



Birmingham City Council Constitution

Part A – Summary and Explanation

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The Council's Constitution

Birmingham City Council has agreed a 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. Some of these processes are required by the law, while others are a matter for the Council to choose.

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.

The purpose of the Constitution is to:

- (i) Enable the Council to provide visible, accountable and effective leadership to the citizens of Birmingham;
- (ii) Support the active involvement of citizens in the process of local authority decision-making;
- (iii) Help Councillors to effectively and efficiently represent and support their constituents;
- (iv) Enable decisions to be taken in an effective and efficient manner having regard to the law, appropriate policies, procedures and ethical standards;
- (v) Create an effective, efficient and appropriate mechanism to hold decision-makers to public account.

For further information regarding the review, revision and suspension of the Constitution, please see [section](#) below.

The Constitution is divided into five parts:

- **Part A – Summary and Explanation:** introduction to the Constitution and how the Council operates;
- **Part B – Roles, Functions and Rules of Procedure:** rules governing the Council's business, how decisions are taken and the rights of citizens;
- **Part C – Codes and Protocols:** Codes of Conduct for Councillors (also known as "Members") and employees, and other codes and protocols;
- **Part D – Procurement and Contract Governance Rules:** rules governing financial, procurement and contract matters;
- **Part E – Schedule of Delegations:** how decisions are delegated to officers.

How the Council Operates

The Council is composed of 101 [Councillors](#), one of whom is elected as Leader. 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.

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 Council elects a Leader, who appoints the **Cabinet**. Cabinet's main role is to develop and implement policy on behalf of the Council. It constitutes the Executive (decision making) part of the Council, though some decisions, such as the approval of the budget, rest with Full Council. **Overview & Scrutiny Committees** ensure that decision makers within the Council are held accountable and assist in strategic policy development, drive improvement in public services, and ensure that the voice of the public is heard.

The Council has established **Ward Forums** which provide for public participation and representation at a local level.

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. As "quasi-judicial" bodies, these Committees are also cross-party and independent of the Executive.

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. Further information can be found in Part B16: *The Standards Committee*.

The Council also employs **officers** to give advice, implement decisions and manage the day to day delivery of its services, as well as taking decisions if responsibility has been delegated to them. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and Members of the Council (see Part C5 *Member/Officer Protocol*).

How Decisions are Made

The Full Council

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.

Meetings of the Council are normally open to the public and are chaired by the **Lord Mayor**.

Types of Council meetings

There are three types of Council meeting:

- (i) the Annual General Meeting;
- (ii) ordinary meetings;
- (iii) extraordinary meetings

They will be conducted in accordance with the rules of procedure as set out in Part B4 of the Constitution.

Further information can be found in Part B4: *Full Council Role, Function and Procedure Rules*.

The Executive

The Executive (known as Cabinet) will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

The Executive is made up of the following:

- (i) Cabinet
- (ii) Cabinet Committees
- (iii) Cabinet Members

Key decisions are made by Cabinet and must first be published in the Cabinet's Forward Plan in so far as they can be anticipated, but at least 28 days in advance (in accordance with statutory requirements).

The Cabinet, acting as a collective and in accordance with the provisions of the Constitution, has to make decisions which are in line with the Council's overall policy framework 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 Council to decide.

Non-key decisions are made by **Cabinet Committees**; and by **Cabinet Members with Chief Officers** and by **officers under delegated authority**.

Cabinet comprises ten Councillors, including the Leader and Deputy Leader, as follows:

- Leader
- Deputy Leader
- Cabinet Member – Housing and Homelessness
- Cabinet Member – Social Justice, Community Safety and Equalities
- Cabinet Member – Finance and Resources
- Cabinet Member – Health and Social Care
- Cabinet Member – Children, Young People and Families

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- Cabinet Member – Digital, Culture, Heritage, and Tourism
- Cabinet Member – Environment
- Cabinet Member – Transport

Further information can be found in Part B6 *Executive Role, Function and Procedures* and Part B7 *Cabinet Portfolios*.

Commented [CS1]: To be updated to reflect the Leader of the Council's announcement of Cabinet Members which will take place at the Annual Council Meeting on 23 May 2023.

Health and Wellbeing Board

The Health and Wellbeing Board is constituted as a Committee under the Chair 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.

Further information can be found in Part B6.4 *Health and Wellbeing Board*.

Overview and Scrutiny

A number of Overview & Scrutiny Committees ensure that decision makers within the Council are held accountable. They assist in strategic policy development, drive improvement in public services, and ensure that the voice of the public is heard. These Committees are not decision making and must be cross-party.

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 reconsiders the decision. They also support the work of the Cabinet and the Council as a whole through contribution to policy development. They may submit reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

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.

Further information can be found in Part B11 *Overview & Scrutiny Committees*.

Regulatory and Non-Executive Committees

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. These Committees operate in a "quasi-judicial" manner and are also cross-party and independent of the Executive.

Regulatory and Non-Executive Committees 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.

Regulatory and Non-Executive Committees for Birmingham City Council are as follows:

Regulatory committees

- (i) Planning Committee (see Part B12 *Planning Committee*)
- (ii) Licensing and Public Protection Committee (see Part B13 *Licensing and Public Protection Committee*)

Non-executive committees

- (i) Council Business Management Committee (see Part B5 *Council Business Management Committee*);
- (ii) Audit Committee (see Part B14 *Audit Committee*);
- (iii) Trusts and Charities Committee (see Part B15 *Trusts and Charities Committee*);
- (iv) Standards Committee (see Part B16 *Standards Committee*).

Ward Forums

In order to give local citizens a greater say in Council affairs, Ward Forums have been established on the basis of representing all parts of the City. The Cabinet may make arrangements for the discharge of functions for which the Cabinet is responsible by Ward Forums. The Cabinet will identify a number of functions that Ward Forums may exercise. However, the Cabinet remains ultimately responsible for these services and may remove or limit a Ward Forum's powers. As with the Cabinet, in exercising their powers Ward Forums must make decisions which are in line with the Council's overall policies and budget. The Ward Forums involve all the Councillors from the Wards within each Ward Forum area and meetings are held in public.

Further information can be found in Part B10 *Ward Forums*.

Joint Committees

The City Council has established the following Joint Arrangements:

West Midlands Combined Authority (WMCA)

The [West Midlands Combined Authority](#) comprises 18 local authorities, including Birmingham City Council and four Local Enterprise Partnerships (LEPs) including Greater Birmingham & Solihull LEP, working together to move powers from Whitehall to the West Midlands. Individual councils will still deliver services and retain their identity, but on the big decisions the WMCA will have the resources to work together.

Officers

The title "Officers" refers to 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.

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

For further information in respect of the role of officers, see Part E: *Scheme of Delegations*.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

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

Citizens have the right to:

- (i) Vote at local elections if they are registered;
- (ii) Contact their local Councillors about matters of concern to them;
- (iii) Obtain a copy of the Constitution;
- (iv) Attend meetings of the Council, the Cabinet and Committees;
- (v) See reports, background papers and records of decisions made by the Council, the Cabinet and Committees;
- (vi) Complain to the [Council](#) about service delivery;
- (vii) Complain to the [Ombudsman](#);
- (viii) 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;
- (ix) Inspect the Council's accounts during a statutory period and make their views known to the external auditor.

Further information can be found in Part B1.1 *Citizens and the Council*.

Finance, Contract and Legal Matters

Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations as set out in Part D of this Constitution.

Contracts

Contracts relating to the procurement of supplies, works or services entered into by the Council must comply with the Regulations relating to Contracts set out in Part D of this Constitution.

The Council has a statutory duty under Section 135 Local Government Act 1972 to make Standing Orders with respect to the making of contracts for the supply of goods or services or for the execution of works. Sound procurement practices support probity, competition and the discharge of the Council's best value duty. Officers are required to use the Council's corporate contracts where they exist as distinct from procuring a new contract.

Procurement Governance Arrangements

The purpose of these arrangements is to ensure the required quality of decision making in procurement matters and that the relevant Officers have been engaged or consulted. As a general principle the contract award decision for all contracts where the supplies, materials, services to be purchased or the works to be executed are below £10,000,000, will be delegated to Chief Officers except where it is likely that the award of the contract will result in staff employed by the Council transferring to the successful contractor under TUPE.

The Procurement Governance Arrangements as set out in Part D of this Constitution.

Legal Proceedings

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

Part D of this Constitution (Financial Regulations) governs the arrangements for signing of contracts and sealing of relevant documents.

Common Seal

A decision of the Executive or a resolution of the Council or a committee acting within the powers and duties delegated to it shall be sufficient authority for sealing any deed, instrument, document or writing necessary to give effect thereto.

The Common Seal will be affixed to those documents which in the opinion of the City Solicitor should be sealed. The affixing of the Common Seal will be attested by the City Solicitor or some other person authorised by him/her.

The process for sealing documents shall be determined by the City Solicitor.

Review, Revision and Suspension of the Constitution

Duty to monitor and review the Constitution

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

Changes to the Constitution

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 amendments and refer all changes to Full Council for approval, save that authority to make certain changes is delegated to the Monitoring Officer as set out below.

Changes to the Constitution will be approved by the body or person to whom such authority has been delegated as indicated in the table set out at Annex 1 attached. Where the approval of Full Council is required, then they will only be approved by full Council after consideration of the proposal by the Council Business Management Committee and following advice from the Monitoring Officer.

The Monitoring Officer is authorised to make any changes to any Part of the Constitution which are required:

- as a result of legislative change or decisions of the Council¹ or Executive² to enable him/her to maintain it up to date;
- or for the purposes of clarification only.

All changes made by officers under delegated authority will be recorded as delegated decisions.

Suspension of the Constitution

Limit to suspension

The Constitution may not be suspended. The Council Procedure Rules set out in Part B4.4 of this Constitution may be suspended by the Full Council to the extent permitted within those Rules and the law.

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved; taking account of the purposes of the Constitution set out in [Part A](#).

The ruling of the Lord Mayor as to the construction 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](#).

¹ Including Council Committees and Officers acting under delegated authority.

² Including Committees of the Executive and Officers acting under delegated authority.

Annex 1

Part of Constitution	Title of Section	Body/Person with authority to change the document ³
Part A – Summary and Explanations	–	Full Council
Part B – Roles, Functions and Rules of Procedure	B1 Roles B2 Responsibility for functions B3 Decision Making B4 Full Council Role, Function & Procedure Rules B5 Council Business Management Committee Role and Procedure B6 Executive Role, Functions and Procedure B7 Cabinet Portfolios B8 Appointments to Outside Bodies B9 Joint Arrangements B10 Ward Forums B11 Overview & Scrutiny Committees B12 Planning Committee B13 Licensing and Public Protection Committee B14 Audit Committee B15 Trusts and Charities Committee B16 Standards Committee B17 Independent Remuneration Panel B18 Summary of Quoracy	Full Council Cabinet Leader of the Council Full Council (Non-Executive) or Cabinet (Executive) Full Council
Part C – Codes and Protocols	C1 Corporate Governance Code and Framework C2 Meetings and Access to Information Procedure Rules C3 Protocol Regarding the Recording of Council Meetings C4 Code Of Conduct For Members C5 Member / Officer Relations Protocol C6 Employee Code of Conduct C7 Employment Procedure Rules C8 Planning Code of Practice for Members and Officers C9 Licensing Committee Code of Practice for Members and Officers C10 Members Allowance Scheme	Full Council

³ Subject to delegation to Monitoring Officer [above](#)

Part of Constitution	Title of Section	Body/Person with authority to change the document ³
Part D – Procurement and Contract Governance Rules	D1 Introduction D2 Roles and Responsibilities D3 Thresholds D4 Process D5 Definitions	Full Council
Part E – Scheme of Delegations	–	Cabinet and Full Council



Birmingham City Council Constitution

Part B – Roles, Functions and Rules of Procedure

May 2023

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B1. ROLES

1.1 Citizens and the Council

Citizens' Rights

- i. Citizens have general rights with regard to the business of the Council. Their right to information and /or to participate in Council business is explained in more detail in Part C2: Meetings and Access to Information.
 - 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:
 - o Attend meetings of the Council and to film, record and report the proceedings of 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 (see Part C2 for rules on accessing meetings and C3 for rules on filming at meetings);
 - o Find out from the Forward Plan which key decisions are likely to be taken and when;
 - o 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;
 - o Inspect the Council's accounts during any prescribed statutory period(s) and make their views known to the external auditor; and
 - o Such other information as may be specified in the Council's Freedom of Information Act 2000 Publication Scheme.
 - c) **Participation.** Citizens may ask questions at Full Council Meetings having given notice. Citizens may be granted the right, if invited to do so by the Chair 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:
 - o The [Council](#) about service delivery;
 - o The [Ombudsman](#);
 - o 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:

Citizens' Responsibilities

- ii. 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.

1.2 Members of the Council (Councillors)

Composition and Eligibility

- i. *Composition:* The Council comprises 101 Members (otherwise called Councillors) serving 69 wards – 37 single member wards and 32 two-member wards.
- ii. *Eligibility:* Only eligible persons, as defined by elections law, will be permitted to hold the office of Councillor.

Election and Terms of Councillors

- iii. Birmingham will hold all out elections to the Council every fourth year. The term of office of councillors will normally be four years and four days.

Roles and Functions of all Councillors

- iv. Key roles:
 - a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions for the City Council;
 - b) Contribute to the good governance of Birmingham and actively encourage community participation and citizen involvement in decision making;
 - c) Responsibility to represent the interests of all the residents of the City Council area with special responsibility to the residents of their Ward;
 - d) Respond to constituents' enquiries and representations, fairly, promptly and impartially;
 - e) Balance different interests identified within the Ward and represent the Ward;
 - f) Maintain high standards of ethical conduct and behaviour.
- v. Rights and duties:
 - a) 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.
 - b) 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.
 - c) For these purposes, "confidential" and "exempt" information are defined in Part C2 of the Constitution: *Access to Information* or as advised by the City Solicitor.

Conduct

- vi. Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part C of this Constitution.

Allowances

- vii. Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme. The [Members Allowances Scheme](#) is Section C10 of the Constitution and can be found on the Council's website.¹
- viii. Councillors receive allowances to support them in carrying out their work as elected representatives. The size of the allowance for the various Councillor roles is decided by the City Council. In taking this decision, the Council must consider a report from an Independent Remuneration Panel. The Terms of Reference for the Independent Remuneration Panel can be found in [Part B17 Independent Remunerational Panel](#).

1.3 The Lord Mayor and the Deputy Lord Mayor

- i. The Royal Charter of 1896 conferred the right of the First Citizen in Birmingham to be "styled, entitled and called" Lord Mayor of Birmingham.
- ii. The Lord Mayor will be elected annually by the Council. 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.

Responsibilities

- iii. The Lord Mayor will have the following responsibilities:
 - a) To uphold and promote Birmingham, its Constitution, and to give rulings on the Constitution during Council Meetings;
 - b) 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;
 - c) To promote public awareness, knowledge and participation in the business of the Council.

Ceremonial Role

- iv. 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.

Chairing the Council Meeting

- v. The Lord Mayor (and in his/her absence the Deputy Lord Mayor) will chair Full Council meetings, so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the Community.

¹ https://www.birmingham.gov.uk/downloads/file/4222/members_allowances_scheme

Appointment of the Deputy Lord Mayor

- vi. 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 Lord Mayor. 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.
- vii. 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.

Consorts to the Lord Mayor and the Deputy Lord Mayor

- viii. 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.

1.4 The Leader of the Council

- i. The Leader of the Council must be appointed by the Council and is appointed for a four year term or for up to the end of his / her term of office as a Member, whichever is shorter.
- ii. The Leader of the Council will hold office until:
 - a) S/he resigns from Office; or
 - b) S/he is disqualified from being a Councillor (although he/she may resume office at the end of the period of disqualification); or
 - c) S/he is no longer a Councillor; or
 - d) S/he is removed from Office by a resolution of no confidence passed by a simple majority resolution of the Council.
- iii. The Leader of the Council is empowered to make necessary in-year changes to the Cabinet Member Portfolios and appoint members of the Cabinet.
- iv. In the event of the post of the Leader of the Council becoming vacant for any of the reasons stated 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.
- v. If for any reason the Leader is unable to act, the Deputy Leader will act in his/her place.

vi. If for any reason:

- o the Leader is unable to act; and
- o the Deputy Leader is unable to act or the office of Deputy Leader is vacant

the Cabinet must act in the Leader's place, or arrange for a Cabinet Member to act in his/her place.

1.5 Cabinet Members

- i. 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 Ward Forums.
- ii. 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:
 - a) They resign from Office or they are dismissed, either collectively or individually, by the Leader of the Council; or
 - b) They are disqualified from being Councillors (although they may resume office at the end of the period of disqualification); or
 - c) They otherwise leave or are required to leave office.
- iii. The decision-making role of Cabinet Members is set out in [B6 Executive Roles, Functions and Procedures](#).
- iv. The functions of individual Cabinet Members are set out in [B7 Cabinet Portfolios](#).

1.6 Cabinet Advisers

- i. Cabinet Advisers may be appointed by the Leader to support Cabinet Members. The positions will not receive a Special Responsibility Allowance and will not have any delegated decision-making authority. Cabinet Advisers will be invited to attend Cabinet as required.

1.7 Officers

- i. The title “Officers” refers to 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.
- ii. The Council’s “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.
- iii. The Employee Code of Conduct for Officers can be found in Part C6 *Employee Code of Conduct*.
- iv. The Council is empowered to engage Officers to carry out its functions.

Statutory Officers

- v. The Statutory Officers of the Council are as follows:
 - a) **Head of Paid Service (Chief Executive)** – 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 (see Part C7 *Employee Procedure Rules – JNC Officers*).
 - b) **City Solicitor and Monitoring Officer**² – This role promotes the legality of decision making, high standards of conduct by Councillors and officers and supports the Standards Committee.
 - c) **Chief Finance Officer** – This role is responsible for ensuring the sound financial administration of the Council.
 - d) **Returning Officer and Electoral Registration Officer** – This will be the Assistant Director, Governance.
 - e) **Scrutiny Officer** – This role promotes the Overview & Scrutiny functions of the Council. This will be the Head of Scrutiny and Committee Services.

Council Leadership Team (CLT)

- vi. The full Council will engage persons for the following posts, who will be designated Chief Officer and will have the functions and responsibilities set out in Part E of this Constitution. The composition of CLT is a matter for the Chief Executive.
 - o Chief Executive (& Head of Paid Service³)
 - o Strategic Director, Council Management (& s151 officer⁴)

² Designated under Section 5 Local Government and Housing Act 1989

³ Designated under Section 4 Local Government and Housing Act 1989

⁴ Appointed in accordance with Section 151 Local Government Act 1972

- Strategic Director, Adult Social Care (& Director of Adult Social Services⁵)
- Strategic Director, Place, Prosperity and Sustainability
- Strategic Director, Children and Families (& Director of Children's Services⁶)
- Strategic Director, City Operations
- Strategic Director, City Housing
- Director of Strategy, Equality and Partnerships
- Director, Digital & Customer Services
- Director, Public Health
- Director, People Services
- Director, Transformation
- City Solicitor (Monitoring Officer)
- Chief Executive, Children's Trust
- Programme Director, Commonwealth Games
- Assistant Director, Corporate Communications

vii. Further information regarding the Senior Leadership Team can be found [here](#).

Member / Officer Relations Protocol

- viii. Birmingham City Council is committed to promoting a culture that demonstrates its core values and behaviours. Members and Officers in conducting their working relationships with each other are expected to promote this culture and do so by acting in a respectful and professional manner. There is a high standard of conduct expected of both Members and Officers at all times.
- ix. Failure to follow the expected conduct by either Members or Officers is considered a serious issue by the Council and will be dealt with in accordance with the Council's policies and procedures and/or in accordance with the Member's Code of Conduct.
- x. The full Member / Officer Relations Protocol can be found in Part C5 *Member/Officer Protocol*.

⁵ Appointed under Section 6 Local Authority Social Services Act 1970

⁶ Appointed under Section 18 Children Act 2004

B2. RESPONSIBILITY FOR FUNCTIONS

2.1 Introduction

- i. Functions fall into the following categories:

1. Local Choice Functions

- ii. These are functions which the authority may treat as the responsibility of the Executive (in part or whole) or as Council (non-executive) functions, at its discretion.
- iii. Section 2.2 sets out these functions and shows who is authorised to discharge them.

2. Council (non-executive) Functions

- iv. These are functions which, under the law, cannot be the responsibility of the Executive. In some cases, such as adopting the Council's budget or the Policy Framework, only full Council may discharge the function. In other cases, the Council may delegate the responsibility for discharging a function to a committee or an officer.
- v. Section 2.3 sets out these functions and shows who is authorised to discharge them.

3. Executive Functions

- vi. All other functions are executive functions. Decisions on these will be taken by the Executive, unless they are dealt with under joint arrangements or delegated to an officer.
- vii. Section B7: [Cabinet Portfolios](#) sets out how these functions are allocated and Section E sets out the Scheme of Delegations for officers.

2.2 Local Choice Functions

- i. Local Choice functions are those which the authority may treat as the responsibility of the Executive (in part or whole) or as Council (non-executive) functions, at its discretion. The table below sets out how these are treated in Birmingham.

Local Choice Functions ⁷	Decision Making Body	Delegation of functions to Committees or officers
Functions under a local Act (other than one specified or referred to in Reg 2 or Schedule 1 of the Regulations 2000)	Cabinet	The relevant Director for the function concerned.
To determine appeals against any decision of the authority where there is a right of appeal to a council committee (this excludes matters where statutory arrangements exist)	Council Business Management Committee	-

⁷ Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2

Local Choice Functions ⁷	Decision Making Body	Delegation of functions to Committees or officers
To appoint review boards under the Social Security Act 1998 ⁸	Full Council	City Solicitor
To make arrangements for appeals against exclusion of pupils from maintained schools	Cabinet	Strategic Director, Children and Families OR the City Solicitor
To make arrangements for appeals regarding school admissions ⁹	Cabinet	Strategic Director, Children and Families OR the City Solicitor
To make arrangements for appeals by governing bodies against a decision of the Local Authority to admit a child to whom s.87 of the School Standards and Framework Act 1998 applies ¹⁰	Cabinet	Strategic Director, Children and Families OR the City Solicitor
To make arrangements for appeals by governing bodies	Cabinet	Strategic Director, Children and Families
Any function relating to contaminated land ¹¹ a) to the extent that the function involves the formulation of a strategic policy b) to the extent that the function does not involve the formulation of strategic policy	Cabinet Council	Strategic Director, City Operations
The control of pollution or the management of air quality ¹² a) to the extent that the function involves the formulation of a strategic policy b) to the extent that the function does not involve the formulation of strategic policy	Cabinet Council	Strategic Director, Place, Prosperity and Sustainability and Strategic Director, City Operations
To serve an abatement notice in respect of a statutory nuisance ¹³	Council	Licensing and Public Protection Committee

⁸ s34(4) Social Security Act 1998

⁹ S94(1), (1A) and (4) School Standards and Framework Act 1998

¹⁰ S95(2) School Standards and Framework Act 1998

¹¹ Part IIA Environmental Protection Act 1990 and subordinate legislation

¹² Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

¹³ s80(I) Environmental Protection Act 1990

Local Choice Functions ⁷	Decision Making Body	Delegation of functions to Committees or officers
		Strategic Director, City Operations
To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area ¹⁴	Council	Strategic Director, City Operations
To inspect the authority's area to detect any statutory nuisance ¹⁵ a) to the extent that the function involves the formulation of a strategic policy b) to the extent that the function does not involve the formulation of strategic policy	Cabinet Council	Strategic Director, City Operations
To investigate any complaint about the existence of a statutory nuisance ¹⁶	Council	Strategic Director, City Operations
To obtain information about interests in land ¹⁷	Cabinet	Strategic Director, Place, Prosperity and Sustainability
To obtain particulars of persons interested in land ¹⁸	Cabinet	Strategic Director, Place, Prosperity and Sustainability
To make agreements for the execution of highways works ¹⁹	Cabinet	Strategic Director, Place, Prosperity and Sustainability and Strategic Director, City Operations
To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	Chief Executive
To appoint any individual to any office other than an office in which he is employed by the authority and to revoke any such appointment:		Chief Executive

¹⁴ s8 Noise and Statutory Nuisance Act 1993

¹⁵ S79 Environmental Protection Act 1990

¹⁶ s79 Environmental Protection Act 1990

¹⁷ s330 Town and Country Planning Act 1990

¹⁸ s16 Local Government (Miscellaneous Provisions) Act 1976

¹⁹ Section 278 Highways Act 1980

Local Choice Functions ⁷	Decision Making Body	Delegation of functions to Committees or officers
to the extent that appointments are to outside bodies in connection with functions which are the responsibility of the Executive	Cabinet	
to the extent that appointments are not the responsibility of the Executive	Full Council	

2.3 Council (Non-Executive Functions) ²⁰

Function	Decision Making Body	Delegation of functions to officers ²¹
Functions relating to planning and development control (Formulation of a strategic policy sits with the Executive, unless otherwise specified in legislation)	Planning Committee	Strategic Director, Place, Prosperity and Sustainability
Functions relating to licensing and registration (Formulation of a strategic policy sits with the Executive, unless otherwise specified in legislation)	Licensing and Public Protection Committee	Strategic Director, City Operations
Adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)	Full Council	-
Adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)	Full Council	-
Functions relating to health and safety at work		Director, People Services
Functions relating to Electoral Registration and the holding of elections	Council Business Management Committee	Returning Officer Electoral Registration Officer
Functions relating to name and status of areas and individuals including power to: change the name of a county, district confer title of honorary alderman admit to be an honorary freeman	Council Business Management Committee	Chief Executive

²⁰ <http://www.legislation.gov.uk/ukxi/2000/2853/schedule/1/made>

²¹ As set out in Part E: Scheme of Delegations

Functions relating to Community Governance	Full Council / Council Business Management Committee	Chief Executive
Power to make, amend, revoke or re-enact byelaws	Full Council	-
Power to promote or oppose local or personal Bills	Full Council	-
Functions relating to pensions and power to make payments or provide other benefits in cases of maladministration etc	Council Business Management Committee	Chief Finance Officer
To make arrangements for proper administration of financial affairs etc ²²	Audit Committee	Chief Finance Officer
Budget and Policy framework ²³ To amend, modify, revise, vary, withdraw or revoke any plan or strategy detailed in the policy framework. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	Full Council	Strategic Director, Council Management and Director, Strategy, Equality and Partnerships
Constitution <ul style="list-style-type: none"> To adopt / amend this Constitution Power to make standing orders Power to make standing orders as to contract 	Full Council	City Solicitor
Discharge of Functions To make arrangements for the appointment of Committees and discharge of Council's functions	Full Council	City Solicitor
Appointment to Outside Bodies To appoint representatives to outside bodies unless the appointment is an Executive	Full Council	-

²² Item 39 of Para. I of Schedule 1 of the 2000 Regulations

²³ Regulation 4(4) of the 2000 Regulations

function or has been specifically delegated by the Council		
Members Allowances Scheme To make, amend, revoke or replace a Members' allowances scheme	Full Council	City Solicitor
Functions to be discharged by the authority, by virtue of other enactments. ²⁴ To discharge any function which by virtue of any enactment passed or made before the making of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, may be discharged only by an authority.	Full Council	-
To appoint officers for particular purposes (appointment of proper officers) ²⁵	Full Council	Each Chief Officer is appointed as the Proper Officer for matters within his/her remit. The Chief Executive is appointed as the Proper Officer for the purpose of any other matter
To designate an officer as the head of the authority's paid service, and to provide staff etc. ²⁶	Full Council	The Chief Executive is appointed as Head of Paid Service
To designate an officer as the Monitoring Officer, and to provide staff etc. ²⁷	Full Council	The City Solicitor is appointed as the Monitoring Officer
To adopt, revise or replace a Members' Code of Conduct. ²⁸	Full Council	City Solicitor
Exercise the administrative powers and duties of Full Council (as Trustee) in relation to all trusts for which the Council is sole trustee	Trusts & Charities Committee	City Solicitor
Miscellaneous functions: Power to create footpaths and bridleways. Power to stop up footpaths and bridleways.	-	Strategic Director, Place, Prosperity and Sustainability

²⁴ Regulation 2(11) of the 2000 Regulations

²⁵ Item 40 of Para. I of Schedule 1 of the 2000 Regulations

²⁶ Item 43 of Para I of Schedule 1 of the 2000 Regulations

²⁷ Item 44 of Para I of Schedule 1 of the 2000 Regulations

²⁸ Section 28 Localism Act 2011

Power to divert footpaths and bridleways. Duty to assert and protect the rights of the public to use and enjoyment of highways. Powers relating to the removal of things so deposited on highways as to be a nuisance. Duty to keep a definitive map and statement under review. Duty to reclassify roads used as public paths. Powers relating to the preservation of trees. Powers relating to the protection of important hedgerows. Power to make limestone pavement order.		
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B3. DECISION MAKING

3.1 Who Can Take Decisions in the Council?

- i. One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Executive (whether acting individually or collectively) or Officer) makes the decision that will result in an action being taken or not taken.

A) Council Decisions

- ii. Council Decisions are made in relation to Council functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended; and in accordance with section B4 [Full Council Roles, Functions and Procedure Rules](#) of this Constitution.
- iii. Some functions are delegated to [Council Business Management Committee](#) in accordance with section B5 of this Constitution, or to officers as set out in Part E Scheme of Delegations.

B) Executive Decisions

- iv. Executive Decisions are made in relation to Executive functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended; and in accordance with section B6 [Executive Roles, Functions and Procedure Rules](#) of this Constitution.
- v. There are three types of Executive decision in Birmingham:
- Key Decisions (see paragraph [vi-vii](#) below);
 - Cabinet Member decisions based on a Chief Officer report (see paragraph [ix](#) below);
 - An executive decision delegated to officers (see paragraph [xii](#) below).
- vi. A decision will be a “**key decision**” if:
- a) it is an Executive decision relating to the discharge of an Executive function
- b) AND is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant:
- In the case of capital projects, if they involve entering into new commitments and/or making savings in excess of £1M; or
 - In the case of revenue projects, if they involve entering into new commitments and/or making new savings at the value of, or 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.
- vii. “Key decisions” taken by **Cabinet** must be done so by acting jointly and in accordance with the provisions of this Constitution as set out in B6.2 [Cabinet](#).

- viii. The following shall be exempt from the definition of a key decision ²⁹:
- a) Any decision where the expenditure, saving or income will result from:
 - o A decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989;³⁰ or
 - b) Any decision which is a direct consequence of implementing a previous Key Decision as set out in that report (including where specifically set out as a delegation in a Cabinet report).
 - c) Any decision covered by the specific delegations set out in Part D (Procurement and Contract Governance Rules) or Part E3.2 of the Constitution (Chief Officer Delegations), providing those decisions do not fall within the definition of a key decision at B3.1 vi) above.
- ix. Executive decisions at or above the Chief Officer limit of £200,000 and under £500,000 (revenue) or £1m (capital) are taken by **Cabinet Members** based on reports from Chief Officers as set out in [B6.5 Cabinet Member and Chief Officer Decision Making](#).
- x. Executive decisions may also be taken by a [Cabinet Committee](#).
- C) Committees**
- xi. Committees will exercise the functions set out in Sections B12-15 (regulatory), and section B11 (Overview & Scrutiny) of the Constitution.
- D) Officers**
- xii. Officers will exercise executive or non-executive functions as delegated by Cabinet or by City Council, or as set out in Part E (Scheme of Delegations) of the Constitution.
- E) Ward Forums**
- xiii. Ward Forums will exercise the functions set out in Section B10.
- F) Urgent Decisions**
- xiv. In an urgent situation, an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups.
- xv. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Cabinet or Committee meeting, and which needs to be considered before the next meeting of the Cabinet/Committee. Decisions made under this provision will be reported to the next meeting of the Cabinet/Committee.

²⁹ Decisions falling within these exemptions shall be treated as officer delegated decisions following consultation with the relevant Cabinet Member. The Chief Officer must notify the Chief Finance Officer in writing, of the circumstances and financial impact and report formally to the relevant Cabinet Member.

³⁰ To be reported in the half yearly delegations reports (see [B6.8](#))

3.2 Principles of decision-making

- i. Good decision making involves the realistic evaluation of alternatives and public consultation, including public access to decision-making. All decisions of the Council will be made in accordance with the following guiding principles:
 - a) Legality/power to make decisions;
 - b) Proportionality (i.e. the action must be proportionate to the desired outcome);
 - c) A proper consideration of available options for action and/or inaction;
 - d) Due consultation and the taking of professional advice from Officers;
 - e) Due regard to the public sector equality duty and respect for human rights;
 - f) A presumption in favour of openness and transparency of decision making;
 - g) Clarity of aims and desired outcomes (including giving reasons for the decision); and
 - h) Avoidance of conflicts of interest.

3.3 General Roles and Responsibilities of Members and Officers

- i. The effect of these arrangements is that Members set policy priorities and strategies to reflect local interests and needs and are also responsible for allocating funding between individual priority areas. Directors and their staff implement these strategies and policies by delivering services and major initiatives. It is officers, therefore, who have responsibility for managing the Council's day to day operations, within a policy and budgetary framework laid down by Members.
- ii. For further information on the Member Officer Protocol and Codes of Conduct, see Part C of this Constitution.

B4. FULL COUNCIL ROLE, FUNCTION AND PROCEDURE RULES

4.1 Role of the Full Council

- i. The Full Council's primary role is to consider and approve the Council's Policy Framework and Annual Budget and to appoint the Leader of the Council. The Full Council also holds to public account the Members of the Executive, Overview & Scrutiny and Regulatory Committees.
- ii. Some functions are delegated to [Council Business Management Committee](#) (Section B5).
- iii. The meeting of the Full Council will be conducted in accordance with the rules of procedure set out below (see section 4.2).

Policy Framework

- iv. The Policy Framework means the policies, plans or strategies to be approved or debated by the Full Council as set out below:
 - a) Annual Budget and Pay Policy
 - b) Those required by the Local Authorities (Functions and Responsibilities) (England) 2000 to be adopted by the Council ³¹:
 - o Community Safety Strategy ³²
 - o Statement of Licensing Policy under the Licensing Act 2003
 - o Statement of Licensing Principles under the Gambling Act 2005 ³³
 - o Plans and strategies which together comprise the Development Plan
 - o Youth Justice Plan ³⁴
 - c) Other plans and strategies adopted by the City Council:
 - o Birmingham City Council Plan
 - d) Housing Land Transfer: the approval or adoption of applications (whether in draft form or not) to the Secretary of State to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
 - e) Additional plans and strategies may be approved or adopted as part of the Policy Framework from time to time. These should include those plans or strategies that:
 - o Are significant in terms of the effect on communities living or working across all wards;

³¹ Some elements of the 2000 Regulations have been repealed by subsequent legislation.

³² This fulfils the requirement to produce a Crime and Disorder Reduction Strategy

³³ This is the policy statement under the Gambling Act 2005

³⁴ Section 40 Crime and Disorder Act 1998

- o Commit the Council to significant expenditure over and above that already in the budget or over a long period of time;
 - o Are significant in terms of its effect on the council's priorities;
 - o Have regional or national significance.
- v. A forward plan of policies, plans or strategies to be considered by Full Council will be published at each Council Business Management Committee meeting.

4.2 Functions of the Full Council

- i. Only the full Council will exercise the following functions:
 - a) Adopting and approving changes to the Constitution (as set out in Part A, Annex A);
 - b) Approving the overall revenue budget, the allocations of revenue resources to Directorates, the initial capital programme at the commencement of each year, the level of Council Tax and Council Tax support, 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 Chair, 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 revising a Member Code of Conduct;
 - h) To make, amend, revoke or replace a Members' allowances scheme;
 - i) Changing the name of the district;
 - j) Conferring the title of Honorary Alderman or [Freedom of the City](#);
 - k) Confirming the appointment of the Head of Paid Service/Chief Executive;
 - l) Approving the dismissal of the Head of Paid Service/Chief Executive, Chief Finance Officer and Monitoring Officer;
 - m) To appoint an electoral registration officer and returning officer for local government elections;
 - n) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;

- o) Receiving statutory officer reports of the Monitoring Officer, Section 151 officer and Head of Paid Service and other external auditor public interest reports;
 - p) Receiving and considering reports referred to it from Cabinet Members, Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and
 - q) All other non-executive matters which by law must be reserved to Council.
- ii. Other non-executive matters are delegated to Council Business Management Committee or any of its sub-committees or to other committees.
- iii. **Recorded vote on the Council's budget and council tax:** In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council's budget and council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments in relation to the budget and council tax.
- iv. 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](#) (section B15), with assistance from the Legal Services Team as and when required.

4.3 Appointments Reserved to the Full Council

Committee	No. Appointed
Local Government Association (General Assembly)	4
West Midlands Fire & Rescue Authority	10
West Midlands Police and Crime Panel	3
West Midlands Shareholders Airport Committee	1 plus 2 observers
Departmental Consultative Committees	1 on each
National Association of Councillors	1
Joint Scrutiny Committee for Supervisory Board of the Greater Birmingham and Solihull Local Enterprise Partnership	1
West Midlands Combined Authority (WMCA) Board (and Boards as required)	1 (and to Boards as required)
WMCA Overview and Scrutiny Committee	3
Transport Delivery Committee	7
WMCA Audit, Risk & Assurance Committee	1
WM Growth Company – Board of Directors	1
Interim Standing Advisory Council on Religious Education	8
City Housing Liaison Board	3
Safety at Sports Grounds Advisory Groups	Up to 4 members per group ³⁵

- v. Information on appointments to other outside bodies can be found in Section B8 [Appointments to Outside Bodies](#).

4.4 Council Procedure Rules

A. Annual Meeting

- i. In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.
- ii. The annual meeting will:
- Receive the annual report of the outgoing Lord Mayor;
 - Elect the Lord Mayor;
 - Make a presentation to the retiring Lord Mayor and Consort;
 - Appoint the Deputy Lord Mayor;
 - Agree the allowances to be made to the Lord Mayor and the Deputy Lord Mayor in office;

³⁵ Appointments must be in line with agreed policy

- Approve a programme of ordinary meetings of the Council for the year;
- Receive a report from the Returning Officer of the persons elected Councillors of the City at the last election and the making of the declarations of acceptance of office (if applicable);
- Receive the Lord Mayor's announcements and such communications as the Lord Mayor may wish to place before the Council.
- Elect the Leader (every four years or as required) and receive an announcement of Cabinet Members and Cabinet Advisers (as required);
- Receive and deal with petitions in accordance with this Constitution;
- Consider any recommendations made by the Council Business Management Committee;
- Make appointments to Committees and other bodies for the period of the municipal year; and
- Consider any business set out in the notice convening the meeting.

B. Ordinary Council Meeting

- i. All ordinary meetings shall be held at the **Council House, Birmingham**, at **2.00pm**, unless Full Council or Council Business Management Committee decides otherwise.
- ii. The order of business and the indicative timescales at every ordinary meeting of the Full Council shall usually be:

Standard Item	Time Limits	Indicative Timetable
Minutes, Lord Mayor's Announcements	10 minutes for Lord Mayor's Announcements - no presentations.	2.00 – 2.10 p.m.
Petitions	10 minutes	2.10 – 2.20 p.m.
Holding to Account		
Question time	<p>70 minutes</p> <p>Questions from members of the public to any Cabinet Member or Ward Forum Chair.³⁶</p> <p>Questions from any Councillor to a Committee Chair, Lead Member of a Joint Board or Ward Forum Chair.⁴</p> <p>Questions from Councillors other than Cabinet Members to a Cabinet Member.³⁷</p> <p>Questions from Councillors other than Cabinet Members to the Leader or Deputy Leader.⁵</p>	<p>2.20 – 3.30 p.m.</p> <p>20 minutes</p> <p>1 minute for each question</p> <p>2 minutes for each answer</p> <p>10 minutes</p> <p>1 minute for each question</p> <p>2 minutes for each answer</p> <p>20 minutes</p> <p>1 minute for each question</p> <p>3 minutes for each answer</p> <p>20 minutes</p> <p>1 minute for each question</p> <p>3 minutes for each answer</p>
Executive Business Report / Scrutiny Business Report / Lead Member Report	<p>45 minutes</p> <p>7 minutes presentation</p> <p>4 minutes per speaker</p> <p>5 minutes to respond</p>	3.30 – 4.15 p.m.
BREAK	(the Lord Mayor should have the flexibility to call this earlier or later as the meeting progresses)	4.15 – 4.45 p.m.
Policy Development / Council Business		
Policy Framework Plans; inquiry reports from Scrutiny; reports from CBM or the Executive; appointments; petition debates	<p>60 minutes</p> <p>7 minutes presentation</p> <p>4 minutes per speaker</p> <p>5 minutes to respond</p>	4.45 – 5.45 p.m.
Members' Debate		
Motions submitted by individual Councillors rotated equally between the political groups as determined by CBM	<p>Motions for debate –</p> <p>7 minutes presentation</p> <p>4 minutes per speaker</p> <p>5 minutes to respond</p>	5.45 – 7.15 p.m.

- iii. The business under any notice on the meeting agenda shall not proceed in the absence of the Member under whose name it is proposed, unless they have given authority in writing for it to be taken up by some other Member or Members of the Council;

³⁶ Where the Chair is not a councillor, the question may be directed to the ward councillor to answer on behalf of the resident Chair.

³⁷ Each Councillor may ask one question and one supplementary question

- iv. The time allowed for speeches shall be up to 7 minutes for the mover of a Motion or Amendment to the Motion, with up to 4 minutes each for other Members wishing to participate in the debate and a right of reply for the mover of the Motion only of up to 5 minutes.
- v. The Lord Mayor shall have the discretion to allocate unused time to the next item, with the proviso that each item should start no later than the time indicated on the agenda.
- vi. The order of business and the time limit allocated to items on the Agenda may be varied by agreement of the three political groups at Council Business Management Committee or, in the absence of such agreement, by a resolution passed on a Motion which, after being moved and seconded, shall be put to the vote without discussion.
- vii. 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.
- viii. If a meeting of the Council has not come to an end by 7:15p.m and there are items remaining on the agenda, the following procedure shall apply:
 - At the conclusion of the speech then being delivered, the Lord Mayor shall allow the mover of the motion then under debate to exercise his/her right of reply and shall then put the motion to the vote;
 - In respect of any remaining items of business, the Lord Mayor shall allow motions to be moved and seconded formally (without comment) and shall forthwith put the motions to the vote without discussion; and
 - The Lord Mayor shall then close the meeting.
- ix. Question time (including questions from the public) and motions for debate submitted by individual Councillors will be excluded from the agenda at the Annual Meeting and the Annual Budget Meeting of the Council.

C. Extraordinary Meetings of the Council

- i. Extraordinary meetings of the Council are meetings that take place in addition to an Ordinary Meeting or the Annual Meeting. These may be called by:
 - Resolution of the Council;
 - The Lord Mayor;
 - The Chief Executive and the City Solicitor acting together;
 - Petition of any five Councillors to the Lord Mayor.
- ii. The City Solicitor shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called. Such business should be relevant to any

of the Council's Policy Framework Plans and/or the Budget Framework and urgent, so cannot be dealt with at the next scheduled meeting.

- iii. The City Solicitor in consultation with the Lord Mayor shall determine the time and day of any Extraordinary Meeting in accordance with the Constitution and following consultation with the group leaders, but shall endeavour to arrange any such meeting to be held, where reasonably practical, at 2:00 pm on a Tuesday, within 10 working days of the request being received, subject to any statutory requirements.

D. Record of Attendance and Quorum

- i. The Monitoring Officer shall record the attendance of Councillors.
- ii. A Quorum is 30 Councillors.
- iii. If during any meeting of the Council, any Member draws to the attention of the Lord Mayor that there does not appear to be a quorum present, the Lord Mayor shall direct the Chief Executive to call over the names of the Members of the Council. If there are fewer than 30 members present, the Lord Mayor shall declare the meeting adjourned. The names of the Members present and those absent shall be recorded in the minutes of the Council.

E. Petitions

- i. Every petition to the Council meeting shall be in writing presented by a Councillor.
- ii. A Councillor presenting a petition, or the Lord Mayor (on behalf of Councillors who have submitted their petitions to the Monitoring Officer in advance of the meeting), may move without comment that the petition(s) be received and referred to the relevant Chief Officer(s) to examine and respond appropriately.
- iii. At each meeting of the City Council, the Monitoring Officer shall ensure that an "Update Report" is electronically available for Members providing relevant details on the progress, or otherwise, of any petitions received by the City Council since the last Annual General Meeting. Where a petition has been discharged, the Update Report does not need to mention the same.³⁸

F. Questions (Oral and written)

- i. **All questions**, whether oral or written, must:
 - Refer to an issue which affects Birmingham or its residents, or falls within the Council's responsibilities;
 - Not be defamatory, frivolous, vexatious or offensive;

³⁸ Petitions in response to licence applications are subject to a statutory process. They must be served upon the Licensing Service without delay in order to ensure statutory deadlines are complied with. They may still be presented to the meeting.

- Not require the disclosure of confidential or exempt information, or refer to legal proceedings being taken or being anticipated by or against the Council;
 - Not refer to individual planning or licensing matters, or any matter of a personal nature.
- ii. **Written Questions:** any Councillor may ask one written question (with no sub-questions) of any Cabinet Member, Committee Chair, Ward Forum Chair³⁹, Lead Councillor for a West Midlands Joint Authority or Ward Forum Chair by submitting the question by email to the Monitoring Officer by no later than 1200 hours on the Tuesday prior to the day of the Council meeting (except at the Council's AGM). A copy of each such question and the written answer shall be supplied to every Councillor at the start of the Council meeting and shall also be annexed to the Minutes of the meeting.
- iii. **Oral Questions – Questions from Members of the Public:** Except at the Annual Meeting and the budget meeting, a member of the public may ask one oral question of any Cabinet Member by submitting the question in writing to the Monitoring Officer no later than 12 noon on the Friday before the Council meeting. No question will exceed 1 minute and no answer will exceed 2 minutes. Members of the public may ask questions as set out in the order of business and in accordance with these rules of procedure. The question must not be substantially the same as a question which has been put at a meeting of the Council in the past 6 months.
- iv. **Oral Questions – Questions from Councillors:** Except at the Annual Meeting and budget meeting, Councillors may ask questions as set out in the order of business above and in accordance with these rules of procedure.
- v. The Leader of the Opposition will be called first to put their question at oral questions with the leaders of other groups also called during the session.

G. Notices of Motions

- i. A motion to be submitted to the Council **must:**
- Be relevant to any of the Council's Policy Framework Plans and/or the Budget Framework.
 - Be relevant to some matter in relation to which the Council has powers or duties or which affects Birmingham or its residents;
 - Not seek to take a decision in respect of a matter which is the responsibility of the Executive (other than to make a recommendation);
 - Not require the disclosure of confidential information or refer to legal proceedings being taken or being anticipated by or against the Council.

³⁹ Where the Chair is not a councillor, the question may be directed to the ward councillor to answer on behalf of the resident Chair.

- ii. The order of motions submitted for each ordinary meeting will be determined by the Council Business Management Committee at the start of each municipal year. This will be set out on the agenda for each meeting.
- iii. A motion must be in writing and signed by two members and must be delivered to the Monitoring Officer at any time between the end of the previous ordinary Council meeting and seven clear working days before the Council meeting at which it is to be debated.
- iv. These are then reviewed by the Monitoring Officer who will seek appropriate amendments from the proposer of the Motion, so as to ensure compliance with any legal and/or constitutional aspects. In the event that the proposer is unable to agree, the proposed Motion will not appear on the agenda for the Council meeting.
- v. If, at any time during the debate on any Motion before the Council, it appears to the Lord Mayor that the motion (in its original, modified or amended form) would, if carried:
 - have the effect of materially increasing the expenditure, or materially decreasing the revenue, of the Council; or
 - involve capital expenditure not provided for in the Council's approved capital budgetthe Lord Mayor will direct that the motion shall stand adjourned without further debate in order that the Executive may consider any financial, policy or other implications of the motion and request the Executive to submit its recommendations to a future meeting of the Council.
- vi. Two motions for debate will be accepted at each ordinary meeting. No motions for debate under this rule of procedure are permitted for the meeting of the City Council reserved for the Annual Budget debate and at the Annual Meeting.

H. Amendments to Motions

- i. The Lord Mayor may permit amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the business of the Council.
- ii. An amendment shall be relevant to the motion and shall be –
 - To leave out specified words; or
 - To insert or add specified words; or
 - To refer a subject of debate to the Executive or to a committee for consideration or re-consideration.but any omission, insertion or addition of words shall not result in substance in a direct negation of the motion before the Council.
- iii. Every amendment shall, unless the Lord Mayor otherwise indicates, be put into writing, signed by the mover and delivered to the Monitoring Officer before it is moved.
- iv. At the Annual Budget meeting, the main opposition group's amendment should be taken first.

- v. Once voting on any motion or amendment has commenced, there shall be no further debate on the matter under consideration and no further amendments may be moved to the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion.
- vi. Not every debating possibility has been covered by these Rules of Procedure and, in the event of anything not being covered in Rules of Procedure, the Lord Mayor's ruling on the matter shall be final and binding on the Council.

I. At the meeting

- i. A motion or amendment shall not be discussed unless it has been proposed and seconded and is in accordance with these Rules of Procedure.
- ii. Every motion and amendment, except when set out on the agenda or when copies have been supplied to each member at the commencement of the meeting (in which case the motion or amendment shall be taken as read), shall be read by the mover before being spoken upon and no other member shall speak on it until it has been seconded.
- iii. The Motion will be withdrawn from the Agenda if the proposer is not present at the time that it is due to be considered.
- iv. Any member who seconds a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later stage of the debate on that motion or amendment.
- v. A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
 - To speak once on an amendment moved by another member;
 - To exercise a right of reply (in the case of the member moving the motion);
 - On a point of order as defined in these Rules of Procedure;
 - By way of personal explanation as defined in these Rules of Procedure.

J. Points of Order

- i. A member may rise on a point of order or in personal explanation and shall be entitled to be heard forthwith:
 - A point of order shall relate only to an alleged breach of a Rule of Procedure or statutory provision and the member shall specify the Rule of Procedure or statutory provision and the way in which he/she considers it has been broken.
 - A personal explanation shall be confined to some material part of a former speech by him/her in the Council Chamber or in relation to a matter outside of the Council Chamber, which may appear to have been misunderstood in the present debate.

- ii. The ruling of the Lord Mayor on a point of order or on the admissibility of an explanation shall not be open to discussion and shall be final. No points of information are permissible under these Rules of Procedure.
- iii. When a motion is under debate no other motion shall be moved except the following:
 - to amend the motion;
 - to proceed to the next business;
 - to adjourn;
 - that the question be now put;
 - that a member (named) under Section M below be not further heard or do leave the meeting;
 - to suspend the rules of procedure;
 - to exclude the public under S.100(A) of the Local Government Act 1972;
 - to re-admit the public.

K. Voting

- i. Motions shall be determined (as the Lord Mayor may direct) by a show of hands.
- ii. A recorded vote will take place where a vote is required to be recorded by law, or if, after a vote has been taken by a show of hands, a “named vote” is requested by at least 10 members rising in their place. The following procedure shall then apply:
 - the division bell will be rung for one minute;
 - the doors of the Council Chamber will then be closed;
 - the names of those voting for or against or abstaining will then be ascertained by the use of the vote recorder and included in the Minutes.
- iii. Subject to the provisions of any enactment all voting will be decided by a majority of members present and voting.
- iv. The Chair shall, in case of an equal division of votes, have a second or casting vote.

L. Urgent business

- i. Urgent business may be moved or raised at the meeting with the prior agreement of the Lord Mayor.
- ii. Any amendments to urgent business to be moved at Council must be in writing and received by the Monitoring Officer at least 30 minutes prior to the start of the meeting.
- iii. Urgent business is defined as business which could not reasonably have been foreseen or anticipated prior to the deadline for the publication of the agenda and which needs to be considered before the next meeting of the Council.

M. Conduct at meetings of the Council

- i. Councillors are expected to treat each other with respect and abide by the Code of Conduct.
- ii. The Lord Mayor may, as she/he sees fit, direct a Councillor to discontinue his/her speech.
- iii. If there is more general disorder, the Lord Mayor may direct a Councillor causing such disorder to retire from the meeting.

N. Disturbance by members of the public

- i. If a member or members of the public present at a meeting of the Council interrupt(s) the proceedings, the Lord Mayor may warn them that on any further interruption they will be required to retire from the Chamber. If the member(s) of the public, after such warning, again interrupt(s) the proceedings the Lord Mayor may instruct them to retire from the Council Chamber and if they fail to comply the Lord Mayor may order their removal from the Chamber.

O. Appointments of Committees

- i. On the recommendation of Council Business Management Committee, the Council shall establish Committees necessary for the discharge of the Council's functions, along with the membership and Chair of each, for a period ending no later than the next annual meeting of the Council.

P. Conflict resolution between Full Council and the Executive

- i. The Leader must have at least 5 working days to object to a full Council decision which is contrary to the Executive's proposals for either the budget or a plan or strategy before that decision takes effect.
- ii. If the Leader registers an objection, the full Council must meet to reconsider the issue in light of the objection; ultimately, full Council can insist on its decision.

Q. Previous Decisions

- i. Decisions of the Council made within the last six months may not be changed, unless these Rules of Procedure are suspended.
- ii. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved, unless this rule is suspended.

R. Suspension of Council Rules of Procedure

- i. Council rules of procedure (Part B, Section 4.4 of this Constitution) may be suspended by resolution of the Council, 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.

S. Urgency

- i. An urgent decision which is contrary to the policy framework or which would be contrary or not wholly in accordance with the budget or the capital plan may be taken by the Executive if the chair of a relevant overview and scrutiny committee agrees that the decision may reasonably be regarded as urgent in the circumstances.⁴⁰ This should only happen if it is impractical to convene a quorate meeting of the full council in the time available before the decision must be made.
- ii. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Council meeting, and which needs to be considered before the next meeting of the Council. Decisions made under this provision will be reported to the next meeting of the Council.

⁴⁰ The regulations require the agreement of only one relevant overview and scrutiny committee chair.

B5. COUNCIL BUSINESS MANAGEMENT COMMITTEE ROLE AND PROCEDURE

5.1 Role of Council Business Management Committee

- i. The purpose of the Council Business Management Committee is to support the Council's non-executive functions as delegated by Full Council, and in particular:
- ii. Meetings of the full Council
 - o To be responsible for the planning and preparation of the agenda, papers and other arrangements for meetings of the Council.
 - o To submit recommendations to the Council concerning the appointment of committees and other bodies and their functions and membership.
- iii. Council Appointments to Outside Bodies
 - o 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.
- iv. Civic/Ceremonial
 - o 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.
- v. Constitutional Matters
 - o 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/ Rules of Procedure.
- vi. Members' Services and Allowances
 - o To be accountable for all aspects of services to Members.
 - o To keep under review the Council's Allowances Scheme and all other matters relating to Members' allowances.
 - o To oversee the Council's relationship with the Independent Remuneration Panel and to submit recommendations to the Council as to both the operation and membership of the Panel.
- vii. Electoral Matters, Parish Councils & Boundary Changes
 - o To discharge the Council's various electoral duties under the Representation of the People Acts.
 - o To discharge the Council's functions in relation to parishes and parish councils;

- To discharge the Council's functions under the Local Democracy, Economic Development and Construction Act 2009 (relating to boundary reviews and alterations) and related Local Government legislation.

viii. Financial & Other Matters

- To consider any recommendations from the Audit Committee relating to the discharge of the Council's duty, under the Accounts & Audits Regulations 2015.
- To discharge the Council's functions, relating to pensions, under the Superannuation Acts.
- To authorise the making of payments, under Section 92 of the Local Government Act 2000, on account of maladministration.
- Foreign travel by Members and Officers of the Council will be reported on a quarterly basis.

ix. Terms and Conditions of Employment

- Holding management to account for implementing agreed terms and conditions of employment of staff.
- Agreeing any changes to terms and conditions of employment (the Birmingham Contract).
- 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.

5.2 Membership

- i. Members are appointed by Full Council. Chairs are appointed by the Full Council. Membership shall include the Chair of the Co-ordinating O&S Committee.

5.3 Sub-Committees

- i. The following Sub-Committees of the Council Business Management Committee are approved for the current Municipal Year:
- Miscellaneous Appeals Sub-Committee:
 - To consider any appeal under the Rules and Regulations for the Operation of the Retail Markets;
 - To consider any other appeal(s) that are not covered by any of the other Committees or Sub-Committees of the City Council.
 - Election Matters Members Forum:
 - To recommend further improvements to the Elections Office and/or the Elections processes;

- To be consulted over relevant consultation papers relating to the Elections process;
 - To discuss issues that the Returning Officer may wish to raise with the Members Forum.
- Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions (also known as JNC Panel) – see below
- Personnel Appeals:
 - To consider, with delegated power, the appeals relating to the Dismissal of Council managed employees (the process to be followed by appellants shall be as laid down in accordance with City Council's policy with no appeals being submitted direct to this body without first exhausting the prescribed process). In hearing an appeal, the Sub-Committee shall not have the power to award financial compensation to any appellant;
 - To authorise the Chair of the Sub-Committee or any Member thereof to give evidence at any Employment Tribunal should they be required to do so;
 - To recommend to the Council Business Management Committee and oversee any appropriate training and guidance being given to Members and Officers, as necessary, on how to manage Personnel Appeals;
 - To recommend to the Council Business Management Committee any appropriate or desirable improvements for dealing with the effective and efficient administration of future Personnel Appeals arising from case hearings;
 - To make any other recommendations to the Council Business Management Committee.
- Local Authority School Governor Nomination Committee

Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions Sub-Committee (JNC Panel)

- ii. 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 largest political parties (or their nominees), and two other members subject to the proportionality rules. The functions of this sub-committee are, in accordance with the provisions of Schedule 1 Local Authorities (Standing Orders) England Regulations 2001 (as amended), as follows:
- To consider and determine the form of the employment contracts and other Terms and Conditions (including related structural issues) for the Chief and Deputy Chief Officer Posts as defined in the Constitution of the City Council.
 - To be responsible for making appointments to all posts falling within 1 above and to recommend to the Council the appointment of the Chief Executive.

- To deal with all termination and disciplinary arrangements relating to Chief Officer and Deputy Chief Officer posts (including early retirement and the award of added years)
 - The appointment, termination and disciplinary arrangements of Officers who are NOT Chief Officers or Deputy Chief Officers (other than assistants to political groups) is the responsibility of the Chief Executive as Head of the Paid Service or his/her nominee in line with the Council's normal recruitment, disciplinary and termination policies. Members are not permitted to be involved in these decisions, except insofar as there are arrangements for a member's appeal committee for staff matters.
- iii. The responsibilities of the JNC Panel are set out in the Employment Procedure Rules which can be found in Part C7 of the Constitution.

B6. EXECUTIVE ROLE, FUNCTIONS AND PROCEDURE

6.1 Who may make Executive Decisions

- i. As set out in this Constitution, Executive decisions may be taken by a range of people and bodies:
- The [Cabinet](#) (B6.2);
 - A [Cabinet Committee](#) (B6.3);
 - [Cabinet Member based on Chief Officer report](#) (B6.5);
 - [Jointly with another local authority](#) (B9); or
 - An [officer](#).

6.2 Cabinet

Role of Cabinet

- i. The Cabinet acts jointly to carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Functions of Cabinet

- ii. Cabinet, acting jointly, will exercise the following functions:
- Take "key decisions" in accordance with the provisions of this Constitution.⁴¹. A [key decision](#) is defined in Section B3 above; further detail on how key decisions must be taken is set out below;
 - Consider the draft Budget and 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;
 - Consider the changes to the capital budget, subject to limitations and policies in the Council's Financial Plan and Financial Regulations;
 - Consider other decisions which are considered by the Leader of the Council to have significant cross-cutting or corporate implications;
 - Determine appointments to outside bodies and to other bodies (other than those appointed by Full Council) as set out in B8 [Appointments to Outside Bodies](#) and
 - Re-consider any Cabinet, Cabinet Member, or Cabinet Committee decision(s) 'called-in' by any Overview & Scrutiny Committee.

⁴¹ A key decision may also be delegated specifically by Cabinet report to a Cabinet Member or officer (see section B3.1). Where such delegations are made without a clear timescale for implementation, and implementation has not commenced within six months, these should be reviewed by the Cabinet Member to ensure the decision is still in line with Council policy

- iii. **Recorded vote on the Council's budget and council tax:** In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council's budget and council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments relation to the budget and council tax.
- iv. 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").
- v. The Cabinet has the power to make necessary minor changes to any Executive arrangements, through the year, for operational effectiveness and efficiency reasons.

Rules of Procedure – Key Decisions

- vi. Before taking a decision:
 - **Notification of Proposed Key Decisions:** Key Decisions must be included on the "Forward Plan" not less than 28 clear calendar days in advance of the date of the proposed decision. The Forward Plan will be prepared on a monthly basis (and updated weekly) to cover a period of four months. It will include the following information:
 - a. the matter in respect of which a decision is to be made;
 - b. a brief explanation of why it will be a "key decision";
 - c. where the decision maker is an individual, that individuals name and title and, where the decision maker is a decision-making body, its name, and a list of members;
 - d. the date on which, or period within which, the decision is to be made;
 - e. a list of the documents that will be submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - f. that other documents relevant to those matters, may be submitted to the decision maker; and
 - g. if other documents are submitted, the procedure for requesting the details of those documents (if any) should they become available;
 - h. the address from which, subject to any prohibition or restriction on their disclosure, copies of, extracts from, any document listed is available;
 - i. who will be consulted before the "key decision" is taken;
 - j. how, to whom and by when representations (about the "key decision") can be made;
 - k. whether the report will have a confidential or exempt appendix with reasons.

The [Forward Plan](#) is published (at least) once a month and is available on the Council's website.

- **Confidential or exempt Information:** Where there is an intention to consider matters in private, i.e. information that is confidential or exempt, then 28 days clear notice must be given through inclusion on the "Notification of intention for Cabinet to consider matters in private". See Section C2 Access to Information for more details.
- **Prior to any decision being taken by the Executive,** the relevant Chief Officer shall ensure that the relevant Cabinet Member, Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are properly consulted, well in advance of any relevant report, for any advice that they may, collectively or individually, wish to give. The Chief Officer shall also ensure such advice is properly reflected in any report to the Executive. In appropriate circumstances, the Chief Officer shall also ensure the Assistant Director, Corporate Communications is consulted before any Executive decision is taken.

vii. Taking a decision:

- 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. All reports are to be presented in the template prescribed by the City Solicitor.
- Cabinet decisions are only effective and actionable provided they are taken in accordance with this Constitution, and when posted on the Council's website by Committee Services and following the call-in process.
- No report to the Executive or any Executive decision shall be deliberately subdivided by any Member/Officer to circumvent the "key decisions" definition.
- Members are reminded of their Corporate Parenting responsibility when considering Cabinet reports. Members should always consider what impact a particular decision may have on children in care, whether this is direct or indirect. If there are likely impacts, the Cabinet report should include this in the body of the report. "What does this mean for children in care?" should be considered at all times when carrying out council business.

viii. **Decisions not on the Forward Plan:** if a matter which is likely to be a key decision has not been included on the [Forward Plan](#) (see above) but it is impracticable to defer the decision,⁴² then the decision may still be taken if:

- a) the key decision must be taken because it is impracticable to defer the decision, in the opinion of the relevant officer; and
- b) the relevant Officer (or his/her nominee) has informed, and received permission in writing from, the Chair of a relevant Overview and Scrutiny Committee or, if they are unable to act, the Lord Mayor (in their absence the Deputy Lord Mayor): and

⁴² Regulation 10, The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

c) As soon as is reasonably practicable after the proper officer has complied with viii) a-b) above they must:

(1) Make available at the Council offices a notice setting out the reasons why giving 28 days notice was impracticable; and

(2) Publish that notice on the Council's website.

ix. The report of the decision must be accompanied by a cover sheet stating the reasons for not being included on the Forward Plan, why the decision cannot reasonably be deferred, the date of the Scrutiny Chair's agreement and any comment they wish to add.

x. The Leader of the Council will submit a report to Council on a quarterly basis detailing all reports not on the Forward Plan and urgent reports requiring approval as set out in this constitution and all reports authorised for [immediate implementation](#).

xi. **Intention to hold part of the meeting in private not notified:** any report containing confidential or exempt information that is not included on the ["Notification of intention for Cabinet to consider matters in private"](#) requires agreement from the Chair of the relevant Overview and Scrutiny Committee that the report is urgent and cannot reasonably be deferred.

xii. **Late Reports:** Reports listed on the agenda but not submitted to Committee Services by 1200 hours on the sixth working day before the Cabinet meeting will be late reports.

All late reports will only be submitted to Cabinet if cleared by the Leader and Chief Executive, and must be accompanied by a cover sheet stating the reasons for lateness and why the decision cannot reasonably be deferred.

xiii. Unless the reasons given demonstrate "special circumstances", i.e. the special circumstances should be of a financial or legal nature, or an alternative reason as agreed by the Monitoring Officer, Cabinet may postpone consideration of the report as is required by law. That there simply has not been enough time to finalise the report for a particular Cabinet is NOT a special circumstance.

Rules of Procedure – Cabinet Meetings

xiv. Cabinet meetings will be called in accordance with Part C2 of the Constitution: Access to Information.

xv. If the Leader is present, s/he will chair any meeting of the Cabinet. If the Leader is not present, s/he will appoint another person to do so. If no appointment has been made, the meeting will elect a Chair for that meeting.

xvi. The quorum for a meeting of the Cabinet shall be four Cabinet Members (inclusive of the Leader of the Council if present).

xvii. Only Cabinet Members are entitled to vote at meetings of the Cabinet.

xviii. **Non-Cabinet Members attending 'Private Sessions' of Cabinet meetings:** 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, save that they do not have any entitlement to vote on any Cabinet matter.

- xix. The Chairs of any of the Council's 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', save that they do not have any entitlement to vote on any Cabinet matter.

Roles and Duties of Cabinet Members

- xx. Individual Cabinet Members cannot take executive decisions except as part of Cabinet at a formal meeting, or where based on a written report from a Chief Officer (as set out in B3.1 and [B6.5 Cabinet Member and Chief Officer Decision Making](#)). Cabinet Member responsibilities are set out in their respective portfolio ([B7 Cabinet Portfolios](#)).
- xxi. The role of a Cabinet Member is to promote and co-ordinate the Council's activities which contribute towards achieving the Council Plan objectives within their respective portfolio.
- xxii. An appropriate Cabinet Member may direct an officer on a particular matter that his/her delegated authority under the Officer Delegation Scheme should not be exercised, and that it should be referred to Cabinet or to a Cabinet Member for consideration.
- xxiii. A Cabinet Member may be required to attend a hearing of an O&S Committee on matters within their portfolio.

6.3 Cabinet Committee – Group Company Governance

Role of Cabinet Committee – Group Company Governance

- i. The role of the Committee is to ensure that the Council's strategic objectives are met across the group of companies which either the Council owns or has an interest in, and to support the development of the group in line with the Council's regulations and ambitions.

Functions of Cabinet Committee – Group Company Governance

- ii. The Committee's responsibilities include (subject to regulations imposed by the Charity Commission, regarding the independence of charitable entities):
- a) Holding entity Boards to account for their performance with the necessary powers to make and drive immediate change through the Boards;
 - b) Supporting the development of entities and making recommendations on the disposal/dissolution of companies (below Cabinet limit on value) and matters such as

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varying Articles of Association, varying ownership and structure and varying share rights;⁴³

- c) Identification of entities' business support requirements;
- d) Providing subsidiaries with clear direction and support in its role as sole shareholder/member, including guidance and training to board members where necessary;
- e) Evaluation of effectiveness of entity board governance structure, processes and recommend changes as required;
- f) Reviewing business plans and strategies of the entities where applicable (to ensure compliance with the Council's strategic direction) to, for example, communicate changing priorities;
- g) Ensuring compliance of the entities with the Council's interests including the Birmingham Business Charter for Social Responsibility;
- h) Oversight of compliance to ensure that taxation, legal and financial interests of the Council together with the Council's Constitution are considered and protected;
- i) Oversight of compliance with procurement rules;
- j) Oversight of compliance to avoid conflict of interest;
- k) Receiving and reviewing entity performance, financial and risk reports;
- l) Advising Cabinet/City Council of issues as appropriate, including on appointments to outside bodies.

Membership

iii. The Cabinet Committee – Group Company Governance has been established by Cabinet with the following membership:

- The Deputy Leader;
- Another 3 Cabinet Members as deemed appropriate by the Deputy Leader;

iv. The quorum for a meeting of a Cabinet Committee shall be two Cabinet Members.

v. A substitute member shall be entitled to attend in place of a regular Member provided:

- That a Cabinet Member may only be substituted by another Cabinet Member;
- That Committee Services has been notified of any substitution before the meeting begins.

Commented [CS1]: As this is a Cabinet Sub-Committee only Cabinet Members can be voting members of the committee.

Deleted: <#>One Councillor member from each of the Opposition Party Groups.¶
The membership of the Committee shall be based on cross party representation.¶

Deleted: <#> and a member of the opposition.

⁴³ Note: on 22 January 2018, Council Business Management Committee agreed to disapply sections B6.3ii a) and b) for the Birmingham Children's Trust Community Interest Company during the period of government intervention only

- vi. Once an agenda item has begun with a substitute member attending, the regular Member in respect of whom notification has been received, shall not be entitled to vote on the agenda item as a Member of the Cabinet Committee.

- vii. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.

Attendance by Members of the Opposition

- viii. One Councillor from each of the Opposition Groups may attend meetings of the Group Company Governance Committee.

- ix. Members of the Opposition Groups attend as observers only. They will be entitled to a copy of the agenda (for the sake of clarity this is both the public and private sections) and will be able to participate in the debate but are not allowed to vote on any item.

Rules of Procedure – Cabinet Committee: Group Company Governance

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- x. Cabinet Committee decisions shall only be taken 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. All reports are to be presented in the template prescribed by the City Solicitor.
- xi. Cabinet Committee decisions are only effective and actionable provided they are taken in accordance with this Constitution, and when posted on the Council's website by Committee Services and following the call-in process.

6.4 Health and Wellbeing Board

Role of the Health and Wellbeing Board

- i. The Health and Wellbeing Board is constituted as a Committee under the Chair of the Cabinet Member for 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.
- ii. The Health and Wellbeing Board will:
- a) Promote the reduction in Health Inequalities across the City through the commissioning decisions of member organisations;
 - b) Report on progress with reducing health inequalities to the Cabinet and the various Clinical Commissioning Group Boards;
 - c) Be the responsible body for delivering the Joint Strategic Needs Assessment for Birmingham (including the Pharmaceutical Needs Assessment);
 - d) Deliver and implement the Joint Health and Wellbeing Strategy for Birmingham;

- e) Participate in the annual assessment process to support Clinical Commissioning Group authorisation;
 - f) Identify opportunities for effective joint commissioning arrangements and pooled budget arrangements;
 - g) Provide a forum to promote greater service integration across health and social care.
- iii. Under the Health and Social Care Act 2012 the composition of the Board must include
- o The Leader of the Council or their nominated representative to act as Chair of the Board;
 - o The Director for Adult Social Care Directorate (Director for Adult Services);
 - o The Director for Education & Skills (Director for Children's Services);
 - o Nominated Representatives of each Clinical Commissioning Group in Birmingham
 - o The Director of Public Health
 - o Nominated Representative of Healthwatch Birmingham
- iv. Each Local Authority may appoint additional Board Members as agreed by the Leader of the Council or their nominated representative. If additional appointments are made, these will be reported to Cabinet by the Chair of the Board.
- v. For the Board to be quorate at least one third of Board Members and at least one Elected Member must be present.
- vi. Members of the Board will be able to send substitutes with prior agreement of the Chair. Each member is to provide the name of an alternate/substitute member.

6.5 Cabinet Member Decision Making

- i. Except in relation to the financial limits applicable to the general delegation to the Leader and Cabinet Member, Finance and Resources in Part E3.2 of the Constitution, decisions with values at or above the Chief Officer limit of £200,000 and below the key decision threshold of £500,000 (revenue) or £1m (capital) are decisions by Cabinet Members based on written reports by Chief Officers. Such decisions shall only be taken after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- ii. Prior to any decision being taken by the Executive, the relevant Chief Officer shall ensure that the relevant Cabinet Member, Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are properly consulted, well in advance of any relevant report, for any advice that they may, collectively or individually, wish to give. The Chief Officer shall also ensure such advice is properly reflected in any report to the Executive. In appropriate circumstances, the Chief Officer shall also ensure the Assistant Director, Communications & Marketing is consulted before any Executive decision is taken. All reports are to be presented in the template prescribed by the City Solicitor.

- iii. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.
- iv. Where a decision is delegated to Cabinet Members, and is, in the opinion of the Leader, a Cabinet Member, a Director or Head of Service, of such significance that a public discussion of the proposed decision would ensure transparency and accountability in relation to decision making within the authority; then such decisions should be referred to Cabinet.

6.6 Emergency or Urgent Decisions (Special Urgency Decisions)

- i. In an emergency an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups. See Part E: Scheme of Delegations for further details. 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.
- ii. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Cabinet meeting, and which needs to be considered before the next meeting of the Cabinet. Decisions made under this provision will be reported to the next meeting of the Cabinet. An urgent decision may still be a key decision pursuant to B3.1 vi above.

6.7 Officers

- i. Decision making is also delegated to Officers in accordance with their job description and directorate budget.
- ii. The Schedule of Delegations is set out in Part E of this Constitution. A Chief Officer may make arrangements to sub-delegate their authority to another officer of suitable seniority and experience and any such arrangements are recorded in their sub delegation scheme. However, the officer remains responsible for any decisions made under such arrangements.
- iii. The fact that a function stands delegated to an officer under Part E does not preclude the Council or the Executive from exercising the function directly. Similarly, where a committee has resolved to delegate a function to an officer, it shall remain open to the committee to discharge the function itself.
- iv. Where a decision is delegated to officers, and is, in the opinion of the Leader/Cabinet Member, Director or Head of Service, of such significance that a published record of the proposed decision would ensure transparency and accountability in relation to decision making within the authority; then such decisions should be taken as Cabinet Member Decision.
- v. An officer may be required to respond in writing to a query from, or attend a meeting of, an O&S Committee on decisions they have taken or matters within their area of responsibility.

6.8 Record of Executive Decisions

Cabinet, Cabinet Committee and Cabinet Member/Chief Officer Decisions

- i. As soon as reasonably practicable (and no more than three working days) after any meeting of the Cabinet or any of its Committees or Cabinet Member/Chief Officer, whether held in public or private, the Committee Services Officer will publish a record of every executive decision taken at that meeting on the Council's website.
- 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).
- iii. The Monitoring Officer is authorised to correct any minor errors in the recording of Executive Decisions but not so as to replace or otherwise substantially amend the decision of the Executive. In the event of a major alteration, the relevant decision-maker or decision body will be asked to make another Executive decision to correct the Executive record.

Officer Delegated Decisions

- 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.

6.9 Immediate Decision Implementation

- 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) may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period.
- ii. The exercise of such power shall be clearly noted on the record of the decision.

B7. CABINET PORTFOLIOS

7.1 Leader's Portfolio

The Leader has ultimate political responsibility for the Council, and accountability for the following strategic functions:

Area	Further detail
Strategic policies	Development and implementation of the Council Business Plan and Medium Term Financial Strategy/Budget
Structure and Governance of the Council	Overall organisational design of the Council, including the Council's corporate governance arrangements.

Commented [CS2]: Part B7 will be updated to reflect the Leader of the Council's announcement of Cabinet Members which will take place at the Annual Council Meeting on 23 May 2023.

Lord Mayor's office	Appropriate support to the Lord Mayor and other holders of civic office.
Communications	Internal and external stakeholder engagement and formal consultation on Council performance and use of resources.
Financial strategy	In conjunction with the Cabinet Member for Finance & Resources, the Council's strategic approach to the use of financial resources and budget, including alignment between other local authority bodies (e.g. Combined Authority), partners (e.g. Health, LEP etc), the BCC General Fund, Housing Revenue Account, capital spending and the use of reserves.
Council Wide Efficiency and Improvement	Jointly, with the Deputy Leader, to take a strategic lead in relation to efficiency and improvement across all Council services and to foster lean governance in all areas of Council work.
Policy and Partnerships	Positioning Birmingham as a leader in public policy development at city, regional, national, European and international levels. Representing the Council's policy agenda as appropriate through proactive engagement with Government, national policy networks and relations with the media
West Midlands Combined Authority	Representing the City Council on the West Midlands Combined Authority Board
Major projects	Responsibility for major physical regeneration and infrastructure projects in the city and engagement with key economic growth partners, partnerships, and investors in conjunction with the Cabinet Member for Housing and Homelessness.
Promotion of the city and Inward Investment	Working in conjunction with the Cabinet Member for Digital, Culture, Heritage and Tourism for Promotion of the city and Inward Investment. Promotion of Birmingham regionally, nationally and internationally. This includes work with partners such as West Midlands Growth Company, the universities, and cultural organisations of citywide, regional, or national significance. Marketing Strategies to encourage investment in Birmingham.
Commonwealth Games, Sports and Events Development	Jointly with the Leader & Cabinet Member for Digital, Culture, Heritage & Tourism and Housing and Homelessness
Council land use and property assets including appropriation	Oversight of the Council's land use and property strategy and asset management plan including framework for reuse, disposal and requisition of land and property in the Council's priorities – including assets of heritage and community value. Including oversight of Council owned land and property facilities, amenities and services including markets.
Economic growth and jobs	Strategic approach to economic growth and regeneration programmes and strategic planning policy. Representing the City Council on the Local Enterprise Partnership Board.
Business Improvement Districts	Partnerships with the Business Improvement Districts, including city centre management opportunities.
Land Use Planning	Local Development Plan, Neighbourhood Plans, Development Briefs and Supplementary Guidance; including advice to Planning Committee.
Housing Development	To review the supply of housing and tenure based on an analysis of housing need.
Enforcement	In relation to licensing policy and enforcement

Localisation	Neighbourhood Management – Development of the Council's neighbourhood engagement model and work with wider Council and partners to ensure integration at the local level.
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7.2 Deputy Leader's Portfolio

The Deputy Leader will act as Council Leader where the Leader is not available and has accountability for the review and improvement of all council services, management of all corporate resources of the Council, and oversight of the management of services and delivery of outcomes on:

Area	Further detail
Business Change	All major business change programmes.
Efficiency and improvement for the Council – including governance and performance of third-parties	Jointly, with the Leader, to take a strategic lead in relation to efficiency and improvement across all Council services and to foster lean governance in all areas of Council work. Oversight of good governance in relation to Council representation on outside bodies; Trading Services; Council-owned companies; and strong 'client' governance for externalised services (when Executive decisions needed).
Risk Management	Strategic risk management, internal audit and holding senior officers to account on the management of risks.
Customer Services	To take a strategic lead in the provision of the City Council's customer services functions.
External Scrutiny and Local Government Ombudsman	To take appropriate action in response to external scrutiny of the Council through inspectorate, peer or Government improvement and / or local government ombudsman reports.
Whistleblowing and Corporate Complaints Procedure	To take a corporate lead in relation to Whistleblowing and complaints.
Emergency Planning	Arrangements for the Council's response to emergencies including chairing the Contest Board.
Legal	Oversight of the Council's legal services function including political engagement with the Council's Monitoring Officer.
Strategic Partnerships	Promotion of collaborative working relationships with stakeholders and partners as part of the city's 'Civic Family'.
Council's lead on Levelling-Up, Devolution and WMCA	This will include making appropriate arrangements for the Council's response and review to changes in the WMCA constitution, consultation and devolution deals
Employment & Skills	Skills, expansion for key growth sectors enterprise and innovation along with Lifelong Learning (post 14 skills and adult education) Provision of all-age guidance, skills development, training and work experience to meet the economic needs of the city now and in the future Skills and Entrepreneurship in Schools
Employment Opportunities	Enabling all residents to access employment through the development and delivery of local employment plans

Early Intervention and Prevention	To take a strategic lead in the development and implementation of the City Council's Early Intervention and Prevention services.
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7.3 Cabinet Member for Children, Young People and Families

The Cabinet Member has accountability for:

Area	Further detail
Lead Member for Children's Services	Political accountability for all the local authority children's services, including education and children's social care. This post is required by law to hold direct local accountability for the effectiveness, availability and value for money of the local authority's children's services (particularly education and children's social care).
Safeguarding Children and Young People	With statutory partners, the safety and wellbeing of all children.
Children's Services	Leadership, strategy and effectiveness of children's services – responding to the needs of all children and young people, especially the most disadvantaged and vulnerable, and their families and carers.
Overseeing the Children's Trust	Oversight of the 'client side' role of the Children's Trust to ensure the delivery of agreed outcomes, KPIs and finances within the legal and contractual framework agreed
Overseeing Early Years	Ensuring a sufficiency of places and a citywide Early Years Health and Wellbeing offer.
Corporate Parenting	Political leadership on improving the lives of looked after children. Ensuring all Council members, officers and services understand and actively promote the Council's responsibilities to looked after children.
Lead Member for Special Educational Needs and Disability (SEND) and Inclusion	Lead Member for Special Educational Needs and Disability (SEND) and Inclusion – Lead Member on the SEND agenda across children's agencies and holding officers and partners to account for the delivery of the Birmingham SEND Strategy.
Education of Children and Young People	Education of Children and Young People - Political leadership on strategic and statutory duties, including school improvement, school places and travel to and from school. Oversight of Dedicated School's Grant
Youth Engagement and Youth Service	Youth Engagement and Youth Service, along with Lifelong Learning (post 14 skills and adult education) – Clear progression and vocational pathways from education into further and higher education and employment. Provision of all-age guidance, skills development, training and work experience to meet the economic needs of the city now and in the future.
Skills and Entrepreneurship in Schools	Development of 14-19 career pathways, enterprise and entrepreneurship in Birmingham schools.

7.4 Cabinet Member for Digital, Culture, Heritage and Tourism

The Cabinet Member has accountability for:

Area	Further detail
Arts and Culture and Tourism	Sustaining and promoting art, culture and tourism, including management of grants and associated economic opportunities. Delivery of the Birmingham Visitor Destination Plan
The Library of Birmingham and Community Libraries	Oversight of the regional and city-wide role of the Library of Birmingham and the community library service; including the vital part libraries play in communities, learning and skills.
Museums	Oversight of the provision and activity of the Birmingham Museums Trust.
Promoting the City's Rich Heritage	Promoting our cultural heritage with the public, community and academic partners, ensuring that Birmingham's cultural and civic history is accessible by our children and young people. Maximising our historic architecture and ensuring the stories of Birmingham's history are told.
Commonwealth Games Legacy	Providing strategic leadership to maximise the benefits of hosting the Commonwealth Games through delivery of a Legacy Plan.
Commonwealth Games, Sports and Events Development	Jointly with the Leader & Cabinet Member for Housing and Homelessness
Inward Investment	Working in conjunction with the Leader for Promotion of the city and Inward Investment - Promotion of Birmingham regionally, nationally and internationally. This includes work with partners such as West Midlands Growth Company, the universities and cultural organisations of citywide, regional or national significance. Marketing Strategies to encourage investment in Birmingham
Open data	To provide strategic leadership for open data promoting transparency, building trust and data sharing in everything we do
Information Governance	To provide strategic leadership for information governance, data protection and cyber security protecting our citizens information
Digital Inclusion	To provide strategic leadership to our digital inclusion strategy to deliver a fully inclusive digital city, where everyone has the confidence, skills and capacity to access the services and information they need to thrive and live their lives to their full potential in an increasing digital world.
Digital Birmingham (encompassing our digital strategy and digital city ambitions)	To provide strategic leadership for our Digital Birmingham ambition acting as the Councils Ambassador for Digital & innovation so that we make the best use of data, digital and technology so that we can ensure that our services respond even better to the changing needs and expectations of our citizens and businesses

7.5 Cabinet Member for Finance and Resources

The Cabinet Member has accountability for:

Area	Further detail
Finances	Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures.
Birmingham Business Charter for Social Responsibility	Application of the Birmingham Business Charter for Social Responsibility that requires contractors to offer, inter alia, local employment and training opportunities, and to adopt Birmingham's Living Wage policy.
Commercialisation	To take the strategic lead in the consideration of all commercial opportunities available to the Council
Revenues and Benefits Service	To ensure effective management of the Revenues and Benefits service.
Procurement	Oversight of procurement management.
Contract Management	Strategic approach to and compliance with contract management policy to ensure best value.
Internal Trading Operations	Effectiveness and holding to account the management of all internal trading operations.
Commissioning	Strategic approach to, and compliance with, the commissioning approach. Ensuring that council commissioning supports its wider social objectives such as employment provision, training, encouraging social enterprise and delivering social cohesion, internally and externally in line with the Council's objectives
Rent Service	The Rent Service's primary function is to maximise the collection of rent from Local Authority tenants and the recovery of current/former tenants and Housing Benefit Overpayments for Local Authority tenants.

7.6 Cabinet Member for Health and Social Care

The Cabinet Member has accountability for:

Area	Further detail
Adult Social Care and Health	Development of the Health and Wellbeing Board and relationships with the NHS and private providers. Strategic leadership of social care services and safeguarding for adults. Development of an integrated health and social care economy in Birmingham and neighbouring local authorities around the relevant Sustainability and Transformation Plan.
Public Health	Leadership on public health services, working with the Health and Wellbeing Board to reduce health inequalities.
Healthy Communities	Championing healthy living through sport and leisure services and influencing resident choices through proactive behaviour change initiatives.

Area	Further detail
Birmingham and Solihull Integrated Care System	Providing place leadership for Birmingham within the statutory partnership to meet health and care needs across Birmingham and Solihull.

7.7 Cabinet Member for Housing and Homelessness

The Cabinet Member has accountability for:

Area	Further detail
Council housing management services	Oversight and direction of estate management services and best use of housing stock (across all housing providers). Repairs and maintenance programmes.
Registered Social Landlords	Liaison with the Birmingham Social Housing Partnership on neighbourhood management initiatives and the housing growth agenda.
Private Rented Sector	Licensing and regulation. Private Tenancy Unit activities.
Tenant engagement in social housing	Tenant engagement in the management and development of social housing and Housing Liaison Boards.
Exempt Accommodation	Strategic Leadership of the response to Exempt Accommodation
Housing Options	Housing Options – Assessing housing need, options for vulnerable adults, children and young people and offenders. Temporary accommodation provision. A coherent strategy to address homelessness, including short-term engagement, education and enforcement with rough sleeping.
Commonwealth Games, Sports and Events Development	Jointly with the Leader & Cabinet Member for Digital, Culture & Tourism

7.8 Cabinet Member for Social Justice, Community Safety and Equalities

The Cabinet Member has accountability for the following:

Area	Further detail
Safer Communities	Strategic citywide leadership to community safety in Birmingham, including anti-social behaviour, fear of crime and public spaces and ensuring effective support for victims of crime. Effective relationships and clear shared priorities with the Police and Crime Commissioner and West Midlands Police. Leadership on youth offending issues. CCTV and liaison with Police. Strategic leadership in relation to Prevent. Responsibility for refugees, migration and City of Sanctuary
Social Cohesion and Inclusion	Approaches to ensure that all Birmingham citizens have opportunity across the social and economic life of the city, within a safe city - including in education, employment, housing, health and social

	care, civil society and political participation – whether these are delivered by the City Council itself, partner agencies, or by private or third sector organisations. Holding to account other relevant Cabinet Members and officers for the delivery of those functions that impact on social cohesion and inclusion.
Tackling Inequality	Strategic approaches to reduce inequalities including around health, education and employment outcomes; ‘access to services’; and participation in civic life. Neighbourhood advice and information services. Holding to account other relevant Cabinet Members and officers for the delivery of those functions that impact on inequalities and inclusion.
Equalities within the Community	Development and promotion of shared values and mutual respect across the diverse communities of Birmingham. Ensuring that community and cultural events promote social cohesion and inclusion
Third Sector Partnership and Engagement	Working with, and coordination of, third sector and partner agencies around equalities, cohesion and inclusivity.
Domestic Violence	All Council activity relating to domestic violence, its impact on families and children and implementing a city-wide domestic violence strategy with partners including advice to the Cabinet Member for Housing and Homelessness on the provision of accommodation and taking advice from the Cabinet Member for Health and Social Care on the health implications of domestic violence.
Bereavement Services and Register Office	Strategic leadership for the development of Cemeteries, Crematoria and Mortuary and Coroners Court Services; and Register Office services.
Human Resources (including Member Development Programmes)	An effective organisational development function for shaping the future workforce of the Council. Development of effective change/transformational programmes deployed corporately. Member development programmes. Processes and procedures to support good staff performance development and equality objectives. Staffing structures at JNC level and personnel procedures that comply with good practice and natural justice (in consultation with the Leader). [The Council Business Management Committee deals with issues around the employment of staff and their terms and conditions of employment].
Oversight of Consultants	Oversight of the use of consultants with particular focus on their duration, renewal and cost
External Challenge	Ensuring that partner agencies, private or third sector organisations are challenged on their contribution to improving social cohesion and inequalities.

7.9 Cabinet Member for Environment

The Cabinet Member has accountability for:

Area	Further detail
Waste Strategy and Services	Development of a financially and environmentally sustainable waste strategy for the city and ensuring delivery. Collection and sustainable disposal of waste from residential and other properties within the city and street cleansing.
Pest Control	Provision of the Pest Control Service.
Cleaner Neighbourhoods	Street cleansing, litter prevention, fly tipping, graffiti, placarding, scrap yards and motor salvage operators.
Recycling	Development of a robust re-use and recycle strategy for the city and ensuring delivery.
Parks and Allotments	Provision and usage of facilities including grounds maintenance.
Green City	Working with partners to develop a strategy for sustainability, liveability, and environmental improvement for the city.
Climate Change	Engaging in proactive citywide and national policy development to tackle the causes and consequences of climate change

7.10 Cabinet Member for Transport

The Cabinet Member has accountability for:

Area	Further detail
Transport Strategies	Sustainable transportation policy and strategy, programmes, projects and initiatives to improve connectivity and road safety for the city across all modes of travel.
Highways	Strategic highways matters. Maintenance of roads and streets, traffic management and car parks and enforcing rights of way.
Advice to Planning Committee (Highways)	Providing advice, where appropriate, including the effect of proposed developments in relation to roads and transport and working in cooperation with the West Midlands Combined Authority and Mayor in relation to the key route network.
Air Quality	Leading the development and delivery of an Air Quality Strategy for Birmingham, to comply with national and pan-national regulations together with key partners.

B8. APPOINTMENTS TO OUTSIDE BODIES

8.1 Appointments to Outside Bodies

- i. Appointments that are reserved to the Full City Council to determine can be found in [B4.3](#) above and the proportionality rules shall apply where three or more members are appointed.
- ii. 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.

B9. JOINT ARRANGEMENTS

9.1 Joint Arrangements

- i. The Council may establish joint arrangements with one or more local authorities or other public bodies and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee or board with these other local authorities or bodies.
- ii. The Cabinet may establish joint arrangements with one or more local authorities or public bodies to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees or boards with these other local authorities or bodies.
- iii. The Cabinet may only appoint Cabinet Members to a joint committee or board established under (ii) above and those Members need not reflect the political composition of the local authority as a whole.
- iv. If a joint committee exercises an executive function, then a Cabinet Member must be appointed. If a joint committee *includes* executive functions and Cabinet appoints three or more members, the proportionality rules will apply and a at least one Cabinet Member must be appointed.

9.2 Joint committees

- i. The City Council has established the following Joint Arrangements for the current Municipal Year:
West Midlands Combined Authority (WMCA)
- ii. The [West Midlands Combined Authority](#) comprises 18 local authorities, including Birmingham City Council and four Local Enterprise Partnerships (LEPs) including Greater Birmingham & Solihull LEP, working together to move powers from Whitehall to the West Midlands. Individual councils will still deliver services and retain their identity, but on the big decisions the WMCA will have the resources to work together.
- iii. More detailed information can be found on the [West Midlands Combined Authority \(WMCA\) website](#).

B10. WARD FORUMS

10.1 Role

- i. Ward Forums will be constituted to encourage and facilitate dialogue between the Council and local people within their area.
- ii. The Council will establish (or dissolve) Ward Forums on the recommendation of the Council Business Management Committee.
- iii. Members will provide community leadership at the ward level, in particular through engaging the local community and identifying very local issues and priorities (for example through Neighbourhood Tasking meetings).

10.2 Functions

- i. In conjunction with the relevant Cabinet Members, the role of Ward Forums is to:
 - a) Develop through local engagement and discussion and then adopt and approve a “Ward Plan and Priorities” setting out locally determined priorities and issues.
 - b) Provide a forum for community engagement in decisions affecting the local area (through regular meetings including neighbourhood forums, residents’ associations, parish, community or neighbourhood councils and other local organisations).
 - c) To advise or make representations to the Council, the Executive or an Overview and Scrutiny Committee on all matters affecting community interests, working in conjunction with Cabinet Members to provide improved accountability in council and other public services within the area and to support the work of Overview and Scrutiny committees as appropriate.
 - d) Make comments on behalf of residents on significant planning applications within the ward or which have an impact on the ward, subject to the appropriate planning timescales.
 - e) Co-ordinate the work of councillors with neighbourhood forums, residents associations and neighbourhood, community or parish councils to enable local community engagement, debate and action in relation to local issues and priorities.
 - f) Plan work with the other wards or ward clusters to engage with partners such as the police and to work on matters that must be addressed over a larger geographical area.
 - g) Develop and support the community leadership role of councillors and others in the area. This includes in relation to governance, commuting planning, local dialogue, partnership, commissioning and accountability.
 - h) Work with appropriate ward contact officers to ensure that council services are responsive to local needs and priorities.
 - i) Promote and influence service improvement, service integration and a focus on prevention across the whole of the local public sector and to consider the performance,

integration and co-ordination of public services in the area and make recommendations to the Executive and to the council's partners as appropriate.

- j) Work in partnership with all local stakeholders to further the needs and priorities of local residents.
 - k) Ensure that city wide and city regional levels of decision making have a good understanding of local needs and priorities in different parts of the city.
 - l) Promote community empowerment and active citizenship and a diversity of local service provision, including community and voluntary organisations and social enterprises and to develop positive working relationships with parish, neighbourhood or community councils.
 - m) To promote and improve the economic, social and environmental well-being of the area.
 - n) Working to advance the council's policies on local leadership and with other Ward Forums to progress issues across a larger geographical area.
- ii. Members should hold at least four ward forum meetings per year.

10.3 Membership

- i. Membership of Ward Forums must include the local Councillor(s) and may include any local resident or stakeholder groups.
- ii. The Councillor(s) may appoint a councillor or another stakeholder as Chair of their Ward Forum.
- iii. Key Officers and/or other advisors may be invited to support the Ward Forum as and when necessary.

10.4 Ward Forum Meetings and Allocation of Localised Budgets

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- i. NDSU Officers (Community Governance Managers) will support 4 Ward Forum meetings each year and will hold responsibility for agenda setting, publicising and setting up meetings and taking and maintaining key action notes;
- ii. A Ward Forum must have a Ward Action Plan and Priorities before it can make any recommendations on the allocation of localised budgets;
- iii. Once in place, a Ward Forum will make recommendations for the allocation of funding from localised budgets in accordance with the Ward Action Plan and Priorities;
- iv. All agreed recommendations for the allocation of localised budgets will be submitted to the Strategic Director of City Operations, who is the nominated decision maker, who will review each recommendation to ensure that it:
 - Supports the delivery and aspiration of the Ward Action Plan and Priorities;
 - Is legally, financially and technically able to be delivered;

- Does not breach human rights principles and the Council's public sector equality duties.

v. All decisions made by the Strategic Director of City Operations will be published on the Council's website and Ward Forum web page (where available).

B11. OVERVIEW AND SCRUTINY COMMITTEES

11.1 Principles of Good Scrutiny

- i. Good Overview and Scrutiny adds value to Councils as it:
 - a) Amplifies public voice and concerns;
 - b) Drives improvement in public services;
 - c) Provides constructive “critical friend” challenge;
 - d) Is led by ‘independent minded people’ who take responsibility for their role.

11.2 Role

- i. Overview and Scrutiny Committees will:
 - 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;
 - 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
 - is relevant to the Council’s strategic objectives; and/or
 - is relevant to major issues faced by officers in managing a function of the Council; and/or
 - is likely to make a contribution to moving the Council forward and achieving key performance targets.
 - Exercise the “request for call-in” and “call-in” any Cabinet, Cabinet Committee or Cabinet Member 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.

11.3 Functions

- i. *Policy development and review:* Overview and Scrutiny Committees may:
 - Assist the Council and / or the Executive in the development of its budget and policy by appropriate analysis of policy and budget issues;
 - Conduct appropriate research, community and other consultation in the analysis of policy and budget issues and possible options;
 - Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

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- Question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and
- 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.

ii. *Scrutiny: Overview and Scrutiny Committees may:*

- 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;
- 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;
- Make recommendations to the Executive, Chair of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;
- 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 attend and engage with the Overview and Scrutiny Committee about their activities and performance;
- Question and gather evidence from any person (with their consent); and
- Establish sub-committees to undertake aspects of that committee's remit, or Task and Finish Committees to carry out specific time limited enquiries as agreed with the eight Overview and Scrutiny Committee Chairs and subject to available resources.

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- iii. Any member may ensure that any matter relevant to the remit of the committee (or sub-committee) be placed on the agenda and discussed at a meeting of the committee (or sub-committee) ("Councillor Call for Action").

Deleted: of an overview and scrutiny committee (or sub-committee)

11.4 Membership

- i. All Councillors, except Cabinet Members (and the Lord Mayor) can be members of an Overview and Scrutiny (O&S) Committee. Members are appointed by Full Council. 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.
- ii. Membership of each of the O&S Committees will be eight; with the exception of the Co-ordinating Overview and Scrutiny Committee, which will consist of 12 members: the chair of the committee and the seven other Overview and Scrutiny Committee chairs along with four places for opposition group members to ensure proportionality. Education and Children's Social Care O&S Committee will have an additional four co-opted places, as set out below.
- iii. Quorum for the 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.

Deleted: and Children's Social Care O&S

- iv. No substitute members shall be appointed to an Overview & Scrutiny meeting.
- v. Where a member stands down from a Cabinet role, that member should not be appointed to the O&S Committee scrutinising the portfolios to which that role related for a period of six months.
- vi. A Chair of an Overview & Scrutiny Committee should not be appointed to serve as a Director on any of the City Council's wholly owned companies where the activities of that company overlap with the remit of that Overview & Scrutiny Committee.

11.5 Terms of Reference of Overview and Scrutiny Committees

- i. There shall be eight Overview and Scrutiny Committees as set out in the terms of reference below.

Co-ordinating Overview and Scrutiny Committee

- ii. To plan and co-ordinate the work of all the Overview & Scrutiny Committees. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

- Structure and governance of the Council
- Communications, internal and external stakeholder engagement
- Efficiency and improvement of Council services (with Deputy Leader)
- Public policy development at local to international levels
- WMCA
- Sports and events development (with Cabinet Members for Digital, Culture, Heritage & Tourism and Housing & Homelessness)
- Business Improvement Districts
- Business change programmes
- Efficiency and improvement of Council services (with Leader)
- Risk management
- Good governance on outside bodies, Council-owned companies and externalised services
- Customer services
- External scrutiny of the Council
- Whistleblowing and complaints
- Emergency planning
- Legal services
- Relationships with stakeholders

Deleted: governance (including transparency, regional working and partnerships); citizens (including communications and public engagement); performance; customer services; social cohesion; equalities and emergency planning.

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- Levelling-up, devolution and WMCA
- Early intervention and prevention
- Social cohesion and inclusion, equalities
- Third sector organisations and partner agencies contribution to social cohesion and equalities
- Refugees, migration and City of Sanctuary
- Open data
- Digital inclusion, data protection, cyber security
- Arts, museums and tourism
- Library of Birmingham and community library services
- Promotion of the city's heritage and investment in the city.

iii. These functions include:

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a) giving 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

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giving 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) determining, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;

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c) ensuring (by means, for example, of issuing appropriate guidance and/or instructions) that the Overview & Scrutiny Committees pay proper attention in their work to the consideration of key cross cutting issues, in particular equalities, transparency and improvement;

d) overseeing the development and delivery of a balanced work programme of Scrutiny Committees using a range of scrutiny methodologies and reporting regularly to City Council;

e) considering Overview and Scrutiny development, working practices and constitutional arrangements.

Deleted: publishing each year an Annual Programme of major scrutiny inquiries as suggested by individual Overview and Scrutiny Committees following consideration of the Council Plan and priorities;

Deleted: <#>agreeing the establishment of any task & finish groups; and¶

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iv. Membership of the Co-ordinating Overview and Scrutiny Committee will consist of 12 members: the chair of the committee and the seven other Overview and Scrutiny Committee chairs along with four places for opposition group members to ensure proportionality.

Finance and Resources Overview and Scrutiny Committee

v. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

Deleted: finance (including strategic finance, budget setting and financial monitoring); revenues and benefits; treasury management; Council land use and property assets; human resources; contracting, commissioning and commercialisation.

- Council Business Plan and Medium Term Financial Plan/Budget

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- Oversight of Council-owned land and property facilities, amenities and services including markets
- Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures
- Business Charter for Social Responsibility
- Commercial opportunities available to the Council
- Revenues and Benefits service
- Procurement management
- Contract management policy
- Management of all internal trading operations
- Commissioning approach that supports the Council's wider social objectives
- Collection of rent/recovery of rents from Council tenants/former tenants and overpayments of Housing Benefit from Council tenants
- Organisational development function for shaping the future workforce of the Council
- Change/transformational programmes deployed corporately
- Member development programmes
- Processes and procedures to support good staff performance and equality objectives
- Human resources, staffing structures at JNC level and personnel procedures
- Oversight of the use of consultants with particular focus on their duration, renewal and cost.

Education, Children and Young People Overview and Scrutiny Committee

vi. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

- Education and children's social care
- The safety and wellbeing of children, including safeguarding with statutory partners
- The needs of all children and young people, families and carers
- Oversight of the Children's Trust
- Early years health and wellbeing
- Looked after children, corporate parenting
- Special Education Needs and Disability
- School improvement, school places and travel to and from school
- Youth engagement and youth services

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Deleted: & Children's Social Care

Deleted: schools and education, the Children's Trust, vulnerable children, corporate parenting, children and young people's health and wellbeing and other child social care and safeguarding functions of the council.

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- Development of 14-19 career pathways, enterprise and entrepreneurship in Birmingham schools.

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

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

Economy and Skills Overview and Scrutiny Committee

viii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

Deleted: strategic economy; skills and apprenticeships; inward investment; land use planning; business improvement districts and the Local Enterprise Partnership.

- Major physical regeneration and infrastructure projects in the city (with Cabinet Member for Housing & Homelessness)
- Promotion of the city and inward investment (with the Cabinet Member for Digital, Culture, Heritage and Tourism)
- Land use and property assets
- Economic growth and jobs
- Skills expansion for key growth sectors along with lifelong learning for post-14 skills and lifelong learning
- Access to employment and delivery of local employment plans
- Economic impact of arts, culture, tourism and sport.

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Health and Adult Social Care Overview and Scrutiny Committee

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ix. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

Deleted: adult safeguarding, social care and public health;

- Development of Health & Well Being Board and relationship with NHS and private providers
- Social care services and safeguarding for adults
- Public health services
- Healthy living

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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:

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- 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.

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Neighbourhoods Overview and Scrutiny Committee

Deleted: Housing and Neighbourhoods

x. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

Deleted: housing; waste management; neighbourhood management; parks and allotments localisation; bereavement services and community safety.

- Collection and removal of waste from residential and other properties within the city
- Pest control
- Street cleansing, litter prevention, fly tipping/placarding removal and enforcement, graffiti removal, scrap yard and motor salvage operator enforcement
- Parks and allotments
- Local events
- Community safety, anti-social behaviour, fear of crime, support for victims of crime
- Relationships with Police & Crime Commissioner and West Midlands Police
- Youth offending
- Domestic abuse
- Cemeteries and crematoria, mortuary and Coroners Court services, Register Office services
- Local Development Plans, Neighbourhood Plans, Development Briefs, localisation
- Commonwealth Games Legacy Framework.

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

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Homes Overview and Scrutiny Committee

Deleted: Commonwealth Games, Culture and Physical Activity

xii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

Deleted: Commonwealth Games; arts and culture; libraries and museums; sport; events.

- Council Housing management services, repairs and maintenance programmes
- Best use of housing stock across all housing providers
- Neighbourhood management initiatives and the housing growth agenda (Birmingham Social Housing Partnership)
- Private rented sector, licensing and regulation
- Tenancy engagement in the management and development of social housing and Housing Liaison Boards
- Exempt accommodation
- Housing Options for vulnerable adults, children, young people and offenders
- Temporary accommodation provision
- Homelessness and rough sleeping
- Supply of homes to meet housing need.

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Sustainability and Transport Overview and Scrutiny Committee

xiii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to:

- Sustainable transportation policy and programmes, projects and initiatives
- Strategic highways matters
- Maintenance of roads and streets, traffic management and car parks and enforcing rights of way
- Cooperation with the WMCA and Mayor in relation to the key route network
- An Air Quality Strategy for Birmingham
- A financially and environmentally sustainable waste strategy
- A robust re-use and recycle strategy
- A strategy for sustainability, liveability and environmental improvements
- City-wide and national policy development to tackle the causes and consequences of climate change.

Deleted: sustainability; air pollution; transport strategy and highways....

xiv. The Committee shall also undertake any functions in relation to the scrutiny of flood risk management.

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Deleted: (Flood and Water Management Act 2010).

11.6 Rules of Procedure

- i. A Scrutiny meeting may be called by the Chair of the relevant Overview & Scrutiny Committee.
- ii. All meetings of an Overview & Scrutiny Committee shall be open to the public in accordance with Section C2 *Access to Information*. In addition to their rights as Councillors, Members on an Overview & Scrutiny Committee have additional rights to documents as set out in Section C2 *Access to Information*.
- iii. No Overview & Scrutiny Committee may undertake a review into:
 - Any decision of the Planning Committee, the Licensing and Public Protection Committee or a Licensing sub-committee;⁴⁴
 - Any decisions which may be appealed against under the terms of reference of the Licensing Sub-Committees;
 - Any decision taken by an officer under delegated authority which falls within the terms of reference of the Planning Committee, the Licensing and Public Protection Committee or a Licensing sub-committee;⁴⁵

⁴⁴ In respect of a licence or permission granted to an individual or in respect of an individual premises

⁴⁵ In respect of a licence or permission granted to an individual or in respect of an individual premises

- Any code of conduct matter or employment appeals;
 - Except in exceptional circumstances, any decision in respect of which there are:
 - a) Ongoing judicial proceedings, Ombudsman or audit inquiry or complaint under the Council's formal complaints procedure; or
 - b) Individual personnel issues.
- iv. An Overview & Scrutiny Committee may require any Cabinet Member, or Member in relation to a matter where the Member has exercised functions, the Chief Executive and/or any senior officer to attend before it to answer questions and provide information about any matter within its terms of reference..⁴⁶

11.7 Conflicts of interest

- i. If an Overview and Scrutiny Committee is scrutinising specific decisions in relation to the business of another committee or forum of the City Council 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.
- ii. Where, however, the Overview and Scrutiny Committee is reviewing policy matters, generally, as opposed to a specific decision of another committee or forum of the City Council, the Member must declare his/her interest before the relevant agenda item is reached but need not withdraw.
- iii. If a Cabinet Adviser (or former Cabinet Adviser) is a member of an Overview & Scrutiny Committee and is scrutinising matters to which their role relates, then that Councillor must withdraw from the meeting during the consideration of such matter.
- iv. If an Overview and Scrutiny Committee is scrutinising the work of a relative of a member of the Committee, then that Councillor must withdraw from the meeting during the consideration of such matter.

11.8 Overview and Scrutiny Work and Non-Executive Committees

- i. Overview and Scrutiny Committees are only permitted by law to scrutinise the Executive decisions of the Council – Cabinet, Cabinet Committees, Cabinet Members, and officers.
- ii. In terms of the Regulatory Committees, these carry out administrative functions and, as such, appropriate appeal rights and procedures apply to the same, which do not involve the Overview and Scrutiny Committees arrangements.

⁴⁶ A Member or officer is not obliged to answer any question which he would be entitled to answer in or for the purposes of proceedings in a Court Section 9FA of the 2000 Act.

11.9 “Request for Call-In” and “Call-In”

- i. When an Executive decision is taken by the Cabinet, Cabinet Committees, or Cabinet Member(s), the decision shall be published on the website, 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.
- 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.
- iii. Once a “Request for Call In” has been received, the Chair of Co-ordinating 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.
- iv. 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.
- v. Where the Committee does decide to call in a decision, the “re-consideration” which is then required must take place at a meeting of the full Cabinet – irrespective of who made the original decision on behalf of the Executive.

Call-In Criteria

	(a) Is the Executive decision within existing policy?
1	the decision appears to be contrary to the Budget or one of the ‘policy framework’ plans or strategies;
2	the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;
3	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);
	(b) Is the Executive Decision well-founded?
4	the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;
5	the Executive appears to have overlooked some relevant consideration in arriving at its decision;
6	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;
7	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.
	(c) Has the Executive decision been properly taken?

	(a) Is the Executive decision within existing policy?
8	the decision appears to give rise to significant governance, legal, financial or propriety issues;
9	the notification of the decision does not appear to have been in accordance with council procedures;

B12. PLANNING COMMITTEE

12.1 Role

- i. To exercise the powers and duties of the Council with regard to development control and planning matters, and, in particular, to:
 - exercise all the powers and duties of the Council as a local planning authority (apart from any Executive functions);
 - exercise the powers and duties of the Council with respect to building control;
 - be accountable for the Local Land Charges service.
- ii. The full Planning Code of Practice for Councillors and Officers can be found in Part C8 of the Constitution.

12.2 Membership

- i. Members of the Planning Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.

B13. LICENSING AND PUBLIC PROTECTION COMMITTEE

13.1 Role

- i. To exercise the powers and duties of the Council with regard to regulatory, licensing and registration matters under all relevant legislation relating to the Licensing service, waste enforcement, Trading Standards service and Environmental Health Service;
- ii. Exercise and monitor the Council's powers; in respect of regulation and enforcement, monitoring performance of the Councils regulation and enforcement services as well as any hosted regional or national programmes;
- iii. Set fees, as applicable, in respect of trading standards, environmental health, licensing, highways skip permits, street trading, registration of births deaths and marriages (all services); private rented services.
- iv. Set conditions relating to Hackney carriage and private hire matters.
- v. Set conditions for any licensable activity allowed by legislation as appropriate
- vi. To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions.

13.2 Functions

- i. The Licensing and Public Protection Committee is authorised to discharge the following functions:
 - Set fees and charges, grant, refuse Issue, renew, suspend, revoke, or otherwise control any licences, authorisations, permits, registrations as appropriate under the scheme of delegations or powers provided to the council through enactments, regulations or bylaws;
 - Where applicable approve any pre application tests and requirements, in relation to any licences, authorisations or registrations issued by the Licensing Service
- ii. Members of Licensing Sub-Committees will sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out functions of and ancillary to those Acts and is not required to observe political balance. Members of the Licensing & Public Protection Committee will sit as a general Licensing Committee when dealing with any other licensing functions of the Council and appointments must be politically proportionate.
- iii. The Committee is authorised to exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee except where
 - Any function of the licensing authority under the Licensing Act 2003 (the 2003 Act), the Gambling Act 2005 (the 2005 Act), or the Police Reform and Social Responsibility Act 2011 (the 2011 Act) has been reserved to full Council; or
 - Any licensing function where Council has referred a matter to another committee.

- Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
 - The function of determining any matter where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
- iv. A Sub Committee is not authorised to discharge functions where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

13.3 Membership

- i. Members of the Licensing and Public Protection Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.
- ii. Substitute Members: no substitute Members are appointed for the Licensing and Public Protection Committee. In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other suitably trained members of the Licensing and Public Protection Committee.
- iii. A substitute Member shall be entitled to attend in place of a regular Member provided that Committee Services has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.
- iv. A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.
- v. The Licensing Committee Code of Practice for Councillors and Officers can be found in Part C9 of the Constitution.

13.4 Procedure Rules

- i. Committee meetings will be called in accordance with Part C2 of the Constitution: *Access to Information*.
- ii. The provisions of the Licensing Act 2003 (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the Relevant Regulations shall prevail. Licensing Act 2003 matters fall outside of the remit of the Local Government Act 1972.
- iii. The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and

Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information procedure rules in relation to the exercise of such functions the provisions of the Relevant Regulations shall prevail.

- iv. The Licensing functions of the Council shall be carried out by the following bodies:
- Licensing and Public Protection Committee (15 Members with a quorum of 5)
 - Sub-Committees to be established by the Licensing and Public Protection Committee, comprising three Members drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003 as assigned and matters in respect of hackney carriages, private hire, vehicles drivers and operators. The Chairs of the Licensing and Public Protection (Licensing Sub)-Committee's role is to chair the licensing sub-committee meetings, deal with subsequent actions of appeals and assist in finding substitutes for members as required.
- v. Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- vi. Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

B14. AUDIT COMMITTEE

14.1 Purpose

- i. 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.

14.2 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 Council's Corporate Governance Code and Framework, risk management framework, and the associated control environment.
- d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- e) To review the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and treasury management practices.
- f) 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.
- g) 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.
- h) To consider and make recommendations to the executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.
- i) To consider reports from the Ombudsman and monitor management response in relation to these.
- j) To consider, approve or make recommendations in respect of any other matters at the request of the Council.

14.3 Membership

- i. Members of the Audit Committee, and its Chair, are appointed by Full Council. There are eight members of the committee, and the quorum is three.
- ii. The Chair of Audit Committee should not be appointed to serve as a Director on any of the City Council's wholly owned companies.
- iii. An Independent Technical Advisor should be appointed to support the Committee.

14.4 Conflicts of interest

- iv. If a Cabinet Adviser (or former Cabinet Adviser) is a member of the Audit Committee when it is considering matters to which their role relates, then that Councillor must withdraw from the meeting during the consideration of such matter.
- v. If the Audit Committee is considering items relating to the work of a relative of a member of the Committee, then that Councillor must withdraw from the meeting during the consideration of such matter.

B15. TRUSTS AND CHARITIES COMMITTEE

15.1 Role

- i. The Trusts and Charities Committee will exercise the administrative powers and duties of Full Council as trustee ("Council as Trustee") in relation to all trusts for which the Council is sole corporate trustee (the "City Trusts").

15.2 Functions

- i. The Trusts and Charities Committee is authorised to discharge the following functions:
 - To advise Council as Trustee in all matters relating to the Trusts and Charities under the control of the Council;
 - To receive and discuss all audit reports on Trusts and Charities and recommend actions to the Council as Trustee where required;
 - To review and approve the City Trusts annual accounts and final accounts; and recommend actions to the Council as Trustee where required;
 - To approve Charity Commission returns and all other regulatory documents;
 - To inquire of and respond to the Charity Commission and any other regulatory bodies;
 - To respond to enquiries from Auditors or Independent Examiners;
 - To be responsible for ensuring that legal responsibilities are met;
 - To ensure the objects and purposes of each individual City Trust are properly promoted in accordance with charity law;
 - To ensure (through the Finance Department and Accounting systems) that there is an appropriate system of control over income and expenditure, and that there are robust governance arrangements in place;
 - To have oversight of allocation of funds, donations and investment income, to ensure these are accounted for accordingly.
 - To be responsible for advising Council as trustee on all matters relating to the investments of the funds. This will include the appointment, and subsequent performance monitoring of the official Investment Advisers;
 - To take any other action deemed appropriate or necessary to ensure the proper management and administration of the City Trusts.
- ii. 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, Finance and Property Services team as and when required.

15.3 Membership

- i. Members of the Trusts and Charities Committee, and its Chair, are appointed by Full Council. There are eight members of the Committee, and the quorum is three members.

B16. THE STANDARDS COMMITTEE

16.1 Role

- i. The Standards Committee's role is:
 - 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 the arrangements for how the Council will deal with any complaints;
 - 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.
- ii. 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.

16.2 Membership

- i. The Standards Committee will be composed of 14 Members, as follows:
 - 6 Councillors, which will be made up of 2 Councillors from each of the 3 largest political parties represented on the City Council;
 - 6 Independent lay members
 - 1 Member of New Frankley in Birmingham Parish Council
 - 1 Member of Sutton Coldfield Parish Council
- ii. **Independent Lay Members:** Independent Lay Members are not entitled to vote at meetings;

- iii. **Parish Members:** The Parish Member(s) must be present when matters relating to the parish council or their Members are being considered but shall have no voting rights;
- iv. **Chairing the Committee:** Standards Committee will appoint an Independent Lay Member as Chair and Deputy Chair of Standards Committee. In the absence of the appointed Chair/Deputy Chair the Committee will be chaired by another Independent Lay Member or if none available the Committee will be chaired as determined by the Committee.
- v. **Quorum:** The quorum for the Standards Committee shall be five, including at least three Birmingham Councillors, one of the Independent Lay Member and the Parish Councillor if it relates to a Parish Council matter.
- vi. **Independent Person:** There will be at least 1 Independent who will have no voting rights although Standards Committee has the discretion to appoint an additional person if required.
- vii. **Delegation:** The Standards Committee may appoint one or more sub-committees for the purpose of discharging any of the Committee's functions as set out in 1.1 above. A sub-committee shall have a quorum of at least three voting members and one Independent Lay Member.
- viii. **Arrangements for Dealings with Standards Allegations under the Localism Act 2011:** The Monitoring Officer will set out the procedure for the arrangements as to how complaints under the Code of Conduct are dealt with. Any changes to those arrangements may only be made following consultation with the Standards Committee.

B17. INDEPENDENT REMUNERATION PANEL

17.1 Panel Composition

- i. In Birmingham the Panel comprises:
 - a) 4 members selected from a public advertisement;
 - b) 2 “invited” members (from August 2017, preference to be given to candidates representing trade unions or business);
 - c) 2 co-optees (non-voting members) drawn from former Councillors of the City Council who are no longer Members of the Council.
- ii. Panel Members are usually appointed for a 4-year term of office.

17.2 Terms of Reference

- i. The terms of reference for the Panel are:
- ii. To consider and keep under review and, as and when appropriate, to submit reports (containing recommendations) to the Council on:
 - a) The amount of Basic Allowance payable to all members;
 - b) The responsibilities or duties in respect of which Special Responsibility, Travelling, Subsistence and Co-optees’ should be available and the amounts of such allowances;
 - c) Whether Dependants’ Carers’ Allowance should be payable and the amount of such an allowance;
 - d) Whether there is any backdating of allowances payable for the year in which an amendment is made;
 - e) Whether adjustments to the allowances are to be determined according to an index and if so, how long the index shall apply before review [maximum of four years];
 - f) Any proposals for the introduction of an Allowances Scheme for members of a Parish Council.

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B18. SUMMARY OF QUORACY

CABINET / COMMITTEE	No. of Members	Quorum
City Council	101	30
Council Business Management Committee (and Sub-Committees as Determined by the Constitution and the Committee)	9	3
Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions Sub-Committee	5	3 including member of main opposition party
Cabinet	10	4
Cabinet Committee – Group Company Governance	4	2 Cabinet Members
Health & Wellbeing Board * including one elected member	16	6*
Overview & Scrutiny		
Co-ordinating Overview & Scrutiny Committee	12	4
Education, Children and Young People , Overview & Scrutiny Committee (Contains Governor and Parent Representatives)	8 + 4	4
All Other Overview & Scrutiny Committees	8	3
Regulatory and Non-Executive		
Planning Committee	15	5
Licensing & Public Protection Committee (and Sub-Committees)	15 3	5 3
Trusts & Charities Committee	8	3
Audit Committee	8	3
Standards Committee	14	5

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Birmingham City Council Constitution

Part D – Finance, Procurement and Contract Governance Rules

May 2023

Deleted: August 2022



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D1. FINANCIAL REGULATIONS

1.1 Financial Regulations

- i. Financial Regulations set out the key rules for the management of the Council's Finances that must be observed by all employees and Members and anyone acting for the Council in a consultancy or interim capacity.
 - ii. These Financial Regulations link closely to the Financial Arrangements that set out the responsibilities of Members, The Chief Finance Officer and Directors to ensure compliance with these regulations.
- FR1. All employees and all Members must at all times when engaged on Council activities act in the interests of the Council as a whole.
- FR2. All employees and all Members must adopt the highest standards of financial probity, including declaring all relevant financial interests to the Monitoring Officer or their Director as appropriate.
- FR3. All employees and all Members have a duty to report any unlawful or potentially unlawful spending or financial irregularity at the earliest opportunity.
- FR4. All employees and all Members must comply with the Financial Approval Framework which sets out the parameters for making financial decisions (Appendix A).
- FR5. The Council appoints a Chief Finance Officer under S151 of the Local Government Act 1972, who is responsible for the proper administration of the City Council's Financial Affairs.
- FR6. All employees and all Members must comply at all times with Financial Regulations and the associated Financial Regulatory Framework established and maintained by the S151 Officer, including: -
- a) Financial Regulations
 - b) Financial Governance Framework
 - c) Financial Procedures
 - d) Financial Management Tool "My Finance"
- FR7. All employees and all Members must act reasonably and within the spirit of the financial regulatory framework.
- FR8. Financial Regulations and the Financial Governance Framework will be reviewed annually by the Chief Finance Officer and approved by Council. The Chief Finance Officer is responsible for setting Financial Procedures and the Financial Management Tool "My Finance" and ensuring that these remain up to date.
- FR9. All activities must be in accordance with:
- a) Legislation.
 - b) Approved Council strategies.

- c) Approved revenue budgets and capital programmes.
 - d) Relevant Council policies.
 - e) All appropriate professional codes of practice (e.g. CIPFA codes).
- FR10. Best value and value for money must be sought in all activities, including the procurement and commissioning of goods and services and the acquisition and disposal of assets.
- FR11. All employees and all Members have a duty to maintain the security of Council assets and computer systems that contain financial, commercial, and personal information.
- FR12. All managers have a duty to identify, assess and mitigate existing and emerging risks facing the Council and ensure that there are appropriate insurance arrangements in place to manage those unmitigated risks.
- FR13. The Council, assisted by the Cabinet, will maintain financial oversight of all financial activities in line with the Financial Accountability Framework supported by the Chief Finance Officer, who delivers appropriate transparency and reporting on the delivery of this framework.
- FR14. The Council will appoint an Audit Committee to keep under review its risk management and internal control processes and advise it on any changes that need to be made to strengthen governance arrangements.
- FR15. The Chief Finance Officer will fulfil their statutory responsibility in line with the Chief Finance Officer Protocol at Appendix B to ensure there are appropriate and adequate systems and procedures within the Council to:
- a) Ensure that financial plans are realistic and affordable.
 - b) Report to the Council if they consider that it no longer has sufficient resources to deliver its financial plans (S114 report).
 - c) Account for all income and expenditure.
 - d) Protect assets from loss, waste, theft, or fraud.
- FR16. The Chief Finance Officer, or their representative, has the right to be present and give appropriate advice, at all meetings, where the Council's financial arrangements are discussed.
- FR17. Directors, under the Financial Accountability Framework are responsible for the control and management of all resources of all kinds, including capital and revenue budgets made available to them and must ensure that they and all of their staff comply with all relevant financial guidance and controls in managing those resources.
- FR18. Directors must provide an annual assurance statement to the Chief Finance Officer, in the format prescribed by the Chief Finance Officer, to confirm that their Directorate has complied with Financial Regulations and Financial Procedure rules. This will set out clearly how they have gained this assurance.

- FR19 All references within this document to employees include consultants or anyone acting on a temporary or interim basis for the Council.
- FR20 These regulations also apply to all Council bodies, trading bodies or associated organisations unless the Chief Finance Officer specifically agrees that other arrangements will be followed. The Financial Regulations exclude schools for which separate regulations apply.
- FR21 Failure to comply with Financial Regulations, or instructions issued under them, may constitute misconduct.

1.2 Financial Accountability Arrangements to Deliver Sound Financial Management

- i. Financial Accountability Arrangements set out the role of Members, the Chief Finance Officer and Directors in delivering sound financial management across the Council.

THE ROLE OF MEMBERS

- ii. The [Constitution](#) sets out the specific roles of Council and Cabinet and the extent to which Cabinet will fulfil the roles set out below.

FA1 Financial Planning & Control

The Council sets the spending plans for Birmingham City Council on an annual basis, advised by the S151 Officer, to conform with all necessary legislation and will: -

- (i) approve the Annual Financial Plan (including the revenue and capital budget) for each financial year before the preceding 10 March.
 - a. Medium Term Financial Plan
 - b. Reserves Strategy and Policy
 - c. Charging Policy and associated fees & charges
 - d. Capital Strategy and associated five-year capital programme
 - e. Treasury Management Strategy
- (ii) approve the level of Council Tax in accordance with the Local Government Finance Act 1992.

FA2 Financial Management

The Council or Cabinet will approve significant in-year variations to the Revenue Budget or the Capital Programme, in line with the agreed thresholds set out in Annex A. This includes:

- (i) Virement of significant sums of money between budget headings.
- (ii) Substantial new additional spending not included within revenue budget plans.
- (iii) Significant variations to the Capital Programme.
- (iv) The creation or unplanned use of reserves not included within the approved Revenue Budget or Capital Programme.
- (v) The carry-forward of unspent revenue or capital budgets at the year end.

FA3 Financial Assurance and Oversight

The Council gains assurance that its financial plans are being delivered effectively and within available resources by:

- (i) Quarterly Monitoring Reports on the Revenue Budget and Capital Programme.
- (ii) Half-yearly reports on the implementation of the Treasury Management Strategy.
- (iii) The out-turn report.
- (iv) The Annual Statement of Accounts, including the Annual Governance Statement.
- (v) The Annual report of the Audit Committee.

FA4 Financial Governance

The Council will appoint an Audit Committee to oversee financial governance

- (i) The Audit Committee agrees the annual audit plan and internal audit protocol.
- (ii) The Assistant Director Internal Audit & Risk Management reports to the Audit Committee on at least a quarterly basis on the implementation of the Audit Plan and key recommendations.
- (iii) The Audit Committee approves the Annual Governance Statement, prior to sign off and receives the report of the External Auditor on their audit of the City Council's accounts.

FA5 Core Strategies that support Sound Financial Management

The Council agrees core strategies that support Sound Financial Management including:

- (i) Anti-Fraud & Corruption Strategy.
- (ii) Anti - Money Laundering Policy.
- (iii) Whistle-blowing Strategy.
- (iv) Risk Management Strategy.
- (v) Insurance Strategy.
- (vi) Contracts and Procurement Regulations.

FA6 Delivery and adherence to Core Strategies

The Council monitors the delivery and adherence to core strategies by receiving reports on at least an annual basis on their implementation.

THE CHIEF FINANCE OFFICER (\$151 Officer)

- iii. The Chief Finance Officer has a statutory responsibility for the proper administration of the Council's financial affairs. CIPFA, the public sector professional finance body have set out five principles that define core activities and behaviours that belong to the role of the Chief Finance Officer:
 - a. The Chief Finance Officer should be a key member of the Leadership Team, helping the organisation to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest.

- b. The Chief Finance Officer must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer-term implications, opportunities and risks are fully considered, and aligned with the organisation's financial strategy.
- c. The Chief Finance Officer must lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently, and effectively.
- d. To deliver these responsibilities the Chief Finance Officer must lead and direct a finance function that is resourced to be fit for purpose; and
- e. The Chief Finance Officer must be professionally qualified and suitably experienced.

FB1 Financial Planning

- (i) Advising on the completeness of financial estimates.
- (ii) Assessing the robustness of reserves to support the revenue budget.
- (iii) Preparing a reserves strategy to support the revenue budget and capital programme.
- (iv) Preparing and keeping under review a medium-term financial plan.
- (v) Ensuring that the financial implications of the Capital Strategy and Capital Programme are affordable as measured by Prudential Indicators.
- (vi) Preparing an annual Treasury Management Strategy.
- (vii) Ensuring that all Council tax calculations accord with statutory requirements.

FB2 Financial Management & Control

- (i) Overseeing the delivery of the budget and capital programme within the parameters set by the Council.
- (ii) Establishing processes to ensure that any spending or virement that exceeds the set parameters is brought to the appropriate Cabinet/Council for decision.
- (iii) Establishing processes to prioritise capital and revenue spending against key Council aims and objectives.
- (iv) Establishing a business case process for capital and revenue funding bids.
- (v) Establishing a gateway process for all new capital schemes to ensure that they align with core council aims and objectives and its capital strategy.
- (vi) Advising, developing, and leading on plans to achieve a balanced budget and manage projected medium-term budget deficits.

FB3 Financial Oversight

- (i) Preparing at a minimum *quarterly* monitoring reports on the revenue budget and capital programme, including an update on the medium-term financial plan on a half yearly basis.
- (ii) Bringing to the prompt attention of Members any significant overspending or potentially unlawful spending.
- (iii) Preparing a half-yearly report on the implementation of the Treasury Management Strategy.

- (iv) Preparing annual accounts, including the Annual Governance Statement in accordance with all necessary statutory requirements, and within statutory timescales.

FB4 Financial Governance

- (i) Ensuring an appropriate system of internal control exists throughout the Council including issuing financial procedure rules and the “My Finance” financial management toolkit to make all officers aware of their responsibilities regarding sound financial management.
- (ii) Ensuring that appropriate arrangements are in place to deliver an effective internal audit service in line with the Accounts and Audit (England) Regulations 2015.
- (iii) Making appropriate arrangements for external audit in line with Local Audit & Accountability Act.
- (iv) Ensuring open and unfettered access for internal and external auditors throughout the Council.

FB5 Core Strategies that Support the Budget

- (i) In consultation with the Assistant Director (Internal Audit & Risk Management) preparing and keeping under review an Anti-Fraud and corruption strategy.
- (ii) Ensuring that the Risk Management Strategy highlights the financial impact of all risks facing the Council and this informs financial plans.
- (iii) Preparing an Insurance Strategy .
- (iv) Ensuring that contracts and procurement guidelines are followed in the ordering and procurement of goods and services.

FB6 Delivery and Adherence to Core Strategies

- (i) Preparing an annual report on the delivery of the Anti-fraud and corruption strategy
- (ii) Reporting on at least a half-yearly basis to the Audit Committee on the risk management strategy and key risks facing the Council.
- (iii) Preparing an annual report on the implementation of the insurance strategy.
- (iv) Annual report on contracts awarded and tender waivers.
- (v) Reporting annually on the operation of the Anti-Money Laundering Policy.

ROLE OF DIRECTORS

- iv. For the purposes of these regulations this means the Chief Executive, Monitoring Officer and All Directors of Birmingham City Council, together with the Chief Executive and Directors of other associated organisations, who adopt the financial regulations of Birmingham City Council. Directors have prime responsibility for their budgets and ultimate responsibility for the financial management of all resources allocated to them.

FC1 Financial Planning & Control

- (i) Ensuring that the Chief Finance Officer is aware of new service and financial pressures that impact on the medium-term financial plan.
- (ii) Preparing financial estimates in accordance with financial guidance.

- (iii) Ensuring that proper and legal budgets have been set that accord with the overall Council budget.
- (iv) Maintaining and collecting sufficient performance information to assess the financial impact of changing demand for the service.
- (v) Preparing Equality Impact Needs Assessments for their areas of responsibility and for any proposals for major change, in a format specified by the Cohesion and Partnerships Manager.
- (vi) Preparing plans and strategies that support the Capital Strategy, including the IT and Digital strategy, Asset Management Plan, Estates Strategy.

FC2 Financial Management

- (i) Ensuring that net expenditure (revenue and capital) in their areas of responsibility does not exceed the annual budgets set for their services and projects.
- (ii) Ensuring that each budget has a designated budget holder and that each capital project has a designated project manager.
- (iii) Ensuring that monitoring and forecasting of in-year spending is realistic and accurately reflects current and future demand and commitments for the service.
- (iv) Complying with all financial guidance concerning the preparation of business cases and the gateway process.
- (v) Ensuring that the financial implications of key decisions are included within any report seeking additional in-year revenue or capital funding.
- (vi) Complying with all financial limits concerning the virement of budgets or the in-year approval of new capital and revenue spending.
- (vii) Developing and implementing plans to contribute to a balanced budget as part of the overall budget management strategy lead by the Chief Finance Officer.
- (viii) Ensuring the identification, reconciliation, recording and security of all income due/received.
- (ix) Ensuring the security, custody, and management of all assets.

FC3 Financial Oversight

- (i) Ensuring that all expenditure is lawful (intra vires), has been properly authorised and all necessary processes have been complied with.
- (ii) Ensuring there are adequate controls and procedures in operation within their department.
- (iii) Each Director must report to the Monitoring Officer and the Chief Finance Officer where there is doubt over the legality of proposed, or already incurred, expenditure and or actions.
- (iv) Complying with all financial procedures and requirements to maintain accurate and comprehensive financial records.
- (v) Observing all year end processes and timetables to prepare financial information to be consolidated within the Council's statement of accounts, including robust and evidence-based forecasting of spend as part of the closedown process.

FC4 Financial Governance

- (i) Co-operating and engaging effectively with their Finance Business Partner to ensure that the Business Partner is involved in all key financial decisions affecting their directorate.
- (ii) Ensuring they have appropriate organisational structures in place to achieve effective financial administration in the fulfilment of their service responsibilities and to comply with the financial regulatory environment.
- (iii) Ensuring they have effective financial systems, processes and procedures in place that meet the requirement of the Chief Finance Officer.
- (iv) Ensuring that all of their employees receive up to date financial and systems training to properly perform their duties.
- (v) Providing open and unfettered access to internal and external auditors.
- (vi) Implementing agreed internal audit recommendations within agreed timescales.

FC5 Core Strategies that Support the Budget

- (i) Ensuring that designated risk owners are appointed for all risks identified and managed within their directorate.
- (ii) *Ensuring that appropriate insurance is arranged in line with the Insurance strategy.*
- (iii) Preparing and keeping under review the Whistle Blowing Policy (Monitoring Officer).

FC6 Delivery and Adherence to Core Strategies

- (i) Directors will maintain appropriate systems to enable the Chief Finance Officer to collect information on the adherence to core strategies.

Appendix A: Financial Approval Framework

CFO – Chief Finance Officer

		Within Director Delegations (note 1)	Above Director Delegation & below Key Decision	Key Decision
		Below £200,000	£200,000 – up to £500,000	£500,000 (revenue)
1.	Revenue Budget and Resources Approvals			
1.1	Allocation of corporate revenue budgets	CFO (in consultation with the Chief Exec and Leader if £100,000 or more)	Cabinet	Cabinet
1.2	Allocation of general revenue Policy Contingency			
1.3	Virement or reallocation of revenue budgets between Directorates			
1.4	Virement or reallocation of revenue budgets held by Directorates.	Relevant Director	Either relevant Cabinet Member or Regulatory Committee	Cabinet
1.5a	Approval to bid for external revenue resources (including any associated Accountable Body Roles) to be included in an Outline Business Case Report.	Relevant Director with CFO	Either relevant Cabinet Member with CFO, or Regulatory Committee	Either relevant Cabinet Member with CFO, or Regulatory Committee
1.5b	Approval to accept external revenue resources (including any associated Accountable Body Roles)	Relevant Director with CFO	Either relevant Cabinet Member with CFO, or Regulatory Committee	Cabinet
1.6	Approval to incur expenditure funded by accepting external revenue resources (including any associated Accountable Body roles) including where 1.5 is not applicable (e.g. where no bid submission was required). (Specific Government Grants and similar funding are excluded from this and are covered by 1.8) <i>In consultation with the ward members (where applicable)</i>			

1.7	Technical revenue budget reallocations or adjustments (e.g. resulting from reorganisation) (note 3)	Chief Finance Officer	Chief Finance Officer	Chief Finance Officer
1.8	Allocations of Revenue Grant and Ring-Fenced related reserves – resulting expenditure is approved if it is in accordance with the grant conditions or ring-fenced related reserve purpose			
1.9	Allocation of specific revenue Policy Contingency in line with the approved Financial Plan and Budget – resulting expenditure is approved if it is in accordance with the specific policy contingency purpose			
1.10	Allocation of specific revenue Policy Contingency not in line with approved Financial Plan and Budget – resulting expenditure is approved if it is in accordance with the specific policy contingency purpose	Cabinet	Cabinet	Cabinet
1.11	Allocation of General Reserves and Balances, and Earmarked Reserves			
1.12	Creation of Reserves			

CFO – Chief Finance Officer

Within Director Delegations (note 1)	Above Director Delegation & below Key Decision	Key Decision
Below £200,000	£200,000 up to £1m	from £1m

2.	Capital Budget and Resources Approvals			
2.1	Approval to changes to the capital budget, subject to limitations and policies in the Council's Financial Plan. This includes increases funded from capital receipts; revenue budgets; the capital fund; specific resources (note 5); or prudential borrowing - provided the borrowing costs can be funded from additional income, redirection of ongoing revenue budgets, or treasury management budgets for borrowing costs.	Chief Finance Officer	Cabinet	Cabinet
2.2	Allocation of Capital Policy Contingency.			

CFO – Chief Finance Officer		Within Director Delegations (note 1)	Above Director Delegation & below Key Decision	Key Decision
		Below £200,000	£200,000 up to £1m	from £1m
2.3	Virement or reallocation of capital budgets from one project or programme to another (including use of underspends) (note 6).	Chief Finance Officer	Cabinet	Cabinet
2.4	Allocation of a budget to fund overspends.			
2.5	Resource allocations in kind, e.g. asset swaps, appropriations between HRA and General Fund, and discounted asset sales.			
2.6	Allocation of approved general programme capital budgets to individual projects within the existing policy framework.	Relevant Director	Either relevant Cabinet Member with relevant Director, or Regulatory Committee, CFO	Either relevant Cabinet Member with relevant Director, or Regulatory Committee
2.7a	Approval to bid for external capital resources (including any associated Accountable Body roles) – this should be sought as part of an Outline Business Case Report.	Relevant Director jointly with the CFO	Either relevant Cabinet Member with relevant Director and CFO, or Regulatory Committee	Either relevant Cabinet Member with relevant Director and CFO, or Regulatory Committee
2.7b	Approval to accept external capital resources (including any associated Accountable Body roles) – this should be sought as part of an Outline Business Case Report.	Relevant Director jointly with the CFO	Either relevant Cabinet Member with relevant Director and CFO, or Regulatory Committee	Cabinet
2.8	Approval to incur expenditure funded by accepting external capital resources (including any associated Accountable Body roles) where 2.7 is not applicable (e.g. where no bid submission was required).	Relevant Director jointly with the CFO	Either relevant Cabinet Member with relevant Director and CFO, or Regulatory Committee	Cabinet
2.9	Technical capital budget reallocations or adjustments (e.g. resulting from reorganisation) (note 3).	Chief Finance Officer	Chief Finance Officer	Chief Finance Officer

CFO – Chief Finance Officer

		Within Director Delegations (note 1)	Above Director Delegation & below Key Decision	Key Decision
		Below £200,000	£200,000 – below £500,000 (Revenue)/up to £1m (Capital)	£500,000 (revenue) / from £1m+ (capital)
3. “Gateway” Business Case Approvals				
3.1	Outline Business Case and Full Business Case reports based on estimated whole project cost (note 2). (Discretion to Chief Finance Officer to vary Business Case requirements according to circumstances).	Relevant Director (reporting formats to be determined locally)	Either relevant Cabinet Member or Regulatory Committee;	Cabinet
3.2	Post Implementation Review reports where required.			
3.3	Contract Strategy and Contract Award.	Approvals are set out in the Procurement Governance Arrangements in the Constitution		
3.4	Capital Project and Programme overspends compared to the originally approved Full Business Case value.	Amount of overspend to be approved in a revised Full Business Case by the relevant decision maker in line with resource thresholds in 3.1 above. Any additional budget must be approved under 2.4 above (note 12).		

4.1 Loans, other investments, guarantees, and underwritings made to Other Organisations (Note 14)

4.1	Budget allocation approval in accordance with Section 2 above.	Chief Finance Officer	Cabinet	Cabinet
4.2	Business Case approval in accordance with Section 3 above. This must include Treasury Management assessment in accordance with the Financial Management Tool and must comply with the Council’s investment limit where applicable.	Relevant Director and CFO	Either relevant Cabinet Member with CFO, or Regulatory Committee	Cabinet

5. Property Transactions

Specific delegations relating to property transactions are contained in Birmingham City Council Constitution, Part E Scheme of Delegations, section E3 Delegations to Chief Officers, 3.2 General Delegations, *Chief Executive and the Director, Inclusive Growth*

Financial Approval Framework – Supporting Notes

Thresholds

- 1) The Director delegation level is below £200,000. In relation to Emergency Health and Safety works there is an exception to the usual Gateway reporting requirements. Schools have a delegated authority to incur spend up to £500,000 whilst all other directorates can incur less than £200,000 under chief officer delegations (see Part E Scheme of Delegations). Any spend above these levels need to be approved by the relevant decision maker as soon as practicably possible.
- 2) “Whole Project Cost” means the entire gross capital cost of the investment to the City Council, however funded (including for example expenditure funded by capital grants).

Technical budget adjustments

- 3) These may be needed for various reasons including (but not limited to):
 - Restructuring that takes place after the budget has been set and that sees the service being provided with the same budget via a different reporting hierarchy (i.e. the overall budget for the specific service being provided remains in line with that approved by the Council). Virements should only be used when it is not possible to reappoint an entire fund centre within hierarchies.
 - Changing Directorates’ uncontrollable costs such as Central Support Costs (CSC) and asset charges.
 - Savings that have been approved in the budget but have been held corporately and require reallocating.
 - Changes to Direct Schools Grant (DSG) and changes as a result of schools academisation.
 - Adjustments to Traded Services as a result of changes in year to the volume of services provided to schools and / or changes to pricing structures (e.g. Cityserve).
 - Any budget virement required as a result of technical accounting issues.

Corporate and Specific Capital Resources

- 4) Corporate capital resources are those which the Council can use for any purpose or with wide discretion as to their use, including all capital receipts, earmarked capital receipts, ‘service’ and ‘corporate’ prudential borrowing, un-ringfenced capital grants, and other general resources as determined by the Chief Finance Officer; it excludes Specific capital resources. Corporate resources are predominantly allocated in the annual capital budget process. Although Cabinet may approve further allocations at other points during the year, this will not generally be done.

- 5) Specific capital resources are all other resources which have a restricted purpose and include external grants and contributions as well as revenue contributions from a Directorate's own budget. Specific resources may be added to the capital budget by Cabinet during the year when there is reasonable certainty that the resources are available.

Capital budget virements within a project

- 6) Capital virements within a project (e.g. from one Work Breakdown Structure element to another) can be approved by the Project's Board through a documented change control request (an example is in the Major Projects Financial Management Standard in the Financial Management Tool).

Gateway Reports

- 7) The required templates for OBC and FBC reports are included in Financial Management Tool. OBCs and FBCs are an appendix to the normal Executive decision report.
- 8) The report formats for Director approval are determined locally. They must support good decision making and provide adequate justification for the proposal being put forward. It is recommended that the Executive report format is used to ensure all relevant issues are addressed. Decisions made by relevant Cabinet Members and relevant Directors/Regulatory Committees must be made using the Executive Decision Report template and recorded on CMIS.

Scope of Capital Gateway approvals

- 9) 'Capital Gateway' means any capital expenditure, including projects, ongoing programmes, and capital grants to third parties. A programme of capital works (such as an annual programme of repairs or minor works) can be treated as a single project with a business case report to approve the programme before it starts. The approach to these reports should be agreed with the relevant Business Partner, which may include the consideration of wider delegations to officers as appropriate.
- 10) Gateway approvals will also apply to Revenue Projects where the Chief Financial Officer so decides.
- 11) Capital projects where the City Council is the 'accountable body', but the expenditure decision is assessed and approved under the associated governance process of the delegated body, will not require further 'Gateway' Options Appraisal or FBC approvals, as long as the assessment/appraisal process has been reviewed by the Corporate Director of Finance and Governance and is of a comparable or higher standard than the BCC gateway appraisal process.
- 12) Additional capital budgets (however funded) which are required to fund overspends, must be approved in accordance with section 2.4 above.

Outline Business Cases

- 13) Outline Business Cases will require a recommendation to release development funding. Approval to external funding will also need to be included in these reports in order to comply with 2.9 and 2.10.

Loans, other investments, guarantees and underwritings

- 14) These transactions are not always treated as capital expenditure but are all subject to the approvals in sections 1 and 2 above. This includes investments in Wholly Owned Entities. The decision thresholds apply to the value of the loan, investment, guarantee or underwriting.

Loans and other investments are a technically specialist activity and are subject to CIPFA and MHCLG statutory guidance and Council limits. The Treasury team must be involved in the clearance of all decision reports proposing loans/investments.

D2. PROCUREMENT AND CONTRACT GOVERNANCE

Section1 - Introduction

Introduction and Purpose

- 1.1 The Procurement and Contract Governance Rules (the “Rules”) shall be regarded as the Procurement and Contract Standing Orders of the Council and form part of the Constitution.
- 1.2 The Rules set out the required approach for procurement and contracting with third parties on behalf of the Council, for the purchase of Supplies, Services and Works.
- 1.3 In addition to the Rules there are supporting guidance and procedures which can be found here: [Procurement Procedures](#).
- 1.4 The Rules as set out in the following sections:
 - i. Section 2: Details the roles and responsibilities that apply to anyone who purchases Supplies, Services or Works on behalf of the Council.
 - ii. Section 3: The Thresholds to be applied related to the different levels of spend and approvals.
 - iii. Section 4: Explains the Rules to be followed throughout the commissioning, procurement and contract management process.
 - iv. Section 5: Sets out the defined terms within this document. Defined terms being emphasised by capital letters at the start of each word.

Principles to be applied

- 1.5 Section 135 of the Local Government Act 1972 requires the Council to make standing orders with respect to contracts for the supply of goods or services or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited. The intention of these Rules is therefore, to ensure the Council:
 - i. Obtains Value for Money and Best Value.
 - ii. Avoids and prevents corruption or the suspicion of it.
 - iii. Is fair and equitable in the treatment of all suppliers.
 - iv. Is transparent in how it conducts its procurement activities.
 - v. Promotes Social Value, including the Council’s Birmingham Business Charter for Social Responsibility, local economy and environmental sustainability, to the extent that it is legally permitted and pertains to the Public Services (Social Value) Act 2012.

Scope

- 1.6 These Rules shall apply to the procurement of the following types of contracts by or on behalf of the Council (e.g. agency staff, agents or consultants):

- i. purchasing of any Supplies (goods or materials).
- ii. Purchasing of any Services, including professional services.
- iii. Purchasing/ordering of any Works (such as building and engineering).
- iv. Contract management of all third party spend.

1.7 In application of these Rules the following shall be undertaken:

- i. Observe all applicable legislative requirements related to how public sector organisations undertake procurement activity and / or arrange Concession Contracts.
- ii. Ensure compliance with the Council's Financial Regulations and Scheme of Delegation.
- iii. Provide clear and consistent record keeping ensuring audit and accountability in how decisions are taken.
- iv. Apply proportionality to procurement activity considering value and associated risks.
- v. Use the Council's standard Terms and Conditions for Contracts entered into with third parties, seeking Legal Services input for all Above Threshold Contracts and on a case by case basis for Below Threshold.
- vi. Maintain compliance with requirements of the Council's Social Value Policy, including the Real Living Wage Accreditation, Birmingham Business Charter for Social Responsibility and Armed Forces Covenant.
- vii. Make legitimate efforts to promote local business and Small Medium Enterprises (SME) through our commercial arrangements.
- viii. Ensure capital funded projects to be considered in line with capital programme.
- ix. Give due consideration to alignment to the Council's Procurement Strategy.

Out of Scope

1.8 These Rules do not apply in the following circumstances:

- i. Procurement activity undertaken by Council maintained schools in accordance with their own delegated budget, and formal procurement and contractual rules as would be set out in the Schools Financial Procedures Manual.
- ii. Transactions regarding the purchase or lease of property, acquisition, disposal, transfer of land, or any interest in land which includes regulatory licenses (excluding consideration of Concession Contracts).
- iii. Legal charges, awards and disbursements (including all associated costs and fees) in connection with any and all legal proceedings governed by Civil Procedure rules.
- iv. Contract offers of employment which makes an individual an employee of the Council.
- v. Settlement of insurance claim compensation.

- vi. Treasury transactions as outlined within the Council's Treasury Management Strategy.
 - vii. Non-contractual funding arrangements (including Grant agreements under which the Council gives a Grant to third parties provided that the terms of the funding arrangements do not constitute a contract. Grants are to be awarded in line with the Council's conditions of Grant Aid. However, where the Council is using Grant monies itself or passing it on to a third party, the application of that money is subject to these Rules in addition to grant funding conditions.
 - viii. Specific licencing requirements (such as TV Licence or Public Entertainment Licence) or subscriptions to national organisations (such as the Local Government Association: LGA).
 - ix. Contracts for the execution of either Works (or provision of Supplies or Services) where the Council has no discretion regarding whether Works are required or who must deliver them as in the case of Work to be provided by a Statutory Undertaker, e.g. works to Public telecommunications network.
 - x. Services with a national remit, for example hosting England Illegal Money Lending Team (EIMLT), which may have requirements to comply with purchasing arrangements set out by funding body and as such those would take precedent.
 - xi. Appointment of external auditors outside of the control of the Council.
 - xii. Appointment of barristers, or legal firm where in the opinion of the City Solicitor (or delegate) urgent advice is needed to protect the interests of the Council.
 - xiii. Disposal of Supplies deemed surplus to the Council needs.
- 1.9 The above list is not exhaustive, and advice should always be sought from Corporate Procurement Services where there is uncertainty.
- 1.10 For Expenditure with Wholly Owned Council Companies with Teckal status that can provide goods, works or services to the Council, advice should be sought from Legal Services and Corporate Procurement Services as to whether any direct award is out of scope for the purposes of these Rules.
- 1.11 In consideration of the above and where these Rules do apply care must be taken to ensure compliance with the Council Constitution as a whole and applicable legislation is duly considered and applied.

Compliance

- 1.12 Where these Rules apply compliance is deemed mandatory and is an essential part of the overall Constitution of the Council. Those with responsibility for fulfilling their duties in line with these Rules are required to maintain ongoing knowledge and awareness to ensure compliance.
- 1.13 Where reference is made to, and / or is applicable, to the UK Public Sector Procurement legislation (the "Regulation") then those Regulations need to be referred

to and complied with. The Regulations are not extracted or transposed into these Rules.

- 1.14 This process shall be consistently applied across the Council and directorates should not need to add any additional processes. The relevant Chief Officer / Director is responsible for ensuring these Rules are followed and all approvals required are in place before any contract is awarded.

Waiver of the Rules

- 1.15 Any requirement of these Rules may be waived by application of the Waiver procedure but only where it is satisfied that it is justified and legal to do so.
- 1.16 Waivers to these Rules must be sought prior to acting and in accordance with the Waiver Procedure. If a Waiver is sought retrospectively to the action being carried out this will be deemed a potential Breach and investigated as such.
- 1.17 Waivers to the Rules are required for all spend over £5,000.
- 1.18 Where a Waiver is approved, officers must:
- i. ensure a formal contract is put in place;
 - ii. undertake appropriate due diligence and proportionate contract management; and
 - iii. there is the necessary authority in place from the decision maker in accordance with the Scheme of Delegation to award the contract.
- 1.19 Any Waiver granted over for Above Threshold approves only the anticipated non-compliance with the Council's Rules, it does not excuse or mitigate the risks associated with non-compliance with the UK Public Sector Procurement Regulations.
- 1.20 Use of the Waiver Procedure should not be used to circumvent due process in line with these Rules because of insufficient planning and / or activity resulting in insufficient time to procure the requirements as set out in these Rules.

Breach Procedure

- 1.21 Failure to comply with these Rules will be considered a Breach.
- 1.22 It will be the responsibility of all officers (including those with line management responsibilities) to address non-compliance swiftly and in the most appropriate way according to the circumstances.
- 1.23 Means of reporting concerns can also be raised anonymously in line with the Council's [Whistleblowing Policy](#).
- 1.24 Officers should remain alert to fraud throughout the procurement life cycle and any concerns of fraud or corruption must be reported to the Corporate Fraud Team within Birmingham Audit, at the earliest opportunity, by emailing FraudHotline@birmingham.gov.uk.
- 1.25 Failure to comply with these Rules may constitute a disciplinary matter that may be pursued as appropriate, in accordance with the relevant Human Resources policy framework.

Deleted: July 2022

- 1.26 Officers must follow the Code of Conduct for employees.
- 1.27 Councillors are not permitted to form part of the process once a procurement exercise is active and must ensure that their actions do not compromise or impact on the due process that has been set out.
- 1.28 Concerns related to Councillor intervention may be subject to Standards Board investigation.
- 1.29 Further details regarding investigation of Breaches of the Rules and their consequences can be found in the Procedural Note: Breaches.
- 1.30 Reports on the number of confirmed Breaches to be sent to the Section 151 Officer on a quarterly basis.

Deleted: Cabinet

Emergency Process

- 1.31 The use of the emergency process shall only be carried out where a genuine emergency exists and a Contract cannot be awarded based on a competitive Tender or following the Rules, and the reasons are not attributable to any act or omission by the Council.
- 1.32 A genuine emergency would be considered as having to deal with an immediate and extreme risk which could not have reasonably been foreseen, including but not limited to:
 - i. Major disaster or genuine emergency involving immediate risk to persons, property, and / or
 - ii. An event or occurrence which is creating serious disruption to Council services and / or
 - iii. An event or occurrence resulting in significant financial loss to the Council,
- 1.33 Where such a situation presents, then the Rules can be set aside to deal with the immediate response.
- 1.34 Once the immediate risks of that genuine emergency or major disaster has been duly mitigated, any follow up actions which would be required to follow the Rules as soon as possible following the emergency actions taken.
- 1.35 The use of the emergency process shall be used for proportional period to remedy the immediate and present situation.
- 1.36 To act in line with the emergency process the Chief Officer shall in consultation with the relevant Cabinet Member issue instruction that the emergency process has been enabled.
- 1.37 As soon as reasonably possible post the emergency a report shall be taken to update Cabinet, with the report including:
 - i. A record of the actions taken to deal with the genuine emergency.
 - ii. The justification to the reasons behind enabling the emergency process.
 - iii. Any related implications because of the actions taken.

Conduct and Conflict of Interest (Procurement)

- 1.38 A Councillor or Officer must not seek or receive any bribe, gift, or inducement of any kind in respect of any award or performance of any Contract. Any Councillor or Officer who has either been offered a bribe, gift, or inducement, or is aware or suspects that another Councillor or Officer has been, shall report it to the Assistant Director (Audit & Risk Management) and / or Monitoring Officer.
- 1.39 If an Officer is or could be in a position where they have a family, personal or financial relationship with an organisation bidding for a Contract, they must not be involved in any way in the procurement exercise or seek to influence it.
- 1.40 Officers and Councillors shall be aware of the requirements of the appropriate codes of conduct and must declare any direct or indirect interest in accordance with Bribery Act 2010.
- 1.41 For all Above Threshold Tenders, Conflict of Interest Forms shall be completed by all directly involved in the Tender and for Quotations / Tenders Below Threshold only where there is a positive declaration to be made.
- 1.42 Conflict of Interest Forms shall be completed prior to any involvement in a procurement process, including those involved in the development specifications through to being part of an evaluation team. If changes to any potential conflicts occur during the process, then these must be updated as soon as they become known.
- 1.43 Conflict of Interest Forms shall be maintained by Corporate Procurement Services for record and accounting purposes in line with the Council's Corporate Retention Schedule, typically 6 years.
- 1.44 In all cases it will be the responsibility of the individual involved to make the declaration as set out above and that the declaration is in their belief true and accurate.

Section 2 - Roles and Responsibilities

Roles and Responsibilities

2.1 In carrying out their duties officers shall ensure:

- i. They comply with these Rules.
- ii. Procurement activity which they undertake supports all relevant Council plans, priorities and objectives.
- iii. Suitable records are maintained for audit, accountability and reporting purposes in line with the document retention policy, Regulations and any external funding arrangements.
- iv. Relevant and proportional due diligence and assurance is undertaken and, where required, advice sought in a timely manner.
- v. They have provided an up to date Conflict of Interest form to CPS in accordance with these Rules.
- vi. Compliance with the Scheme of Delegation and the Council's formal decision-making requirements.

Specific

2.1 Specific responsibilities can be found in Table A below:

TABLE A – Specific responsibilities

ROLE	AREA OF RESPONSIBILITY
Chief Officer	Chief Officers must ensure the following arrangements are in place within their Directorate to: <ul style="list-style-type: none">• Ensure their staff comply with the Rules.• Adherence in the application of supporting guidance in their role as a signatory for Waivers and Emergency process where required.• Approvals of the commercial business case, route to market strategy and contract management arrangements subject to compliance with the corresponding assurance requirements under these Rules.• Ensure that contract award decisions are made in accordance with the Council's Constitution and Scheme of Delegation.• Ensure active and timely engagement with the Corporate Procurement Service in development of forward work plan of procurement activity and the maintenance of a contracts register, to include identifying a named contract manager for each Contract awarded.
Assistant Director (Procurement)	<ul style="list-style-type: none">• Overall ownership of these Rules and ensuring that the overall governance and assurance framework for commercial considerations is complied with robustly and effectively.

ROLE	AREA OF RESPONSIBILITY
Authorised Officer	<p>Authorised Officer with responsibilities in respect to the service area requiring application of spend in line with these Rules:</p> <ul style="list-style-type: none"> • Ensuring projects (Quotations, Tenders or contract extensions and/ or renewals) are appropriately planned to ensure the Rules are applied. • Ensuring there is a genuine and legitimate business requirement for the spend and an approved budget. • Ensuring that the appropriate approvals have been received in respect to committing spend. • Drafting a fit for purpose specification that includes appropriate contract management arrangements. • Supporting the definition of an appropriate route to market for each contract is followed and justification for any deviation from the approved approach. • Genuine estimating the total contract value prior to any procurement activity. • Conducting procurement and contract modifications / extensions under £25k total contract value. • Mandatory engagement with Corporate Procurement Service for all Above Threshold procurements and any necessary proportional engagement with Corporate Procurement Services on application of the Rules for processes over £25k up to Above Threshold. • Where required undertake, appropriate application of the Waiver Procedure. • Meeting the requirements of the Contract Management Framework. • Engaging with the Corporate Procurement Services as required. • Having authority to act, for example be the Budget Holder, or acting with the authority of the Budget Holder including seeking spend authorisations as appropriate.
Councillors (Cabinet Members)	<ul style="list-style-type: none"> • Make strategic decisions in line with the Constitution including overall budgetary and policy framework within which procurement plans are developed and implemented. • Approve Decisions in line with Authorisations process and Constitution. • Where they have specific responsibilities in the procedural aspects, comply with these Rules and follow supporting guidance. • Ensuring compliance with the Members' Code of Conduct, including in relation to any interests they may have.

ROLE	AREA OF RESPONSIBILITY
Corporate Procurement Service	<p>On behalf of the Council provide overall strategic ownership of procurement and commercial activity. Officers working within Corporate Procurement Services must ensure the following arrangements are in place to:</p> <ul style="list-style-type: none">• Proactively engage with Directorates to determine the forward plan of procurement activity and how this is enabled in a proportional and timely manner, in particular for engagement of activity above £25k.• Support Directorates in assessing the commercial considerations at the design stage, drafting of the route to market strategy for procurement activity and putting the contract management arrangements in place in accordance with the contract management framework.• Work with Directorates to develop proportional and informed category strategies.• Explore options for using pre-existing Public Sector compliant contractual arrangements that allow the Council's participation and compliantly use where this is the best value option.• Explore options for collaboration with other contracting authorities where appropriate.• Ensure the compliance of all procurement processes over £25k with the Rules and the Regulations, and monitoring and intervention as appropriate below £25k.• Through category management seek to develop strategic opportunities for synergy between contracts to enable the Council to get better value.

Section 3 - Thresholds

Thresholds

- 3.1 This section sets out the details in relation to spend financial Thresholds, the activities to be applied in procurements and authorisations in respect of related procurement activities.
- 3.2 Reference should also be taken in respect of Section 4 – Process and whether a procurement process is required or not, for example consideration of make or buy.

Estimated Contract Values

- 3.3 No contract shall be subdivided into smaller contracts so as to avoid compliance with these Rules.
- 3.4 For the purposes of the Financial Thresholds as set out in Table 1, calculation of estimated Contract value shall consider the whole life value or estimated whole life value (in pounds sterling or equivalent value) for any purchase (including any extensions or potential variations available) calculated as follows:
 - i. For a fixed term Contract, by taking the total price to be paid or which might be paid during the whole of the fixed term period.
 - ii. For purchases that involve recurrent transactions for the same type of item, across the Council as a whole, by aggregating the value of those transactions over the life expectancy of the Contract.
 - iii. In accordance with the Regulations and where the Contract is for an uncertain duration, by multiplying the monthly payment by 48.
- 3.5 The value for a proposed Contract must be a genuine pre-estimate with due consideration given to all associated costs (for example consideration to be given to repair, maintenance, spare parts etc.).
- 3.6 Where there is a requirement for similar Supplies, Services or Works, this spend should be aggregated. There shall be no disaggregation of requirements from across the Council to avoid the Thresholds.
- 3.7 All figures in Standing Orders are exclusive of VAT.
- 3.8 When calculating the estimated Contract values to determine which process to follow and whether the Regulations apply, the contract value estimation should be inclusive of VAT (where applicable).
- 3.9 For the purposes of advertising Above Threshold Tenders, the related Public Sector Procurement Regulation Thresholds include VAT (where applicable).
- 3.10 The default for calculating VAT to be against the prevailing current standard rate of VAT. Where a purchase is exempt from VAT, or is zero rated VAT, no allowance needs to be made for VAT.

TABLE 1: Process

Thresholds (excluding VAT)	Minimum Tender Process ⁻³	Advertising opportunity on ⁻³: i) Contracts Finder ii) Find a Tender	Posting Contract Notice of Award on: i) Contracts Finder ii) Find a Tender	Publishing on Contract Register	Use of electronic Tendering System	Minimum Tendering Timescales ⁻²
Up to £5k	Proceed to purchase	(i) Not required (ii) Not required	(i) Not required (ii) Not required	Not required	Not required	Not applicable
Low Value Quotation £5k to <£25k	Preference of three quotations (two from local suppliers or SMEs where possible), with a minimum of one quotation (local supplier or SME where possible) ⁻¹	(i) Optional (ii) Not required	(i) Not required (ii) Not required	Yes	Optional	5 to 7 working days but preferred 15 working days
Supplies and Services: £25k to Below Threshold relevant Regulation (inc. For Light Touch Regime (LTR) / Concessions / Utilities contracts)	Three quotations have been submitted (to include a minimum of two local suppliers or SMEs where possible)	(i) Yes (ii) Not required	(i) Yes (ii) Not required	Yes	Yes	15 working days

Thresholds (excluding VAT)	Minimum Tender Process ⁻³	Advertising opportunity on ⁻³ : i) Contracts Finder ii) Find a Tender	Posting Contract Notice of Award on: i) Contracts Finder ii) Find a Tender	Publishing on Contract Register	Use of electronic Tendering System	Minimum Tendering Timescales ⁻²
Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold (Concessions / Utilities Contracts)	Three quotations have been submitted (to include a minimum of two local suppliers or SMEs where possible)	(i) Yes (ii) Not required	(i) Yes (ii) Not required	Yes	Yes	15 working days
Works Contracts: Over £250k but below Threshold (or Concessions / Utilities Contracts)	Formal tender procedure compliant with the Rules and Regulations	(i) Yes (ii) Not required	(i) Yes (ii) Not required	Yes	Yes	20 working days
Above Threshold Supplies, Services, Works to £10m (or Concessions, Light Touch Regime or Concessions or Utilities Contracts)	Formal tender procedure compliant with the Rules and Regulations	(i) Yes (ii) Yes	(i) Yes (ii) Yes	Yes	Yes	As per Regulations
Over £10m	Formal tender procedure compliant with the Rules and Regulations	(i) Yes (ii) Yes	(i) Yes (ii) Yes	Yes	Yes	As per Regulations

- 1 *If the Authorised Officer is unable to secure the submission of three written quotations, then the Authorised Officer shall record, the reasons for audit purposes and proceed with a single quotation*
- 2 *When setting the time limit for bidding due regard should be given to allowing sufficient timescales for suppliers to bid, including any Regulatory stipulations, consideration of the complexity of the proposed contract and the time required for drafting a tender response (including supplier's own sign off timescales); plus any impediments which may limit suppliers ability to respond such as peak holiday periods and likely reduced resources.*
- 3 *In establishing the Council's own Framework then the Thresholds would apply as established within Table 1, subsequent call offs from such Frameworks would be deemed in line with the spend as authorised.*

For specific procurement activities requiring call-offs from compliant Frameworks, not all activities would be required, in particular:

Would not require advertising of opportunity but may require publishing of contract award, subject to conditions of Framework and / or Regulations.

Unlikely to require use of Council's electronic Tendering System

Timescales may be variable

In establishing the Council's own Framework then the Thresholds would apply as established within Table 1, subsequent call offs from such Frameworks would be deemed in line with the spend as authorised.

Table 2: Authorisations and Approvals

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Up to £5k	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Purchase Order

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
£5k up to £25k	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Purchase Order and where relevant agreed terms and conditions pertinent to the Quotation / Tender process.
Supplies and Services: £25k to Below Threshold relevant Regulation (inc. For Light Touch Regime (LTR) / Concessions / Utilities Contracts) ⁻⁶	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Contract Award Report ⁻² Chief Officer (in accordance with Directorate Scheme of Delegation approval level).	Purchase Order and where relevant agreed terms and conditions pertinent to the Quotation / Tender process.
Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold (Concessions / Utilities Contracts) ⁻⁶	Budget Holder (or Officer delegated by Budget Holder) within Service area in line with the Scheme of Delegation by means of relevant and proportional information and details for means of audit purposes as needed, e.g. emails.	Contract Award Report ⁻² Chief Officer (in accordance with Directorate Scheme of Delegation approval level) Concessions / Utilities Contracts – In accordance with the Directorate Scheme of Delegation approval level.	Purchase Order and where relevant agreed terms and conditions pertinent to the Quotation / Tender process.

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Works Contracts: Over £250k but Below Threshold (or Concessions / Utilities Contracts) ⁻⁶	Planned Procurement Activity Report (PPAR) for Cabinet approval then Strategy Report by means of Delegated Procurement Report (DPR).	Contract Award Report ⁻² by means of Delegated Procurement Report (DPR) subject to Cabinet confirming delegated approval permitted at pre-procurement stage.	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus Works Contract which exceeds £250,000 in value, shall be sealed with the Common Seal of the Council and shall be executed as a Deed.
Above Threshold Supplies, Services, Works to £10m^{-4 -5} (or Concessions, Light Touch Regime or Concessions or Utilities Contracts) ⁻⁶	Planned Procurement Activity Report (PPAR) for Cabinet approval then Strategy Report by means of Delegated Procurement Report (DPR).	Contract Award Report by means of Delegated Procurement Report (DPR) subject to Cabinet confirming delegated approval permitted at pre-procurement stage.	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus every contract (and all Framework agreements) for Supplies or Services which exceeds £1,000,000 in value, shall be sealed with the Common Seal of the Council and shall be executed as a Deed.

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Over £10m ^{-4 -5}	Consultation with Cabinet Member(s) and relevant Scrutiny Chair(s) 3 months prior to Cabinet. Inclusion on Forward Plan, Formal Cabinet Report including the Procurement Strategy.	Contract Award Report ⁻² for Cabinet approval (where the decision to award has not been delegated).	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus it shall be sealed with the Common Seal of the Council and shall be executed as a Deed.
Negotiated Contracts - £0 to £200k (revenue or capital)	Negotiated Procedure Report by sign off by Chief Officer (in accordance with Directorate Scheme of Delegation approval level) and the Assistant Director (Procurement).	Further signature of the Section 151 Officer (or their delegate) is required on the Negotiated Procedure Report.	Purchase Order and where relevant agreed terms and conditions pertinent to the Contract Negotiations.
Negotiated Contracts - £200k to £500k ⁻⁴ (revenue) £200k to £1million (capital)	Negotiated Procedure Report submitted as an appendix for Cabinet approval by way of a Directorate led Formal Cabinet Report.	Contract Award Report ⁻² by means of Delegated Procurement Report (DPR) subject to Cabinet confirming delegated approval permitted at pre-procurement stage.	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus for Works Contract which exceeds £250,000 and over £1m for Supplies and Service in value, shall be sealed with the Common Seal of the Council and shall be executed as a Deed.

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Negotiated Contracts – above £500k ⁻⁴ (revenue) or above £1million ⁻⁴ (capital)	Consultation with Cabinet Member(s) and relevant Scrutiny Chair(s) prior to Cabinet. Inclusion on Forward Plan, Formal Cabinet Report including the Procurement Strategy.	Contract Award Report for Cabinet approval .	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus it shall be sealed with the Common Seal of the Council and shall be executed as a Deed.

1 - Where the estimated value of a contract is under £10,000,000, the contract award decision shall normally be delegated to Chief Officer / Director in accordance with the Scheme of Delegation; provided that the tolerances in the Decision Making and Tolerances section of this document are not exceeded, in which case such contract award decision will be made by the Cabinet Member, Finance and Resources on a report of the relevant Chief Officer.

2 - Where it is likely that the award of the contract will result in staff employed by the Council transferring to the successful contractor under TUPE the decision must be made by Cabinet.

3 - Frameworks Where the rules of the Framework Agreement require opening up competition between the Framework suppliers, then a report shall be issued to the Decision Maker under the Evaluation and Award section setting out the reason for the award to the particular contractor and how the price payable by the Council has been reached.

4 - Approvals above the Threshold are approved in the above manner by following the Commissioning and Procurement Gateway process

5 – Where this is done via a Negotiated Procedure then the Negotiated Procedure thresholds within this Table must be applied.

6 – In accordance with 4.35 where a Quotation or Tender is a “call off” from a compliant Framework the Contract Award Report can be combined with the Strategy Report.

Section 4 - Process

Processes

- 4.1. This Section sets out details as to the procurement processes to be followed, which will vary depending on the respective spend Thresholds as set out elsewhere in these Rules.

Pre-Procurement Stage

Make or Buy Considerations

- 4.2. Before undertaking a new procurement, the following approaches should be used in the first instance where these options are deemed fit for purpose, available for use and able to demonstrate Best Value:
- i. Use of internal Council service(s) or establishment of such service(s) where they don't currently exist.
 - ii. Use of an existing compliant Council Framework.
 - iii. Award of a Contract to the Council's wholly owned Company with Teckal status or in establishing, or implementing a public contract with another public sector entity, or using another public sector entities Framework or Contract.
- 4.3. Proceeding to undertake a formal Quotation or Tender process shall only be permitted where the following conditions are met:
- i. Make or Buy process should ensure the In-house Preferred Test has been followed and can be demonstrated conditions as set out do not apply.
 - ii. Best Value can be demonstrated.
 - iii. Sufficient time has been allowed to ensure required outcomes are achieved.

Route to Market

- 4.4. Where relevant and proportionate to do so, preliminary market consultation is permitted and encouraged with the intention of informing the procurement process and potential suppliers. Where such consultation takes place, care shall be taken it is in line with the Regulations.
- 4.5. A procurement process should not be commenced unless:
- i. A genuine and timely pre-estimate of the Contract value has been completed.
 - ii. In the case of a Contract for the execution of any Works, a business case has been prepared and includes an estimate of the annual running costs of the works after completion.
 - iii. There is an approved budget, or relevant approval by Chief Officer.
 - iv. Strategy report (where applicable) has been approved.
 - v. A contract manager for the Contract has been identified.

- 4.6. Consideration of route to market shall include options for the Council to undertake its own procurement process or consider awarding Contracts in line with the conditions of a compliant Framework available to the Council to use.
- 4.7. The route to market consideration shall consider the procurement procedures available to the Council with due regard to the Regulations. Where Above Threshold, strict accordance to the Regulations shall be followed in application of the chosen route to market.
- 4.8. For audit and transparency purposes proportional details and records on justification of the chosen route to market should be kept.

Prior information and Public Reports

- 4.9. To aid transparency and market readiness for all upcoming Tenders above £2m the Council shall publish on the Council website a pipeline notice of upcoming Tender opportunities in line with the Regulations.
- 4.10. In addition, and where reasonably possible, the Council will also seek to publish all Above Threshold Tender pipeline opportunities as a minimum on the Council website.
- 4.11. In line with Regulations the Council is not required to publish or otherwise disclose information which would undermine the safeguarding of national security or which information is commercially sensitive.

Planned Procurement Activities Report (PPAR)

- 4.12. For all spend above the Threshold for Supplies and Services or £250k and above for Works (see Table 1) then the Assistant Director – Procurement shall present a monthly Planned Procurement Activities Report (PPAR) to Cabinet and copy to the Resources Overview and Scrutiny Committee.
- 4.13. All relevant planned procurement activity (“Planned Procurement Activities Report”) over the following quarter. The report shall include:
 - i. Details of the Supplies, Services or Works required with a suitable brief description.
 - ii. Estimated timescales.
 - iii. Estimated contract values (noting some may be exempt from public disclosure subject to the public interest test in accordance with Schedule 12A of the Local Government Act 1972).
- 4.14. This purpose of the PPAR report is:
 - i. To notify Cabinet and the Resources Overview & Scrutiny Committee of planned procurement activities over the following quarter with reference to Key Decisions, seeking any recommended decisions.
 - ii. To act as a sounding for Members for the planned activities where decisions are delegated to Chief Officers;
 - iii. For Cabinet to identify any sensitivities or requirements that necessitate a procurement report to be presented to Cabinet for an Executive Decision

prior to starting the procurement rather than delegating the decision to Chief Officers.

- 4.15. Any planned procurements can, at the discretion of Cabinet, be brought back to Cabinet for an Executive Decision.
- 4.16. Where possible, any Tender which is required to be included on the PPAR report should be included at a suitable practical early stage to provide genuine insight as to planned tendering activity.
- 4.17. The requirement for the inclusion of Tender on a Planned Procurement Activity Report should not limit any necessary early engagement or feasibility work prior to the submission of the PPAR, for example to determine route to market.
- 4.18. Any deviation from this PPAR process will require approval via the Waiver Procedure.
- 4.19. Where an agreed procurement process has commenced in line with such an approval this must be included on the next available PPAR report and highlighted to identify that a procurement process has commenced.
- 4.20. No Contract or commitment to form a contract shall be permitted prior to the PPAR being signed off by Cabinet.

Procurement Strategy Report

- 4.21. In line with Table 2, prior to commencing a procurement process and the commencement of a Tender, a Procurement Strategy Report briefly outlining the proposed activity will be prepared by the relevant Directorate Chief Officer(s), seeking approval from:
 - i. Finance – to validate that the anticipated benefits including savings can be realised and to confirm the budget is available; and
 - ii. Corporate Procurement Services – to confirm that the strategy demonstrates the best form of procurement / route to market, is likely to secure effective competition, deliver best value and approve the market engagement strategy and, where relevant, seeks to maximise Social Value outcomes.
 - iii. The Contract Owner shall gain approval to the content of the Strategy Report from Section 151 Officer and Assistant Director (Procurement), or their delegates.
- 4.22. Where appropriate, Executive Decision on awarding of a Contract as a result of a compliant Quotation or Tender will be delegated to the relevant Chief Officer.

Competitive Procurement Stage

Drafting Quotation and Tender Documents

- 4.23. All Quotation or Tender invitations shall clearly set out the procurement process for suppliers to follow for submitting bids, with bids required to be submitted in accordance with those requirements.

- 4.24. All Quotation and Tender documents shall be based on the Council's approved templates and include the Council's terms and conditions relevant to the nature of the contract, along with the mandatory clauses.

Submission and opening of Quotations and Tenders

- 4.25. Those undertaking the opening / unlocking of Quotation or Tender on the Council's E-tendering System shall be responsible for ensuring that there is an accurate record of the receipt for accounting purposes.
- 4.26. Opening of Quotations or Tenders is not permitted until after the deadline has passed for the receipt of the Quotation or Tender.
- 4.27. If a Quotation or Tender is received after the specified date and time or where information is felt to be missing or omitted then reference should be made to the Late, Missing or Omitted Materials procedure.
- 4.28. Where use of the Council's electronic tendering system is optional (See Table 1 above) quotations may be received by email according to the terms of the Quotation Document. The same rigour applies for the opening and recording of quotations as above.

Evaluation and Award

- 4.29. All invitations for Quotations or Tenders shall specify the conditions for participation or selection criteria (where used) and award criteria at the time of advertising or publishing to the market, and the evaluation of Quotation or Tenders must take place in accordance with the published criteria.

Contract Award (including modifications)

- 4.30. Where applicable and in line with Table 2 – Authorisations and Approvals for Contract Value, at the end of the Quotation or Tender a Contract Award Report shall be produced in accordance with the Regulations, for authorisation by the relevant Authorised Officer.
- 4.31. The Contract Award Report should make clear where authorisation is being sought to delegate to the appropriate Chief Officer the taking up of the option to extend, in whole or in part, or Contract modifications by written notice to the contractor(s), subject to satisfactory performance and funding availability.
- 4.32. The Contract Award Report shall be in line with Table 2: Authorisations and Approvals and in the same final version of the Contract Award Report having been seen and authorised by all parties.
- 4.33. The Contract Award Report shall set out the timing and format of the mandatory Contract Review Gate as required by the Procurement Gateway Process.
- 4.34. Following the authorisation of the Contract Award Report, all tenderers shall be notified in writing of the outcome, subject to the requirements of the Regulations e.g. standstill periods. Supplier feedback letters and where required under the Regulations a Contract Award Notice shall also be published.

- 4.35. Where a Quotation or Tender is a “call off” from a compliant Framework the Contract Award Report can be combined with the Strategy Report.

Contract Extension and Modifications

- 4.36. Contracts shall only be amended or extended where:
- i. The Contract permits the amendment and/or extension;
 - ii. It is in accordance with Public Sector Procurement Regulations (as amended and/or any successor legislation); and
 - iii. Approval is sought in accordance with the Scheme of Delegation.
- 4.37. Approvals to extend or modify a Contract must be formally recorded as part of accountability and transparency and recorded on the Contract Register as appropriate.
- 4.38. Where a contract extension is required that was not provided for in the original contract, then this will be deemed as a Breach, and recorded as such. Actions should be taken to put in place a new compliant process which will need to follow the governance set out in Table 2 above, having due regard for the Regulations.
- 4.39. Where a contract extension is required that was not provided for in the original contract, then this will need to follow the governance set out in Table 2 above, having due regard for the Regulations.
- 4.40. In line with the Breach Procedure due consideration should be taken on whether a formal report to Cabinet is required outlining the circumstances relating to the Contract and what actions are to be taken to mitigate and remedy the Breach.

Contract Management

- 4.41. Proportionate contract management, taking into account risks to the Council, must be an integral part of the consideration when seeking to award a new Contract. This will include establishing dedicated contract managers and contract management systems, including a detailed knowledge of the provisions of the Contract.
- 4.42. Payments shall be made in accordance with the Contract terms and the Regulations and done in a timely manner to avoid the payment of any interest charges.
- 4.43. During the life of a Contract, the contract manager must monitor the Contract in line with any approved Contract Management Framework
- 4.44. If a contractor fails to comply with any of the provisions of a Contract, the contract manager must try to secure compliance in accordance with the Contract. Proper records must be kept regarding Contract failings and any corrective measures put forward.
- 4.45. If this is not successful, the matter should be referred promptly to Corporate Procurement Service and their advice sought as to what action should be taken to protect the Council’s interests.
- 4.46. If there is contract dispute, the contract manager must follow the dispute resolution provisions contained in the Contract and seek legal advice from Legal Services where

necessary. Advice should also be sought from the Section 151 Officer (as delegated) for advice about the financial implications.

Other considerations

4.47. In addition to the above processes the following considerations should apply:

Due Diligence

4.48. Relevant subject matter experts (e.g. service area teams, Legal Services, Finance, IT&D, HR (People Services), Property, Information Security, Data Protection, etc.) are to be consulted at appropriate times during the procurement process, with the respective services to engage as appropriate.

Clarifications

4.49. Where Quotations or Tenders are placed via the Council's e-Tendering System, clarifications on the procurement are only permitted via that system in order to ensure a full audit trail and details that may form part of the resulting Contract(s).

4.50. Discussions with tenderers after submission of a Tender and before the award of a Contract, with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) is generally not permitted. If this is considered necessary, then advice must be sought from Corporate Procurement Service.

4.51. Planned and structured supplier contact in the form of a Bidder's day or dialogue / negotiation as part of a prescribed procedure are permitted.

Frameworks

4.52. Where the Council has established the award of a Framework Agreement which has been approved by a Cabinet Member or by a Chief Officer (in accordance with the Scheme of Delegation), then Chief Officers (or as delegated) may issue further orders under the Framework agreement provided that they comply with the scope of the agreement and Framework conditions and this is noted in the framework award report.

4.53. Where calling off from a single contractor Framework the issuing of individual orders for supplies, services or works within the scope of that Contract shall be permitted up to the agreed levels of spend and authorisations.

4.54. When more than one contractor is on the Framework Agreement then the issuing of individual call off orders from Frameworks shall be in accordance with the Framework call off conditions.

4.55. All Framework Agreements and Dynamic Purchasing System Agreements must be awarded, set up and managed strictly in accordance with the Regulations, where applicable.

4.56. In looking to establish a Framework or Dynamic Purchasing System Agreements, due consideration must be given to sub-dividing the Contract into lots and the reasoning provided where it is decided that this is not appropriate.

4.57. Frameworks to be monitored to ensure that spend does not exceed what is permitted under the framework.

- 4.58. Contracts to be concluded by a call off from a Framework Agreement established by another Contracting Authority shall be carried out in accordance with the rules for the operation of that Framework Agreement; ensuring that the scope covers the Council as an eligible participant to which the Framework is open.

Negotiated Contracts without competition

- 4.59. The criteria for applying a Negotiated Contract without competition shall only be deemed appropriate for the execution of supply of Supplies or Services or the execution of Works under the following circumstances:
- i. The purchase of a named product required to be compatible with an existing installation.
 - ii. The purchase of proprietary or patented Supplies or materials or Services which, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available.
 - iii. The creation or acquisition of a unique work of art or artistic performance.
 - iv. Carrying out, with the approval of the Section 151 officer, security works where the publication of documents or details in the Tender process could prejudice the security of the works to be done.
 - v. The activities are controlled by a statutory body which prohibits competition by others.
 - vi. It can be demonstrated and evidenced that no genuine competition can be obtained.
 - vii. The activities are of a specialised nature which, are carried out by only one supplier, and it can be evidenced that there is no reasonably satisfactory alternative available.
 - viii. Whereby a change cannot be reasonably made in the case of a business-critical system and/or strategic ICT solution (with proprietary licensing therein) for technical reasons such as, interchangeability and / or interoperability with existing back-office solutions and infrastructures.
- 4.60. Evidence is to be provided which demonstrates that as a result of a market investigation there is only one contractor that can meet the Council's requirements for that Contract in line with the criteria.
- 4.61. Where use of a Negotiated Contract has been approved a Quotation or Tender will not be applicable.
- 4.62. Where appropriate officers should comply with the need to issue notices in accordance with the Regulations.
- 4.63. For Negotiated Contracts Above Threshold, two separate reports are required – one for the approval to commence negotiations and then one for the award of contract following the outcome of those negotiations.
- 4.64. For Negotiated Contracts Below Threshold a single report is required for the approval to commence negotiations. Following the conclusion of negotiations, a further

signature of the Section 151 Officer (or their delegate) is required for that report to confirm the contract value and allow the award of contract.

- 4.65. Where it is deemed negotiations are required with more than one supplier due regard must be given to the Regulations around what is permitted in respect of negotiations and / direct awards.
- 4.66. Entering into a Negotiated Contract process to award a contract without competition is not to be used as a means to extend contracts that have failed to be re-procured in sufficient time. In such cases these would be investigated as part of the Breach Procedure.
- 4.67. Where an appointment of a Supplier(s) is through the application of a Negotiated Contract a formal Contract must be formed with the Supplier(s) and registered on the Council's Contract Register.

Decision Making and Tolerances

- 4.68. If a project within the Planned Procurement Activity Report is not approved for the Supplies, Services or Works required, then an Executive Decision will need to be made by Cabinet (or the relevant Cabinet Member on a report of the relevant Chief Officer if it is within the appropriate financial limits).
- 4.69. In addition, the following are decisions that must also go to Cabinet where:
- i. Submitted bids are above the estimated total value of the Contract where they exceed the figure stated in the Planned Procurement Activities Report by 20% or £500,000 (whichever is the lower), or exceeds £10,000,000;
 - ii. the proposed length of the Contract exceeds by more than 12 months the term stated in the Planned Procurement Activities Report;
 - iii. there is a material change to the scope of the contract as set out in the Planned Procurement Activities Report;
 - iv. there is a material change to the procurement approach set out in the Planned Procurement Activities Report.
- 4.70. If the decision within the Cabinet Report was delegated and the submitted bids are above the estimated total value of the Contract by not more than 20% or £500,000 then the DPR award report process may still be applied.

Record of decisions

- 4.71. The Assistant Director (Procurement) shall maintain a record of all decisions of the following:
- i. a record of all decisions made by Chief Officers; and a
 - ii. Report on a quarterly basis to Cabinet on all decisions taken by Chief Officers during the previous quarter to which these Rules apply.

Equalities Impact Assessments

- 4.72. Prior to commencement of a procurement due regard should be given as to whether an Equalities Impact Assessment should be completed.

Subsidy Control

- 4.73. Subsidy Control rules must be considered in situations or circumstances where the proposed arrangement may provide an advantage through state resources on a selective basis to any organisation(s) that could potentially distort international competition and / or trade.
- 4.74. All relevant Government guidance should be applied where subsidy control rules may apply. Advice from Legal Services should also be sought in such circumstances.

Section 5 – Definitions

Above Threshold	Means spend threshold above the UK Government thresholds for Local Councils setting out requirements to advertise on “Find a Tender” (Find high value contracts in the public sector – GOV.UK (www.gov.uk)).
Authorised Officer	Means the Officer as set out in Roles and Responsibilities – Section 2.
Birmingham Business Charter	Means the Birmingham Business Charter for Social Responsibility (BBC4SR).
Below Threshold	Means spend falling below the UK Government requirement to advertise on “Find a Tender”.
Best Value	Means the duty placed on the Council to secure Best Value in line with statutory duties.
Breach	Means an act or action undertaken which is counter to the requirements as set out in these Rules.
Breach Procedure	Means the procedure to be undertaken to investigate and determine if a Breach to these Rules has occurred.
Budget Holder	Means the Authorised Officer with overall responsibility for the financial budget.
Chief Officer	Means Officers reporting to the Chief Executive including all Strategic Directors and the Director of Strategy, Equality and Partnerships.
Concession (Contract)	As defined within the Public Contract Regulations, typically for granting of rights to operate as a Concession on public services.
Conflict of Interest Forms	Means the form under which Conflicts of Interest Declarations are to be recorded in line.
Contract	Means a formal agreement between the Council and a Supplier that has been set up with the expressed intention of supporting the delivery of Supplies, Services or Works or Concessions arrangements.
Contract Award Notice	Means the Award Notice as defined within the Regulations.

Contract Award Report	Means the formal Council defined Award Report in relation to contract awards with third party suppliers.
Contract Register	Means the electronic register for storing and documenting Contract information and associated documents. At the time of drafting these Rules shall mean Oracle.
Contract Standing Orders	Means these Rules which form the Standing Orders in relation to Contract spend in line with section 135 of the Local Government Act 1972.
Council	Means Birmingham City Council.
Council's E-Tendering System	Means the Council's preferred electronic system for advertising of contracts and opportunities, i.e. Oracle or its successor.
Council's Corporate Retention Schedule	Means the Council's formal Retention Schedule setting out the relevant time frames for how long certain types of documents and records need to be kept for.
Dynamic Market(s)	Means dynamic arrangements and / systems as set out in the Public Sector Procurement Regulations.
Financial Regulations	Means the formal Financial Regulations of the Council which form part of the overall Council constitution.
Framework Agreement	Means agreements as set out in the Public Sector Procurement Regulations.
Grant	Means a payment made by the Council to help the recipient (e.g. charity) to deliver an agreed outcome but has no contractual basis. Whilst typically provided subject to conditions that state how the Grant shall be used (for example to support the wider objectives of the Council in promoting the social, economic or environmental well-being within their communities) the grant funder (e.g. the Council) gets no direct service delivery in return. Usually preceded for award of a Grant by a call for proposals. The Grant offer letter will be in line with the Grant Policy (Condition of Grant Aid) normally set out general instructions as to how this is to be achieved and any particular conditions in regard to clawback if those wider objectives are not met.
In-house Preferred Test	Means the Council's internal measure for determining if the requirements are best suited to be delivered through internal mechanisms, e.g. internal service area, Council owned company or partnership where the Council is a majority partner versus a competitive process.
Light Touch	Means appropriate Contracts which are able to be subject to Light Touch procedure as defined within the Public Sector Procurement Regulations.

Negotiated Contracts	Means Contracts negotiated in line with the Negotiation Process as set out in these Rules.
Procurement and Contract Governance Rules	Means this document, also referred to as the Rules.
Commissioning and Procurement Gateway Process	Means the Gateway process that provides the series of reports that are required by these Governance Rules.
PPAR	Planned Procurement Activity Report.
Public Sector Procurement Regulations (the Regulations)	Means Public Contract Regulations 2015 (as amended and/or any successor legislation).
Rules	Means the defined reference for The Procurement and Contract Governance Rules which form the Council's Procurement and Contract Standing Orders within the constitution, i.e. this document.
Scheme of Delegation	Means the Council's rules in respect of authorisations of spend in line with individual responsibilities of Officers and the elected Members of the Council.
Services	Means the provision spend on Services for the Council as set out in public sector procurement Regulations.
Social Value	Means the duty on the Council to consider the Public Services (Social Value) Act 2012 when commissioning a public service to consider how the service that is being procured might bring added economic, environmental and social benefits.
Social Value Policy	Means the Council's formally adopted Social Value Policy setting out the approach to be adopted in applying Social Value in relation to spend with third parties.
Subsidy Control	Means State Subsidy as set out in the Subsidy Control Bill that sets out a legal framework and setting out conditions within which public authorities can provide subsidies to businesses. The Bill places an obligation on public authorities to consider seven subsidy control principles before granting a subsidy - https://www.gov.uk/government/collections/subsidy-control-bill
Supplies	Means the provision spend on Supplier for the Council as set out in public sector procurement Regulations.
Teckal	As defined in the Public Contract Regulations 2015 (as amended and/or any successor legislation).

Terms and Conditions (Council)	Means the Council's formally agreed Terms and Conditions.
Thresholds	Means general spend thresholds related to spend with third parties.
Value for Money	Means optimum combination of whole-life cost and quality (or fitness for purpose) to meet the customer's requirement which includes consideration of Social Value.
Waiver	Means an agreed action to set aside a requirement or requirements as strictly set out within these Rules.
Waiver Procedure	Means the procedure to be undertaken to give consideration to whether a Waiver is granted to set aside a requirement or requirements as set out in these Rules.
Works	Means the provision spend on Works for the Council as set out in public sector procurement Regulations.