Management Act 2010).

7.4 Conflicts of interest – Membership of Overview and Scrutiny Committees and District and Ward Forums

- (a) If an Overview and Scrutiny Committee is scrutinising specific decisions in relation to the business of the District Committee and / or Ward Forum of which an Overview and Scrutiny Committee Councillor is a Member, then that Councillor must withdraw from the meeting during the consideration of such matter.
- (b) Where, however, the Overview and Scrutiny Committee is reviewing policy matters, generally, as opposed to a specific decision of the District and/or Ward Forum, the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

7.5 Overview and Scrutiny Work and Non-Executive Committees

- (a) Overview and Scrutiny Committees are only permitted by law to scrutinise the Executive decisions of the council – Cabinet, Cabinet Committees, Cabinet Members, District and Ward Committees, and officers.
- (b) In terms of the Regulatory Committees, these carry out quasi-judicial functions and, as such, appropriate appeal rights and procedures apply to the same, which do not involve the Overview and Scrutiny Committees arrangements.

7.6 Subject to the proportionality principles, relating to overall membership of the committee being complied with, the appointment of Chairmen and Deputy Chairmen of the Overview and Scrutiny Committees shall be on such principles as are agreed by the Full Council.

7.7 Chairs of the Overview and Scrutiny Committees

The five Overview and Scrutiny Chairs shall monitor the work of the Overview and Scrutiny Committees so as to ensure that such work is properly planned, co-ordinated and progressed. In this connection, they shall have the power to:

- (a) give such guidance to the Overview and Scrutiny Committees in any cases of uncertainty, as to work which they should or should not be undertaking, as may be necessary to achieve such co-ordination, including the allocation of "call-in" to the appropriate Committee;
- (b) determine, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;
- (c) publish each year an Annual Programme of major Scrutiny Reviews as suggested by individual Overview and Scrutiny Committees following consideration of the annual Leader's Policy Statement to the council; and
- (d) agree the establishment of any task & finish groups;
- (e) consider overview and scrutiny development, working practices and constitutional arrangements.

An observer from the Principal Opposition Group may attend meetings of the five committee Chairs when considering the above matters.

7.8 "Request for Call-In" and "Call-In"

- (a) When an Executive decision is taken by the Cabinet, Cabinet Member(s) or Chief Officer jointly with Cabinet Members, Cabinet Committee Local Leadership, District Committees or Ward Forums, the decision shall be published by electronic means, and copies of it shall be available at the main offices of the Council, normally within three days of being made. All Members and Chief Officers will be sent a notification of all such decisions within the same timescale, by the Committee Services Officer responsible for publishing the decision.
- (b) 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) or by any two elected Members from a District Committee (who are not members of the Cabinet) where there is a specific local interest in the issues concerned. The "Request for Call In" should state the reason for call-in.
- (c) Once a "Request for Call In" has been received, the five Overview and Scrutiny Chairs 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.
- (d) It is for the Committee to decide whether to Call In a decision or not. The council does not expect an Overview and Scrutiny Committee to Call In an Executive decision unless one or more of the following criteria applies.

Call-In Criteria

	<i>(a) Is the Executive decision within existing policy?</i>
1	<i>the decision appears to be contrary to the Budget or one of the 'policy framework' plans or strategies;</i>
2	<i>the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;</i>
3	<i>the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);</i>
	<i>(b) Is the Executive Decision well-founded?</i>
4	<i>the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;</i>
5	<i>the Executive appears to have overlooked some relevant consideration in arriving at its decision;</i>
6	<i>the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;</i>
7	<i>the decision appears to be particularly "novel" and therefore likely to set an important precedent;</i>
8	<i>there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.</i>
	<i>(c) Has the Executive decision been properly taken?</i>
9	<i>the decision appears to give rise to significant legal, financial or propriety issues;</i>
10	<i>the notification of the decision does not appear to have been in accordance with council procedures;</i>
	<i>(d) Does the Executive decision particularly affect a district?</i>
11	<i>the decision appears to give rise to significant issues in relation to a particular District.</i>

Article 8 – Regulatory and Non Executive Committees

This Article sets out details with regard to Regulatory and Non-Executive Committees, which are not part of the Executive functions and neither are they part of the Scrutiny arrangements.

Chairs of these committees are appointed by the Full Council and Deputy Chairs are elected by each committee at its first meeting, for the purpose of substitution for the Chair if absent.

8.1 Regulatory Committees

PLANNING COMMITTEE

Functions

- (a) To exercise the powers and duties of the Council with regard to development control and strategic planning matters, and, in particular, to:
 - (i) exercise all the powers and duties of the Council as a local planning authority (apart from any Executive functions);
 - (ii) exercise the powers and duties of the Council with respect to building control;
 - (iii) be accountable for the Local Land Charges service.

LICENSING AND PUBLIC PROTECTION COMMITTEE

Functions

- (a) To exercise the powers and duties of the Council with regard to licensing matters and, in particular, to:
 - (i) exercise and enforce the Council's local licensing powers;
 - (ii) issue, renew or otherwise control any licences issued to any authorised caravan site(s); and
 - (iii) approve the appearance and design of signs displayed in Hackney Carriages.
- (b) To exercise the licensing, regulatory and registration powers and duties of the Council under all relevant legislation relating to these matters.
- (c) To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions and, in particular, to:
 - (i) be accountable for working conditions in offices, shops and railway premises and in factories;

- (ii) exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee.

8.2 Non-Executive Committees

THE COUNCIL BUSINESS MANAGEMENT COMMITTEE

The purpose of the Business Management Committee is to support the Council's non-executive functions as delegated by Full Council, and in particular:

(a) Meetings of the full Council

- (i) be responsible for the planning and preparation of the agenda, papers and other arrangements for meetings of the Council.
- (ii) submit recommendations to the Council concerning the appointment of committees and other bodies and their functions and membership.

(b) Council Appointments to Outside Bodies

To submit recommendations to the Council as to the appointment or nomination of persons to serve on outside bodies. In cases of urgency to make appointments or nominations, subject to reporting the details to the next Council meeting for information.

(c) Civic/Ceremonial

To submit recommendations to the Council as to the conferment of rights and privileges (Honorary Alderman, Freedom of the City) and to consider and determine applications to use the City's Coat of Arms.

(d) Constitutional Matters

To keep the Council's Constitutional arrangements under review and to approve any in year minor changes relating to the non-Executive arrangements of the Constitution, and to submit recommendations to the Council as to major changes to the Constitution and the adoption of new or amended Standing Orders.

(e) Members' Services and Allowances

- (i) To be accountable for all aspects of services to Members.
- (ii) To keep under review the Council's Allowances Scheme and all other matters relating to Members' allowances.
- (iii) To oversee the Council's relationship with the Independent Remuneration Panel and to submit recommendations to the Council

both as to the operation and membership of the Panel and as to amendments to the Allowances Scheme.

(f) **Electoral Matters, Parish Councils & Boundary Changes**

- (i) To discharge the Council's various electoral duties under the Representation of the People Acts.
- (ii) To discharge the Council's functions, in relation to parishes and parish councils, ~~under Part II of the Local Government & Rating Act 1997 and related Local Government legislation.~~
- (iii) To discharge the Council's functions under Part IV of the Local Government Act 1972 and Part II of the Local Government Act 1992 (relating to boundary reviews and alterations) and related Local Government legislation.

(g) **Financial & other Matters**

- (i) To consider any recommendations from the Audit Committee relating to the discharge the Council's duty, under the Accounts & Audits Regulations ~~2003~~1996.
- (ii) To discharge the Council's functions, relating to pensions, under the Superannuation Acts.
- (iii) To authorise the making of payments, under Section 92 of the Local Government Act 2000, on account of maladministration.
- (iv) Foreign travel by Members and Officers of the Council will be reported on a quarterly basis.

(h) **Terms and Conditions of Employment**

- (i) Holding management to account for implementing agreed terms and conditions of employment of staff.
- (ii) Agreeing any changes to terms and conditions of employment (the Birmingham Contract).
- (iii) Holding management to account for the effective consultation and negotiation with employees and representatives of regional and national bodies in connection with terms and conditions of employment.

The following Sub-Committees of the Council Business Management Committee are approved for the current Municipal Year:

- Miscellaneous Appeals Sub-Committee – to determine non-personnel appeals and reviews.

- Education Awards
- Election Matters Members Forum
- Lord Mayor's Advisory Group
- Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions
- Personnel Appeals
- Local Authority School Governor Nomination Committee

The Sub-Committee for Chief Officers (Officers reporting to the Chief Executive) and Deputy Chief Officers (Officers reporting to Chief Officers) shall comprise the Leaders of the three main political parties (or their nominees), and two other members subject to the proportionality rules.

AUDIT COMMITTEE

The purpose of the Audit Committee is to support the Council's Corporate Governance responsibilities and to provide independent assurance to the Council in relation to internal control, risk management and governance.

Functions

- (a) To review the City Council's Annual Accounts and Annual Governance Statement (AGS). This will include advising on significant changes throughout the year to financial regulations and policies.
- (b) To monitor progress in addressing control or governance issues identified in the AGS.
- (c) To review and provide the executive with assurance on the embedding and maintenance of an effective system of corporate governance including the risk management framework and the associated control environment.
- (d) Responsibilities as set out in the terms of reference in relation to external audit including reviewing the planned programme of work, noting fees and terms of engagement of the external auditor, considering and advising the executive on responses to audit management letters, reports and investigations and reviewing whether agreed external audit or inspection recommendations have been implemented as timetabled.
- (e) To review and make recommendations to the executive regarding the effectiveness of internal audit to include ensuring the internal audit function is adequately resourced, to review its strategy, receive, challenge and approve its annual plan and monitor its delivery and to review significant audit findings and monitor progress by managers in implementing agreed recommendations.
- (f) To consider and make recommendations to the executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.

- (g) To consider reports from the Ombudsman and monitor management response in relation to these.
- (h) To consider, approve or make recommendations in respect of any other matters at the request of the Council.

TRUSTS & CHARITIES COMMITTEE**Terms of Reference**

To exercise the administrative powers and duties of Full Council (as Trustee) in relation to all trusts for which the Council is sole trustee (the "City Trusts").

To exercise the administrative powers of the "Council as Trustee" in accordance with the relevant governing documents of each trust and Charity Commission Scheme(s).

- (a) Upon receipt from officers, to approve annual reports and accounts.
- (b) Approve Charity Commission returns and all other regulatory documents.
- (c) Respond to enquiries from Auditors or Independent Examiners.
- (d) Inquire of and respond to the Charity Commission and any other regulatory bodies.
- (e) Full Council sitting as "Council as Trustee" will be responsible for decisions concerning the use and/or disposal of charity property and assets, and will delegate the management of any City Trust to the Trusts and Charities Committee, with assistance from the Legal Services Team as and when required.
- (f) To act as accountable manager for the Trusts and Charities, and be authorised to take all necessary administrative decisions and continue to report to Council Business Management Committee (as Trustee) as and when required.
- (g) To compile and maintain a comprehensive and up to date list of the City Trusts.
- (h) To take any other action deemed appropriate or necessary to ensure the proper management and administration of the City Trusts.

Article 9 – The Standards Committee

This Article sets out details with regard to the Standards Committee, which promotes and maintains high standards of conduct by Councillors and co-opted members of the City Council.

9.1 Key Roles

- (a) advising the City Council on the adoption or revision of the Code of Conduct;
- (b) monitoring the operation of the Code of Conduct; and
- (c) advising, training or arranging to train members and co-opted members on matters relating to the City Council's Code of Conduct.
- (d) determining complaints brought by members of the public alleging a breach of the Code of Conduct by Councillors.
- (e) determining the penalty to be imposed in the event of a breach of the Code being upheld.
- (f) hearing appeals as may be necessary.
- (g) granting any dispensations and dealing with any other powers granted to Standards Committees by legislation.
- (h) to submit an Annual report on the work of the Standards Committee and, generally, promoting the standards of ethical conduct and behaviour expected of Councillors.

9.2 The Standards Committee shall also determine under Sections 1 and 2 of the Local Government and Housing Act 1989: -

- (a) any application received from any officer of the Council for exemption from political restriction; and
- (b) any application to consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

9.3 Composition

- (a) **Membership.** The Standards Committee will be composed of 10 Members, as follows:
 - (i) 4 Councillors other than those with Special Responsibility Allowances;
 - (ii) 4 Independent persons
 - (iii) 1 Member of New Frankley in Birmingham Parish Council
 - (iv) 1 Member of Sutton Coldfield Parish Council

- (b) **Independent Members.** Independent Members will be entitled to vote at meetings;
- (c) **Parish Members.** The Parish Member(s) must be present when matters relating to the parish council or their Members are being considered;
- (d) **Chairing the Committee.** An Independent Member should be a Chairman of the Standards Committee.
- (e) **Quorum.** 3 members, including at least one of the Independent Members and the Parish Councillor if it relates to a Parish Council matter.

Article 10 - District Committees and Ward Forums

This Article sets out details with regard to District Committees and Ward Forums consisting of the Members of that District or Ward.

- 10.1. Ten District Committees have been established by the Council and the relevant Ward Members have been appointed to serve on them:-

District Committee:	Area:	Members from the following Wards:
1. Edgbaston	South	Bartley Green, Edgbaston, Harborne and Quinton,
2. Erdington	North	Erdington, Kingstanding, Stockland Green and Tyburn
3. Hall Green	East	Hall Green, Moseley & Kings Heath, Sparkbrook and Springfield
4. Hodge Hill	East	Bordesley Green, Hodge Hill, Shard End and Washwood Heath
5. Ladywood	Central	Aston, Ladywood, Nechells and Soho
6. Northfield	South	Kings Norton, Longbridge, Northfield and Weoley
7. Perry Barr	Central	Handsworth Wood, Lozells & East Handsworth, Oscott and Perry Barr
8. Selly Oak	South	Billesley, Bournville, Brandwood and Selly Oak
9. Sutton Coldfield	North	Sutton Four Oaks, Sutton New Hall, Sutton Trinity and Sutton Vesey
10. Yardley	East	Acocks Green, Sheldon, South Yardley, Stechford & Yardley North

- 10.2 Ward Forums will be constituted in each District to encourage and facilitate dialogue, between the Council and local people within their Ward. Cabinet has delegated the functions, operational powers and duties to the relevant Ward Forums as set out in Volume B (B6).
- 10.3 The Councillor membership of District Committees shall consist of those Members elected to serve Wards within that District and that Ward. The co-option of partner members without voting rights is permitted in respect of each District Committee. Once Committees have been established, only the City Council can dissolve them. The Member of Parliament for the District should be invited to attend District Committees as an observer with the right to speak.

EXECUTIVE POWERS DEVOLVED TO DISTRICT COMMITTEES

- 10.4 Cabinet has delegated the functions, operational powers and duties to the relevant District Committee(s) as set out in **Volume B (B6)**. These Terms of Reference may be amended by Cabinet from time to time to reflect the shape of the Future Council. District Committees have a right to consider and respond to consultations on planning briefs and frameworks and major development proposals. Any such

responses are to be given to the Planning Committee for consideration at the appropriate time.

10.5 Meetings

Chairs will be appointed by each District Committee and by each Ward Forum at the first meeting of the municipal year. Deputy Chairs are elected at the same meeting for the purpose of substituting for the Chair if absent. In the event of a District Committee failing to appoint, the matter will be determined by the Leader of the Council. They will have a leadership responsibility for 'place' matters within their District including:

- (i) Effective discharge of the local executive remit, through delegations, of their District Committee.
- (ii) Production of a Community Plan out locally determined priorities and policies for approval by the District Committee.
- (iii) Attend Overview and Scrutiny to account for delegated responsibilities for the District Committee, and policy priorities as set out in policy statements and development plans.
- (iv) Working closer with the Assistant Leaders as part of the Cabinet Committee Local Leadership.

Each District Committee will also hold an annual District Convention with input from community groups, Ward Forums, partners and other stakeholders, to inform on District priorities arising from the Local Service Community Plans.

10.6 Quorum

- (a) The Quorum for a District Committee shall be 6 Elected Members.
- (b) The Quorum for a Ward Forum shall be 2 members.

10.7 The Council will establish (or dissolve) Ward Forums on the recommendation of the Council Business Management Committee.

Article 11 – External Appointments, Joint Committees and Strategic Partnership Arrangements

This Article sets out details with regard to external appointments and partnership working arrangements.

11.1 Joint arrangements

- (a) The Cabinet may establish joint arrangements with one or more local authorities and/or their Executives to exercise Executive functions in any of the participating authorities. The Council will deal, as necessary, with the establishment of joint arrangements to exercise non-Executive functions.
- (b) Where Cabinet appoints three or more members to a joint committee, the proportionality rules will apply.

11.2 Appointments to outside bodies

Appointments that are reserved to the Full City Council to determine are set out below and the proportionality rules shall apply. All other appointments of members and officers to outside bodies shall be within the remit of Cabinet to determine and the proportionality rules will not automatically apply.

11.3 Appointments reserved to the Full Council

	No. Apptd
Local Government Association (General Assembly)	4
West Midlands Fire & Rescue Authority	10
West Midlands Transport Authority	10
West Midlands Police and Crime Panel	3
National Association of Councillors	1
Standing Advisory Council on Religious Education	8
Employee Consultative Forum (Teachers)	7
City Housing Liaison Board	3

11.4 Joint Committees

The City Council has established the following Joint Arrangements for the current Municipal Year as follows:-

- (i) West Midlands Joint Committee

(ii) West Midlands Joint Committee (Sub-Committee Planning and Transportation)

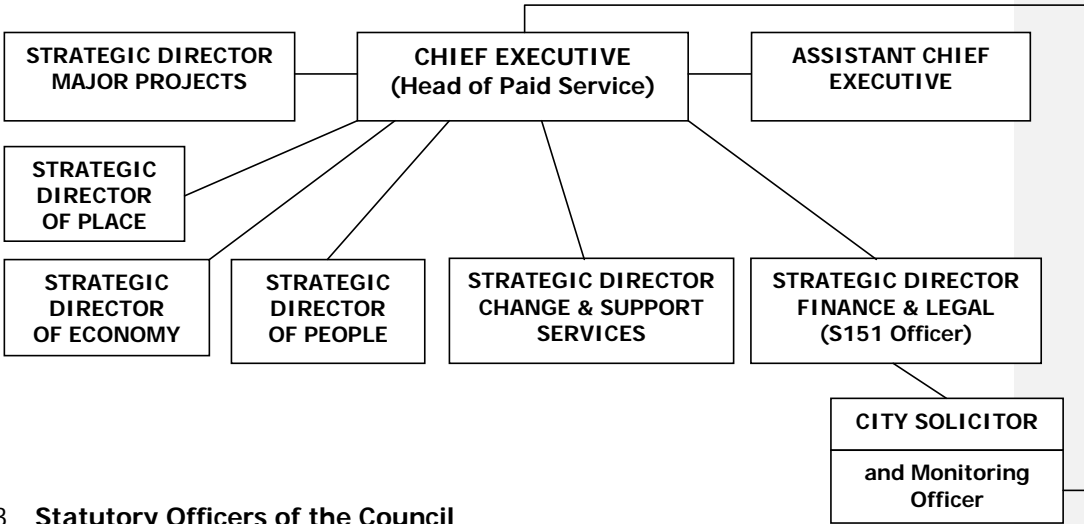
~~(ii)~~ (iii) West Midlands Combined Authority

Article 12 – Officers

This Article sets out details with regard to “Officers”, which means all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of “employees” to cover those engaged under short term, agency or other non employed situations.

Management structure

- 12.1 **General.** The Council is empowered to engage Officers to carry out its functions.
- 12.2 **Chief Executive, Assistant Chief Executive and Strategic Directors (Chief Officers)**



12.3 **Statutory Officers of the Council**

Head of the Paid Service = Chief Executive and Returning Officer and Electoral Registration Officer

This is the Chief Executive of the Council.

The Council must approve the appointment of the Head of Paid Service before a final offer of appointment is made to him/her. The Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given to him/her.

Monitoring Officer = City Solicitor

This role promotes the legality of decision making, high standards of conduct by Councillors and officers and supports the Standards Committee.

Chief Finance Officer = Strategic Director - Finance and Legal

This role is responsible for ensuring the sound financial administration of the Council.

Scrutiny Officer = Head of Scrutiny Services

This role promotes Overview & Scrutiny functions of the Council.

12.4 Delegated Authority to Chief Executive and Chief Officers (Strategic Directors)

- (a) Subject to clause (f) below, Strategic Directors have the following delegated powers in respect of all matters which are not “key decisions” and not reserved for decision by the Council or by a Committee of the Council:
- (i) to make decisions and approve expenditure relating to the functions of their Directorate providing (1) that the sum expended is within the approved budget for the Directorate and/or relevant portfolio, and (2) the amount in relation to any single matter does not exceed £200,000 or (3) the amount in relation to any single matter is between £200,000 and £500,000 (revenue) or £1M (capital) jointly with the relevant Cabinet member(s).
 - (ii) determine employment matters relating to staff including all changes to staffing structures below JNC level and the annual implementation of the contractual pay increment system. These powers will not include changes to terms and conditions of employment (the Birmingham Contract) or additional payments to any individual member of staff above the general financial threshold delegated to officers (£200k).
 - (iii) to approve tender strategies and award contracts in accordance with the Procurement Government Arrangements in **Volume B** where the supplies, materials, or services to be purchased or the works to be executed are between the European Threshold (currently £164,176) and £10,000,000 in value, over the contract length.
 - (iv) where no other viable alternative exists to approve contract extensions, where no extension option in the contract exists, in accordance with the Procurement Governance Arrangements in **Volume B** where the supplies, materials, or services to be purchased or the works to be executed do not exceed £500,000.
 - (v) to write off any individual debts of income (including any associated court costs and bailiffs fees) within their service directorate responsibility, and after consultation with the Strategic Director - Finance and Legal, up to the sum of £25,000 per individual or organisation, which in the opinion of the Strategic Director, is considered to be uneconomical to collect or is irrecoverable. *All individual debts above this amount can only be written off by the Strategic Director - Finance and Legal.*
 - (vi) the Chief Executive has all the above delegated authority in respect of all executive and non-executive expenditure, and as may be necessary, determine which Directorate discharges any particular Council function if this is not clear.

- (vii) the Strategic Director – Finance and Legal additionally has the powers and restrictions set out in 12.4(f) below.
- (b) These powers may be delegated further under a Scheme of Delegation as may be determined by the Chief Executive, and Strategic Directors. Any such Scheme of Delegation will be produced to the Chief Executive and published on the Council's website. Powers are also delegated to all officers in accordance with their job description and Divisional budget.
- (c) Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and also put appropriate systems in place for recording the exercise of delegated powers in the following manner and circumstances:
 - (i) 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 produced to the Chief Executive and the Leader/Deputy Leader on the 30th September and 31st March of each year.
 - (ii) additionally, all decisions taken jointly with Cabinet Members should also be recorded but in these cases using a standard committee report form (public or private as appropriate), signed by the relevant Chief Officer and then recorded on the Council's CMIS website.
- (d) The City Solicitor may exercise all proper officer and any other functions of the Council which do not fall within the Directorate or budget responsibility of a Strategic Director and has the powers set out in Article 14.
- (e) The Chief Executive and the Strategic Director – Finance and Legal, may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.
- (f) The Chief Executive, and the Strategic Director– Finance and Legal and the Strategic Director of Major Projects in relation to f (iii) only (and no other Strategic Director) without financial limit have the following additional powers to make decisions in relation to:
 - (i) all future forms of indemnity on behalf of the Council including the signing of certificates under the Local Government (Contracts) Act 1997.
 - (ii) the Council's loan and investment portfolios in accordance with the statutory borrowing limits determined by the Council and the Council's Treasury Policy Statement and Management Strategy as approved from time to time by the Council and all such decisions are exempt from the reporting requirements set out in Article 13.

- trust fund investments;
 - banking arrangements including opening bank accounts and credit card facilities;
 - non land and building leases;
 - the application for financial assistance to the City Council and the authorisation of any grant claims;
 - the administration of the Housing Rents, Council Tax and Housing Benefit systems and the collection of Community Charge, Council Tax, Housing Rents and Non-Domestic Rates (including setting Non-Domestic rates and applications for relief or reduction in accordance with the criteria and policy guidance approved from time to time by the Cabinet);
 - matters relating to the transfer of pension rights.
- (iii) - the acquisition and disposal of leasehold interests for rent (including the granting and surrendering of any rights over such land and property) provided that any term does not exceed £125,000 p.a;
- the acquisition and disposal of freehold and leasehold interests at a premium, provided that the premium does not exceed £1,000,000; and
- the management of all of the Council's land and properties, including the authorising and payment of discretionary contributions towards trade/loss and or removal expenses and all payments due under an approved Compulsory Purchase Order, provided that the cost does not exceed £200,000;

save that land and property held by the Council as Trustee shall be the responsibility of the Trusts and Charities Committee.

In any re-gear of a lease only the extra term shall be used in calculating the gross value.

- (g) The Chief Executive and Chief Officers have delegated authority to approve and make payments in connection with the duties of the council where it holds monies in the capacity of an "Accountable Body". In all such cases where the Council is the Accountable Body, the Chief Executive or any Chief Officer has authority to make lawful payments in compliance with the terms under which the Council holds monies as the Accountable Body and in accordance with any requirements approved by the Council as Accountable Body, up to but not exceeding the total amount held under each agreement with the grant giver.

Article 13 – Decision Making and Key Decisions

This Article sets out details with regard to Executive decision-making.

13.1 Responsibility for decision making

A record of all decisions over £50k has to be kept, including the name or body having responsibility for making such decisions. The record of public decisions over £200k will be available for inspection by members of the public. This Constitution records those arrangements, so that the public can hold to account the relevant decision-makers.

13.2 Principles of decision-making

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

- (a) Good decision making involves the realistic evaluation of alternatives and public consultation, including public access to decision-making.
- (b) Under Executive arrangements, decisions may be taken by a range of people and bodies – Cabinet, District/Ward Committees and Chief Officers.
- (c) The following principles of effective decision-making require there to be:-
 - (i) legality/power to make decisions;
 - (ii) proportionality (i.e. the action must be proportionate to the desired outcome);
 - (iii) a proper consideration of available options for action and/or inaction;
 - (iv) due consultation and the taking of professional advice from Officers;
 - (v) due regard to the public sector equality duty and respect for human rights;
 - (vi) a presumption in favour of openness and transparency of decision making;
 - (vii) clarity of aims and desired outcomes; and
 - (viii) avoidance of conflicts of interest.

13.3 Types of decision

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and other non-executive Decisions are delegated to Council Business Management Committee and Regulatory Committees.

(b) **Decisions reserved to Cabinet and “Key Decisions”**

“Key decisions” must be taken by Cabinet, unless delegated by Cabinet to a Cabinet Member jointly with the Chief Officer or a Chief Officer or Director alone.. A decision will be a “key decision” if:

- (i) it is an Executive decision relating to the discharge of an Executive function
- (ii) AND is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant:
 - (a) in the case of capital projects, if they involve entering into new commitments and/or making savings in excess of £1M; or
 - (b) in the case of revenue projects, if they involve entering into new commitments and/or making new savings in excess of £500,000, (gross value).

OR is significant in terms of its effect on communities living or working in an area comprising two or more Wards in the area of the local authority and the decision making has not been delegated to District Committees.

- (c) **Decisions by Cabinet Members jointly with Chief Officers** are as set out in Article 6 – namely all executive decisions between the Chief Officer limit of £200K and £500K (revenue) or £1M (capital).
- (d) **Decisions delegated by Cabinet to Executive Members** are as set out in **Article 10** and more particularly set out in **Volume B (B6)**.
- (e) **Decisions delegated by Cabinet to District Committees** are as set out in Article 10 and more particularly set out in **Volume B**.
- (f) **Decisions delegated to Chief Officers** are as set out in **Article 12**.
- (g) **Emergency Decisions** - see **Volume B**, Meetings Administration.

Article 14 – Finance, Contracts and Legal Matters

*This Article sets out details with regard to the Council's Financial Regulations and Standing Orders relating to Contracts, which are contained in **Volume B**.*

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in **Volume B**.

14.2 Contracts

Contracts relating to the procurement of supplies, works or services entered into by the Council must comply with the Standing Orders Relating to Contracts set out in **Volume B**.

14.3 Legal proceedings

The City Solicitor is duly authorised to institute, defend or participate in any legal proceedings or settle (up to the value of £500,000), if appropriate any actual or threatened legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to safeguard and protect the Council's interests. Decisions above this financial threshold will be made by the Strategic Director – Finance and Legal and/or the Chief Executive in consultation with the Monitoring Officer.

The City Council's Standing Orders relating to Contracts govern the arrangements for signing of contracts and sealing of relevant documents. These are set out in **Volume B**.

Article 15 – Review, Revision and Suspension of the Constitution

This Article sets out details with regard to the review, revision and suspension of the Constitution.

15.1 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review once a year the effectiveness and operation of this Constitution so as to ensure that the aims and principles of the Constitution are given full effect.

15.2 Changes to the Constitution

- (a) Should any executive changes be considered necessary, the City Council has authorised the Executive to take all necessary action.
- (b) In addition, the Council has authorised the Council Business Management Committee to take all necessary steps, through the year, to amend, add, substitute or delete any of the City Council's non-Executive Constitutional Arrangements, and only refer major changes to Full Council for approval.

15.3 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Standing Orders and other Procedure Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Standing Orders and Procedure Rules capable of suspension.** All of the Standing Orders and other Procedure Rules listed in **Volume B** of this Document may be suspended, save for the Meetings Administration Rules.