

BIRMINGHAM CITY COUNCIL

MEETING OF THE CITY COUNCIL

TUESDAY, 12 JULY 2022 AT 14:00 HOURS
IN COUNCIL CHAMBER, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING

Lord Mayor to advise that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

5 - 116

3 MINUTES

To confirm and authorise the signing of the Minutes of the meeting of the Council held on 14 June 2022.

4 LORD MAYOR'S ANNOUNCEMENTS

(1400-1410)

To receive the Lord Mayor's announcements and such communications as the Lord Mayor may wish to place before the Council.

5 **PETITIONS**

(10 minutes allocated) (1410-1420)

To receive and deal with petitions in accordance with Council Rules of Procedure (B4.4 E of the Constitution)

As agreed by Council Business Management Committee a schedule of outstanding petitions is available electronically with the published papers for the meeting and can be viewed or downloaded.

6 **QUESTION TIME**

(70 minutes allocated) (1420-1530)

To deal with oral questions in accordance with Council Rules of Procedure (B4.4 F of the Constitution).

- A. Questions from Members of the Public to any Cabinet Member or Ward Forum Chair (20 minutes)
- B. Questions from any Councillor to a Committee Chair, Lead Member of a Joint Board or Ward Forum Chair (up to 10 minutes)
- C. Questions from Councillors other than Cabinet Members to a Cabinet Member (up to 20 minutes)
- D. Questions from Councillors other than Cabinet Member to the Leader or Deputy Leader (up to 20 minutes)

7 **APPOINTMENTS BY THE COUNCIL**

(5 minutes allocated) (1530-1535)

To make appointments to, or removal from, committees, outside bodies or other offices which fall to be determined by the Council.

8 **INDEPENDENT REMUNERATION PANEL - MEMBERSHIP**

(5 minutes allocated) (1535-1540)

This report recommends that Full Council approves the persons outlined in the report to be appointed to the Independent Remuneration Panel as co-opted members.

The report also seeks Full Council approval to appoint one Citizen Representative and one Appointed Representative to the Independent Remuneration Panel. City Council will then be asked to confirm the appointments on 13 September 2022 following the completion of the recruitment exercise.

The Leader, Councillor Ian Ward to move the following Motion:

“That Full Council approves the persons outlined in the report to be appointed to the Independent Remuneration Panel as co-opted members and grants approval to appoint one Citizen Representative and one Appointed Representative to the Independent Remuneration Panel. City Council will then be asked to confirm the appointments on 13 September 2022 following the recruitment exercise.”

119 - 218

9 **PROPOSED CHANGES TO THE COUNCIL PROCUREMENT AND CONTRACT GOVERNANCE RULES**

(30 minutes allocated) (1540-1610)

This report seeks consideration of changes to the Council’s Procurement and Contract Rules and recommendation for approval by Full Council.

The Cabinet Member for Finance and Resources, Councillor Yvonne Mosquito to move the following Motion:

“That the changes presented in the updated Procurement and Contract Governance Rules (Appendix 1) be approved as part the new Contract Standing Orders for the Council and incorporated into the Council’s Constitution.

That delegated authority be granted to the Section 151 Officer and Monitoring Officer to agree any final minor changes and edits to the Contract Standing Orders and supporting procedural notes in conjunction with the Cabinet Member for Finance and Resources”.

219 - 422

10 **(OTHER) CHANGES TO THE CONSTITUTION**

(20 minutes allocated) (1610-1630)

This report outlines other proposed changes to the constitution and recommendation for approval by Full Council.

The Leader, Councillor Ian Ward to move the following Motion:

“That approval be given to the amendments to Parts A, B, C and E of the Constitution, set out via the Change Log at Appendix 1 and the tracked change versions attached at Appendix 2.

That the City Solicitor be authorised to implement the changes with effect from 9 July 2022.

That Council notes that proposed changes to Part D of the Constitution (Council Procurement and Contract Governance Rules) have been set out by the Assistant Director, Procurement via a standalone report (which is also on the agenda for Council to consider on 8 July).”

423 - 430

11 **SCRUTINY BUSINESS REPORT**

(30 minutes allocated) (1700-1730)

To consider the Scrutiny Business report.

**The Chair of the Coordinating Overview and Scrutiny Committee,
Councillor Sir Albert Bore to move the following Motion:**

“That Full Council notes the updates provided by the Scrutiny Business Report.”

12 APPOINTMENT OF CHIEF EXECUTIVE

(15 minutes allocated) (1730-1745)

To consider a report of the Council Business Management Committee (Chief Officers and Deputy Chief Officers Appointments Dismissals and Service Conditions Sub-Committee).

- EXCLUSION OF THE PUBLIC (IF REQUIRED)

If required, Lord Mayor to Move:-

"That, in view of the nature of the business to be transacted, which includes the following exempt information, the public be now excluded from the meeting:-

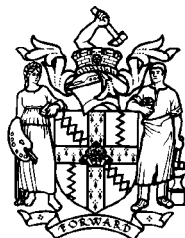
Paragraph 1 (information relating to any individual) Under Revised Schedule 12A of the Government Act 1972 in respect of agenda item 12 (Appointment of Chief Executive)."

431 - 434

13 MOTIONS FOR DEBATE FROM INDIVIDUAL MEMBERS

(90 minutes allocated) (1745-1915)

To consider the attached Motions of which notice has been given in accordance with Council Rules of Procedure (B4.4 G of the Constitution).



**MEETING OF BIRMINGHAM
CITY COUNCIL, TUESDAY,
14 JUNE 2022**

**MINUTES OF THE MEETING OF BIRMINGHAM CITY COUNCIL HELD
ON TUESDAY, 14 JUNE 2022 AT 1400 HOURS IN THE COUNCIL
CHAMBER, COUNCIL HOUSE, BIRMINGHAM**

PRESENT:- Lord Mayor (Councillor Maureen Cornish) in the Chair.

Councillors

Akhlaq Ahmed	Ray Goodwin	Ewan Mackey
Alex Aitken	Rob Grant	Basharat
Deirdre Alden	Colin Green	Mahmood
Robert Alden	Fred Grindrod	Majid Mahmood
Gurdial Singh Atwal	Roger Harmer	Rashad
Mohammed	Deborah Harries	Mahmood
Azim	Kath Hartley	Lee Marsham
Raqeeb Aziz	Adam Higgs	Karen McCarthy
Shabina Bano	Des Hughes	Saddak Miah
David Barker	Jon Hunt	Shehla
Baber Baz	Mumtaz Hussain	Moledina
Matt Bennett	Mahmood Hussain	Gareth Moore
Jilly	Shabrana Hussain	Simon Morrall
Bermingham	Timothy Huxtable	Richard Parkin
Marcus	Mohammed Idrees	Rick Payne
Bemasconi	Katherine Iroh	David Pears
Bushra Bi	Ziaul Islam	Miranda Perks
Sir Albert	Morriam Jan	Rob Pocock
Bore	Kerry Jenkins	Julien Pritchard
Kerry Brewer	Meirion Jenkins	Hendrina
Marje Bridle	Brigid Jones	Quinnen
Martin Brooks	Jane Jones	Lauren Rainbow
Mick Brown	Amar Khan	Darius Sandhu
Zaker Choudhry	Ayoub Khan	Shafique Shah
Debbie Clancy	Mariam Khan	Sybil Spence
Liz Clements	Saqib Khan	Saima Suleman
John Cotton	Izzy Knowles	Jamie Tennant
Phil Davis	Kirsten Kurt-Elli	Sharon
Jack Deakin	Chaman Lal	Thompson
Diane Donaldson	Bruce Lines	Paul Tilsley
Jayne Francis	Mary Locke	Lisa Trickett
		Penny Wagg
		Ian Ward
		Ken Wood
		Alex Yip
		Waseem Zaffar

NOTICE OF RECORDING

- 1 The Lord Mayor advised that the meeting would be webcast for live and subsequent broadcasting via the Council's internet site and that members of the press/public may record and take photographs except where there are confidential or exempt items.
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DECLARATIONS OF INTERESTS

- 2 The Lord Mayor reminded Members that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting.
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MINUTES

The Lord Mayor advised that Councillor Jamie Tennant should have been recorded as being present at both the Extraordinary and Annual Meetings of City Council which took place on 24 May 2022.

It was moved by the Lord Mayor, seconded and –

3 **RESOLVED:**

That, subject to the above amendment, the Minutes of the Extraordinary meeting of the Council held on 24 May 2022 and the Minutes of the Annual meeting of the Council held on 24 May 2022 be taken as read and confirmed and signed.

LORD MAYOR'S ANNOUNCEMENTS**1 Death of former Councillor, Leader and Lord Mayor, Honorary Alderman Theresa Joyce Stewart**

The Lord Mayor indicated her first announcement related to former Councillor, Leader and Lord Mayor, Honorary Alderman Theresa Joyce Stewart, whose death was announced at the December 2020 Council meeting when Councillors could not meet in the Council Chamber due to the covid-19 pandemic.

Former Councillor, Leader and Lord Mayor, Honorary Alderman Theresa Stewart served as a Councillor for Billesley Ward for 32 years, from May 1970 to May 2002.

She was:

- Leader of the City Council from 1993 to 1999
- Lord Mayor of Birmingham, 2000 to 2001 and
- Deputy Lord Mayor 2001 to 2002, and
- was made an Honorary Alderman on the 14th May 2002.

Former Councillor, Leader and Lord Mayor, Honorary Alderman Theresa Stewart leaves behind her husband, Professor John Stewart; two daughters, Lindsey and Selina; two sons, David and Henry; grandchildren and great-grandchildren”

It was moved by the Lord Mayor, seconded and:-

RESOLVED:-

- 4 That the Council placed on record its sorrow at the death of former Councillor, Leader of the Council, and Lord Mayor; Honorary Alderman Theresa Joyce Stewart and its appreciation of her devoted service to the residents of Birmingham. The Council extended its deepest sympathy to members of Theresa’s family in their sad bereavement.

Members and officers stood for a minute’s silence, following which a number of tributes were made by Members.

2 Queen’s Birthday Honours

- 5 The Lord Mayor indicated that it was her pleasure to congratulate those mentioned in the Queen’s New Year’s Honours list for services to Birmingham or who live in Birmingham.

Awarded a CBE:

Sarah Jane Nicholson

An OBE:

Moeen Ali

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Linda Susan Hindle
Sumeet Kaur Matharu; and
Paul Moss

An MBE:

Nicola Justine Benyahia
Rachel Carrington
Razia Tariq Hadait
Angela Eugenie Knight Jackson
Badrun Nesa Pasha
Natalie Queiroz; and
Robert Paul Warman (known to us of course as Bob)

And the British Empire Medal:

Jacqueline Careless; and
Lawrence Kelly

The Lord Mayor asked those in the Chamber to join her in
congratulating them all on those marvelous achievements.

PETITIONS**Petitions Relating to City Council Functions Presented at the Meeting**

The following petitions were presented:-

(See document No. 1)

In accordance with the proposals by the Members presenting the petitions,
it was moved by the Lord Mayor, seconded and -

6

RESOLVED:-

That the petitions were received and referred to the relevant Chief
Officer(s).

Petitions Update

A Petitions Update had been made available electronically:-

(See document No. 2)

It was moved by the Lord Mayor, seconded and -

7

RESOLVED:-

That the Petitions Update be noted and those petitions for which a
satisfactory response has been received, be discharged.

QUESTION TIME

- 8 The Council proceeded to consider Oral Questions in accordance with Council Rules of Procedure (B4.4 F of the Constitution).

Details of the questions asked are available for public inspection via the Webcast.

APPOINTMENTS BY THE COUNCIL

The Leader of the Council, Councillor Ian Ward addressed the Council and it was-

- 9 **RESOLVED:-**

That the appointments be made to serve on the Committees and other bodies set out below:-

Planning Committee

Councillor Akhlaq Ahmed (Lab) to replace Councillor Waseem Zaffar (Lab) as a Member of the Planning Committee for the period ending with the Annual Meeting of City Council in May 2026.

EXECUTIVE BUSINESS REPORT

A report from the Cabinet was submitted:-

(See document No. 3)

Councillor Ian Ward, Leader of the Council moved the Motion which was seconded by Councillor Jayne Francis.

Councillor Jon Hunt moved an amendment to the Motion which was seconded by Councillor Morriam Jan:

“Council looks forward to welcoming the world to our city next month and looks forward to a successful Games which enhances our city and the Commonwealth vision.

Council recognises the challenges in getting the Games ready in a short period, interrupted by the pandemic, and commends all those who have stepped up to help meet timetables.

In order for the Commonwealth Games to adapt to the 21st century and for Birmingham to continue to raise its profile as a host for sport, it is vital that honest appraisal is undertaken of lessons to be learnt from

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these Games.

Council therefore seeks from the executive, at an appropriate time, an analysis of the preparation for the games and the outcomes, with particular reference to the principles agreed by Council at its meeting on 9 January 2018.

Council believes this analysis should be undertaken in conjunction with the Commonwealth Games, in pursuit of the resolution of January 2018 that: "Council further agrees to work with the Commonwealth Games Federation and the Commonwealth itself to enable the development of new funding models for the Games, noting the huge significance of the event for the Commonwealth as a family of nations and peoples."

A debate ensued.

Councillors Robert Alden, Julien Pritchard, Liz Clements, Jack Deakin, Rob Pocock, David Pears and Bushra Bi spoke during the debate.

The Motion as amended having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

It was therefore-

10

RESOLVED:-

That the additional wording as outlined via the amendment would be included in the report. The report was noted.

ADJOURNMENT

It was moved by the Lord Mayor, seconded and

11

RESOLVED:-

That the Council be adjourned until 1710 hours on this day.

The Council then adjourned at 1640 hours.

At 1710 hours the Council resumed at the point where the meeting had been adjourned.

Lord Mayor in the Chair

ANNUAL REPORT OF THE INDEPENDENT REMUNERATION PANEL

A report of the City Solicitor was submitted:-

(See document No. 4)

Councillor Ian Ward, Leader of the Council moved the Motion which was

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seconded by Councillor Jayne Francis.

The Motion having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

It was therefore-

12

RESOLVED:-

That the Recommendations made by the Independent Remuneration Panel on page 3 of its Annual Report be accepted and implemented with effect from 24 May 2022.

MOTIONS FOR DEBATE FROM INDIVIDUAL MEMBERS

The Council proceeded to consider the Motions of which notice had been given in accordance with Council Rules of Procedure (B4.4 G of the Constitution).

A. Councillors Ayoub Khan and Zaker Choudhry have given notice of the following Notice of Motion:-

(See document No. 5)

Councillor Ayoub Khan moved the Motion which was seconded by Councillor Zaker Choudhry.

In accordance with Council Rules of Procedure, Councillors John Cotton and Waseem Zaffar gave notice of the following amendment to the Motion:-

(See document No. 6)

Councillor John Cotton moved the amendment which was seconded by Councillor Waseem Zaffar.

In accordance with Council Rules of Procedure, Councillors Alex Yip and Rick Payne gave notice of the following amendment to the Motion:-

(See document No. 7)

Councillor Alex Yip moved the amendment which was seconded by Councillor Rick Payne.

A debate ensued where the following Councillors replied to the debate: Councillors Baber Baz, Majid Mahmood (who in participating in the debate declared non-pecuniary interests in having volunteered at a funeral home located in the city and also that he was a director at a city burial society), David Pears and Brigid Jones.

The Lord Mayor invited Councillor Ayoub Khan to sum up.

The amendment to the Motion in the names of Councillors John Cotton and Waseem Zaffar having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

The amendment to the Motion in the names of Councillors Alex Yip and Rick Payne having been moved and seconded was put to the vote and by a show of hands was declared to be lost.

It was therefore

RESOLVED:-

“That this Council notes with concern continued delays in the release of the deceased for burial and in the registration processes for births and deaths. It notes this can cause extreme distress and in some instances, financial hardship.

This Council further notes that these issues are the result of significant impact of the changes to death registration arrangements resulting from the expiry of the Coronavirus Act on 25 March 2022, together with post-pandemic changes in GP practices impacting on the issuing of Medical Certificates for the Cause of Death, which resulted in the overnight doubling of cases referred to the Coroner. In addition, the temporary ceasing of birth registrations during the pandemic generated a backlog of some 6,000 cases which Register Office staff have worked hard to reduce.

Council recognises the success of the Autopsy Scanner trial with communities throughout Birmingham welcoming its use by the Coroners Office.

Council recognises that the Coroners Service is an independent judicial function separate from the local authority and under the present law, its performance management is the responsibility of the Chief Coroner for England and Wales, not the City Council.

Notwithstanding these legal restrictions on the Council's ability to directly intervene in the management of coronial services, Council endorses the representations made by the Executive to the Coroner, seeking clarity over the steps the service is taking to eliminate delays and also to properly engage with representatives of faith communities, funeral directors and organisations supporting those affected by bereavement.

Council welcomes the action taken by the Executive to allocate additional financial and staffing resources to support the Coroners Service at this challenging time. It also notes, with approval, the programme of work and investment brought forward by the Executive to further improve and strengthen Bereavement Services, including:

- The extension of Kings Norton and Quinton cemeteries, ensuring that the city has sufficient capacity to accommodate burials for many years to come, including specific additional provision for Islamic burials.
- The development of shroud burial grounds.

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- The re-hearthing of the Sutton Coldfield crematorium and the scheduled rebuilding of Yardley crematorium, which will provide improved services to communities and citizens for whom cremation is their funeral choice.
- Investment in a new ICT infrastructure to ensure that our services provide the efficient and prompt response citizens expect.
- Joint work with our partners in faith communities to develop a Memorandum of Understanding and with all stakeholders to launch a new Customer Charter, to ensure that our services meet the needs and reflect the requirements of our diverse communities.

Council calls on the executive to:

1. Continue to engage and work with the Coroner, partners and communities on steps to eliminate delays within the service.
2. Continue with the work to develop a new mortuary facility for the city, which will include a permanent digital autopsy scanner.
3. Report back on progress with this work to the relevant Overview and Scrutiny Committee in September.

B. Councillors John Cotton and Lauren Rainbow have given notice of the following Notice of Motion:-

(See document No. 8)

Councillor John Cotton moved the Motion which was seconded by Councillor Lauren Rainbow.

In accordance with Council Rules of Procedure, Councillors Gareth Moore and Adam Higgs gave notice of the following amendment to the Motion:-

(See document No. 9)

Councillor Gareth Moore moved the amendment which was seconded by Councillor Adam Higgs.

In accordance with Council Rules of Procedure, Councillors Izzy Knowles and Roger Harmer gave notice of the following amendment to the Motion:-

(See document No. 10)

Councillor Izzy Knowles moved the amendment which was seconded by Councillor Roger Harmer.

A debate ensued where the following Councillors replied to the debate: Councillors Jack Deakin, Ken Wood, Ian Ward, Alex Aitken, Jilly Bermingham and Jamie Tennant.

The Lord Mayor invited Councillor John Cotton to sum up.

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The amendment to the Motion in the names of Councillors Gareth Moore and Adam Higgs having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

The amendment to the Motion in the names of Councillors Izzy Knowles and Roger Harmer having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

It was therefore

RESOLVED:-

“That this Council notes that:

- Following the elections, there are a record number of openly LGBT+ Councillors serving on this Council.
- June is Pride Month, and this offers a chance to reflect on the progress that has been made in LGBT+ equality, but to also reflect on where inequalities and injustice persists to this day.
- Birmingham is a welcoming and diverse city, with a thriving Gay Village and one of the best and biggest Pride Events in the country.
- Despite this, LGBT+ people continue to face discrimination, abuse and even violence for being who they are.

This Council resolves to:

- Continue to work to improve safety for LGBT+ people, not only in the Gay Village, but across the city.
- Make it easier to report hate crimes and hold agencies to account for their responses through our new Tackling Hate, Taking Action partnership.
- Ensure our workforce better reflects the diversity of our city across all of the protected characteristics including people from disadvantaged backgrounds.
- Ensure that our schools have access to a healthy and inclusive relationship education, a civic history curriculum through the Birmingham Education Partnership, and an anti-racist and LGBT+ inclusive curriculum.
- Actively explore LGBT History Month, which has traditionally been held during February, to encourage further understanding of matters affecting the LGBT+ community.
- Develop a programme of annual events to celebrate LGBT History Month with the emphasis on the greater understanding and appreciation of this society and the contribution its citizens make to the City, in line with the annual theme
- Support a series of plaques celebrating key individuals in Birmingham’s LGBT+ history.
- To support and investigate further measures to highlight our city as a city of inclusion and diversity, such as “rainbow” crossings.

Ask the Executive to bring forward proposals to:

- Establish a permanent home for Birmingham Pride so that its long-term future can be secured, by turning Festival Square into a proper large-scale designated event space, which could also be used to hold other major events.
- Create new event/outdoor space within the Gay Village following the successful pavement licensing trials during Covid-19.

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- Expand CCTV coverage within the Gay Village and Southside and improve streetlighting.
- Urgently implement planning policies to protect the character of the Gay Village from the increasing levels of residential development to secure the future of the late-night economy in the Gay Village\Southside and a safe space for the LGBT community.”

The meeting ended at 1845 hours.

APPENDIX

Questions and replies in accordance with Council Rules of Procedure B4.4 F of the Constitution

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM COUNCILLOR MORRIAM JAN

A1 ‘Perry Barr Masterplan’

Question:

Will the leader put the Perry Barr Masterplan implementation on the same basis as other area city plans with democratic leadership and involvement from all the five councillors (Perry Barr, Aston and Birchfield wards) directly affected by the Masterplan?

Answer:

A Regeneration Programme Director for Perry Barr has just been appointed. Their role will include developing an appropriate governance structure for the delivery of the ambitious Masterplan, which builds on the more than £700m that has been invested in the area over the last 4 years. Community and Member engagement across the three Wards which will directly benefit for this Programme will be central to the governance structure moving forward. The approach will draw on the experiences on similar projects, for example in East Birmingham, where a Ward Members Forum has been established.

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**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL
FROM COUNCILLOR ADAM HIGGS**

A2 'Fountain Damage'

Question:

What is the total cost of repairing damage to the fountain and plant room in Victoria Square caused by the recent incident where someone added detergent to the water?

Answer:

Works to establish the extent of repair works and associated costs to the fountain are still ongoing.

We are aware that four devices were added, or thrown, into the fountain water shortly after opening. These contained significant amounts of soap/detergent like liquids which has caused damage to the pumps, pipes, sealants and filters.

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**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM
COUNCILLOR DEBORAH HARRIES**

A3 ‘UN Treaty on the Prohibition of Nuclear Weapons’

Question:

Would the Council be willing to sign the pledge promoting the UN Treaty on the Prohibition of Nuclear Weapons?

Answer:

The UK has not yet signed or ratified the Treaty. This is a matter for the national government not Birmingham City Council.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM
COUNCILLOR JON HUNT**

A4 ‘Perry Barr Masterplan’

Question:

Now that Games-related infrastructure is in place, what are the next steps in the implementation of the Perry Barr Masterplan?

Answer:

As per the response to A1, a Regeneration Programme Director for Perry Barr has just been appointed. Their role will include developing an appropriate governance structure for the delivery of the ambitious Masterplan, which builds on the more than £700m that has been invested in the area over the last 4 years. Community and Member engagement across the three Wards which will directly benefit for this Programme will be central to the governance structure moving forward. The approach will draw on the experiences on similar projects, for example in East Birmingham, where a Ward Members Forum has been established.

The priorities identified in the Masterplan will be progressed, with work underway on delivering the next phases of housing at PBRs, developing a business case for the bus garage, ensuring a sustainable future for the stadium complex, and maximising the opportunity presented by reinstatement work at Perry Park. More detail on the Programme is being developed and will be informed through engagement with key stakeholders and partners.

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**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL
FROM COUNCILLOR RON STORER**

A5 'Fountain protection'

Question:

What preventative measures (e.g. anti-foaming agents) are used to protect council owned waste features from 'soaping' incidents?

Answer:

I presume that you mean water features and not waste features.

Each water feature will have its own Operation and Maintenance Plan within which will be an Emergency Action Plan. The Emergency Action Plan provides detail for what needs to be done to mitigate any soaping incidents.

An anti-foaming agent cannot be present during normal operation due to the operating filters, chemical/chlorine dosing and water quality requirements.

For Victoria Square, if the fountain again comes under attack, the Emergency Action Plan specifies the addition of an anti-foaming agent into the water system whilst the water feature is turned off. The system would be temporarily out of action for 4-6 hours whilst the anti-foaming agent is introduced and cycled through the system.

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**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL
FROM COUNCILLOR DARIUS SANDHU**

A6 ‘Non-compliance with constitution’

Question:

Please provide a copy of all assurance reports to CLT in the last 4 years, regarding non-compliance with the constitution, (as per the management response to Auditor’s recommendations in their annual report - Improvement Recommendation #03)

Answer:

There has been 1 report to CLT (January 2022) in the last 4 years. This will be reported to the Audit Committee on 19th July 2022.

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**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL
FROM COUNCILLOR MATT BENNETT**

A7 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that:

“We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour, it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

Hybrid working as a notion of having the ability to work in different places is clearly is not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of our most recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week. What Hybrid working does lead to is a diverse workforce whereby we are able to attract talent from up and down the country for some of our specialist roles, who

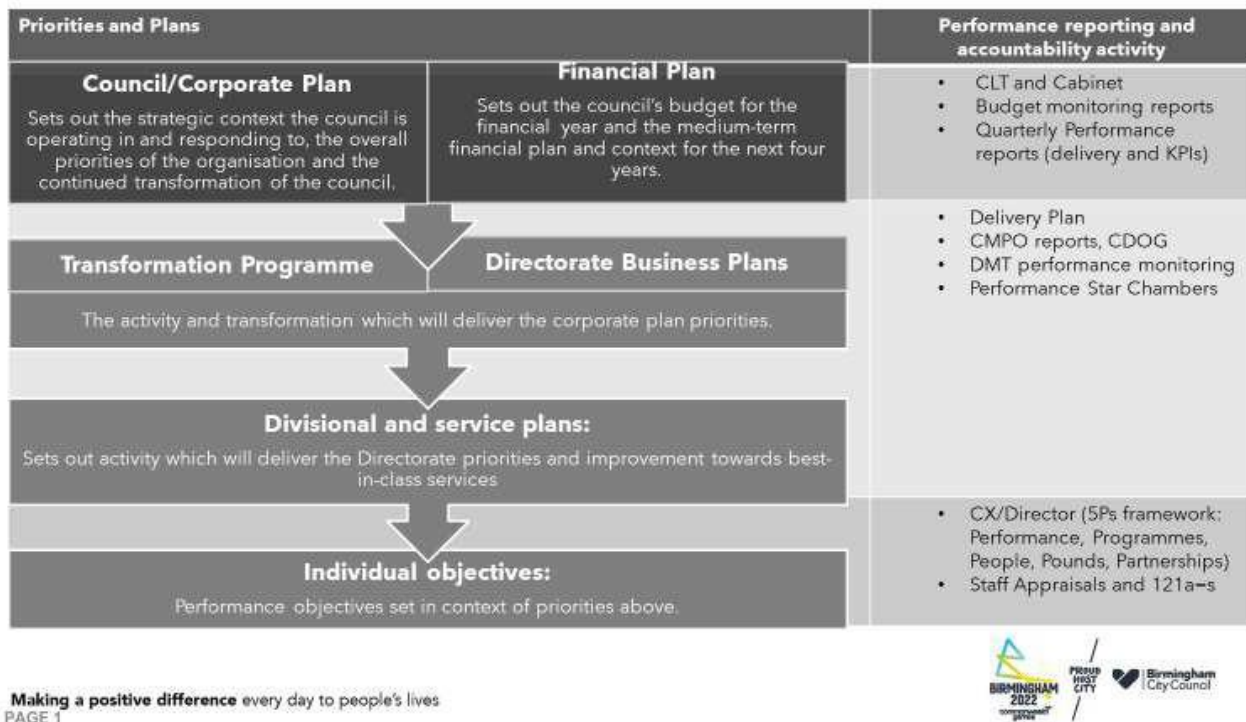
previously would have been out of reach; and it enables those with disabilities to contemplate a full time career with us, when for some this would have been a step to far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness, all underpinned through a performance management culture.

These posts will be managed by the new Organisational Effectiveness Team within People Services to ensure that NWOW is embedded into business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. This will be underpinned through our Performance Guide which emphasises the role of all in delivering great outcomes for our citizens. The new Oracle system has an enhanced section for recording set objectives, and we are introducing a comprehensive Learning Management System which will come on line early next year to bring learning, talent and performance together in one place as we develop the concept of new ways of learning.

Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

There are numerous examples where NWOW is having a positive impact. Some of these are listed below.

- The Council achieved a CIPFA 3-star Financial management rating during our emergency response to the pandemic, whilst staff were working from home and a whole year ahead of expectations.

- We have delivered 91% of our savings and 92% of our delivery plan commitments. This is the highest level of delivery on savings and delivery plan achievements in at least the last 5 financial years
- Regulation and Enforcement moved offices in October 2020 reducing the property requirements so that officers adopted a permanent hybrid method of working. The model is three days in the office and two days working from home.
- Neighbourhoods – Events - Agile working has given staff the flexibility to expand their workload capacity when it has been required. It has proven easier to work with partners when developing bids as meetings can be arranged more easily over the Teams platform.
- Neighbourhood Development & Support Unit - Lockdown drove the use of technology to establish Virtual Ward Forums – in some cases the number of residents participating in meetings increased as a result. Electronic meetings will continue to be an option to be used by Members for some meetings

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM
COUNCILLOR ROBERT ALDEN**

A8 ‘City Centre occupancy’

Question:

What assessment has been made for city centre businesses of the percentage of the workforce that will continue to work from home for all or part of the week post pandemic, and what adjustments have been made to the council's city centre plans as a result?

Answer:

The vision for the Our Future City Plan (OFCP) Central Birmingham Framework will focus on a mix of appropriate uses to ensure central Birmingham is a viable and attractive destination of choice up to 2040. As part of the OFCP/Arcadis internal stakeholder engagement this summer we will consult extensively with all the BIDs and take on board the ‘Colmore Bid Future Business District Study’ which acknowledged the role of digitalisation in changing work and enabling more workers to work away from the traditional workplace, the importance of the office as a networking space and the distribution of work and leisure over individuals’ lifetimes. From their research an emerging consensus on hybrid working is that the model predated the Covid-19 pandemic, has accelerated and is here to stay, with workers spending 2-3 days per week in the office. The growth agenda of encouraging more residential uses in the city centre at developments like Smithfield, and surrounding urban neighbourhoods in Digbeth, Rea Valley and Highgate will support businesses and ensure strong footfall going forward.

The OFCP Birmingham Central Area Framework and Delivery Plan will respond to the changing role of the city centre by identify appropriate development opportunities in the ‘Central Heart’ neighbourhood and wider inner city Central Renewal Areas.

The OFCP Central Birmingham vision will underpin the Birmingham Development Plan (BDP) Review ‘Issues and Options’ document later this year and ultimately the future adopted statutory Birmingham Development Plan will provide the detailed policies and allocations to ensure this strategy is deliverable.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE DEPUTY LEADER OF THE COUNCIL
FROM COUNCILLOR MATT BENNETT**

B ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour, it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

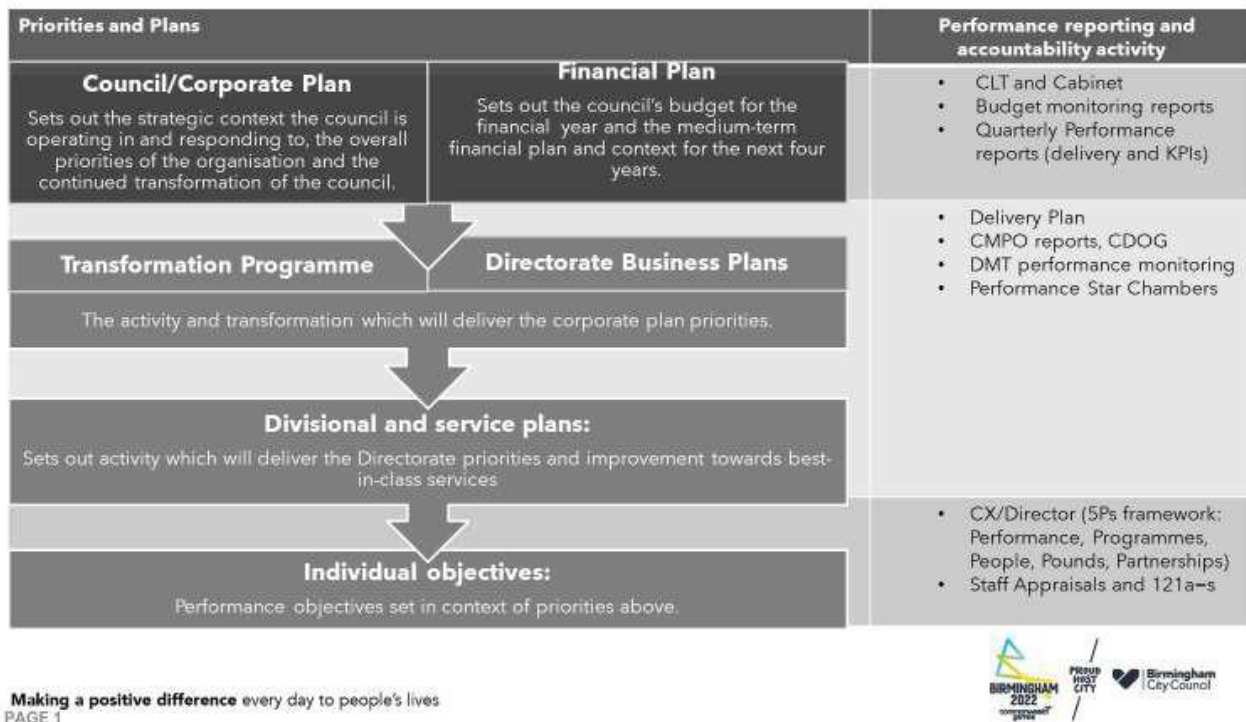
Hybrid working as a notion of having the ability to work in different places is clearly is not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of our most recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week. What Hybrid working does lead to is a diverse workforce whereby we are able to attract talent from up and down the country for some of our specialist roles, who previously would have been out of reach; and it enables those with disabilities to contemplate a full time career with us, when for some this would have been

a step to far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness, all underpinned through a performance management culture. These posts will be managed by the new Organisational Effectiveness Team within People Services to ensure that NWOW is embedded into business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. This will be underpinned through our Performance Guide which emphasises the role of all in delivering great outcomes for our citizens. The new Oracle system has an enhanced section for recording set objectives, and we are introducing a comprehensive Learning Management System which will come on line early next year to bring learning, talent and performance together in one place as we develop the concept of new ways of learning.

Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Some examples from the Deputy Leader's portfolio where NWOW is having a positive effect are listed below:

- Remote working has enabled Legal Services to attract talent from across the Country in professional disciplines and skills that are under-represented in the local area, meaning that skills can be transferred, and the department can continue to grow its expertise.

- Professional staff in Legal Services are expected to be productive for at least 82% of their contractual hours in terms of time spent working on legal matters. Residual time is reserved for team meetings, 1:1's, and development needs.

All time is recorded on the departments Case Management System which is monitored and interrogated at least monthly to ensure productivity targets are being met and challenged regularly. As a department, 93% productivity is currently being delivered, i.e. 11% above target.

- Delivering above target results in the department needing less staff overall to deliver the same outcomes, and this is measurable in terms of Full Time Equivalent (FTE) people. Considering the year prior to Remote Working being implemented and the years since, the measurable over-production in terms of people follows the below pattern:

□

Financial Year		Relative Over-production
2019-20		13%
2020-21		15%
2021-22		14%

- Working from home for the Contact Centre has meant that we have been able to maximise the shifts for parents who were part time due to leaving for school runs and now allows them to work slightly longer shifts, it has also assisted with our recruitment drives. During the Covid pandemic and more recently with supporting the Ukraine re-homing it has also allowed us to reach out to staff to stay beyond their shifts and also work weekends, working beyond shifts has also been utilised where we have seen peaks in demand due to welfare grant calls and allowed us to operate a queue buster system, where we arrange a call-back in the evening, had we been in the office we would have struggled to get staff to do this.
- Improvements have been identified in the Contact Centre advisors productivity which has resulted in a 2% increase in advisors calls per hour.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR ADRIAN DELANEY

C1 ‘DBS check answers’

Question:

On 4 February 2020, your predecessor provided answers to questions on DBS checks for Home to School Transport. These were questions C1, C2 and C4 and all stated that the council does not have access to any employment history (including DBS checks) for contractors as these were held by a third party. Looking back at those answers, do you believe that the answer provided at that point was a fair and accurate representation of the situation at the time, and if not, can you please provide a correct answer to each question.

Answer:

The responses provided to questions C1, C2, and C4, were fair and accurate representations of the situation at the time.

In February 2020, those responses stated that 3rd party providers who deliver the Home to School Transport service were responsible for DBS checks and records for their employees. As a result, BCC did not hold any employment history for contractors and the 3rd party provider retained this as the employer.

Subsequent reviews resulted in the desire for greater transparency. Improved compliance and contractual practices have provided greater oversight of drivers and guides of 3rd party employees. As a result, by 18 June, BCC will have visibility of DBS checks for all guides regardless of whether they are employed by BCC or via a 3rd party.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR DAVID BARRIE**C2 ‘Children returned to Education’****Question:**

In each of the last 4 years how many children identified as ‘missing from education’ have been returned to full time education or suitable alternative provision?

Answer:

Data is not available for the period requested. The data provided below is for the period of 1st September 2021 to 31st March 2022 and reflects the position as of 1st April 2022. The data is collected and monitored monthly for the identified CME groups.

Children Missing Education

Academic year 2021-22	Number of cases where children’s whereabouts are being actively investigated by the CME team	Number of children with EHCPs without a school place	Number of open Fair Access Protocol referrals due to be placed	Number of open referrals with the No School Place Team
September	306	87	20	47
October	196	-	25	31
November	219	-	19	35
December	242	162	25	32
January	250	131	16	95
February	246	135	17	45
March	221	158	40	38

Of the 457 children recorded as CME in March 2022, 136 are confirmed as no longer CME. The largest cohort of children missing from education are those whose

whereabouts are not known. In March 2022, in cases where the investigations have concluded, over 70% of this cohort had left Birmingham and relocated to other local authorities or abroad.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR DEBBIE CLANCY**

C3 ‘Illegal schools’

Question:

In each of the last 4 years, how many ‘illegal’ schools have been found operating in Birmingham, including the total number of children in each and action taken

Answer:

Over the last 4 years Birmingham City Council has worked in partnership with Ofsted and the Department of Education where an education setting may be operating illegally.

Although a number of enquiries have been initiated, no illegal schools have been found.

Currently there are five ongoing investigations that have not concluded.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR DEIRDRE ALDEN****C4 ‘Children Missing from Education’****Question:**

As 1 April each year between 2018 and 2022 how many children in Birmingham were identified as missing from education (i.e. not registered at a school and are not receiving suitable education otherwise than at school, as per section 436A Education Act 1996)?

Answer:

Data is not available for the period requested. The data provided below is for the period of 1st September 2021 to 31st March 2022 and reflects the position as of 1st April 2022. The data is collected and monitored monthly for the identified CME groups.

Children Missing Education

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CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR KERRY BREWER**

C5 ‘Children Missing from Education- safeguarding concerns’

Question:

In each of the last 4 years how many safeguarding referrals were on behalf of children who were missing from education?

Answer:

Safeguarding referrals are made via Birmingham Children’s Trust, Children’s Advice and Support Service.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR ADAM HIGGS**

C6 ‘SEND Tribunal Costs’

Question:

**In each of the last 4 years, how much has the Council spent on
defending SEND tribunal appeals?**

Answer:

The Council has not incurred any additional costs i.e. legal fees or assessment costs in defending appeals during this period. The costs are solely staffing costs. The current Tribunal team has 12 members of staff (7 FT and 5 PT).

The approximate annual cost of the team of 12 is £753k (based on current pay scales).

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR RON STORER**

C7 ‘SEND Interim and Consultant Costs’

Question:

**Please provide a breakdown of interim and Consultant spend in
SEND & Home to School Transport since June 2018, with headings
of:**

- ☐ **Post Title**
- ☐ **Daily Rate**
- ☐ **Approved by**
- ☐ **Employed from**
- ☐ **Employed until/present**

Answer:

This information was provided previously for SEND only through a manual tracker, which was very time consuming and was not validated by an electronic system. With the implementation of Oracle, this will be able to be provided.

The actual spend on agency/interim/consultant staff in SEND and Home School Transport for 2021/22 financial year has been confirmed as £7.289m.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR BRUCE LINES****C8 ‘SENDIST Claims’****Question:**

Please provide a of the number of SENDIST claims brought against the council month by month since June 2018, broken down by type of appeal (Section B / F / I or Cease to Maintain or Refusal to Assess or Refusal to Issue) and Outcome

Answer:

Please see breakdown of SEND Tribunal appeals received from June 2018 to May 2022:

NTA = Not to assess

NTI = Not to issue (Education, Health and Care Plan) CTM = Cease to maintain

Month	Total appeals received	NTA	NTI	Sections B, F &/or I	CTM
Jun-18	19	3	3	12	1
Jul-18	17	6	1	10	0
Aug-18	16	5	1	10	0
Sep-18	25	11	3	11	0
Oct-18	30	6	1	23	0
Nov-18	18	6	0	12	0
Dec-18	14	5	6	3	0
Jan-19	16	11	0	5	0
Feb-19	25	9	1	15	0
Mar-19	31	11	0	20	0
Apr-19	30	11	1	18	0
May-19	43	10	2	31	0
Jun-19	34	7	5	19	3
Jul-19	26	7	4	13	2
Aug-19	21	13	1	7	0
Sep-19	22	5	4	13	0
Oct-19	22	6	3	13	0

City Council – 14 June 2022

Nov-19	12	4	3	5	0
Dec-19	9	2	3	4	0
Jan-20	21	4	7	10	0
Feb-20	18	3	3	12	0
Mar-20	19	5	2	12	0
Apr-20	18	4	1	13	0
May-20	20	2	0	18	0
Jun-20	28	5	5	18	0
Jul-20	40	3	0	37	0
Aug-20	25	2	2	21	0
Sep-20	19	2	1	15	1
Oct-20	12	2	1	9	0
Nov-20	15	4	3	8	0
Dec-20	14	8	4	2	0
Jan-21	10	7	0	3	0
Feb-21	18	7	3	8	0
Mar-21	9	2	1	6	0
Apr-21	24	3	2	19	0
May-21	25	0	2	23	0
Jun-21	27	0	3	24	0
Jul-21	46	0	9	37	0
Aug-21	56	6	5	45	0
Sep-21	52	10	8	34	0
Oct-21	42	8	5	29	0
Nov-21	25	7	3	15	0
Dec-21	30	6	10	14	0
Jan-22	59	20	14	24	1
Feb-22	30	9	2	19	0
Mar-22	44	5	2	37	0
Apr-22	40	11	6	22	1
May-22	68	19	2	46	1

The data regarding the outcomes of these appeals was not consistently recorded prior to 2021 and is in the process of being updated and cross referenced to ensure it is recorded correctly. Based on the current data for appeals in 2021:

- 46 appeals were conceded by the LA before its response to the appeal was submitted
- 30 were withdrawn by parent/young person
- 137 resolved by consent (without a final hearing)
- 39 final decisions were made by the Tribunal (8 decisions mainly in LA's favour, 3 decisions were equally in favour of LA and parents, 28 mainly in parent/young person's favour)

The number of appeals has increased this year as systems have improved. There are more staff in SENAR and better systems who can rigorously determine the appropriateness of whether a child should be assessed or not. And when an assessment has taken place, the application of the Code of Practice is more rigorous and determines whether an EHCP should be issued. There is an issue with lack of specialist places, both in special and mainstream schools. This is being addressed through a sufficiency strategy which will look at the expansion of special schools and specialist places over the next few years.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR GARETH MOORE**

C9 'SEND LGO\Judicial Review'

Question:

Please provide the number of LGO complaints upheld and/or reports issued against the council and Judicial Review pre-action protocol letters received in relation to SEND cases month by month since June 2018

Answer:

It has not been possible to give provide information since June 2018. The available information is as follows:

1) LGSCO (Local Government and Social Care Ombudsman)

complaints: Data is available from August 2019.

Since March 2019 to present the LGSCO upheld 21 SEND complaints

2) Judicial Review (JR) pre-action

letters: August – December 2019

4

2020

40

2021

29

2022

This data is being gathered currently so is not available

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR MATT BENNETT**

C10 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that:

“We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach across the council to driving better outputs and outcomes and our approach is as diverse as the services are diverse. Hybrid working clearly is not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of a recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week.

The overall approach to managing employee performance –through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have

launched our “Managing Remotely” Course which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we have also introduced further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness. These will be managed by the new Organisational Effectiveness organisation within People Services to ensure that NWOW is embedded into Business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. The new Oracle system has an enhanced section for recording set objectives

Included in NWOW are improvements in how we use technology and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

The Children and Families Directorate have wholeheartedly embraced New Ways of Working, placing paramount importance of continuing to meet the needs of service users and stakeholders. Some services have necessitated a return of staff to council buildings to deliver services – for example Library of Birmingham and Birmingham Community Libraries – but predominantly the Directorate is utilising hybrid working, with staff doing a mix of working from home and onsite working for things like team meetings, away days and learning events. Where roles lend themselves to mainly working from home, this is being supported and technology is enabling staff to be productive and connected.

There has been good attendance at virtual meetings with health partners and other key stakeholders whilst Children and Families Directorate staff are back into face to face meetings with schools as required.

New Ways of Working has positively impacted on helping to reduce sickness absence rates, with the Directorate now standing at 9.67 average sickness days per FTE per year compared to 10.18 in 2019. Staff turnover as at May 2022 was 23% if measured by headcount or 15% if measured by full-time equivalent versus 31% and 23% in November 2019 respectively. A recent pulse survey conducted within the Directorate indicates that a large number of staff are engaged and feel supported, with 56.56% of staff feeling very satisfied or satisfied at work.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR ROBERT ALDEN**

C11 ‘DBS Checks’

Question:

Since April 2020, how many people with positive DBS checks have been cleared to work for the Home to School Transport Service?

Answer:

Since April 2020, in excess of 2600 DBS checks have been carried out on behalf of the Home to School service. During those checks 156 positive disclosures were returned, highlighting a previous conviction or caution. Those individual cases were then reviewed by the Service DBS Review panel, made up of representatives of HR and Home to School Transport to ascertain whether the positive disclosure should preclude an individual from working in the Home to School Service.

As a result 6 were found to be unfit for employment, and not cleared to work for the Home to School Service. 150 were cleared by the panel and, after following the appropriate process, were allowed to work for the Home to School Service.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE AND FAMILIES FROM COUNCILLOR ALEX YIP

C12 ‘Taxi Spend’

Question:

Please provide a breakdown of amount spent per company on taxis for the home to school transport service over the last 4 years, including the number of children transported.

Answer:

Whilst Home to School management information is retained, unfortunately, historic back-office finance systems do not allow us to report on cost of spend per vehicle type. The new travel management system that is being developed, will provide a more detailed breakdown, but this system will not be fully implemented until next year.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR DIGITAL, CULTURE, HERITAGE AND TOURISM FROM COUNCILLOR MATT BENNETT

D ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour, it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

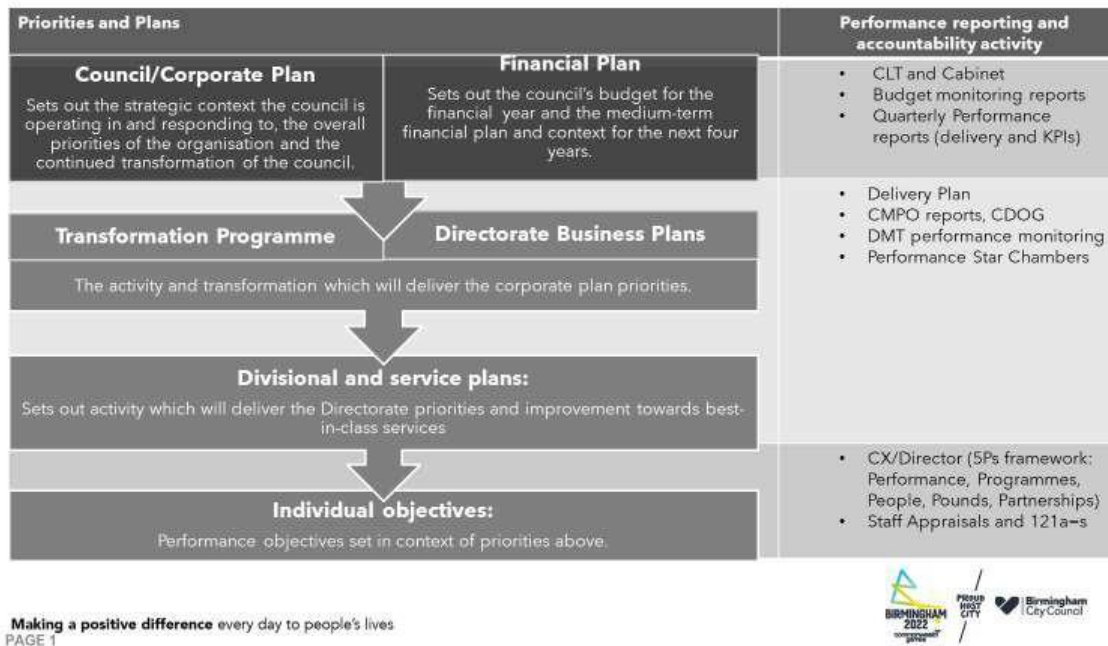
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contemplate a full time career with us, when for some this would have been a step to far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness, all underpinned through a performance management culture. These posts will be managed by the new Organisational Effectiveness Team within People Services to ensure that NWOW is embedded into business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. This will be underpinned through our Performance Guide which emphasises the role of all in delivering great outcomes for our citizens. The new Oracle system has an enhanced section for recording set objectives, and we are introducing a comprehensive Learning Management System which will come on line early next year to bring learning, talent and performance together in one place as we develop the concept of new ways of learning.

Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Some examples across the Digital, Culture, Heritage and Tourism where NWOW is having a positive effect are listed below:

IT & Digital

- The move to Office 365 and investment in improved IT equipment for staff has provided the platform to drive more agile and efficient working across the Council. The technology investment has given us greater resilience in terms of having access to emails and key documents off the network and on mobile devices
- MS Teams has driven a shift in digital meetings and collaboration. Getting larger teams together has not been restricted by room availability and this has strengthened business units by bring them together.

- Improved accessibility: Easier to contact people and quicker to get hold of them with more dynamic messaging
- The NWoW Bulletin has provided a corporate communication tool to give regular and focussed messages to staff.
- Online meetings have meant fewer journeys and contributed to a lower carbon footprint.
- Within the IT Service we have seen improvements in our relationships with suppliers, more regular contact and improved relationships mean improved results
- Absenteeism – there has been a quantifiable reduction in sickness
- Responses from IT&D to the few Major Incident experienced have been aided through earlier deployment and the ability to come together more easily to resolve. New communication channels also enable us to keep employees updated instantly.
- We have been able to retain valued employees through a hybrid work pattern. This has enabled them to get the desired work/life balance without which they would have resigned.
 - Offering hybrid and remote working does enable us to widen the net geographically which is invaluable, especially as the technology jobs market is very competitive right now.

Culture, Heritage and Tourism

- The team are attending the vast majority of meetings online and the MS teams platform has enabled direct and immediate contact with colleagues and service users.
- Online attendance at meetings/seminars etc has increased so more stakeholders are involved in discussions.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR BABER BAZ**

E1 ‘Mobile Household Recycling Centre’

Question:

Given the ruling party’s commitment to continue MHRCs and given that in most wards the feasible locations for parking have now been established, will the cabinet member give a commitment that councillors will be given an advance annual schedule of dates and locations so that they can plan communications around the service?

Answer:

The approach to publicising locations to Members and citizens is currently being reviewed, and any changes will be communicated in due course.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR ROGER HARMER**

E2 ‘Missed Collections’

Question:

It has been clear over the last 12 months that the metric used for monitoring missed collections is unreliable after it got stuck at below 1% when in fact large parts of the city were missing collections on a regular basis. I have presented evidence to Scrutiny that shows that using internal information on roads with dropped collections produces a much more accurate figure, than only including specific addresses, where the residents complain. Will the cabinet member ensure data is collected in this more accurate format, in addition to quoting the subsection represented by individually reported missed collections.

Answer:

The metric of missed collections reported per 100,000 scheduled is not intended to provide an exact number of properties that have suffered collection issues. Nor does it show any detail of repeated missed collections on an individual level.

Instead, it acts as a representation of the number of residents who have contacted Birmingham City Council when they do not receive a collection. It is a very accurate figure as we know the exact number of missed collections that have been reported to us and the number of scheduled collections. The metric is used widely in the industry by most local authorities and other organisations such as the Association for Public Service Excellence for the purpose of benchmarking.

Providing the exact number of properties that have been missed is inherently more difficult. Not all properties present their bin every week (known as the set-out rate), because the house may be unoccupied, or the resident(s) simply don't require a weekly or fortnightly collection. Any attempt at a calculation of such metric detailing the exact number of bins that have been missed, is an overestimate because typically 10-15% would not have actually been presented for collection.

However, where whole roads are dropped, we can easily calculate the number that have potentially been missed and we have been working to produce this figure. At present it's difficult to calculate the number missed where part roads have been dropped, for example where there are access issues. We are however in the process of reintroducing slab in the cab technology, which will allow us to record exact properties potentially missed much more accurately. Once this is rolled out,

we will endeavour to provide an additional metric which will provide an insight into the number of properties potentially affected by collection issues.

We are also identifying individual properties that are subject to repeated missed collections. We will be able to further develop a metric which could detail repeated or consecutive missed collections.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR MORRIAM JAN**

E3 ‘Mobile Household Recycling Centre’

Question:

Could you provide the charts setting out the record of delivery of the mobile household recycling centre, one chart setting out, by day, the amount of recycling collected and details of which wards have been visited, by depot, and the second chart setting out, by day, the tonnage collected by depot from January 2022 to date?

Answer:

The attached gives the daily location breakdown per depot from January 2022 to date.



E3 locations.pdf

Due to the size and complexity of the information, recycling and residual tonnages are collated monthly by depot, and included in the spreadsheet. This is provided in the below attached document.



E3 tonnage.pdf

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR IZZY KNOWLES**

E4 'Refuse Sacks'

Question:

How many properties by ward are provided with coloured refuse sacks for waste services?

Answer:

Birmingham City Council no longer provides stripy coloured sacks to any residential properties for residual waste collections. This was a short-term initiative in selected areas of the city to help identify commercial waste that was illegally being presented for domestic collection.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR DEBORAH HARRIES**

E5 ‘Mobile Household Recycling Centre’

Question:

Publicity for MHRCs has relied heavily on councillors and candidates of all parties rushing leaflets through doors. Now the election is over, what is the cabinet member’s communication strategy for ensuring all affected residents are aware of this service, the dates and locations of visits?

Answer:

The approach to publicising locations to Members and citizens is currently being reviewed, and any changes will be communicated in due course.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR JON HUNT

E6 ‘City Waste Collection Service’

Question:

Over the last 12 months there have been huge problems in maintaining a reliable waste collection service. What steps has the cabinet member taken to ensure improvements in service, ensuring that collection is reliable and that residents have timely and accurate information about any problems with the service?

Answer:

Street Scene Management has over the last 12 months recruited to 85 vacant positions across the services. This has brought stability to rounds and ensured that the local knowledge of rounds is maintained. The positive effects are improved performance and fewer service failures.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR PENNY WAGG**

E7 ‘Fox Hollies Park’

Question:

Work to upgrade the play areas in Fox Hollies Park, using Section 106 funding, was due to start in the ‘Spring’ of this year, with completion over the Summer, but there is still no sign of any work beginning. Please can you provide an update on the timetable for the work.

Answer:

The work is planned to commence on site in late August with an anticipated completion date of mid-December 2022. The delay has arisen due to other workload commitments and current long lead in times for manufacture and delivery of the specified play equipment.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR COLIN GREEN**

E8 'Recycling Collections'

Question:

What will the council do to provide regular recycling collections to people in flats above shops?

Answer:

Collections from flats above shops are problematic for several reasons. Residents often tend to be relatively short stayed which makes the communication difficult to ensure recycling compliance.

Many flats above shops have little or no space for the storage of recycling bins and where these have been provided they have been stolen or abused by traders below. As each situation is different the Department looks to work with residents on a case by case basis to deliver a solution that best suits their situation.

Recycling opportunities are also provided for people to take their recycling materials to household recycling centres and also in addition the new initiative of mobile household recycling vehicles provides the opportunity for residents to recycle their waste.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR ADAM HIGGS

E9 “Fleet age”

Question:

**Broken down by depot, what is the average age of the fleet within
waste management?**

Answer:

Montague Street Depot - average age is 9 years
old Lifford Lane Depot - average age is 9 years
old Perry Barr Depot - average age is 8 years
old Redfern Depot - average age is 9 years old

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR BRUCE LINES**

E10 “Fly tipping”

Question:

How many reported fly tipping incidents were there in each of the last 4 years?

Answer:

The number of fly tipping incidents received each year is as follows. Note these are reports rather than incidents and hence duplicate reports may be received about the same incident.

201 27698
8

201 26540
9

202 33891
0

202 39470
1

202 13348 (to 5 June
2 2022)

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR ROBERT ALDEN**

E11 ‘Fleet Replacement#

Question:

**Please provide the total number of replacements made of Council
fleet within the waste management service in each of 2019/20,
2020/21, and 2021/22.**

Answer:

2019/20 = 0
2020/21 = 30
2021/22 = 45

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR DAVID PEARS

E12 'Missed Collections'

Question:

Please provide a list of other comparable councils who use the same metric and methodology for missed collection performance (i.e. individual reported missed collections) along with the latest available benchmarked data for each of these

Answer:

Please see performance indicators PI 22a-f on page 3 of the attached Performance Networks document compiled by Association for Public Service Excellence (APSE). Please note that APSE retain the detail of these comparable Councils confidential so we are unable to provide the names of the Councils.



E12 - 103 RF
PIS
20-21 - Birmingham

CITY COUNCIL – 14 JUNE 2022

E13

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR DEIRDRE ALDEN****E13 'MHRCs'****Question:****In each month since January 2022 up to and including May 2022,
how many visits did each Ward receive from the MHRC service?****Answer:**

The below table details the number of visits for each ward between the 1st January 2022 and 31st May 2022. The number of planned visits for the MHRC service have been produced based on the number of reported fly-tipping incidents received for the Ward. Please note, the service patterns are due to be reviewed to take into account the latest fly-tipping and cleanliness data as part of any updates and changes which may be made to the MHRC service for the coming year.

Ward	Visits	Ward	Visits
Acocks Green	6	Lozells	5
Allens Cross	3	Moseley	6
Alum Rock	15	Nechells	6
Aston	6	Newtown	6
Balsall Heath West	15	North Edgbaston	6
Bartley Green	5	Northfield	3
Billesley	5	Oscott	5
Birchfield	6	Perry Barr	5
Bordesley & Highgate	17	Perry Common	2
Bordesley Green	16	Pype Hayes	3
Bournbrook & Selly Park	5	Quinton	5
Bournville & Cotteridge	2	Rubery and Rednal	2
Brandwood & King's Heath	5	Shard End	5
Bromford & Hodge Hill	7	Sheldon	6
Castle Vale	2	Small Heath	1
			5
Druids Heath and Monyhull	4	Soho & Jewellery Quarter	1
			4
Edgbaston	3	South Yardley	2
Erdington	6	Sparkbrook & Balsall Heath	7
		East	
Frankley Great Park	3	Sparkhill	1
			5
Garretts Green	3	Stirchley	3
Glebe Farm & Tile Cross	5	Stockland Green	6
Gravelly Hill	2	Sutton Four Oaks	3
Hall Green North	5	Sutton Mere Green	3

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Hall Green South	3	Sutton Reddicap	3
Handsworth	5	Sutton Roughley	3
Handsworth Wood	5	Sutton Trinity	3
Harborne	5	Sutton Vesey	3
Heartlands	15	Sutton Walmley & Minworth	2
Highters Heath	3	Sutton Wylde Green	3
Holyhead	6	Tyseley & Hay Mills	7
Kings Norton North	3	Ward End	5
King's Norton South	6	Weoley & Selly Oak	4
Kingstanding	6	Yardley East	5
Ladywood	16	Yardley West and Stechford	3
Longbridge & West Heath	3		

CITY COUNCIL – 14 JUNE 2022**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR RICK PAYNE****E14 'WRCOs'****Question:**

**Please provide a copy of any review carried out into the WRCO
role within street scene**

Answer:

The WRCO role is being looked at currently with the view to purchasing new technology as the current mobile devices are beyond their usefulness, generally through old age and connectivity. Whilst this takes place the WRCOs are gathering the information of what they see on their rounds and feeding this back to managers and the Business Support Officers to action.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR DAVID BARRIE****E15 ‘MHRC recycling figures’****Question:****What was the total percentage of waste collected by MHRCs during 2022/23 that was a) recycled b) reused c) incinerated d) sent to landfill**

Answer:

Residual	Lifford	Montague Street	Perry Barr	Redfern Road
Jan-22	54.04	20.12	27.98	20.48
Feb-22	51.46	61.28	37.76	27.44
Mar-22	63.08	69.04	56.64	48.94
Apr-22	52.94	70.28	37.4	19.4
May-22	45.7	78.9	16.08	31.9

Recycling	Lifford	Montague Street	Perry Barr	Redfern Road
Jan-22	2.42	0.68	0.64	0.38
Feb-22	2.62	4.56	0.78	1.9
Mar-22	2.08	2.08	1.78	2.02
Apr-22	1.38	2.12	0.6	0.76
May-22	1.94	3.54	0.58	0.74

Materials collected by the Mobile Recycling Centre are taken to BCC Waste Transfer Stations (WTS) and BCC Household Recycling Centres (HRC). The residual materials are combined with all residual materials at BCC WTS and the recycling is combined with materials at BCC HRC sites. This is to ensure that we make optimum use of the vehicle movements of all BCC waste and materials. It is not possible to identify individual input streams, only information on the end destinations for all municipal waste streams as a whole.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT
FROM COUNCILLOR RON STORER**

E16 ‘Parks and Green Spaces’

Question:

**Please provide a list of the 400 parks and green spaces in
Birmingham, including the location and size of each.**

Answer:

Please see attached document.



E16%20-%20PARKS
%20WHITE%20BOOI

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR SIMON MORRALL**

E17 ‘Waste Service payments’

Question:

What additional payments and/or changes to other working conditions have been made to employees in the waste service since April 2021 (including dates of any payments or changes)

Answer:

There have been no changes to additional payments or working conditions since April 2021, other than 1) withdrawal of COVID hygiene payments for increased cleaning of uniform/PPE in line with national guidance on infection control measures, from August 2021, and 2) implementation of NWoW from May 2022 - changing operational hours for service provision. During this period staff have been eligible for payments in line with BCC policies.

CITY COUNCIL – 14 JUNE 2022**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT
FROM COUNCILLOR MATT BENNETT****E18 ‘New Ways of Working’****Question:**

The Council Financial Plan states, with regard to New ways of Working that:

“We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

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Answer:

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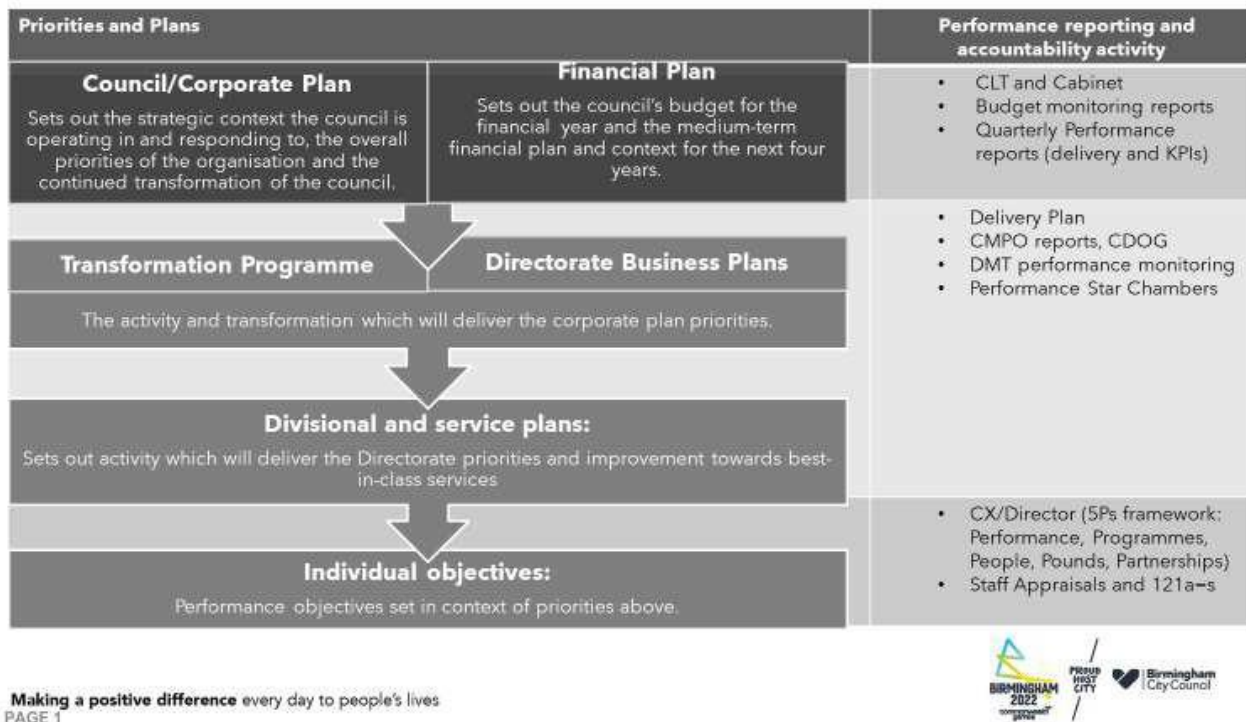
contemplate a full time career with us, when for some this would have been a step to far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

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Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Here are some examples across the Cabinet Member's Portfolio where NWOW is having a positive effect are listed below:

City Operations Directorate

Regulation & Enforcement - The service has rationalised property requirements with relocation of service outside the city centre - reduces work stations and reduces environmental impact on Clean Air Zone. The pest control service uses hand-held

technology, embracing contact centre technology for arranging appointments improving the service effectivity.

The Parks Service has embraced NWOW across all sections of the Division and whilst some managers are continuing to work from home others have adopted a more hybrid model between home and office. Operations Managers in Birmingham Parks and Nurseries continue to work out of their offices/depots in order to best utilise their time, supporting the gardening operatives on their daily rotas and programmed workloads.

The operational gardening staff have continued to deliver the expected high level of service across parks and other green assets that they maintain – continually achieving over 98% delivery on programmed works.

The Ranger Service and Nursery staff have continued to deliver a public facing role and maintained their normal hours of operation throughout and going forward.

Whilst all Park Managers spend time attending site meetings, the ability to carry out a host of meetings virtually via Teams has led to a significant increase in meetings being able to be “fitted in” in a more timely manner, and cut down hours of travelling time between meetings which was the norm before Covid. In this regard officer time is more efficiently spent dealing with issues, projects, and enquiries rather than travelling.

For Waste Services the NWOW allows for the job completion and a core time of 5 hours is in place if work is being caught up at any point that has been dropped or if there are religious festivals, bank holidays that generate additional work crews are expected to clear this and work up to the 7.18 hour working day. There is also some ability included with the NWOW to allow for the City’s growth.

Waste has recognised that training is key to be able to invest in staff. The NWOW allows for far more training and development to take place all employees will be able to take part in a full additional training and refresher programme. The time following the core and break times allows for the services to be able to take the steps to train and develop staff. The department is also investing in computers for the depots for online training to take place it is recognised that front line manual staff in many cases don’t have access to the relevant technology to be able to carry out mandatory training or many of the other course available. Taking this step, the expectation is that the workforce have the facilities and time within the 7.18 hour working day to meet the needs of their training and development allowing us to have a fully trained and informed workforce.

The department is also rolling out technology such as Slab in the Cab for drivers and mobile technology for the waste reduction and collection officers. The NWOW allows further time for the information gathered to be dealt with once the crew returns from completing their rounds.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR DARIUS SANDU****E19 ‘Missed Collections’****Question:****How many reported missed collections by ward, by depot, and in total were there in 2021/22?**

Answer:

Please find the number of reported missed collections by ward below. This is a combined figure for residual and recycling, but excludes garden waste and collections using large shared containers for residual waste at flats.

Residents are unable to report the same missed collection more than once, however if both residual and recycling collections are missed in the same week, this would be counted twice if they were both reported.

We are unable to split this exactly by depot because the depot boundaries no longer exactly follow the ward boundaries since they were changed in 2018. In addition, we allow anyone to report a missed collection where there may not be a route assigned in the system (for example a new build house at initial occupation), so it's not possible to assign a depot to every missed collection. Therefore, these have been split into two separate tables rather than by ward and depot together.

Ward	Number of reported missed collections
Acocks Green	758
Allens Cross	520
Alum Rock	867
Aston	1186
Balsall Heath West	314
Bartley Green	1715
Billesley	972
Birchfield	748
Bordesley & Highgate	621
Bordesley Green	428
Bournbrook & Selly Park	870
Bournville & Cotteridge	843
Brandwood & Kings Heath	918
Bromford & Hodge Hill	553
Castle Vale	1027
Druids Heath & Monyhull	506

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Edgbaston	900
Erdington	2868
Frankley Great Park	897
Garretts Green	587
Glebe Farm & Tile Cross	1281
Gravelly Hill	694
Hall Green North	808
Hall Green South	197
Handsworth	838
Handsworth Wood	1440
Harborne	1609
Heartlands	343
Highters Heath	632
Holyhead	637
Kings Norton North	659
Kings Norton South	950
Kingstanding	2693
Ladywood	553
Longbridge & West Heath	1427
Lozells	556
Moseley	611
Nechells	315
Newtown	361
North Edgbaston	1341
Northfield	734
Oscott	3368
Perry Barr	2152
Perry Common	965
Pype Hayes	1696
Quinton	1817
Rubery & Rednal	455
Shard End	1007
Sheldon	920
Small Heath	246
Soho & Jewellery Quarter	890
South Yardley	345
Sparkbrook & Balsall Heath East	511
Sparkhill	530
Stirchley	431
Stockland Green	2281
Sutton Four Oaks	1770
Sutton Mere Green	1386
Sutton Reddicap	1394
Sutton Roughley	1368
Sutton Trinity	1557
Sutton Vesey	3347
Sutton Walmley & Minworth	2427
Sutton Wylde Green	1053
Tyseley & Hay Mills	407
Ward End	409
Weoley & Selly Oak	1136

City Council – 14 June 2022

Yardley East	642
Yardley West & Stechford	544
Unassigned ward	88

Depot	Number of reported missed collections
Lifford Lane	16910
Montague Street	4419
Perry Barr	34809
Redfern Road	11504
Unassigned depot	4277

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM
COUNCILLOR RICHARD PARKIN**

E20 ‘Missed routes’

Question:

**How many missed or incomplete routes were there within the
waste collection service by ward, by depot and in total in 2021/22?**

Answer:

Unfortunately, we do not have this information available as we only began recording incomplete rounds centrally at the beginning of 2022.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE
AND RESOURCES FROM COUNCILLOR PAUL TILSLEY**

F1 ‘Pandemic Relief Fund’

Question:

Research has found that most of the COVID-19 Additional Relief Fund, the support package to compensate businesses impacted by the pandemic - has yet to be distributed with two thirds of councils are yet to “establish any kind of scheme” to distribute the money. Could the Cabinet Member give details of how much money the Council paid to businesses under this scheme and if there are any applications still waiting to be assessed?

Answer:

Birmingham has been allocated £30.1m Covid Additional Relief Funding (CARF). The CARF scheme was approved on 9 March 2022 and required those wishing to apply initially complete an application process. As a result no relief was awarded during the 2021/22 financial year.

Despite advertising the scheme to all eligible businesses annual billing uptake has been low, as at the end of April 2022 applications received permitted only £245,870 in CARF relief to be awarded in 2022/23 against 2021/22 NNDR liabilities. There are currently only 10 applications for CARF relief waiting to be assessed.

We have carried forward all of the funding into 2022/23 although CARF relief can only be used to reduce 2021/22 Business Rates liabilities.

Applications for CARF relief will close at the end of June 2022 at which point the Revenues Service will review the scheme and make auto awards to eligible businesses who have not applied. This will ensure the funding is used in its entirety.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE
AND RESOURCES FROM COUNCILLOR EWAN MACKEY**

F2 ‘Payment of suppliers’

Question:

By month from April 2021-May 2022, what percentage of invoices were paid within 30 days?

Answer:

We are still developing reports in Oracle to be able to produce this data. Once we have developed these reports we will be able to publish.

Below is the data for last financial year April 2021 to March 2022

% of undisputed supplier invoices paid within 30 days of receipt by Accounts Payable

Apr 2021	92.80%
May 2021	95.14%
Jun 2021	96.34%
Jul 2021	96.88%
Aug 2021	94.44%
Sep 2021	92.47%
Oct 2021	97.68%
Nov 2021	96.17%
Dec 2021	95.91%
Jan 2022	86.79%
Feb 2022	92.95%
Mar 2022	88.79%

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE
AND RESOURCES FROM COUNCILLOR MATT BENNETT**

F3 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour, it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

Hybrid working as a notion of having the ability to work in different places is clearly is not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of our most recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week. What Hybrid working does lead to is a diverse workforce whereby we are able to attract talent from up and down the country for some of our specialist roles, who previously would have been out of reach; and it enables those with disabilities to contemplate a full time career with us, when for some this would have been a step too far due to their personal requirements.

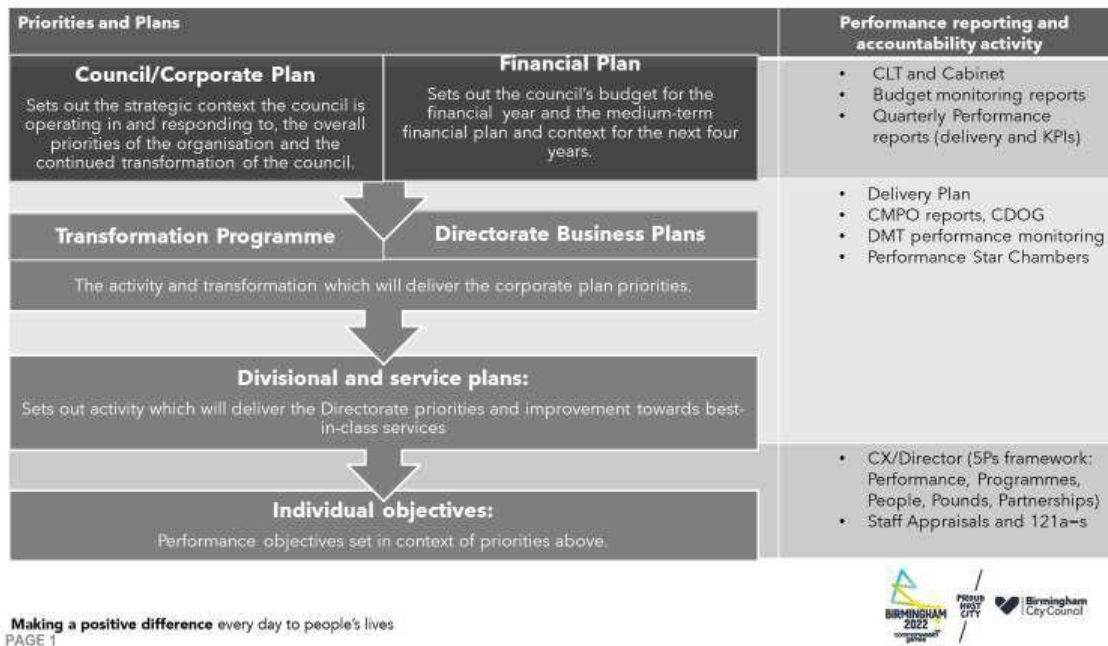
The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc.

This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness, all underpinned through a performance management culture.

These posts will be managed by the new Organisational Effectiveness Team within People Services to ensure that NWOW is embedded into business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. This will be underpinned through our Performance Guide which emphasises the role of all in delivering great outcomes for our citizens. The new Oracle system has an enhanced section for recording set objectives, and we are introducing a comprehensive Learning Management System which will come on line early next year to bring learning, talent and performance together in one place as we develop the concept of new ways of learning.

Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Here are some examples across the Finance and Resources Portfolio where NWOW is having a positive effect:

- Birmingham Audit exceeded its target of delivering 95% of the Audit Plan in 21/22.
- Council achieved a CIPFA 3-star Financial management rating from during and responding to a pandemic, whilst working from home and a whole year early. We have been showcased as an exemplar for this major transformation of the organisation at pace.
- Highly commended nationally for COVID leader of the year by CIPFA in recognition of the activity the Finance team undertook to report organisationally and co-ordinating regionally and with core cities and influencing nationally.⁷⁹

- Delivered 91% of budgeted savings in 2021/22, well in excess of performance of other years, including a £20m corporate workforce saving; the first time a corporate saving of this scale has been achieved. This is the highest level of savings delivery in at least the last 5 years.
- For the Revenues Service, pre Covid 50% of the service were working from home anyway but with old laptops, no MS Teams, or webcams etc. These staff are now far better connected than previously, it's easier for them to contact colleagues, attend meetings etc and they feel far more "included" these days.
- NWOW has provided significant financial benefits due to removing the requirement for Inspectors to be based at Woodcock Street. As the Inspectors are working with more agility, it has reduced travel time and therefore increased the number of site inspections that can be conducted which in turn assists in an increase in Revenue for BCC and efficiency for the customer.
- Training and staff briefings are far easier these days over teams. Cramming into small meeting rooms multiple times to relay training over and over again to staff 15 at a time is a thing of the past, it can be done in one hit (and those unable to attend can review a recording).
- Commercial Advertising Portfolios - no detrimental impact on the productivity of the portfolio. In fact, the division exceeded income generation targets by over £500k in 2021/22 and achieved in excess of £2m value of free advertising on the digital network promoting council messaging and events.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE
AND RESOURCES FROM COUNCILLOR DAVID BARRIE

F4 'Police Funding'**Question:**

Please provide a breakdown of all funding received over the last 4 years from the West Midlands Police\West Midlands Police and Crime Commissioner, including what projects were for

Answer:

The funding received from the West Midlands Police/West Midlands Police and Crime Commissioner since 2018/19 is shown in the table below broken down by the projects the money has been spent on.

Table 1: Revenue Grant Funding from the West Midlands Police

	2021/22 £	2020/21 £	2019/20 £	2018/19 £
Resilience for Commonwealth Games Reimbursement of salary costs - BCC staff seconded to Violence Reduction Unit Violence Reduction Unit Grant	0	100,000	0	0
Community Safety Fund	57,766	2,384	30,902	26,084
	106,170	96,592	112,289	0
	814,346	526,270	1,126,626	1,282,088
Total	978,282	725,246	1,269,817	1,308,172

CITY COUNCIL – 14 JUNE 2022

F5

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE
AND RESOURCES FROM COUNCILLOR ALEX YIP**

F5 ‘Oracle’

Question:

What is the latest final projected total implementation cost of the new ERP system?

Answer:

£36,872,249 of which £19,808,217 is capital and £17,792,032 is revenue.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR HEALTH AND
SOCIAL CARE FROM COUNCILLOR MATT BENNETT**

G ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour, it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

Hybrid working as a notion of having the ability to work in different places is clearly not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of our most recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week. What Hybrid working does lead to is a diverse workforce whereby we are able to attract talent from up and down the country for some of our specialist roles, who previously would have been out of reach; and it enables those with disabilities to contemplate a full-time career with us, when for some this would have been a step too far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

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Here are some examples across the Health and Social Care Cabinet Portfolios where NWOW is having a positive effect:

Adult Social Care

Throughout the pandemic Social Workers and Occupational Therapists have continued to meet citizens. The flexibility of the new ways of working has enabled the service to reach out to our most vulnerable citizens and offer advice and support and professionals have benefited from the flexibility of working in other locations and from home enabling them to maximise their time.

Staff feedback sessions with teams has been positive. A common statement from professionals is that 'Social Work in Birmingham is extremely difficult, having time with colleagues is important for professional development and case discussion, yet to spend time with family and not in traffic has enabled a work life balance that supports positive wellbeing. We can use the system (eclipse) better without the distraction of a noisy office space and conversations with citizens is easier without lots of background noise'.

Adult Social Care are working closely with health colleagues to develop a more integrated and co-located model and the NWOW and improved technology will support this endeavour.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR HOUSING & HOMELESSNESS FROM COUNCILLOR MATT BENNETT

H1 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that:

“We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

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Answer:

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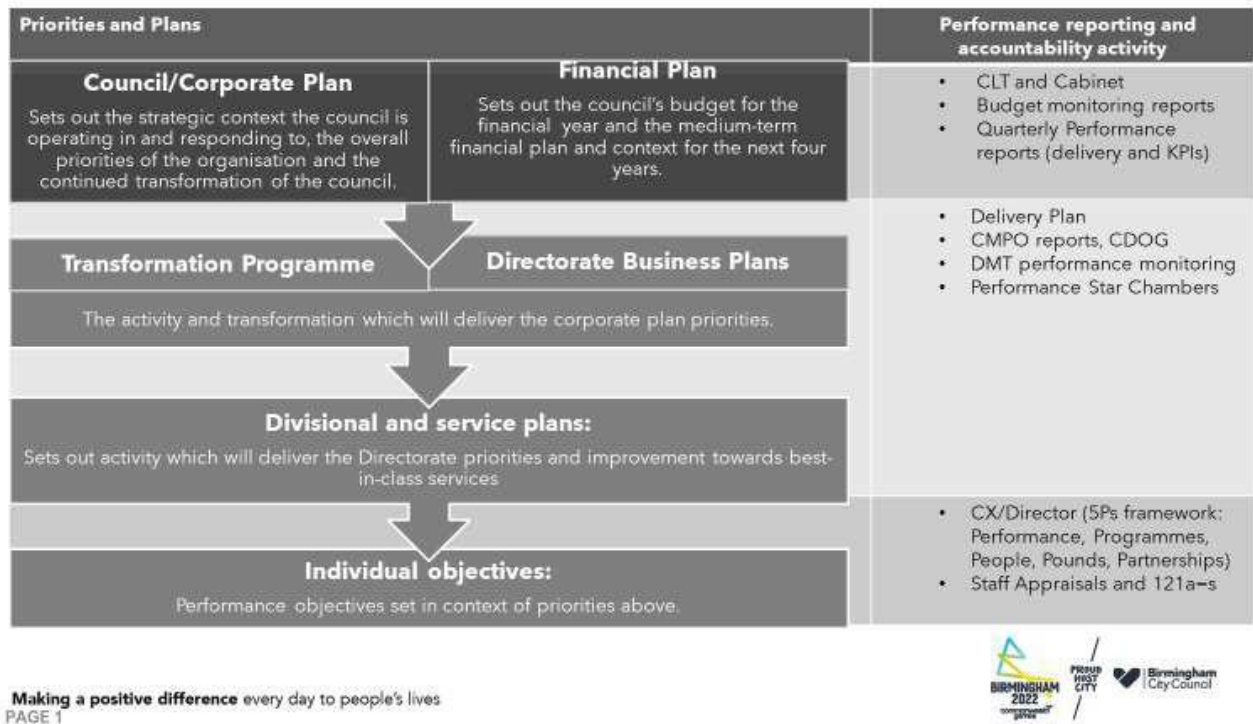
contemplate a full time career with us, when for some this would have been a step to far due to their personal requirements.

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Here are some examples across the Housing and Homelessness Portfolio where NWOW is having a positive effect are listed below:

City Housing Directorate

- Housing Management has utilised NWOW, moving towards a hybrid model and ensuring that the service is flexible to meet the needs of the customer. There has been increased productivity that has enabled officers to process 25% more

domestic abuse and anti-social behaviour cases (in council tenancies) quicker than previously. This has been achieved without a significant increase in resources. The valuable lessons learned from this are now being developed as part of our approach to ensure the most efficient and quality service is provided to our tenants.

- New agile working has facilitated the involvement in the Field Worker Project developing the use of a mobile app, which can be completed out in the field. This new software has been developed for Housing Management staff, which will significantly increase productivity, performance and accuracy of our Estates Services teams, especially within High- and Low-Rise Blocks, by improving communal repairs reporting, block inspection outcomes, removal of hazards etc whilst on site. Over 25% of staff are likely to benefit from this technology and approach when it is rolled out.
- Contract letting processes have been developed to offer a flexible service to our tenants enabling lettings to be completed by telephone rather than face to face at Lettings suites, based on customer requirements and preferences. This has allowed housing staff to increase lettings completed resulting in reductions in failed lettings, and improvements in the void turnarounds targets, achieving 28 days void turnaround targets. This is in comparison with 42 days turnaround previously. Customers are now able to complete lettings without travelling to Council Offices which contributes to reducing our carbon footprints.
- Within Housing Solutions and Support (HSS), 80% of homeless applications are currently made by telephone providing increased access compared with 100% previously being made in person.
- Over two thirds of households are able to contact HSS firstly through the contact centre and also receive a tailored Housing Needs Assessment with an HSS Officer. This provides the citizen with an improved customer experience.
- Specialist Hubs for young people, single adults, domestic abuse and offenders exist with team members equipped to provide specialist services to the most vulnerable.
- There have been benefits as a result of the NWOW programme, such as continuing virtual interviews, hybrid working to accommodate more flexible working practices in line with the needs of the service.
- Virtual recruitment practices have been utilised in order to recruit more than 5 apprentices within Housing Solutions and Support, all of whom will be supported within the workplace to gain a qualification.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR HOUSING
AND HOMELESSNESS FROM COUNCILLOR KEN WOOD**

H2 ‘Housing Duty court costs’

Question:

How much has the council spent on legal costs defending and appealing the ruling that the council has been operating an unlawful system for the performance of its main housing duty (including both the High Court judgement in April 2021 and the Court of Appeal in 2022 as well as any other legal costs associated with this case)

Answer:

The legal costs in relation to the court of appeal judgement (R (Elkundi and others) v Birmingham City Council; R (Imam) v Croydon LBC) to date is £59735.00.

This judgment impacts upon us and all other English Local Authorities; this was a joint appeal with Croydon Council.

The challenge for Birmingham, and all other local authorities, is to secure enough suitable temporary accommodation or indeed, permanent offers. For larger families and families with adapted property needs, this is ever more difficult.

The judgment did acknowledge the following:

“I would not want it to be thought that the Court is unaware of the burden placed on very many local housing authorities by the need to comply with their duties under Part VII of the 1996 Act, in circumstances where housing may be in extremely short supply, particularly for applicants with large families or particular needs, and where the authority’s financial resources are seriously constrained. I have no doubt that officials generally do their conscientious best in making what are often very difficult decisions; but errors of law will inevitably sometimes be made in this complex area, and it is the duty of the Court to intervene where that occurs”.

Until we can offer good quality housing immediately, particularly larger stock and which meets the needs of families with disabilities, we will have real difficulties meeting our legal obligations as highlighted by the court. These legal challenges are likely to continue and the risk of the court finding against us remains.

The waiting list referred to in this judgement is the “planned move list” which is an administrative list maintained by the Temporary Accommodation Team of homeless families who need to move on from their present TA or be offered their initial TA. This is being reviewed, procedures developed, and alternative options explored.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR SOCIAL JUSTICE,
COMMUNITY SAFETY AND EQUALITIES FROM COUNCILLOR ZAKER
CHOUDHRY****I1 ‘Burials at New Sutton Cemetery’****Question:**

Could the Cabinet Member provide (a) a full breakdown of the number of burials that have taken place at the new Sutton Cemetery, split by different religious groups and (b) confirm the revenue that has been generated at by new Sutton Cemetery during 2020, 2021 and 2022, again split by different religious groups?

Answer:

The burials by religion at Sutton New Hall Cemetery for the three years, 2020, 2021 and up to 31 May 2022 are in the tables below.

There is no system in place for determining income based upon religion, as the religion is only recorded for statistical and registration purposes and does not link to the invoices/finance in any way. The only way of determining this would be to go through every funeral record and manually calculate the fees/income and then assign them to a religious group based upon each booking. This would take an estimated

100 continuous hours (three weeks) to complete, based upon there being approximately 2,000 burial records for that period. Given that our focus must remain firmly upon the provision of our frontline bereavement services to citizens, the diverting of such considerable time and resource to this work cannot be justified at the present time.

Burials by religion - 2020

Religion: Christian	29
Religion: Church of England	69
Religion: Roman Catholic	46
Religion: Baptist	3
Religion: Free Church	1
Religion: Methodist	3
Religion: Pentecostal	1
Religion: SEVENTH DAY ADVENTIST	2
Religion: GREEK ORTHODOX	5
Religion: Jehovah Witness	1
Religion: Mormon	1
Religion: United Reform	1

City Council – 14 June 2022

Religion: Civil	1
Religion: Humanist	2
Religion: None /not stated	48
Religion: ISLAM	127
Religion: Muslim	122
Religion: Sikh	1

Total for: Sutton New Hall Cemetery: 463

Burials by religion - 2021

Religion: Christian	48
Religion: Church of England	91
Religion: Roman Catholic/Catholic	45
Religion: None/Unknown	101
Religion: Buddhist	1
Religion: Christadelphian	1
Religion: Free Church	1
Religion: GREEK ORTHODOX	4
Religion: ISLAM	382
Religion: Jehovah Witness	1
Religion: Methodist	4
Religion: Mormon	1
Religion: Muslim	496
Religion: new life weslyan	1
Religion: Rastafarian	1
Religion: SEVENTH DAY ADVENTIST	3
Religion: Sikh	2

Total for: Sutton New Hall Cemetery: 1183

Sutton New Hall Cemetery

Burials by religion - January to 31
May 2022

Religion: Christian	14
Religion: Church of England	55
Religion: None/Unknown	24
Religion: Roman Catholic	20
Religion: Chinese	1
Religion: Free Church	1
Religion: GREEK ORTHODOX	1
Religion: Hindu	1
Religion: ISLAM	168
Religion: Methodist	3
Religion: Muslim	206
Religion: Rastafarian	1
Religion: SEVENTH DAY ADVENTIST	3

Total for: Sutton New Hall Cemetery: 498

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER SOCIAL JUSTICE,
COMMUNITY SAFETY & EQUALITIES FROM COUNCILLOR ADRIAN
DELANEY**

I2 ‘Discretionary pension exit payments’

Question:

Since 2012, on how many occasions and at what total cost has the Council exercised its discretion to enhance pension benefits within exit payments for JNC staff under Regulations 16(2)(e) and 16(4)(d) (funding of additional pension), Regulation 30(6) (flexible retirement), Regulation 30(8) (waiving of actuarial reduction); and Regulation 31 (award of additional pension) of the Local Government Pension Scheme Regulations

Answer:

The annual Statement of Accounts includes details on senior officer remuneration, including details of any pension contributions associated with an exit from the organisation. The Statements of Accounts are found on the Council’s website, available at <https://www.birmingham.gov.uk/downloads/20217/accounts>. Please refer to the note of the accounts covering Officers’ Remuneration.

It is not possible to provide the level of detail requested within the timescales for responding to written questions, as we do not have the information broken down in this manner. However, I have asked that further work is undertaken in order to identify occurrences and a more detailed response will be provided once that work is completed.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER SOCIAL JUSTICE,
COMMUNITY SAFETY & EQUALITIES FROM COUNCILLOR DEBBIE
CLANCY**

I3 'Overtime'

Question:

Please list all job roles in the council for which overtime payments are available, including the grade of each role and the average amount paid in overtime in each of the last 3 years.

Answer:

G1 – G3 roles are entitled to receive overtime payments of which there are circa 480 roles. These roles are eligible for overtime payments in line with the Birmingham Workforce Contract where an agreed overtime business case is in place. Many services had exceptional business cases agreed during COVID response, which included paying overtime to staff in roles grade 4-7 during the emergency response. Based on workforce dashboard data, in 2021/22 BCC paid a total of £3.8m in overtime to all staff, in 2020/21 £2.4m and in 2019/20 £2.2m.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR SOCIAL JUSTICE,
COMMUNITY SAFETY AND EQUALITIES FROM COUNCILLOR MATT
BENNETT**

I4 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

The goal of New Ways of Working (NWOW) is to cultivate an agile culture and behaviour throughout the organisation. NWOW is not a standard approach imposed across the council to driving better outputs and outcomes, but an approach that is as diverse as the services are diverse. Being Hybrid is just one element of being an agile organisation. For an Agile culture and behaviour it is important that we can work in new ways and places, think in new ways, manage and learn in new ways and focus on delivering excellence through developing a performance culture.

Hybrid working as a notion of having the ability to work in different places is clearly is not appropriate to all staff in all settings. It might work very well in Financial Management or Planning or IT but clearly not in emptying bins or street cleaning or Adult Social Care. Where the setting is appropriate, it is about empowering our managers and staff to do the work as they, their role and their manager see fit to deliver better customer service. In the Health and Wellbeing Survey 80+% of those who responded expressed that they would like more flexibility and appreciated the ability to work from different locations. This is supported by the results of our most recent Future Workplace survey we carried out across the Council where again more than 80% of staff who responded would prefer flexibly for most of their working week. What Hybrid working does lead to is a diverse workforce whereby we are able to attract talent from up and down the country for some of our specialist roles, who previously would have been out of reach; and it enables those with disabilities to

contemplate a full time career with us, when for some this would have been a step to far due to their personal requirements.

The overall approach to managing employee performance – through appraisals, performance objectives and regular one-to-one meetings between manager and employee – has remained. But to ensure that our staff and managers are equipped to deliver the best outcomes in this new Hybrid world, NWOW have designed and introduced a series of training courses and advice sessions. For managers we have launched our “Managing Remotely” 2 half day workshop which equips managers with the skills to manage hybrid teams and to deliver optimum outcomes. It supports them to reflect and to consider how they manage in new ways. We have also launched a “Future Leaders” programme designed to create the Leaders we need now and in the future. For teams we are providing additional “on the shelf” resources to further support on ‘What makes a great team?’. This helps teams develop the skills to become a great team, through a mixture of facilitated sessions, online virtual classroom training and access to reading/materials to guide them. We have implemented a standard process called “Team Principles” where teams come together to determine how they are going to achieve their outcomes, how they are going to work, when they will meet face to face, how they will support each other etc. This is on top of the “owning and driving your own performance” initiative to drive up performance across the Council, an approach very active in Adult Services for example.

For individual staff members we have recently launched ‘Growing through Change’ to help staff learn to embrace and to feel more comfortable with change; and created a series of Focus Groups to co-create our approach to shape what we’re doing. This is all underpinned by the People Performance Officers who will work with every team across the Council to embed an agile working ethos, customer service principles and digital mindedness, all underpinned through a performance management culture. These posts will be managed by the new Organisational Effectiveness Team within People Services to ensure that NWOW is embedded into business as usual when the programme ends.

To ensure that performance is maintained in this new hybrid working, the corporate performance framework is being refreshed in line with the following framework, including updating of performance indicators and structures.



Making a positive difference every day to people's lives
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The Corporate Leadership have a monthly focus on performance across the Council which is supported by Directorate Performance Meetings. The Chief Executives 121s with Directors have a focus on performance and delivery.

With NWOW there is still the same requirement that managers will meet with their staff to agree yearly objectives and continue to meet regularly throughout the year to monitor progress. This will be underpinned through our Performance Guide which emphasises the role of all in delivering great outcomes for our citizens. The new Oracle system has an enhanced section for recording set objectives, and we are introducing a comprehensive Learning Management System which will come on line early next year to bring learning, talent and performance together in one place as we develop the concept of new ways of learning.

Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Here are some examples across the Social Justice, Community Safety and Equalities Portfolio where NWOW is having a positive effect are listed below:

Council Management

The People Services TOM is now in transition phase. Recruitment to the structure remains a priority. We have filled the three Assistant Director posts with two new appointments joining shortly. We have 5 of the 6 People Partners permanently filled (2 due to start in August). People Partners are in place in all

directorates and our operations delivery centre is live with a priority to ensure the continued success of Oracle implementation (hyper care to be extended).

We have agreed our priorities that the People Services team will deliver from now until the end of March 2023.

We are creating best in class advisory services and process improvements, and project managing high profile campaigns to put Birmingham City Council jobs front and centre e.g. upcoming Adult Social Services campaign (go live likely to be mid- June).

The Workforce Transition programme will help increase diversity and increase levels of employee engagement and resultant higher levels of performance to serve our customers more effectively and create a nimbler and more flexible workforce.

City Operations Directorate

Community Safety – The Community Safety Teams have transitioned into a permanent NWO approach that involves working from home 3 days a week with access to desk space 2 days a week. The approach has enabled the Community Safety Team to take part in more nationally held meetings as a result of reduced travel times and costs linked to flexible and hybrid working. It has also enabled more partners to take part in community safety meetings as hybrid working has helped remove local travel time between venues for meetings.

Bereavement - The service has rationalised property requirements. A project is underway to change the telephony system moving to one number. The service uses a hybrid model of working for office staff, where possible. There is a self-serve portal for genealogy enquires.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR SOCIAL JUSTICE, COMMUNITY SAFETY AND EQUALITIES FROM COUNCILLOR MORRIAM JAN

I5 ‘Afghan Refugees’

Question:

Britain evacuated about 16,000 people from Afghanistan last year when the Taliban seized control of the country with a number coming to Birmingham and being housed temporarily in hotels. Could the Cabinet Member give details of (a) the actual number of Afghan refugees that are still waiting for permanent accommodation in the City and (b) how many refugees, by nationality, are still waiting for permanent accommodation in the City?

Answer:

- a. There are no bridging hotels in Birmingham accommodating Afghan refugees temporarily. However, we are aware of Afghan refugees waiting for ‘permanent’ accommodation who are accommodated in hotels in other LA areas. BCC fulfilled its pledge in 2021/22 to welcome 80 individuals.
- b. The Refugee & Migration Team has worked with other LA areas to facilitate moves to Birmingham under the 22/23 pledge to welcome 110 individuals. Currently there are 30 individuals out of the 110 who are reviewing properties and waiting to settle more permanently into Birmingham. The term ‘permanent accommodation’ is ambiguous as all Afghan refugees that are welcomed into the City under the Afghan Relocation & Assistance Policy/Afghan Citizens Relocation Scheme are given tenancies that fall in line with the length of the scheme (3 yrs) as a minimum. The commissioned provider is currently sourcing accommodation in the private rented sector and it is hoped that these 30 families and individuals will be welcomed by the end of June 2022. The remaining 80 refugees will be accommodated throughout the year.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR SOCIAL JUSTICE,
COMMUNITY SAFETY AND EQUALITIES FROM COUNCILLOR IZZY KNOWLES**

I6 ‘Ukraine Refugees’

Question:

Could the Leader provide details of how many Ukrainian refugees have been successfully hosted in the City, broken down by ward?

Answer:

As of the 13th June, based on the ward breakdown 358 Ukrainian refugees from the Homes for Ukraine Scheme have been successfully hosted in the City.

Unfortunately, we do not have data on the number of refugees from the Family Visa Scheme that have settled in the City therefore this is not the total number of refugee arrivals within the City.

Of the 358, the table below provides the breakdown by ward

Ward	Number of Ukraine arrivals
Acocks Green	5
Allens Cross	8
Balsall Heath West	1
Bartley Green	7
Billesey	8
Bordesley & Highgate	2
Bournbrook & Selly Park	7
Bournville & Cotteridge	26
Brandwood & King's Heath	5
Druids Heath & Moneyhull	7
Edgbaston	34
Erdington	1
Frankley Great Park	5
Garratts Green	1
Gravelly Hill	2
Hall Green North	1
Hall Green South	13
Handsworth	3

City Council – 14 June 2022

Harborne	17
Heartlands	7
Highter's Heath	3
King's Norton North	7
King's Norton South	4
Kingstanding	2
Ladywood	10
Longbridge & West Heath	7
Moseley	56
Nechells	3
North Edgbaston	5
Northfield	14
Oscott	2
Perry Barr	1
Perry Common	2
Pype Hayes	1
Quinton	2
Ruby & Rednal	3
Sheldon	7
Soho & Jewellery Quarter	1
Stirchley	4
Stockland Green	1
Sutton Four Oaks	6
Sutton Mere Green	6
Sutton Reddicap	5
Sutton Roughley	13
Sutton Trinity	8
Sutton Vesey	9
Sutton Wylde Green	7
Weoley & Selly Oak	5
Yardley East	2
Holyhead	2

J1

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM COUNCILLOR BABER BAZ**J1 'Highways Maintenance Works Programme '****Question:**

Could the Cabinet Member provide full details, by ward, of work outstanding from the 2021/22 Highway Maintenance Works Programme as well as providing an estimation as to when this is likely to be completed?

Answer:

The outstanding works, by Ward, in the 2021/22 Highway Maintenance Works Programme are summarised in the tables below.

Table 1 – Carriageway Programme

Ward	Road	Scheme No	Works	Start	Finish
Sparkbrook & Balsall Heath East	Ansell Road	IWP2/CW/D03 /1	Carriageway	01/06/2022	08/06/2022
Edgbaston	Edgbaston Park Road	IWP2/CW/D01 /2	Carriageway	25/02/2022	10/06/2022
Acocks Green	Oakhurst Road	IWP2/CW/D10 /3	Carriageway	26/05/2022	10/06/2022
Sutton Four Oaks	Edge Hill Road	IWP2/CW/D09 /2	Carriageway	30/05/2022	10/06/2022
Quinton	Faraday Avenue	IWP2/CW/D01 /3	Carriageway	31/05/2022	10/06/2022
Yardley East	Queens Road	IWP2/CW/D10 /2	Carriageway	23/05/2022	14/06/2022
Sutton Trinity	Shooters Hill	IWP2/CW/D09 /6	Carriageway	09/06/2022	17/06/2022
Quinton	Firsby Road	IWP2/CW/D01 /4	Carriageway	15/06/2022	17/06/2022
Sutton Roughley	Grange Lane	IWP2/CW/D09 /4	Carriageway	09/06/2022	21/06/2022
Bournville & Cotteridge	Willow Road	IWP2/CW/D08 /6	Carriageway	10/06/2022	21/06/2022

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Handsworth & Holyhead	Rookery Road	IWP2/CW/D12/20	Carriageway	30/05/2022	22/06/2022
Hall Green North	Olton Boulevard West	IWP2/CW/D03/2	Carriageway	08/06/2022	22/06/2022
Perry Barr	Aldridge Road	IWP2/CW/D12/31	Carriageway	06/06/2022	23/06/2022
Weoley & Selly Oak	Reservoir Road	IWP2/CW/D08/5	Carriageway	13/06/2022	24/06/2022
Edgbaston	Ridgacre Lane	IWP2/CW/D01/10	Carriageway	17/06/2022	24/06/2022
Bromford & Hodge Hill	Old Bromford Lane	IWP2/CW/D04/4	Carriageway	17/06/2022	24/06/2022
Sutton Walmley & Minworth	Water Orton Lane	IWP2/CW/D09/9	Carriageway	24/05/2022	29/06/2022
Quinton	Simmons Drive	IWP2/CW/D01/12	Carriageway	17/06/2022	30/06/2022
Bromford & Hodge Hill	Hodge Hill Common	IWP2/CW/D04/3	Carriageway	27/05/2022	05/07/2022
Ladywood CC	Corporation Street	IWP2/CW/D11/2	Carriageway	04/07/2022	14/07/2022

Table 2 – Footway Programme

Ward	Road	Scheme No	Works	Start	Finish
Heartlands	Bordesley Green East	IWP2/FW/D12/2	Footway	28/03/2022	07/06/2022
North Edgbaston	City Road	IWP2/FW/D12/5	Footway	08/04/2022	08/06/2022
Perry Barr	Walsall Road	IWP2/FW/D12/17	Footway	21/04/2022	17/06/2022
Allens Cross	Nigel Avenue	IWP2/FW/D06/4	Footway	20/04/2022	20/06/2022
Perry Barr	Aldridge Road	IWP2/FW/D12/18	Footway	28/03/2022	22/06/2022
Longbridge & West Heath	Coney Green Drive	IWP2/FW/D06/3	Footway	04/01/2022	24/06/2022
Pype Hayes	Chester Road	IWP2/FW/D02	Footway	07/03/2022	29/06/2022

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		/1		22	22
Weoley & Selly Oak	St Denis Road	IWP2/FW/D06/6	Footway	28/03/2022	29/06/2022
Bordesley & Highgate	Tilton Road	IWP2/FW/D05/3	Footway	13/06/2022	30/06/2022
Bromford & Hodge Hill	Bromford Road	IWP2/FW/D04/3B	Footway	28/02/2022	08/07/2022
Quinton	Ridgacre Road	IWP2/FW/D01/4B	Footway	14/04/2022	08/09/2022

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM
COUNCILLOR PAUL TILSLEY**

J2 ‘School Safety’

Question:

**Could the cabinet member set out plans for rolling out the
promised money for school safety in wards?**

Answer:

Since Cabinet approval (March 2022) of the Transport & Environment CAZ funded programme, including an allocation to continue and enhance the School Streets programme, project planning has been taking place to expand on the existing work on safe and sustainable travel to schools.

A full business case for the School Streets programme is being developed, which will set out the details of how the funding will be spent and delivery taken forward.

In the meantime, a number of elements of the project have been accelerated to take place alongside the necessary project governance:

- Approvals have been granted to recruit two new officers dedicated to working with schools on School Travel Plans and School Streets measures – adverts are expected to be out soon.
- An application has been submitted to join Modeshift Active Travel Ambassadors scheme, a new initiative designed to increase participation in Modeshift STARS travel planning from secondary schools.
- A briefing for members is being planned, informing Councillors of
 - the offer to schools
 - the current level of participation from schools in their ward
 - how they can support school engagement
- Preparation has begun to undertake a review of Car Free School Streets eligibility criteria, identifying schools where a scheme could be feasible, and what alternative measures may be suitable in non-feasible locations. This will enable prioritisation of future schemes.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM
COUNCILLOR ROGER HARMER**

J3‘Electric Vehicle Transition’

Question:

Could the Cabinet Member provide an update on the delivery of the City Council’s strategy to speed up the transition to Electric Vehicles, including the number of new charge points installed and the proportion of the BCC vehicle fleet that is pure electric?

Answer:

The City Council’s EV charge point strategy (2021-2032) sets out the plan for the roll out of publicly accessible charge points across Birmingham. This is being delivered by the Council’s procured EV Charge Point Network Delivery Partner, ESB Ltd, where charge point installation is progressing using highways, public car parks, parks, leisure and recreation sites, as well as Transport for West Midlands ‘park & ride’ sites. In line with the strategy, this is being delivered alongside Private Sector development of charge points on privately owned sites.

This joint approach is enabling delivery of vehicle transition to electric, in line with:

- EV market growth – where EV make up is at 6% of Birmingham vehicle stock and evidenced through current charge point utilisation rates across Birmingham ranging from the highest usage per charge point at 37%, to the lowest at 2.5%.
- 70% of Birmingham households already having access to off-street parking where home charging is the preferred method for vehicle charging.
- The Council’s Transport Policy objectives that prioritise significant modal shift to public transport, walking and cycling.

106 charge points have been installed to date through ESB Ltd, with 38 charge points currently in construction. A total of 434 public charge points are now installed across Birmingham through ESB Ltd in conjunction with private sector developments.

In regard to the BCC owned vehicle fleet that is pure electric- in total there are 10 EV vehicles out of a total of 780 vehicles. However, it should be noted that making a direct correlation between these figures, needs to account for the Post Team for example, that operated 4 EV vans, but now only operates 1, as postal services are now digitised. The Adult Care Team operates 2 EV vehicles within a total fleet size of

57 vehicles, where 47 of the fleet vehicles are bespoke accessible mini buses. As such, electric versions have yet to be developed on the market. Similarly, this is the case for large specialist vehicles, trucks, caged vehicles being operated within other services, which make up the majority of the fleet. Whilst transition to net zero is being planned for within Council Service fleets, dependency on market availability is a key factor, as well as models of future ownership and financing.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM
COUNCILLOR IZZY KNOWLES**

J4 ‘2022/23 Highways Maintenance Works Programme’

Question:

Could the Cabinet Member provide full details, split by ward, of (a) the roads that are to be resurfaced as part of the 2022/23 Highway Maintenance Works Programme and (b) full details of the wards that have no highways allocated to the work programme for this period?

Answer:

The 2022/23 Highway Maintenance Works Programme is being prepared. It will be finalised after consultation with all councillors during the period 13th – 24th June 2022.

The list of wards that have no highways will be submitted on the week commencing 4th July 2022.

CITY COUNCIL – 14 JUNE 2022

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM
COUNCILLOR JON HUNT**

J5 'Average Speed Cameras on A34 Walsall Road'

Question:

Can the cabinet member say when the A34 Walsall Road will get the promised average speed cameras, now that bus lane work has finished? Her predecessor was aware of local concerns that the widening of the carriageway and the adding of lanes would increase the risks from racing and excessive speeding. My constituents have reported experience of this, seeing a small number of vehicles now reaching very high speeds on the Walsall Road and posing serious risks to pedestrians and other road users?

Answer:

The city council has a statutory obligation on road safety to fulfil but ultimately the responsibility for speed enforcement rests with the Police. The City Council is in negotiations with West Midlands Police to develop a new speed enforcement contract, in order to agree an operational business model that is more financially sustainable in the long term for the Council.

In the future, any new camera locations would be assessed on an updated criteria assessment for installation. Whilst the criteria have yet to be finalised, the prioritisation process will take into account:

- Whether the road is on the Key Route Network;
- The average speed of vehicles and the proportion of vehicles exceeding the speed limit; and
- The number and severity of speeding-related road traffic collisions.

As a result of the above, we are not yet in a position to bring forward new sites, but once any new programme has been established to identify new camera locations, the A34 Walsall Road will be assessed as promised, along with a number of other roads across Birmingham, to determine where average speed cameras would be of the greatest benefit.

CITY COUNCIL – 14 JUNE 2022

WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM
COUNCILLOR MATT BENNETT

J6 ‘New Ways of Working’

Question:

The Council Financial Plan states, with regard to New ways of Working that: “We intend that 80-85% of our workforce will continue to work in an agile and flexible manner; this has made a significant positive contribution to workforce equalities and talent management, opening up opportunities for example, to those with caring responsibilities to grow and develop in the workplace.”

Please provide us with evidence of the positive contribution that this way of working has had specifically within the different service areas of your portfolio. This should include information about performance against targets, the experiences of service users and the impact on recruitments, training and retention of junior and newly qualified staff.

Answer:

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City Council – 14 June 2022

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Included in NWOW are improvements in how we use technology, to support not only confidence and confidence in its use, but a desire to want to use it more effectively to drive down costs and increase customer satisfaction, and our property assets to enable better adoption of hybrid working and meeting our medium-term financial plan.

Some examples across the Transport Portfolios where NWOW is having a positive effect are listed below:

- Successful development and delivery of the CAZ, working with Government in an agile/remote manner.
- Successful development and delivery of CWG transport infrastructure working across the Council, WMCA and other games partners including government.
- Securing £10.5 billion capital investment from Government for the West Midlands metropolitan area working across the WMCA and with other local authorities;
- Successful delivery of the PFI maintenance programme.
- New and innovative 'virtual' methods of engaging and consulting with communities have been developed to allow scheme delivery to continue.

Birmingham City Council

City Council

12 July 2022



Subject: Independent Remuneration Panel

Report of: Satinder Sahota, City Solicitor

Report author: Ingrid Whyte, Head of Members Support

Ingrid.whyte@birmingham.gov.uk

0121 303 3239

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :

1 Executive Summary

- 1.1 The Independent Remuneration Panel membership was discussed at the Council Business Management Committee meeting of 27 June 2022, to appoint and recruit members of the Independent Remuneration Panel.

2 Motion

- 2.1 That the recommendation to appoint the following persons to the Independent Remuneration Panel as co-opted members is approved

Appointee

Honorary Alderman Carl Rice

Former Councillor Peter Fowler

Term of Office

15 Sept 2022 – 14 Sept 2026

15 Sept 2022 – 14 Sept 2026

- 2.2 That the recommendation to recruit the following, to the Independent Remuneration Panel is approved

To recruit

One Citizen Representative

One Appointed Representative

Term of Office

14 Sept 2022 – 13 Sept 2026

14 Sept 2022 – 13 Sept 2026

- 2.3 To note that City Council will be asked to confirm the appointment on 13 September 2022, of the Citizen and Appointed member following the recruitment exercise.

3 Background

- 3.1 Councillors receive allowances to support them in carrying out their work as elected representatives. The amount 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.
- 3.2 The Panel was established by the City Council at its meeting on 2nd July 2001.
- Current membership consists of:
- Four Citizen Representative, selected from a public advertisement;
 - Two appointed panel members, from 201, preference to be given to candidates representing trade unions or business;
 - Two co-opted panel members, drawn from former Councillor of the City Council who are no longer Members of the Council;
- 3.3 In August 2016, CBM confirmed the above balance of membership and that each Appointee should be appointed for four years.

Current position:

Member	Term of Office Expires
Citizen	31 Aug 2023
Citizen	31 Aug 2023
Citizen	31 Aug 2025
Citizen	Vacant
Appointed	31 Aug 2024
Appointed	Vacant
Co-opted	14 September 2022
Co-opted	Vacant

- 3.4 As set out in Part B4, 4.2 i (e) of the Constitution it is a function of Full Council to agree and/or amend the terms of reference for committees (other than Cabinet Committees) and to decide membership and to make appointments to them.

4 Options considered and Recommended Proposal

- 4.1 The term of office for the current co-opted member expires on 14 September 2022. There is also an existing vacancy. It is proposed that the appointees, set out in this report are appointed.
- 4.2 The resignations received during 2021/22 resulted in vacancies for a Citizen Representative and Appointed panel member. It is proposed to recruit to the vacancies and come back to City Council in September, following the recruitment exercise.

Public

Birmingham City Council**Report to Full Council**

12 July 2022



Subject: Proposed changes to the Council's Procurement and Contract Governance Rules

Report of: Rebecca Hellard, Strategic Director of Council Management

Relevant Cabinet Member: Councillor Mosquito, Cabinet Member for Finance and Resources

Relevant O&S Chair(s): Councillor Ahmed, Chair of Resources OSC

Report author: Steve Sandercock, Assistant Director of Procurement

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, provide exempt information paragraph number or reason if confidential:

Not applicable

1 Executive Summary

- 1.1 This report seeks consideration of changes to the Council's Procurement and Contract Governance Rules and recommendation for approval by Full Council.
- 1.2 Members are reminded that the Procurement and Contract Governance Rules establishes how the Council procures, enters and manages contract with third party suppliers. In addition, the rules form part of the formal constitution of the Council and are otherwise referenced as the Council's Contract Standing Orders.

A summary of key changes are:

	Old Procurement Governance Arrangements (PGA)	New Procurement and Contract Governance Rules
Layout/ Structure	Old rules known as Procurement Governance Arrangements	Change of name to Procurement and Contract Governance Rules
		Structure changed to aid and improve flow and readability of the document

	Current PGA layout does not clearly set out processes to be followed	Improved clarity on Thresholds and processes to be followed (Table 1) and Authorisations (Table 2)
Content	Currently references Public Procurement Legislation (Public Contract Regulations 2015) e.g. procedures like Competitive Dialogue and DPS which are no longer part of plans under the new Regulations	Removal of all reference to current Public Procurement Legislation (e.g. Public Contract Regulations 2015) and procedures as these are changing in the new drafts. Terminology in the new Rules has been future proofed.
	Currently no clear process on what happens if the PGAs have not been followed as set out	Inclusion of a Breach procedure if Rules not deemed to be followed
	Reference to Single Contract Negotiations (SCN)/ Multiple Contract Negotiations (MCN)	Amalgamation of SCN/ MCNs to a Negotiated Procedure with clearer reference as to what is included and when it can be applied
	No clear process in current rules to waive the arrangements, when or how permitted	Inclusion of a Waiver procedure which will set out circumstances when a valid request to waive the process as set out in the Rules is sought
	No clear process in current rules for scenarios that may be 'Out of Scope' of the rules	Inclusion of clearer details on what is 'Out of Scope' (and the Rules do not apply) e.g. Transactions regarding the purchase or lease of property, acquisition, disposal, transfer of land, or any interest in land which includes licenses.
Content	Current PGAs are ambiguous on the process to be followed in respect of emergency arrangements	Inclusion of Emergency Process and setting out of when the Rules can be set aside on grounds of an emergency
	Current threshold of up to £10k requires 3 quotations	Revision of thresholds – in particular <ul style="list-style-type: none"> Up to £5k – proceed to purchase £5k to £25k – Quotation / tender from 3 suppliers (2 local/SME) as a preferred
		Improved clarity on the “make or buy” consideration ahead of any consideration around running a new procurement process
	Current PGAs are ambiguous on respective roles	Improved clarity on roles and responsibilities of those involved in the process (Table A)

2 Recommendations

- 2.1 That the changes presented in the updated Procurement and Contract Governance Rules (Appendix 1) be approved as part the new Contract Standing Orders for the Council and incorporated into the Council's Constitution.
- 2.2 That delegate authority be granted to the Section 151 Officer and Monitoring Officer to agree any final minor changes and edits to the Contract Standing Orders and supporting procedural notes in conjunction with the Cabinet Member for Finance and Resources.

3 Background

- 3.1 The Council need to have a set of clearly understood rules for procurement and contract activity which ultimately form the Contract Standing Orders for the Council and are part of the Council's Constitution.
- 3.2 The current rules (known as Procurement Governance Arrangements) have been subject to a thorough review undertaken during winter 2021 / spring 2022 with Overview and Scrutiny Committee.
- 3.3 Through that review of Overview and Scrutiny Committee a number of recommendations were made, and these have been updated and incorporated into the new Procurement and Contract Governance Rules presented with this report.
- 3.4 The proposed revisions to the rules will affect both Officers across the Council in how they tender and contract manage contractual arrangements and also suppliers who either currently or those who seek to provide supplies, services or works to the Council.
- 3.5 The supporting procedural notes referenced in the updated rules are not referred to Full Council as they are primarily technical guidance and supporting the principles as set out in the new rules.

4 Options considered and Recommended Proposal

- 4.1 As noted, this report provides outcomes from the overall review and is further informed by consultation with a range of key stakeholders, both internally and externally. Changes are required and as such "no change" is not an option, the options available to members are:
 - i. To approve the Procurement and Contract Governance Rules as submitted with this report for incorporation into the Council's Constitution (the recommended option)
 - ii. To recommend revisions to the proposed Procurement and Contract Governance Rules
- 4.2 Either option is appropriate, but any amendments would need to be compliant with the current (and proposed) legislative framework and operationally appropriate for the Council.

5 Consultation

- 5.1 In addition to the engaged work with Overview and Scrutiny there has been extensive consultation during the development of the updated rules, this including:
- i. Supplier survey
 - ii. Internal survey with officers
 - iii. Diverse Allies Network
 - iv. Feedback sought from Extended Corporate Leadership Team
 - v. Direct input from Legal Services, Finance and Audit
 - vi. The Council's group of Companies, Birmingham Children's Trust and Acivico
 - vii. External partners including Birmingham Chamber of Commerce

6 Risk Management

- 6.1 The principle risks of not adopting the proposed changes can be summarised as:
- i. Inability for the Council to be more commercial in approach
 - ii. Missed opportunity to make the current process more streamlined and proportional
 - iii. Risk that current Procurement Governance Arrangements will not be fit for purpose when new legislative changes are made in Spring 2023

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 In respect of the Corporate Plan having an effective, proportional and fit for purpose Contract Standing Order will help support the development of successful value for money, well considered and commissioned supplies, services and works, and a well enabled supply chain including how the Council engages with local and Small Medium Enterprises.

7.1.2 The intention of the changes proposed will have a positive contribution to support the themes of Bold Prosperous Birmingham and Bold Inclusive Birmingham through streamlining of process and opportunities for local / Small Medium Enterprises through our tendering arrangements.

7.2 Legal Implications

7.2.1 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.

7.3 Financial Implications

- 7.3.1 Any cashable savings generated as a result of procurement exercises are to the delivery of procurement related savings and be removed from Directorate where identified in addition to the existing service area savings target as set out in the MTFP.

7.4 Procurement Implications (if required)

- 7.4.1 The subject of this report sets the fundamental principles for how the Council undertakes procurement and contract management arrangements. It is a legal requirement for the Council to have formal Contract Standing Orders, which is what is proposed with the report.
- 7.4.2 The Contract Standing Orders are required to work alongside the legislative public sector procurement Regulations and the review has taken this into account.

7.5 Human Resources Implications (if required)

- 7.5.1 There are no Human Resources implications to this report

7.6 Public Sector Equality Duty

- 7.6.1 There are no equality implications arising directly from the recommendations set out in the report.

8 Background Documents

- 8.1 Overview and Scrutiny Committee Report titled "Task and Finish Group on Procurement Governance Arrangements" – dated 24 March 2022
- 8.2 Procurement and Contract Governance Rules - Appendix 1

BIRMINGHAM CITY COUNCIL

Procurement and Contract Governance Rules (DRAFT)

Version: 0.4

Date: 17 June 2022

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SECTION 1 – 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.
- 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 to ensure 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
- 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 [Whistleblowing policy | Birmingham City Council Portal](#)
- 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.
- 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 Cabinet on a quarterly basis.

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	<p>Chief Officers must ensure the following arrangements are in place within their Directorate to:</p> <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.
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.
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

	<p>procurement activity and putting the contract management arrangements in place in accordance with the contract management framework.</p> <ul style="list-style-type: none"> • 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
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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	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
Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold	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
(Concessions / Utilities Contracts)						
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, in the award report, 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
£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) /	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

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Concessions / Utilities Contracts)			Quotation / Tender process
Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold (Concessions / Utilities Contracts)	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
Works Contracts: Over £250k but Below Threshold (or Concessions / Utilities Contracts)	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 £10m⁴ (or Concessions, Light Touch Regime or	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

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
Concessions or Utilities Contracts)			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.
Over £10m ⁻⁴	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 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)	Strategy Report by sign off by Chief Officer (in accordance with Directorate Scheme of Delegation approval level) and the Assistant Director – Procurement	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 Contract Negotiations
Negotiated Contracts - £200k to £500k ⁻⁴ (revenue) £200k to £1million (capital)	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 for Works Contract which exceeds £250,000

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
			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
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 Procurement Gateway process – click [here](#) for link

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 Chief Finance 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 has expired or is due to expire with no replacement provision any continued use of that Contract, shall be considered as a breach under the Breach Procedure.
- 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 Chief Finance 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. If the Full Cabinet Report including Strategy 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;
 - iii. the proposed length of the Contract exceeds by more than 12 months the term stated in the Planned Procurement Activities Report;
 - iv. there is a material change to the scope of the contract as set out in the Planned Procurement Activities Report;
 - v. there is a material change to the procurement approach set out in the Planned Procurement Activities Report.

Record of decisions

- 4.70. 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

- 4.71. Prior to commencement of a procurement due regard should be given as to whether an Equalities Impact Assessment should be completed, guidance for which can be found at :
https://intranet.birmingham.gov.uk/download/downloads/id/2016/equality_impact_assessment_guidance.pdf

Subsidy Control

- 4.72. 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.
- 4.73. 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 Finance Officer	Means the Section 151 Officer.
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	https://intranet.birmingham.gov.uk/info/20005/information_document_and_records_management/37/how_long_to_keep_records
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 delivery 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	In-house assessment PGA.ppt (sharepoint.com)
Light Touch	Means appropriate Contracts which 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	Means this document, also referred to as the Rules.

Governance Rules	
Procurement Gateway Process	Means the Gateway process that provides the series of reports that are required be these Governance Rules. See procurement gateway slides PGA.pptx (sharepoint.com)
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.

OVERVIEW AND SCRUTINY TASK AND FINISH GROUP PROCUREMENT GOVERNANCE ARRANGEMENTS

Steve Sandercock – Assistant Director – Procurement –
Appendix 1 - Information Pack 2022



Purpose of meeting



Recommendations



Recommendations – Outcome from O&S Task and Finish Group



Reminder – Current Rules



Reminder - Legal Requirements



Appendix 1A - Findings from Supplier and Officer surveys



Appendix 1B – Findings from Benchmark of other procurement rules



Additional Information – Purchase Card Spend

Recommendations - Thresholds

1. **Introduce an Initial Make or Buy decision for pre Procurement Stages** – e.g. use of in-house Council services, existing contracts (ensure relevant to directorate or corporate contract), or existing public procurement frameworks. To include contracts awarded under the PCR 12(1) (formerly referred to as the Teckal exemption) and contracts awarded under PCR 12(7) (e.g. establishing or implementing a public contract with another public sector entity);



Must be able to demonstrate Best Value (also covered in clause FR10 of the Constitution). Consideration on how this aligns to the Commissioning Strategy will also be taken. Evidence to be provided in the Pre-Procurement Report and must be proportional to the value of spend.

2. **Introduce proceed to purchase threshold for under £5,000** – e.g. authorisation to be obtained via the Scheme of Delegation.



Recommendation 1 must have been undertaken prior to proceed to purchase. Must be able to demonstrate Best Value.

Recommendations - Thresholds

3. **Introduction of new threshold to replace current £10k threshold with £5,000 - £25,000 level**, preference for three quotations (2 from local suppliers/ SMEs where possible), with a minimum of one quotation (local supplier/ SME where possible).



Quotations to be attached to Purchase Order for audit purposes. One quotation will only be excepted where there is demonstratable and justifiable reason for exception to three quotations.

4. **Increase lower threshold to £25k**, (or Light Touch Regime (LTR)/ Concessions or Utilities Contract Regulations (UCR16) where applicable); i.e. Contract advertised on finditnbirmingham.com, minimum of ten working days for submission of quotations and at least 3 quotations have been submitted (one quote from local supplier/ SME where possible) or; formal compliant tender procedure, formal advertising required and award published on contracts finder/contracts register.



Quotations to be attached to Purchase Order for audit purposes.

5. **Introduce new uppers thresholds (Works)**, £25k to £250k or to relevant PCR15 Threshold (Concessions or UCR16) – for improvement of clarity. Application of procedure in recommendation 4.



Threshold in line with current sealing requirements for Works.

Recommendations - Thresholds

6. **Over £250k (Works) or (Concessions or UCR16) up to PCR15 Threshold** – Application of Light Touch Regime where applicable; otherwise must follow a formal compliant tender procedure, must be advertised on Find a Tender and contracts finder, contract to be published on Contract Register. Must consult with relevant Head of Category (Procurement) and the Councils' E-tendering system must be used.
7. **PCR15 Threshold** (Supplies and Services, Works, Concessions, LTR or UCR16) - **£10 million**– Maintain current requirements, noting types of contracts that would need to follow a different procedure (i.e. signed off in detailed consultation with relevant portfolio holder(s))
8. **Over £10 million** – Maintain current requirements, noting types of contracts that would need to follow a different procedure (i.e. signed off in detailed consultation with relevant portfolio holder(s))
9. **Remove clause 2.3 v. under exemptions within the Constitution**

“Exemption from any Standing Order may be authorised by the Decision Maker PROVIDED THAT the Decision Maker is satisfied that the exemption is justified by special circumstances and the Decision Maker records in writing the ground(s) for being so satisfied as part of that decision.”

Recommendations – Exemptions/ Out of Scope/Waivers

10. Introduce a clear list of Out of Scope scenarios, these are exempt from PGA but must apply the relevant alternative governance. Following scenarios to be included:

- A contract for or on behalf of a school with a delegated budget, where the contract has been procured in accordance with the school's own formal procurement and contractual rules;



governed by Schools financial procedures manual.

- Contracts regarding the purchase or lease of property, acquisition, disposal, transfer of land, or any interest in land which includes licenses;



governed by the Head of Property Law.

- Legal charges, awards and disbursements (including all associated costs and fees) in connection with any and all legal proceedings;



governed by Civil Procedure Rules.

Recommendations – Exemptions/ Out of Scope/Waivers

- Offers of employment which makes an individual an employee of the Council.



Governed by the Employment Rights Act 1996. For further clarity - If BCC put out a contract for services and that person was self-employed and won the tender, it would still be a contract for services rather than a contract of employment. If however authority has been granted to recruit a perm / interim / consultant etc then, for the latter, the commissioning gateway process would need to be followed and it might be helpful to include a reference to that to ensure compliance with the process. [More info here engage recruit a non-payrolled worker](#)

- Insurance claim compensation.

11. Introduce a clear list of Waivers, following principles to be included:



reported under clause FB6 (iv) of the Constitution.

- In the event of a genuine emergency or a major disaster involving immediate risk to persons, property or serious disruption to Council services or significant financial loss, to the extent necessary to deal with the immediate risk.



This would be a temporary waiver (see recommendation 14)

- A contract where application of Procurement Governance Arrangements would create an impossibility for a supplier to provide the required supply, services or works, e.g. where application of 20% Social Value weighting would be impractical/ impossible.

Recommendations – SCNs/MCNs

12. Strengthen clarity of when Single Contractor Negotiations (SCNs) / Multiple Contractor Negotiations (MCNs) should be applied, following principles to be included:

- The purchase of a named product required to be compatible with an existing installation;
- The purchase of proprietary or patented goods or materials or services which, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available;
- The creation or acquisition of a unique work of art or artistic performance.
- Carrying out, with the approval of the Section 151 officer, security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done
- The execution of works or the supply of goods or services are controlled by a statutory body.
- The execution of works / supply of goods or services for which it can be demonstrated that no genuine competition can be obtained.
- The execution of works or supply of goods or services are of a specialised nature which, are carried out by only one supplier, and where no reasonably satisfactory alternative is available.

To be applied in meaningful consultation with the relevant portfolio holder; to include outcomes of consultation, alterations to recommendations, date of consultation etc.

Recommendations - Breaches

13. Incorporate a clear Breach Procedure, proposed principles being:

- Any exemption sought after contract award has been completed will be classed as a breach with initial referral to the Head of Category to undertake initial investigation. The investigation will consider intent, the individual circumstances and the impact of the alleged breach.
- Investigations and actions taken will be proportionate to the nature and risk the breach poses to the Council.
- Where the Head of Category upholds the breach, the matter will be referred to the Assistant Director - Procurement, to agree the appropriate course of action. Where required the Breach will be referred to the relevant Assistant Director within the service area to take the appropriate action, this may include the Council's Disciplinary and Capability Procedure or service sanctions where appropriate e.g. repeated and wilful breaches.
- Report on the number of breaches raised to be sent to Cabinet on a quarterly basis.

Consideration will be given to ensuring that proportionality is applied to both the breach and consequence. Potential report to cabinet under a certain threshold, above threshold to go to Cabinet for agreement. Breach procedure to give due regard to any legal and HR requirements.

Recommendations – Other Areas

14. Improve clarity of actions to be taken in case of emergency–



Consideration given to the Emergency Plan, Business Continuity Plan and the Proposed New Contract Regulations.

15. Align authorisations for sign off in line with Scheme of Delegation, following principles to be included:

- Scheme of Delegation to cover entire contract life including all potential extensions

16. Contract Extension rules to be updated during document update, following principles to be included:

- Extensions to be signed off under Scheme of Delegation – where there is an existing option to extend.
- Expired Contract End Date – commence new procurement in line with Procurement Governance Arrangements.
- SCNs/MCNs are not to be used to extend contracts.



Constitution Part D - Clauses 2.1 i. and vii.; to be reinforced during training.

- Contract duration (plus any extensions) should be appropriate to the market for the contract – where practical use short extensions to create breaks for review (i.e. 2+1+1 instead of 2+2).

Recommendations – Other Areas

17. Contract Management rules to be updated during document update, following principles to be included:

- Clear identification of Contract Manager for each contract whether Corporate or Directorate contract.
- Contract Management and Social Value training to be given
- Suite of templates for contract managers

18. Contract Variations procedure to be updated during document update

19. PPAR (Planned Procurement Activities Report) to be advertised on internet – opportunity for suppliers to review and allocate resource to upcoming tenders. This will increase opportunities for SMEs that do not have bid teams. PPAR document to be reviewed to ensure that enough information is contained to enable supplier confidence to bid.

20. Expiring contracts report – report to directorates and scrutiny monthly/ quarterly highlighting contracts due to expire within the upcoming 12 months; enabling the commissioning process to commence and procurement activities to be included in Procurement Workplan for allocation of resource. Oracle will automate this. Contracts with a duration of over 4 years to be flagged to scrutiny more than 12 months in advance of expiration.

21. Clear clause in tender documents and quotations to highlight Route to Zero – where applicable.

Recommendations – Open Audit

22. Open Audit recommendations to be addressed in the update of documentation.

The Council's rules for extending contracts need to be made clearer in both Standing Orders and Operation of Procurement Governance Arrangements.

In particular, there needs to be clarity and consistency regarding:

- which type of report template to use;
- authorising officer(s);
- under what circumstances a SCN as opposed to Contract Extension Report should be used;
- under what circumstances a combined SCN and Delegated Award Report may be used.

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
1.	Introduce an Initial Make or Buy decision for pre Procurement Stages;			
2.	Introduce proceed to purchase threshold for under £5,000;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training and guidance on the new procedures and documents to support culture change	All agreed subject to further guidance other than Cllr Jenkins
3.	Introduction of new threshold to replace current £10k threshold with £5,000 - £25,000 level;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training and guidance on the new procedures and documents to support culture change	All agreed subject to further guidance other than Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
4.	Increase lower threshold to £25k;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins
5.	Introduce new uppers thresholds (Works);	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins
6.	Over £250k (Works) or (Concessions or UCR16) up to PCR15 Threshold;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
7.	PCR15 Threshold (Supplies and Services, Works, Concessions, LTR or UCR16) - £10 million - Maintain current requirements	As per letter, we believe the £10m threshold is far too high and should be reduced in line with other authorities	<p>Current requirements included in column C.</p> <p>This has to go through to Cabinet via PPAR and Cabinet can chose to delegate award decisions authority to officers or not.</p> <p>Option A - Lower the threshold and review capacity required, attach Cllr Jenkins letter.</p> <p>Option B - Note types of contracts that would need to follow a different procedure (i.e signed off in detailed consultation with relevant portfolio holder(s))</p> <p>Option C - Keep the recommendation as is, noting not all parties agreed.</p> <p>Note: (41 contracts above £5 million, 25 contracts above £10 million, 203 contracts between PCR15 (Supplies and Services) and £10 million)</p>	<p>3 votes Option B</p> <p>1 vote Option A</p> <p>1 vote Option C</p>

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
8.	Over £10 million – Maintain current requirements	As per letter, we believe the £10m threshold is far too high and should be reduced in line with other authorities	<p>Current requirements included in column C.</p> <p>Option A - Lower the threshold and review capacity required, attach Cllr Jenkins letter.</p> <p>Option B - Note types of contracts that would need to follow a different procedure (i.e signed off in detailed consultation with relevant portfolio holder(s))</p> <p>Option C - Keep the recommendation as is, noting not all parties agreed.</p> <p>Note: (41 contracts above £5 million, 25 contracts above £10 million, 203 contracts between PCR15 (Supplies and Services) and £10 million)</p>	As Above (Recommendation 8)
9.	Remove clause 2.3 v. under exemptions within the Constitution			Agreed

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
10.	Introduce a clear list of Out of Scope scenarios;			Agreed
11.	Introduce a clear list of Waivers;			Agreed
12.	Strengthen clarity of when Single Contractor Negotiations (SCNs) / Multiple Contractor Negotiations (MCNs) should be applied;	As per letter, we believe that delegated authority should be removed for SCNs so that there is cabinet member level sign off justifying its use	To be applied in meaningful consultation with the relevant portfolio holder, to include outcomes of consultation, alterations to recommendations, date of consultation etc.	Agreed except for Cllr Jenkins
13.	Incorporate a clear Breach Procedure;	Where a failure to follow process in a timely way means that following the full procurement route is not an option, delegated authority should be removed and cabinet member level sign off should be required	Detailed work is required around the breach process and that proportionality is applied to both the breach and consequence. Consideration will be given to this point. Potential report to cabinet under a certain threshold, above threshold to go to Cabinet for agreement. Breach procedure to give due regard to any legal and HR requirements.	Agreed

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
14.	Improve clarity of actions to be taken in case of emergency;	It should be made clear within this that failure to act in a timely way is NOT a reason for emergency	Agreement that there would be clear definition within the constitution and we will reinforce in both wording and training that failure to act in a timely way will not constitute an emergency	Agreed
15.	Align authorisations for sign off in line with Scheme of Delegation;	Support subject to other changes		Agreed except for Cllr Jenkins
16.	Contract Extension rules to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins
17.	Contract Management rules to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins
18.	Contract Variations procedure to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
19.	PPAR (Planned Procurement Activities Report) to be advertised on internet;	Quality of information in the PPAR can be variable, need to ensure it is sufficient to serve this purpose	PPAR detail can be reviewed during document update. Comment to be taken into consideration, enough information for suppliers to feel confident to bid	Agreed
20.	Expiring contracts report to be sent to Directorates and Scrutiny (monthly/ quarterly);	For particularly large contracts - eg as with the original 25 year waste disposal - that run over many years then these need to be flagged earlier than 12 months to give sufficient time	Recognised - training with CMs on length of contract determining timescale for pre procurement. Flag to Scrutiny more than 12 months in advance for longer contracts	Agreed
21.	Clear clause in tender documents and quotations to highlight Route to Zero;			Agreed
22.	Open Audit recommendations to be addressed in the update of documentation.	Support subject to other changes		Agreed except for Cllr Jenkins

Reminder - Current Rules



- **Low Cost Quotations – Under £10,000**

Three written quotations to be gained via Find It In Birmingham, in line with the low-cost quotations Standing Orders. No further approvals are required

- **High Cost Quotations – £10,000 to Public Contract Regulations 2015 (PCR15) threshold (currently £213,477 inc. VAT).**

Contract to be advertised on finditinbirmingham.com and a minimum of ten working days allowed for the submission of quotations and at least three quotations have been submitted, or;

Use a suitable collaborative Framework Agreement

Reminder - Current Rules



Greater than the Public Contract Regulations 2015 (PCR15) threshold but below £10m:

- Cabinet can delegate decisions to Chief Officers through monthly Procurement Planning Activities Report (PPAR).
- Obtain approval from Delegated Procurement Report (DPR) to award the contract.
- Decisions to Cabinet where the estimated total contract value exceeds the figure stated in the PPAR by 20% or £500,000 (whichever is the lower), or exceeds £10,000,000

Greater than £10m or if TUPE of current Council staff is likely:

- Cabinet approval is required prior to the commencement of the procurement.
- At least three months in advance consult with Cabinet Members and include it on the Forward Plan. Cabinet Member for Resourcing and Finance should be consulted on ALL procurement reports, plus any additional related Cabinet Members.
- Award of contracts can be delegated to a Cabinet Member jointly with a Chief Officer, or to a CO via Delegated Procurement Report (DPR).
- Procurement Cabinet Reports require consultation with relevant Scrutiny Chair.

Reminder – Legal Requirements



- The Public Contract Regulations 2015 require wider public sector bodies to publish all advertised UK public sector procurement opportunities and contract awards above £25,000 on Contracts Finder.
- The Local Government Transparency Code 2015 –
 - ✓ Publish details of all expenditure that exceeds £500
 - ✓ Publish all Government Purchase Card (GPC) expenditure
 - ✓ Provide invitations to tender details for goods and/or services with a value exceeding £5000
 - ✓ Provide details of grants to voluntary, community or social enterprise organisations
 - ✓ Provide details of contracts, commissioned activity, purchase orders, framework agreements and any other legally enforceable agreement with a value that exceeds £5,000.

Update – Planned Public Sector Procurement Regulations

A summary provided in **Appendix 1**, key points for us to consider:

- Maintaining the principles, “*public good; value for money; transparency; integrity; fair treatment of suppliers and non-discrimination*”
- Maximising opportunities for example Most Advantageous Tender around local considerations
- Agility to utilise the right and appropriate procedure for best outcomes
- Applying proportionality



Reminder - Scheme of Delegations

Constitution – Part E

2.2 Process and Recording of Delegated Decisions

- (i) All decisions with a value of £50,000 or more made by Officers under delegated powers should be recorded in writing and a single copy for each Directorate produced to the Chief Executive and the Leader/Deputy Leader on the 30th September and 31st March of each year.
- (ii) Additionally, all decisions taken by Cabinet Members (based on a written report by the Chief Officer) should be recorded using the prescribed template. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.

Reminder - Scheme of Delegations

3.2 General Delegations

The Chief Executive and Chief Officers have the following delegated powers in respect of all matters which are not “key decisions” and not reserved for decision by the Council or by a Committee of the Council:

- (i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:
- The sum expended is within the approved budget for the Directorate and/or relevant portfolio, (Steve) and
 - The amount in relation to any single matter does not equal or exceed £200,000 (Becky) or
 - The amount in relation to any single matter that is at or above £200,000 and below £500,000 (revenue) or £1m (capital) is a Cabinet Member(s) decision (based on a written report from the Chief Officer).
 - The requirements of the Financial Approvals Framework in this Constitution and other requirements in the Constitution are complied with.
-

Reminder - Scheme of Delegations

3.2 General Delegations (continued)

(iii) To approve tender strategies and award contracts in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed are between the Procurement Threshold (£181,302 as at September 2019) and £10,000,000 in value, over the contract length.

(iv) Where no other viable alternative exists to approve contract extensions, where no extension option in the contract exists, in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed do not exceed £500,000.

How To Guide - Procurement

2.1 Tender Approval

Before a tender exercise is undertaken approval must be gained. The level of approval required is dependent on the anticipated value of the award. Table 1 shows levels of anticipated value and authorisation required.

A high-level precis of approval thresholds for Options Appraisal and Full Business Case decisions is (for comprehensive guidance please refer to the Gateway and Related Financial Approval Framework (at 9.23 to 9.26 of the Financial Regulations in the Council's Constitution).

Revenue:

- Up to £200k – Chief Officer
- Between £200k - £500k - Joint Cabinet Member and Chief Officer
- Above £500k - Cabinet

Capital:

- Up to £200k – Chief Officer
- Between £200k - £1m - Joint Cabinet Member and Chief Officer
- Above £1m - Cabinet

Overspends - Revised Full Business Report must be approved by the relevant decision maker – Refer to Part D Constitution page 13

How To Guide - Procurement

Contract Value	Pre-procurement		Post-procurement	
	Reports	Approvers	Reports	Approvers
Below £10k	Email approval	Budget holder	Email approval	Budget holder
£10k to £189,330	Email approval	Budget holder	Chief Officer Award Report	Chief Officer (in accordance with your directorate delegated approval level)
£189,330 to £10m	PPAR	Cabinet	Award Report	DPR
	FBC &Strategy Report	DPR		
£189,330 to £10m (Framework)	PPAR	Cabinet	Strategy Award Report	DPR
Above £10m	FBC & Strategy Report	Cabinet	Award Report	Cabinet
SCN / MCN Reports	Governance follows the above based on value			
Where there is not adequate time for the activity to be included on the PPAR, a separate executive approval can be sought				
£200k to £500k (revenue) £200k to £1m (capital)	FBC & Strategy Report	DPR + Cabinet Member and Chief Officer	Award Report	DPR

Table 1 – Tender value and approval required

Appendix 1A – Findings from Supplier and Officer surveys

Findings from Survey - Suppliers



- Sent to Chamber, FSB, FIIB, BVSC, iSE, Locality and some current suppliers
- 51 response received

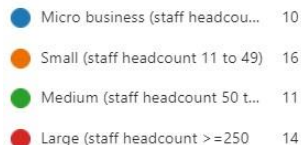
Have you ever tendered or bid for business with Birmingham City Council?

[More Details](#)



What type of business are you?

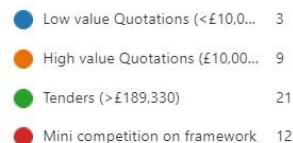
[More Details](#)



What type of work have you bid for previously (with Birmingham City Council)

[More Details](#)

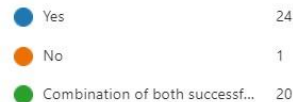
[Insights](#)



Were you successful in your previous bid/bids (with Birmingham City Council)

[More Details](#)

[Insights](#)

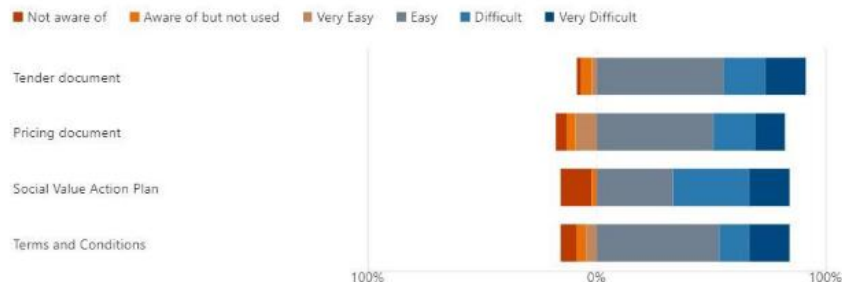


Findings from Survey - Suppliers



Please provide feedback on the complexity of our tender documents. How easy have you found these to understand when bidding?

[More Details](#)



Do you know where to find Birmingham City Council's Constitution and Procurement Governance Arrangements? (I.e. the rules we have to follow in conducting our procurement.)

[More Details](#)

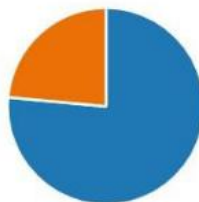
[Insights](#)



Have you ever tendered or bid for business with another Local Authority?

[More Details](#)

[Insights](#)



Are you registered on FindItInBirmingham?

[More Details](#)

[Insights](#)



Findings from Survey - Suppliers



KEY MESSAGES

- Vast majority have bid to the Council before
- More than half have been successful before
- All would bid to the Council in the future
- Social Value is the hardest element to understand – no correlation to size – Training needed
- Three quarters have bid to other councils before
- Two thirds are registered on Finditinbirmingham
- Little awareness of our upcoming procurement platform (Oracle) – Training needed
- Two thirds would be interested in a webinar on public sector procurement, vast majority of whom have tendered to the council before and no correlation to size

J. Would you bid for work with Birmingham City Council in the future?

[More Details](#)

[Insights](#)



L. Would you be interested in attending a webinar on how to bid for public sector contracts?

[More Details](#)

[Insights](#)



Findings from Survey – Suppliers – Quotes



BUREAUCRACY

- *For small contract and when dealing with small businesses or self-employed, completely overhaul the system to make it far more streamlined.*
- *The “Pre-Qualification process the standard questionnaire question sets could be automatically saved preventing duplicating the same information every time we tender*
- *Engaging in strategic commercial discussions with strategic partners to explore agreements which can deliver more value to the council.*
- *Looking at options for 1 quote / 3 quote exercise only for contracts of certain values to save time **and** Perhaps opportunities below the public tender threshold could be directly communicated to current/approved suppliers.*
- *Greater transparency of tender and publications of results and spread of contracts*
- *Clarification process. Turnover requirements to be eligible to bid .*
- *Lack of understanding of procurement of local services and social value / Easier social value navigation.*
- *Complexity & time is a factor for third sector organisations.*
- *Ridiculous amount of paperwork for small suppliers and having to keep chasing and chasing for payments **and** Getting the paperwork approved (completed perfectly from my end, just ridiculous 3 month delay from Birmingham)*
- *You're not transparent about what you are doing and why. You have no sense of proportion*

Findings from Survey – Suppliers - Quotes



LEARNING FROM ELSEWHERE

- *I would suggest looking global - New Zealand has some great practice in strategic alliances and integration based on population outcomes.*
- *Lloyd's bank foundation commissioning in crisis report has a great overview from vcs perspective*
- *Greater understanding of social value offered by smaller organisations. Look at turnover limits. Greater understanding of voluntary sector who are currently delivering services well to not exclude applications*
- *Yes, and very easy. Treat small suppliers and small contracts differently to multi-million pound suppliers and contracts. Completely streamline the process for smaller contracts and suppliers so that they can be approved within a couple of days and paid within 14 days instead of 28.*
- *Some Local Authorities apply an annual inflationary rate to their contracts to allow for inflationary increases*
- *When bidding for other local authorities we have in the past entered into Framework agreements*
- *Not many local authorities include such a detailed Social Value Action Plan as BCC*
- *Procurement processes are fairly similar - as they follow legal frameworks*
- *Other authorities have communicated post tender evaluations in a more timely manner*
- *Simplicity. We have worked with over 150 local authorities in UK and honestly, i have never dealt with one with such a complexed and long winded procurement process.*

Findings from Survey – Suppliers - Quotes



LEARNING FROM ELSEWHERE

- *Online tender applications seem to work better than manually uploading documents to a portal.*
- *Clear instructions Clear direction Clear requirements and scope Clear timeframes*
- *Other Local Authorities undertake more market engagement activity which assists us in meeting their needs.*
- *Co-production for service specification is good practice Information sharing events with commissioners prior to the tender being released*
- *Other LAs are easier to work with as they are more open and transparent in how they deal with the private sector. BCC appears to operate from closed approach fraught with suspicion of the people they are seeking to do business with.*
- *Please give advance notification of large tenders to allow adequate time to plan and resource responses. Please also stick to timescales for releasing tenders and making a decision.*
- *The documentation either needs to be in plain English or have advisors on hand to help wade through the jargon*

Findings from Survey – Suppliers - Quotes



PROCESS

- *Timeframes for submission could be longer , TUPE information being to hand*
- *Generally a very easy process, evaluation timescales can be protracted **Versus** The immensely long procurement process and steps / complex process to work with BCC*
- *Timescales, everything takes so long, and its never clear where we are in the process.*
- *Timelines are usually not met once the tender has been submitted with little or no feedback. We call it the BCC blackhole - you submit a tender and then never hear anything again!*
- *Concise information and market events to clarify information / Good premarket engagement*
- *Please give advance notification of large tenders to allow adequate time to plan and resource responses.*
- *Please also stick to timescales for releasing tenders and making a decision.*
- *Pricing schedules are complex but it is very clear to understand from them exactly how much the service will cost.*
- *It is very difficult to add any social value local to the area for a business of our size and the specialist nature of our services.*

Findings from Survey – Suppliers - Quotes



TRANSPARENCY

- *If the council has an internal price for jobs carried out be useful to be able to view these and hopefully comeback with a lower offer..*
- *Greater transparency of tender and publications of results and spread of contracts*
- *it's about consistency, including the way BCC works with different sectors e.g. private and third sector, there seems to be a mindset (in some quarters) that the third sector simply works for BCC and no one else. Plus scale, the 'big boys' move in with resources and tools smaller more local providers do not have; the systems, or questions, make it difficult for BCC to differentiate meaning 'slick' nationals talk the talk, but don't deliver real value and have no longevity*
- *Publishing a pipeline of procurement activity will allow businesses more time to secure the necessary resource to deliver the Council's requirements **and** Advance notice of future tenders Longer period for tender return / Getting visibility to future projects to secure adequate resources*
- *Use a well known stable portal such that all potentially interested parties have notification of any tender opportunity, and the time to prepare a robust and thorough response.*
- *We need to get away from the suspicion and distrust and get to an open and transparent position. Where we can trust each other confidently and therefore the communications are better. BCC has made some difficult decisions in the past, some very poor decisions such as competitive tendering which saw the care services market increase exponentially*
- *You really don't seem to actually value local businesses employing local people in your processes.*

Findings from Survey – Suppliers - Quotes



ENGAGEMENT

- *Look at ways to support third sector organisations to secure work.*
- *Get the supplier paperwork sorted properly and pay suppliers within 28 days.*
- *Consideration of longer term contracts (3 years plus 2 ?) - longer term contracting in this situation would be beneficial to procurement process/cost as well as better for longer term planning on the contract /for service users*
- *Allow for adjustments to standard framework rates*
- *This is a positive point. I feel BCC is one council that understands how important service is and does not just take the cheapest quote.*
- *Our services are labour intensive and the cost of that labour goes up each year on a statutory basis as the Government changes the National Living Wage, so a clear understanding of how and when contract pricing can be reviewed is important.*
- *The tenders are usually very technical and times consuming. Officers do not think about bidders and usually run tenders with closing dates after a holiday such as first week of January. This means cancelling leave for bid writing teams. This all favours larger corporate businesses who have dedicated bid writers and is contrary to aims within the business charter.*

Points to consider from Survey – Suppliers



- How to make the process proportional to suppliers, e.g. SME / Large
- Improve arrangements on awareness / comms around how to tender / do business with the Council
- Improve clarity on Social Value process
- Review and streamline documents and process
- Consider publishing pipeline for tender opportunities
- Improve documentation and communication of those documents (Intranet / Internet)

Findings from Survey –Officers

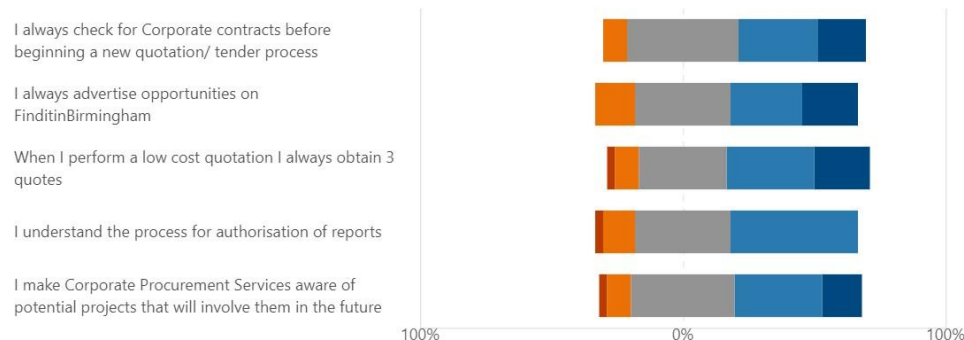


Survey sent direct to extended CLT for distribution to key managers, with 33 responses, which is noted as a small sample compared to overall workforce. Key findings being:

- Typically, positive responses around agree / strongly agree to following agreed approach ~65% upwards

Please indicate the degree to which you agree with the following statements

Strongly disagree Disagree Agree Strongly agree N/A to myself



Findings from Survey –Officers



- Typically, positive responses e.g. agree / strongly agree to understanding process. With exception on Frameworks, Dynamic Purchasing Systems, Contracts and quote process. Approx 2:1 ratio, which also relates to ability to understand the rules (D2 and D3)

Please state how easy it is to understand section D2 - Rules relating to contracts

[More Details](#)

Easy to understand Difficult to understand

2.2 Definitions

2.4 Quotations

2.5 Negotiated contracts

2.6 Framework agreements



Please indicate the degree to which you agree with the following statements

[More Details](#)

Strongly disagree Disagree Agree Strongly agree N/A to myself

I understand when to use a quotation

I understand the difference between low cost and high cost quotations

I understand when to use a Single Contractor Negotiation / Multiple Contractor Negotiation

I understand when a tender process is required

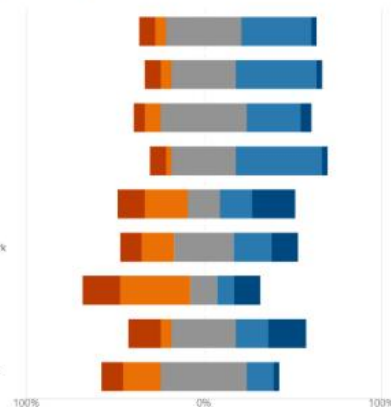
I understand how to establish a framework that I manage

I understand how to call off an established framework

I understand Dynamic Purchasing Systems

Contracts that I let would generally use a non negotiated process (i.e. restricted/ open)

£10,000 is the optimum threshold between low cost and high cost quotations



2.7 Submission of quotations and tenders

2.8 Evaluation and award

2.9 Content of contracts

2.10 Execution of contracts



Findings from Survey –Officers



Please state how easy it is to understand section D3 - Procurement Governance Arrangements

[More Details](#)

■ Easy to understand ■ Difficult to understand

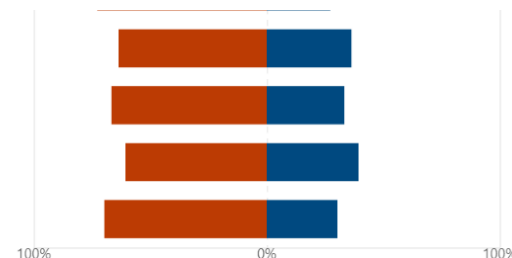


3.6 Combined Strategy and Contract Award Report

3.7 Contract Extension Report

3.8 Framework Agreements

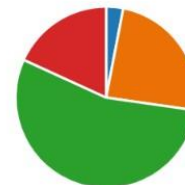
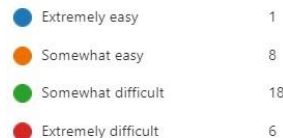
3.9 Record of Decisions



- Application of the rules seems more challenging

How easy do you find it to apply the Procurement Governance Arrangements in what you do?

[More Details](#)



Findings from Survey –Officers



Do you find the Procurement Governance Arrangement enables or hampers you in your work?

[More Details](#)



13. What areas would you like to see as improvements in any future changes to the Procurement Governance arrangements

[More Details](#)

Strongly Disagree Disagree Agree Strongly Agree

13a. Simplified arrangements for running quotations / tenders



13b. Raising of thresholds under which 3 quotations / tenders are required



13c. Improved self service to undertake quotations / tenders



13d. Improved guidance / information e.g. specification process, undertaking quotation /...



13e. Improved guidance / information on Contract Management



13f. More joined up corporate contract arrangements



13g. Greater collaboration with other public sector organisations on procurement and tendering



13h. Training / lunch and learn session on procurement and contract management related topics



13i. Simplified rules to remove barriers / bureaucracy



13j. Greater networking opportunities to share best practice through MS Teams



13k. Other (expand in q14 below)



100% 0% 100%

Findings from Survey –Officers



CONTRACTS

- *“My response is based up contract extensions / modifications / variation process being absolutely confusing and contradictory. The process needs simplifying” and “various contract award processes which are contradictory”*
- *People are working in silos - there is no proper contract management and ownership of the contract. I don't even know if contracts are reviewed before being extended and this is involving thousands of pounds worth of contract*
- *Contract Extension Report - are these still being used in practice? I have seen extensions through SCNs and Cabinet Member reports. A Corporate Procurement Services officer I spoke to thought 3.7 had been removed.*
- *I manage contract, but I have had no training put in place to learn the ropes. Its been difficult navigating the process step by step- allocated person form CPS only available when asked by senior people. Not responding to queries or emails on time no matter how urgent. I think there should be an ilearn or instructor led course for all Officers grade 4 or above and involved in procurement, and this should be a pre-requisite before managing any contract.*
- *There is no information in the constitution on variations and when to use regulation 32 and 72. Clear guidance needs to be provided. Do contracts for quotations need to be signed off by Legal? Not clear on social value on SCN's or direct awards how is this captured and the clear processes for this. What happens with non compliant? /*

Findings from Survey –Officers



DEMOCRATIC PROCESS / SCHEME OF DELEGATION

- *The procurement governance arrangements don't align with other delegated powers to Cabinet Members and Chief Officers. e.g. in our area projects listed in the Capital Programme have delegated authority to the Cabinet Member for spend up to £10m and to Director for up to £2m to save on the need to take a Cabinet report through, however you still end up needing to take a PPAR and strategy report as those delegations are not there. So in reality we end up doubling up reports, and staff get confused.*
- *It is not so much the government arrangements in terms of documentation, but trying to plan in how long it is likely to take for approvals and sign-offs which can be up to 8 weeks. Plus, arrangements do not allow for flexibility in extreme circumstances, and very rigid. Compliance is a major issue*
- *More delegations to officer to handle the tendering process and also certainly simplifying processes and bureaucracy*
- *A more streamlined reporting process for governance of higher value projects over £200K. i.e. where budgets and project objectives are pre-determined through other means e.g. grant awards and S106 legal agreements*
- *There really needs to be thought given to the levels of delegated procurement authorities to tie up with other spend delegations.*

Findings from Survey –Officers



HELP TRAINING SUPPORT AND GUIDANCE

- *I wouldn't mind some training on Procurement Governance Arrangement*
- *Most colleagues struggle with social value and needs to be simplified and in short form*
- *I have asked procurement for help on multiple occasions. As a new member of staff, I have not been offered help, a guide, or any resources to explain BCC's procedures for procurement and contracting. I find this really unsettling. and "I am new in post and need some support to guide me initially".*
- *It can feel as though the templates provided are not conducive to the nature of the work we invite tenders on.*
- *There are discrepancies between PGA in Standing Orders and Operation of PGA (the separate guidance document on CPS SharePoint folder)*
- *Its usually a case of resourcing. By having to go through a third party i.e. CPS there are often delays getting reports through the system or loaded on to Contracts Finder and Find-it in Birmingham. If there was a more direct route to these portals for Project Mangers that would be helpful.*
- *"I don't use it frequently enough to retain the knowledge and acquire expertise. As a result, it feels like starting from scratch each time" and "I only procure advice contracts every three years so each time i feel its quite a challenging experience".*

Findings from Survey –Officers



HELP TRAINING SUPPORT AND GUIDANCE

- *A single place for procurement information and guidance. Maybe a lunch and learn or iLearn module. At present guidance is not easy to find*
- *You need to ensure that new hires are given support to learn the processes correctly.*
- *Its difficult to find the latest versions of the forms without having to ask someone in CPS, taking up their time which is always stretched.*
- *Level of guidance and supporting templates seems to have become somewhat disjointed.*
- *Definitely need more learning opportunities as it is very important area to local gov and easy to get wrong.*
- *Need simplification/an idiot's guide for those who only do this infrequently.*
- *Please help us to help procurement and the Council save money, don't be a hinderance. Put in place audit arrangements to enable us to do the job right first time, provide sample checklists forthe process.*
- *I have been unable to find the Procurement Governance Arrangements on the intranet with a simple search*

Findings from Survey –Officers



KNOWLEDGE AND EXPERIENCE AND QUALITY OUTCOMES

- *The issue is around how reports are written where some directorates struggle in. The issue is not at the documentation and the procurement governance, the clients don't allow enough time to draft documents and reports and then expect it to be cleared in a couple of days.*
- *Clients want quotations issued straight away and the documentations are not fit for purpose to be released. They do not realise the importance of GDPR implications and whether its IT related, specifications are really poor, literally sometimes just a sentence and then expect it to go out, they just want it out.*
- *Lack of understanding in software as a service applications will force expensive procurement exercise to renew our particular licence.*
- *its very hard to get staff, to help you through the process, unsure if this is down to short staff within dept or lack of knowledge for what we need them for.*
- *There is often incorrect guidance given which leads to conflict.*
- *I find that I sometimes have the same conversations repeatedly with Procurement, and on occasion Procurement and Legal have offered contradictory advice and “I have struggled in the past to get consistent advice from CPS , or even timely advice”.*

Findings from Survey –Officers



TIMESCALES

- *The time element in setting up and processingso this is the process (1.) create a new supplier, (2.) then adding the contract to system, (3.) then raising/auth the Purchase Order..... this whole process can take 6/7 weeks!! and this sometimes can be after an event has been done.*
- *I appreciate that all tender processes have to go through Procurement but due to the volume of their work understandably it takes time for our tenders published.*
- *It doesn't align with the other general delegations for delivery of projects, it takes far too long when we have quick turnaround projects e.g. government suddenly award a grant for £5m to be spent in the next 12 months, we don't have time to wait 6 weeks to get something onto the PPAR*
- *Cumbersome and time-consuming*
- *The Council is not agile in procurement and delivery of contracts and whilst its is absolutely recognised the process needs to be fair open and transparent, the bureaucracy surrounding the whole process is unwieldy and cumbersome adding more cost in staff time than it saves in the procurement process.*

Findings from Survey –Officers



TIMESCALES

- *Simplified rules, in terms of extreme urgency that allows some flexibility, but more important approvals and sign-offs have to be done within a set period of time when received by the appropriate directorates, not the times it takes now for sign-offs which is adding months + to processes*
- *The one size hat fits all approach is not suitable for some of the shared services*

KNOWLEDGE AND EXPERIENCE AND QUALITY OUTCOMES

- *If we could learn to be able to do more simpler tenders our selves as we have staff that are more than capable of doing this, and have procurement staff there for guidance and support*
- *Directorates are poor at specifications etc as this is not their day job*

COMMUNICATIONS

- *Systems seem straight forward, however changes to arrangements or templates have generally not been well communicated. Time taken to get sign off of reports or advice / assistance causes significant operational difficulties. Historically there has been very poor level of document control.*

Findings from Survey –Officers



PROCESS

- *The use of Social Value from providers is not prominent. This is an area that could be strengthened to provide a better services for citizens of Birmingham and better use of public funds.*
- *Really need to sort out the bureaucracy - if the cabinet member has authority to deliver the project up to £10m, then why can he not also have the authority to award contracts to make this happen in a timely manner.*
- *Why do finance need to comment on a procurement strategy when it is surely a legal and procurement matter. The financial aspects would be picked up by the scheme approvals in the OBC or FBC.*
- *The quote and tender processes are fine, but thresholds for quotes should commence just under £25k inline with the contracts finder threshold*
- *Social Value and timescales are giving to prepare reports and documentations last minute and then expect to be cleared within 24 hours! The other thing can be improved the input on data protection and GDPR needs to be a quick turnaround.*
- *The process needs to be easier to navigate, quicker to process and less bureaucratic.*

Points to consider from Survey –Officers



- Look to improve / align governance levels, e.g. Scheme of Delegation and ensure proportionality
- Review process with wider consideration to proportionality
- Improve clarity on contract management and process around contract variations / guidance
- Improve guidance, training and support (both within Directorates & Corporate Procurement Service)
- Improve documentation and communication of those documents (Intranet / Internet)

Appendix 1B – Findings from Benchmark of other procurement rules

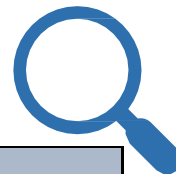
Findings from Benchmark of other procurement rules



VALUE LEVEL	Proceed to purchase	Min. 1 quotation	Min. 2 quotations	Min. 3 quotations/tenders
Under £500	Staffordshire			
Up to £2,000		Manchester		
Under £2,500	Sheffield			
Under £5,000		Bristol		
Under £10,000	Coventry Telford and Wrekin	Cardiff	Shropshire	Birmingham Leeds*
Under £25,000	Newcastle Nottingham	Bradford		Leeds*

* threshold can be increased to £25,000

Findings from Benchmark of other procurement rules



	From	To	Procedure
Birmingham	£10k	PCR 15	Obtain min 3 written quotations (where possible)
	Greater than PCR 15		Formal Tendering Activity
Bristol	£5k	£25k	Obtain min 1 written quotations, preference 3 (where possible)
	£25k	PCR 15	Obtain min 3 written quotations (where possible)
	£25k	£250k	(Works) Obtain min 3 written quotations (where possible)
Cardiff	£10k	£25k	Obtain 3 written quotations, (where possible)
	£25k	PCR 15	(GOODS & SERVICES) Open Advertisement for Tender
Leeds	£10k	£100k	Obtain 3 written quotations including 2 with Local supplier & or 3rd Sector Org (where possible)
	£100k	PCR 15	At least 4 written tenders (Where possible)
Manchester	£2k	£30k	Obtain 3 written quotations, or Quick Quotes (where possible)
	£30k	PCR 15	Open Advertisement for Tender to at least 3 Candidate (where possible)
Newcastle	£25k	£100k	Obtain 3 written quotations (where possible)
	£100k	PCR 15	Open Advertisement for Tender to at least 5 Candidate (where possible)
Nottingham	£25k	£100k	Obtain 3 written quotations (where possible)
	Greater than £100k		At least 3 written tenders (Where possible)
Sheffield	£2.5k	£150k	(GOODS & SERVICES) Obtain 3 written quotations including 1 with Local supplier (where possible)
	Greater than £150k		(GOODS & SERVICES) Open Advertisement for Tender to at least 3 Candidate (where possible)
	£2.5k	£50k	(WORKS) Obtain 3 written quotations including 1 with Local supplier (where possible)
	£50k	£500k	(WORKS) Obtain min 3 written quotations or full tender activity

Findings from Benchmark of other procurement rules



	From	To	Procedure
Bradford	£25k	PCR 15	Obtain 4 written quotations or Open Tender Process
	Greater than £150k		Open Advertisement for Tender via electronic procurement
Coventry	£10k	£99.9k	Obtain 3 written quotations - Approval by Procurement Panel
	Greater than £100k		At least 3 written tenders (Where possible)
Shropshire	£10k	£50k	Obtain 3 written quotations (where possible)
	£50k	£140k	Open Advertisement for Tender
Staffordshire	£500	£25k	Obtain 3 written quotations (where possible)
	£25k	PCR 15	Open Advertisement for Tender via electronic procurement
Telford & Wrekin	£10k	PCR 15	Request to quotations
	Greater than PCR 15		Open Advertisement for Tender via Delta

Additional insight to spend and procurement activities



Contract Awards over the Procurement Threshold (£189K)

- 63 awards (54 following a procurement process, 9 awards following SCN approval over the procurement threshold) (£181,908,619 value) approved under PPAR in 2020
- 46 awards (36 following a procurement process, 10 awards following SCN approval over the procurement threshold) (£411,626,045 value) approved under PPAR in Jan – Jun 2021

Awards following Approval of Single Contractor Negotiations from £10k to over Procurement Threshold

- 47 awards (£14,443,267 value) in 2020
- 31 awards (£17,391,906 value) in Jan – Jun 2021

Contract Awards below the Procurement Threshold (£10-£189k) – Quotations

- 83 quotations awarded from Jan 20 - June 21 (£5,207,276.86 value)

NOTE

Whilst monitoring of spend is regularly undertaken there is no formal process around reporting of spend that is non-compliant or in breach of the current Procurement Governance Arrangements.

Purchase Card Spend



April 2021 – December 2021 Total transactions – 41,688

Directorate - £2,588,541.15

Schools - £1,525,500.49

Children's Trust - £534,387.28

External Cards - £534,387.28

Acivico - £8,464.12

Total Purchase card spend - £4,942,755.62

April 2020 – March 2021 Total transactions – 39,554

Directorate - £2,911,216.23

Schools - £1,954,891.52

Children's Trust - £554,399.01

External Cards - £297,361.67

Acivico - £26,369.58

Total Purchase card spend - £5,744,238.01

Active purchase cards in circulation 2022:

BCC	Purchase Card	258
SCHOOLS	Purchase Card	103
BCT	Purchase Card	197
BCC	Virtual Card	26
SCHOOLS	Virtual Card	110
BCC	Fuel Card	170
BCC	Corporate Card	9
Mixture	Cash Cash	10
Acivico	Purchase Card	1
Total		884

Purchase Card Spend



BCC Total purchase card spend vs 15 other LAs – provided by CCS

Spend 20/21 FY - RM3828

Actual Customer	Spend
XXX City Council	£28,076,896
XXX Borough Council	£7,521,207
XXX County Council	£7,211,941
XXX Borough Council	£7,181,983
XXX County Council	£6,088,214
XXX County Council	£5,943,768
XXX County Council	£5,466,945
XXX Borough Council	£5,455,394
Birmingham City Council	£5,419,589
XXX Borough Council	£5,410,892
XXX Metropolitan Borough Council	£3,855,367
XXX Borough Council	£3,811,544
XXX County Council	£3,752,426
XXX County Council	£3,714,452
XXX Borough Council	£3,608,568
Total	£102,519,187

Spend 19/20 - RM1095

Actual Customer	Spend
XXX City Council	£38,682,820
Birmingham City Council	£9,434,542
XXX Borough Council	£8,170,296
XXX City Council	£5,615,484
XXX Borough Council	£5,597,246
XXX	£4,634,465
XXX Council	£4,476,543
XXX County Council	£4,046,695
XXX County Council	£3,950,691
XXX County Council	£3,903,416
XXX Metropolitan Borough Council	£3,787,162
XXX County Council	£3,619,529
XXX Council	£3,290,640
XXX City Council	£3,054,891
XXX Council	£2,887,452
Total	£105,151,873

Purchase Cards – Spend Limits

Highest Value Spend Limit (BCC) - £250,000 (1 card)

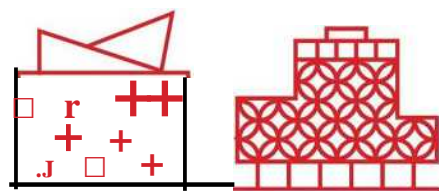
Lowest Value Spend Limit (BCC) - £200 (1 card)

Most Common Spend Limit (BCC) - £2,000 with £500 transaction limit (101 cards)

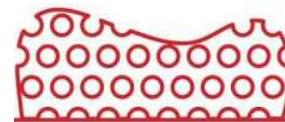
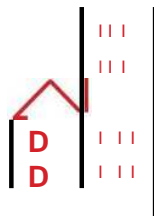
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Birmingham City Council

City Council

8 July 2022



Subject: (Other) Changes to the Constitution
Report of: Satinder Sahota, Interim City Solicitor
Report author: Christian Scade
 Interim Head of Scrutiny and Committee Services
 Tel: 07517 550013
 Email: christian.scade@birmingham.gov.uk

Does the report contain confidential or exempt information? ☐ Yes ☒ No

1 Executive Summary

- 1.1 The Constitution is reviewed on an ongoing basis through the year, with the aim of improving processes, providing further clarity, updating with good practice, guidance and legislation etc.
- 1.2 This report sets out proposed amendments to the Constitution and asks Council, following consideration by Council Business Management Committee on 27 June, to approve the changes.

2 Recommendations

- 2.1 That approval be given to the amendments to Parts A, B, C and E of the Constitution, set out via the Change Log at Appendix 1 and the tracked change versions attached at Appendix 2.
- 2.2 That the City Solicitor be authorised to implement the changes with effect from 9 July 2022.
- 2.3 That Council notes that proposed changes to Part D of the Constitution (Council Procurement and Contract Governance Rules) have been set out by the Assistant Director, Procurement via a standalone report (which is also on the agenda for Council to consider on 8 July).

3 Proposed Changes

- 3.1 The proposed changes are set out in the Constitution Change Log (Appendix 1) and in tracked change versions of the Constitution (Appendix 2). Minor

amendments to wording for clarity, consistency and accuracy reasons are set out in the tracked change document only.

- 3.2 The most significant changes relate to notice requirements for a key decision, including those that are of special urgency made by the Chief Executive.
- 3.3 The changes proposed to Part B3, B6 and E4 reflect queries that have been raised by the Conservative Group which have now been reviewed by officers, who sought external legal advice, to ensure best practice moving forward. The main changes can be summarised as follows:
 - Any key decisions which are urgent to be notified to the Chair of the relevant Overview and Scrutiny Committee as soon as possible prior to the decision being made; and
 - Once permission for the decision to be taken has been received from the Chair of the relevant Overview and Scrutiny Committee, a notice will be provided on CMIS setting out the reasons why giving 28 days' notice of the proposed decision was impracticable.
- 3.4 Updates have also been provided to provide clarity on what can, and what can't, be exempted from the definition of a key decision.
- 3.5 In relation to Chief Executive urgent decisions made since the summer of last year, the validity of these or risk to the Council is considered negligible given the vast majority related to Central Government COVID related spend. The other Chief Executive urgent decision from last summer related to the termination of a HTST provider.
- 3.6 The other changes are predominately administrative relating to:
 - **Part A. Summary and Explanation** – updated to reflect Cabinet Portfolios for 2022/2023.
 - **Part B1. Roles** – amended composition of the Council's Leadership Team (CLT), which is a matter for the Chief Executive to decide.
 - **Part B2. Responsibility for Functions** – updated job titles for the officers listed under "Delegation of functions to Committees or officers" to reflect recent changes to the JNC officer structure, including revised job titles which were approved by JNC Core Panel on 12 April 2022.
 - **Part B7. Cabinet Portfolios** – following the Leader's announcement, as part of the Annual Council Meeting, B7 of the Constitution was republished on 25 May 2022 to reflect the new portfolio responsibilities. Since then, there has been an additional change to the Deputy Leader's Portfolio, which now includes responsibilities for early Intervention and Prevention.
 - **Part B18. Summary of Quoracy** – this has been amended to correct a typo to ensure the number of members on Council Business Management

Committee is listed as 9, as agreed by Full Council on 24 May 2022, rather than 8.

- 3.7 No changes are proposed to Part C. However, it should be noted that this part of the Constitution was last updated/republished in February 2022 to reflect the revised Planning Code of Practice (Part C8) which was amended by Planning Committee on 24 February 2022.
- 3.8 There are also changes throughout to reflect recent changes to the JNC officer structure, including revised job titles agreed by JNC Core Panel on 12 April 2022.
- 3.9 A wider review of the Constitution is scheduled for the autumn. This will be taken to Full Council in November for consideration.

4 Appendices

- 4.1 Appendix 1 – Constitution Change Log
- 4.2 Appendix 2 – Constitution (Parts A, B, C, E) with tracked change amendments

Appendix 1

Birmingham City Council Constitution – Change Log for Proposed Changes – July 2022

Part A. Summary and Explanation

Section	Change	Reason
A. Summary and Explanation	Information in relation to Cabinet Members updated to reflect portfolios for 2022/23.	To update the Constitution following the Leader’s announcement, made at Full Council on 24 May, in relation to Cabinet responsibilities for 2022/23.

Part B – Roles, Functions and Rules of Procedure

Section	Change	Reason
B1. Roles	Amended composition of Council Leadership Team (CLT), set out at B1.7.	To reflect the updated composition of CLT, which is a matter for the Chief Executive to decide.
B2. Responsibility for Functions	Updated the job titles for the officers listed under “Delegation of functions to Committees or officers” in relation to the tables under B2.2 (Local Choice Functions) and B2.3 Council (Non-Executive Functions).	Administrative update to reflect recent changes to the JNC officer structure, including revised job titles agreed by JNC Core Panel on 12 April 2022.
B3. Decision Making	<p>Amended the wording at B3.1 to clarify what is exempt from the definition of a key decision.</p> <p>The following wording has been deleted and will no longer be listed as exempt from the definition of a key decision:</p>	For completeness and to ensure clarity in relation to statutory requirements.

Section	Change	Reason
	<ul style="list-style-type: none"> - A Treasury Management decision in relation to the making, payment or borrowing of a loan or investment in accordance with the treasury management strategy and policy (see B4.2i b); - A decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; - The settlement of proceedings to which Birmingham City Council is a party; - An urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time. 	<p>These first two bullet points have been deleted as if they are capital expenditure under £1m they won't be a key decision, and likewise if no revenue in excess of £500,000. The same applies for the now deleted Gold/Silver decisions bullet point below.</p> <p>This third bullet point has been deleted because for confidential settlement proceedings, it doesn't stop it being a key decision. It's just that you can withhold particulars about it that are confidential.</p>
B6. Executive Role, Functions and Procedure	<p>Amended the wording at B6.2, in line with external legal advice, to provide clarity on the rules of procedure for taking a key decision and the steps to be taken if/when key decisions are not published on the forward plan.</p> <p>Amended the wording at B6.6 to define, more clearly, the definition of an emergency and urgent decision.</p>	For completeness and to ensure clarity in relation to statutory requirements.
B7. Cabinet Portfolios	Following the Leader's announcement, as part of the Annual Council Meeting, there has been an additional change to the Deputy Leader's Portfolio, which now includes responsibility for Early Intervention and Prevention.	B7 was updated, and republished on 25 May, after the Annual Council Meeting. As a result, this update only reflects the additional update, in relation to Early Intervention and Prevention, which is a matter for the Leader to decide.

Section	Change	Reason
B18. Summary of Quoracy	Amended to correct a typo to ensure the number of members on Council Business Management Committee is listed as 9, as agreed by Full Council on 24 May 2022, rather than 8.	To correct a typo and reflect what was agreed by Full Council on 24 May 2022.
Throughout document	Wording and minor amends to tidy up and making meaning clearer	

Part C – Codes and Protocols

It's worth highlighting that Part C was last re-published in February 2022 to reflect the revised Planning Code of Practice (Part C8) which was amended by Planning Committee on 24 February 2022. However, no changes are proposed to Part C at this stage.

Part D – Procurement and Contract Governance Rules

Please refer to the separate agenda item for proposed changes to Council Procurement and Contract Governance Rules.

Part E – Scheme of Delegations

Section	Change	Reason
E4. Chief Executive	<p>Part B6.6 of the Constitution provides that the Chief Executive may make decisions that are of special urgency.</p> <p>In addition to existing provisions, changes proposed under E4 will ensure that the Chair of the relevant O&S Chair is also informed, as soon as possible, prior to any such decision being made. In addition, notification will be provided via CMIS of the intention to make any key decision which cannot be reasonably deferred.</p>	<p>For completeness and to ensure clarity in relation to statutory requirements.</p> <p>These changes will sit alongside the existing provisions within the Constitution which require the Chief Executive to consult with the Leaders of each of the Political Groups (which remains unchanged).</p>

Section	Change	Reason
	The changes proposed also distinguish between the rules of procedure for urgent key decisions and urgent non-key decisions.	To provide clarity.
Throughout document	Updated job titles / delegations	Administrative update to reflect recent changes to the JNC officer structure, including revised job titles agreed by JNC Core Panel on 12 April 2022.
Throughout document	Wording and minor amends to tidy up and making meaning clearer.	



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.

Deleted: Financial Regulations

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;

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

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Deleted: Education, Skills and Culture

Deleted: Homes and Neighbourhoods

Deleted: Social Inclusion, Community Safety and Equalities

Deleted: Street Scene and Parks

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

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](#)

Birmingham City Council Constitution
~~July 2022~~

Part A: Summary and Explanation
 Annex 1

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

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Deleted: Rules relating to Contracts

Deleted: Procurement Governance Arrangements



Birmingham City Council Constitution

Part B – Roles, Functions and Rules of Procedure

July 2022

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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

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

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Chief Executive, Children's Trust¶
Programme Director, Commonwealth Games

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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

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	<u>Strategic Director, Children and Families</u> OR the City Solicitor
To make arrangements for appeals regarding school admissions ⁹	Cabinet	<u>Strategic Director, Children and Families</u> 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	<u>Strategic Director, Children and Families</u> OR the City Solicitor
To make arrangements for appeals by governing bodies	Cabinet	<u>Strategic Director, Children and Families</u>
Any function relating to contaminated land ¹¹		<u>Strategic Director, City Operations</u>
a) to the extent that the function involves the formulation of a strategic policy	Cabinet	
b) to the extent that the function does not involve the formulation of strategic policy	Council	
The control of pollution or the management of air quality ¹²		<u>Strategic Director, Place, Prosperity and Sustainability and Strategic Director, City Operations</u>
a) to the extent that the function involves the formulation of a strategic policy	Cabinet	
b) to the extent that the function does not involve the formulation of strategic policy	Council	
To serve an abatement notice in respect of a statutory nuisance ¹³	Council	Licensing and Public Protection Committee <u>Strategic Director, City Operations</u>

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⁸ s34(4) Social Security Act 1998⁹ S94(1), (1A) and (4) School Standards and Framework Act 1998¹⁰ S95(2) School Standards and Framework Act 1998¹¹ Part IIA Environmental Protection Act 1990 and subordinate legislation¹² Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993¹³ s80(I) Environmental Protection Act 1990

To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area ¹⁴	Council	<u>Strategic</u> Director, <u>City Operations</u>
To inspect the authority's area to detect any statutory nuisance ¹⁵	Cabinet	<u>Strategic</u> Director, <u>City Operations</u>
a) to the extent that the function involves the formulation of a strategic policy	Cabinet	
b) to the extent that the function does not involve the formulation of strategic policy	Council	
To investigate any complaint about the existence of a statutory nuisance ¹⁶	Council	<u>Strategic</u> Director, <u>City Operations</u>
To obtain information about interests in land ¹⁷	Cabinet	<u>Strategic</u> Director, <u>Place, Prosperity and Sustainability</u>
To obtain particulars of persons interested in land ¹⁸	Cabinet	<u>Strategic</u> Director, <u>Place, Prosperity and Sustainability</u>
To make agreements for the execution of highways works ¹⁹	Cabinet	<u>Strategic</u> Director, <u>Place, Prosperity and Sustainability</u> and <u>Strategic</u> Director, <u>City Operations</u>
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
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	

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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

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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	<u>Strategic</u> Director, <u>Place, Prosperity and Sustainability</u>
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	<u>Strategic</u> Director, <u>City Operations</u>
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, <u>People Services</u>
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
Functions relating to Community Governance	Full Council / Council Business Management Committee	Chief Executive
Power to make, amend, revoke or re-enact byelaws	Full Council	-

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

²¹ As set out in Part E: Scheme of Delegations

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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	<u>Strategic Director, Council Management and Director, Strategy, Equality and Partnerships,</u>
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 function or has been specifically delegated by the Council	Full Council	-
Members Allowances Scheme To make, amend, revoke or replace a Members' allowances scheme	Full Council	City Solicitor

Deleted: Chief Finance Officer and Assistant Chief Executive

²² Item 39 of Para. I of Schedule 1 of the 2000 Regulations²³ Regulation 4(4) of the 2000 Regulations

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 <u>Chief Officer</u> 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. 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.	-	<u>Strategic</u> Director, <u>Place, Prosperity and Sustainability</u>

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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

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.		

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:
 - o In the case of capital projects, if they involve entering into new commitments and/or making savings in excess of £1M; or
 - o 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](#).

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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:

- A Treasury Management decision in relation to the making, payment or borrowing of a loan or investment in accordance with the treasury management strategy and policy (see [B4.2i b](#));³⁰ or
- A decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process;³¹ or
- 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;³² or
- The settlement of proceedings to which Birmingham City Council is a party;³³ or
- An urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time.³⁴

Commented [CS1]: These first two bullet points have been deleted as per vi) above if they are capital expt under 1m they won't be a key decision, and likewise if no revenue in excess of 500,000. The same applies for the now deleted Gold/Silver decisions bullet point.

Commented [CS2]: Bullet point deleted. This is because for confidential settlement proceedings, it doesn't stop reg 8 being engaged as a key decision. It's just that reg 9(1) allows you to withhold particulars about it that are confidential.

Commented [CS3]: Deleted for the reasons set out above i.e. Gold/Silver decisions are covered by vi) above.

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.

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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.

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 to Cabinet in the Quarterly Finance Monitoring reports

³¹ To be reported to Cabinet in the Quarterly Finance Monitoring reports

³² To be reported in the half yearly delegations reports (see [B6.8](#))

³³ See Part A: Finance. Contract and Legal Matters – Legal Proceedings; to be reported to the Deputy Leader as required

³⁴ To be reported to the Cabinet as required

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.

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 ³⁵:
 - o Community Safety Strategy.³⁶
 - o Statement of Licensing Policy under the Licensing Act 2003
 - o Statement of Licensing Principles under the Gambling Act 2005 ³⁷
 - o Plans and strategies which together comprise the Development Plan
 - o Youth Justice Plan.³⁸
 - 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;
 - o Commit the Council to significant expenditure over and above that already in the budget or over a long period of time;

³⁵ Some elements of the 2000 Regulations have been repealed by subsequent legislation.

³⁶ This fulfils the requirement to produce a Crime and Disorder Reduction Strategy

³⁷ This is the policy statement under the Gambling Act 2005

³⁸ Section 40 Crime and Disorder Act 1998

- Are significant in terms of its effect on the council's priorities;
 - 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 ³⁹

- 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;

³⁹ 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.⁴⁰</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.⁴¹</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;

⁴⁰ Where the Chair is not a councillor, the question may be directed to the ward councillor to answer on behalf of the resident Chair.

⁴¹ 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.⁴²

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;

⁴² 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 be defamatory, frivolous, vexatious or offensive;
 - 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 Chair ⁴³, 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.

⁴³ 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.⁴⁴ 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.

⁴⁴ 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.

Birmingham City Council Constitution
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 Procedure

Part B Roles, Functions and Rules of Procedure
 B5 Council Business Management Committee Role and

Deleted: May

- 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.⁴⁵. 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.
- 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

⁴⁵ 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

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.

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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.

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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,⁴⁶ 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](#)

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Deleted: of the matter to which the decision relates; and

⁴⁶ Regulation 10, The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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

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(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.

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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

varying Articles of Association, varying ownership and structure and varying share rights;⁴⁷

- 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 Cabinet Member as deemed appropriate by the Deputy Leader;
 - One Councillor member from each of the Opposition Party Groups.
- iv. The membership of the Committee shall be based on cross party representation.
- v. The quorum for a meeting of a Cabinet Committee shall be two Cabinet Members and a member of the opposition.
- vi. 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;

⁴⁷ 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

- That Committee Services has been notified of any substitution before the meeting begins.
- vii. 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.
- viii. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.

Rules of Procedure – Cabinet Committee: Group Company Governance

- ix. 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.
- x. 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.
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.

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
<u>Early Intervention and Prevention</u>	<u>To take a strategic lead in the development and implementation of the City Council's Early Intervention and Prevention services.</u>

7.3 Cabinet Member for Children, Young People and Families

The Cabinet Member has accountability for:

Area	Further detail
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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 Council's 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.
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
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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.

Area	Further detail
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.

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;
 - 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, Chairmen 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.
- iii. Any member of an overview and scrutiny committee (or sub-committee) 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").

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 and Children's Social Care O&S Committee shall be four; and three for the other O&S Committees.
- 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 governance (including transparency, regional working and partnerships); citizens (including communications and public engagement); performance; customer services; social cohesion; equalities and emergency planning.
- iii. These functions include:
 - 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;
 - b) determining, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;
 - 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) 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;
 - e) agreeing the establishment of any task & finish groups; and
 - f) considering overview and scrutiny development, working practices and constitutional arrangements.
- 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.

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 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.

Education & Children's Social Care 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 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.
- vii. The Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:
- a) Church of England diocese representative (one);
 - b) Roman Catholic diocese representative (one); and
 - c) Parent Governor representatives (two).

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

Health and Social Care Committee

- ix. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning adult safeguarding, social care and public health; and to discharge the relevant overview and scrutiny role set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, including:
- The appointment of Joint Overview and Scrutiny Committees with neighbouring authorities; and
 - The exercise of the power to make referrals of contested service reconfigurations to the Secretary of State as previously delegated to the Health and Social Care Overview and Scrutiny Committee by the Council.

Housing and Neighbourhoods Overview and Scrutiny Committee

- x. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning housing; waste management; neighbourhood management; parks and allotments localisation; bereavement services and community safety.
- xi. This Committee shall be the Crime and Disorder Committee (Police and Justice Act 2006).

Commonwealth Games, Culture and Physical Activity Overview and Scrutiny Committee

- xii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning Commonwealth Games; arts and culture; libraries and museums; sport; events.

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 sustainability; air pollution; transport strategy and highways.
- xiv. The Committee shall undertake the authority's statutory functions in relation to the scrutiny of flood risk management (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;⁴⁸
 - 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;⁴⁹
 - 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

⁴⁸ In respect of a licence or permission granted to an individual or in respect of an individual premises

⁴⁹ In respect of a licence or permission granted to an individual or in respect of an individual premises

any senior officer to attend before it to answer questions and provide information about any matter within its terms of reference..⁵⁰

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.

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

⁵⁰ 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.

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?
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	3 (inc. 2 Cabinet Members)
Health & Wellbeing Board * including one elected member	16	6*
Overview & Scrutiny		
Co-ordinating Overview & Scrutiny Committee	12	4
Education & Children's Social Care 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 C – Codes and Protocols

July 2022

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C1. CORPORATE GOVERNANCE CODE AND FRAMEWORK

Introduction

- i. Corporate governance is a phrase used to describe how organisations direct and control what they do. For local authorities this also includes how a council relates to the communities that it serves.
- ii. Our [Birmingham City Council Plan](#) articulates ambitions framed around our Birmingham City Council Plan 2018 -2022 as a city of growth where every child, citizen and place matters.
- iii. The purpose of our corporate governance arrangements is to devise and deliver services to the citizens of Birmingham in a way that demonstrates accountability, transparency, effectiveness and value for money, integrity, and inclusivity and which reflects corporate values.

Corporate Governance Code

- i. Our Corporate Governance Code and Framework is based upon seven Principles.
- ii. We will:
 - a) Behave lawfully, with integrity and in the public interest and demonstrate this through our conduct and behaviour.
 - b) Be open and engage with local communities, service users and our other stakeholders.
 - c) Focus our resources on outcomes and ensure council tax payers and service users receive excellent value for money.
 - d) Ensure we have clear responsibilities and arrangements for transparent and effective accountability.
 - e) Take informed and transparent decisions.
 - f) Ensure that we have robust and effective audit, scrutiny, information governance, risk and financial management controls.
 - g) Develop our capacity and capability to be effective.
- iii. It is the role of our Audit Committee to oversee and receive assurances relating to our governance arrangements and also to provide challenge on how our arrangements can be continually improved.

Principles

We will behave lawfully, with integrity and in the public interest, and will demonstrate this through our conduct and behaviour

<i>And commit to</i>	<i>Supported and evidenced by our</i>
Embed values and codes of conduct for both employees and councillors. Ensure that those who provide services on our behalf act in accordance with these principles. Deal with breaches of legal and regulatory requirements and ensure fraud, corruption and allegations of misuse of public funds are dealt with effectively.	Values and behaviours Members' Code of Conduct Officer Code of Conduct Partnership agreements Procurement Terms and Conditions Arrangements for the registration and declaration of interests (including gifts and hospitality) Anti-Fraud and Corruption Policy Complaints and Compliments procedures

We will be open and engage with local communities, service users and our other stakeholders

<i>And commit to</i>	<i>Supported and evidenced by our</i>
Ensuring that service users, local communities and other stakeholders have access to the council and are involved and consulted about major changes that may affect them. Welcome peer challenges, reviews and inspections from regulatory bodies and implement recommendations which arise from them.	Consultation Approach to restorative practice Ward Forums Parish and Town Council arrangements Birmingham Citizens Panel (when active) Use of Overview and Scrutiny Inquiries Deputations to full Council and ward forums Consideration of and response to Petitions

We will focus our resources on outcomes and ensure council tax payers and service users receive excellent value for money

<i>And commit to</i>	<i>Supported and evidenced by our</i>
<p>Ensure that services put the needs of the public first, are non-discriminatory and are appropriate to different needs in the community.</p> <p>Make best use of resources and ensure that the People of Birmingham receive excellent value for money.</p> <p>Consider and balance the combined economic, social and environmental impact of policies and plans when taking decisions.</p>	<p>City Council Plan for Birmingham</p> <p>Equality and Diversity Policy</p> <p>Safeguarding arrangements</p> <p>Safer Birmingham Strategy</p> <p>Youth Justice Plan</p> <p>Children and Young Peoples Plan</p> <p>Annual Performance Report</p> <p>Financial Strategy and Medium Term Financial Plan</p> <p>State of the City Events</p> <p>Performance Management Framework</p> <p>Annual Internal Audit Report</p> <p>External Audit Value for Money opinion</p>

We will ensure we have clear responsibilities and arrangements for transparent and effective accountability

<i>And commit to</i>	<i>Supported and evidenced by our</i>
<p>Document who is responsible for our functions and will ensure reports on our performance, delivery of value for money and stewardship of resources are routinely reported.</p> <p>Review on a regular basis the vision for the city and its implications for the authority's governance arrangements.</p> <p>Have in place effective arrangements to identify and deal with failure in service delivery.</p> <p>Ensure that relationships and accountabilities between the authority, its partners and the public are clear.</p>	<p>Constitution</p> <p>Executive Portfolios</p> <p>Monitoring of Revenue and Capital expenditure</p> <p>Delegation and sub delegation arrangements</p> <p>Committee Terms of Reference</p> <p>Protocol for the roles of Members and officers in Decision Making</p> <p>Annual Internal Audit Report</p> <p>Customer service standards and dispute resolution arrangements</p> <p>Annual Accounts</p> <p>Access to Information Procedure Rules</p> <p>Executive and Decision Making Procedure Rules</p> <p>Annual Governance Statement</p> <p>Annual Scrutiny Report</p> <p>Annual Standards Report</p> <p>Partnership arrangements</p> <p>Information Governance arrangements</p> <p>Health Safety and Wellbeing</p> <p>Annual Pay Policy Statement</p>

We will take informed and transparent decisions

<i>And commit to</i>	<i>Supported and evidenced by our</i>
<p>Ensure that all decisions are taken which are proportionate, respect human rights and natural justice, are open and transparent with clear aims and desired outcomes and promote equality of opportunity.</p> <p>Consider and balance the economic, social and environmental impacts of policies and plans.</p> <p>Ensure that:</p> <p>those making decisions are provided with information that is relevant, timely and gives clear explanations of technical issues and their implications;</p> <p>appropriate legal, financial and other professional advice is considered as part of the decision-making process; and</p> <p>decision-makers can be held to account for the decisions they take through effective overview and scrutiny arrangements.</p>	<p>Executive/Cabinet arrangements</p> <p>Committee Terms of Reference</p> <p>Access to Information Procedures</p> <p>Delegation and sub delegation arrangements</p> <p>Procedures for decision making</p> <p>Provision of effective, timely, responsive and highly regarded legal, financial and professional services</p> <p>Equality and Diversity Policy</p> <p>Use of data to support decision making and effectively target resources</p>

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We will ensure that we have robust and effective audit, scrutiny, information governance, risk and financial management arrangements.

<i>And commit to</i>	<i>Supported and evidenced by our</i>
<p>Embed a risk management framework to achieve our priorities and protect the Council's reputation and assets.</p> <p>Collect, use and store information and data appropriately.</p> <p>Maintain a prudential financial framework which balances our commitments with available resources, monitors income and expenditure and ensures corrective action when necessary.</p>	<p>Overview and Scrutiny Committee arrangements</p> <p>Vision for Overview and Scrutiny</p> <p>Medium Term Financial Plan</p> <p>Capital Programme and Treasury Management Strategy</p> <p>Financial Regulations and Contract Procedure Rules</p> <p>Performance and risk management arrangements</p> <p>Compliance with the Code of Practice on Data Transparency and the General Data Protection Regulation</p> <p>Business Continuity arrangements</p> <p>A 'Public Sector Internal Audit Standard' compliant Internal Audit function</p>

We will develop our capacity and capability to be effective

<i>And commit to</i>	<i>Supported and evidenced by our</i>
<p>Improving the use of our people resource by developing and maintaining an effective workforce plan.</p> <p>Continually review our performance, including how the organisation is led, how we work, and how we make the most efficient use of our resources assets (including data) to ensure our continuing effectiveness.</p> <p>Ensuring that all councillors and employees have the skills, knowledge and experience they need to perform their roles effectively.</p>	<p>Code of practice for Member-Officer relations.</p> <p>Our values and behaviours</p> <p>Appraisal arrangements</p> <p>Staff surveys</p> <p>Training and development programmes for Councillors</p> <p>Training and development programmes for staff</p> <p>Participation in peer reviews</p> <p>Recognition of colleagues through our awards for excellence</p> <p>Workforce development plan</p> <p>Graduate and apprenticeship programmes</p>

C2. MEETINGS AND ACCESS TO INFORMATION PROCEDURE RULES

Scope

- iv. These rules apply to all meetings of the Council, its Committees and Sub-Committees (including but not limited to Overview and Scrutiny Committees, area committees (if any), regulatory committees, and meetings of the Executive (together called "meetings").

Principles

- i. These rules will be interpreted, where possible, in accordance with the following guiding principles / presumptions:
 - a) Openness: the right of the public to gain access to meetings and documents;
 - b) Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
 - c) Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

Notice of Meetings

- i. The Council will give at least 5 clear working days' notice of any non-urgent meeting and for urgent meetings at least 3 clear days' notice will be given. Details of the meeting will be posted at the Council House, Victoria Square, Birmingham B1 1BB and on the Council's website.

Access to Agendas, Reports and Decision Records

- i. The Council will make the Agenda and relevant Reports available to the public on its website at least five clear working days before the meeting or as much time as is available for an urgent item of business. Where Reports are prepared after the Agenda has been sent out, the Committee Services Officer shall make such report(s) available for inspection to the public as soon as the Report is completed and sent to the relevant Councillors.
- ii. For the avoidance of doubt, "working days" does not include weekends, statutory holidays, the day of the notice or the actual day of the meeting.

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- iii. Agendas, Reports and Decision Records, save for those which contain exempt or confidential information will be found on the Council's [website](#).¹

Background Papers

- iv. The author of a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
 - a) disclose any facts or matters on which the report or an important part of the report is based; and
 - b) have been relied on to a material extent in preparing the report.
- v. This does not include those which disclose confidential or exempt information (as defined in B2.5); nor does this include the advice of a political adviser²; nor any draft report or document.

Exclusion of Access by the Public to Meetings

- i. Members of the public may attend all meetings subject only to the exceptions set out below. Attendance shall include viewing the meeting via video conferencing or live webcast as government guidance/regulation allows.

Confidential information – requirement to exclude public

- ii. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- iii. Confidential information means information provided to the Council by a Government Department upon terms (however expressed) which forbid the disclosure of the information to the public or other information the disclosure of which is prohibited by any enactment or Court Order.

Exempt information – discretion to exclude public

- iv. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- v. Exempt information relates to the access to information requirements covered by Section 100I and Schedule 12 A of the Local Government Act 1972 (as amended) as set out in the table below, and related Regulations. Information is also exempt if it is advice of a Political

¹ <https://birmingham.cmis.uk.com/birmingham/Committee.aspx>

² "political adviser or assistant" means a person appointed pursuant to section 9 of the Local Government and Housing Act 1989(b)

Adviser or Political Assistant, as defined by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended).

Category	Condition
1. Information relating to any individual.	This means any living individual person and relates back to data protection legislation i.e. the General Data Protection Regulation 2016/ 679 (GDPR) & the Data Protection Act 2018 (DPA).
2. Information which is likely to reveal the identity of an individual.	This again relates back to data protection legislation
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event. The "financial affairs or business affairs" include past, present and contemplated activities.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders, under the authority.	"Employee" means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter. "Labour relations matter" means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	

Category	Condition
(b) to make an order or direction under any enactment	
7.Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

- vi. Information is not exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

Public Interest Test

- vii. Paragraphs 1-7 of the exemptions above are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. All report writers will, therefore, give consideration to this and explain why they consider the public interest test is best served by the information remaining exempt. This determination, together with reasons, will appear in the report and the agenda in relation to that item.

Cabinet: Notification of Intention to Consider Matters in Private

- viii. Where there is a proposal for a meeting of Cabinet to consider part of a report in private, Part 2 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires the Council to provide notification of its intention to do so.
- ix. A notification of intention to consider matters in private will be published on the meeting page on the website 28 days ahead of that meeting.

Appeals Where Public Access is Denied to a Report

- x. If a member of the public is denied access to a report or background papers under the rules set out above, they may appeal at the relevant meeting by giving notice in writing to the Assistant Director Governance, such notice to be received not less than seven working days before the relevant meeting is due to be held. Any such appeal will be considered by the Assistant Director Governance in conjunction with the chair of that meeting.
- xi. The person making the appeal may provide written submissions to the Assistant Director Governance who will supply copies of the same to the relevant Chief Officer and each member of the meeting before the date of the meeting.
- xii. The Assistant Director Governance will collate responses to the submission and agree a response with the Chair ahead of the meeting. The decision will be announced at the start of the meeting.

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Disorderly Conduct – Discretion to Exclude Public

- i. The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

Attendance at Private Meetings of the Executive

- i. All Members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- ii. The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Executive and its committees.
- iii. 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.
- iv. 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'.

Members Access – Statutory Rights

Material relating to forthcoming business

- i. All Members are entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting unless
 - a) It contains exempt information falling within Rules B2.5v(1), B2.5v(2), B2.5v(4), B2.5v(5), and B2.5v(7), above; or
 - b) It contains exempt information falling within Rule B2.5v(3), above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
 - c) It contains the advice of a political adviser; or
 - d) It is a draft report or draft background paper; or
 - e) It is not a report or a background paper.

- ii. All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless
 - a) It contains exempt information falling within Rules B2.5v(1), B2.5v(2), B2.5v(4), B2.5v(5), and B2.5v(7) above or
 - b) It contains exempt information falling within Rule B2.5v(3) above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.
- iii. Members of the Audit Committee shall have access to any information that is relevant to their role as an Audit Committee members, save where legal privilege applies or where sharing information will result in a breach of contract or confidentiality, or otherwise is judged by the City Solicitor to put the Council at risk.

Scrutiny Members Access – Additional Statutory Rights

- iv. Members of an Overview and Scrutiny Committee will be entitled to copies / inspect documents in respect of matters under scrutiny by those members, which are in the possession or control of the Executive or its Committees and which contain material relating to:
 - a) Any business transacted at a public or private meeting of the Executive or its Committees; or
 - b) Any decision taken by an individual Cabinet Member.
- v. An Overview and Scrutiny Committee will **not** be entitled to:
 - a) Any document that is in draft form;
 - b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
 - c) The advice of a Political Adviser or Assistant (if any have been appointed).
- vi. Copies of documents requested under this section must be supplied within 10 clear days of receipt of the request. Reasons must be given if copies of the documents are refused.

Members Access – Need to Know

- vii. **Meaning of the Need to Know:** Members have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Chief Officer.

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- viii. The Nature of Requests: Members should:
 - a) Avoid over-involvement in issues raised by individual constituents;
 - b) Be particularly careful when having direct contact with relatively junior officers, to avoid the appearance of abusing their position;
 - c) Justify the request in specific terms, unless circumstances exist where a Member's need to know will be presumed – for example where a Member is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain;
 - d) Only use the information for the purpose for which it was provided and get the prior agreement of the relevant Chief Officer to any disclosures to the press or the public.
- ix. **Limit on rights:** there are a number of factors which may limit or outweigh a Member's need to know, including:
 - a) The need to know does not extend to a 'roving commission' through Council documents;
 - b) The need to know would only extend to personal information in exceptional cases;
 - c) Draft documents compiled in the context of emerging Council policies, and draft reports will not usually be disclosed;
 - d) A Member of one party group will not have a need to know in relation to a document prepared for another party group;
 - e) Documents prepared specifically for one Member will not, unless he/she agrees, normally be provided to another Member;
 - f) Documents will not be disclosed where the relevant Chief Officer believes that use of those documents by a Member may prejudice the Council's or the public interest;
 - g) The level of resources required to deal with locating and supplying documents.
- x. **Procedure:** Whether a Member has a need to know will be determined initially by the Chief Officer who holds the document in question (with advice from the Monitoring Officer). The Chief Officer must not have regard to party political advantage, nor must the Chief Officer's determination have the effect of preventing the Member concerned from giving evidence in Court, or of penalising the Member for so doing.
- xi. All internal documents and copies produced to any Member for inspection in accordance with this Rule will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in litigation that may result from such publication.

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Public Access to Other Information – Freedom of Information

- i. Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.
- ii. An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.
- iii. FOI requests will be dealt with by the FOI practitioner for the relevant service area.
- iv. FOI requests must generally be dealt with promptly, and no later than 20 working days of receipt.
- v. Further details about how to make an FOI request can be found on the [website](#).³

³ https://www.birmingham.gov.uk/info/20154/foi_and_data_protection/408/make_a_freedom_of_information_request

C3. PROTOCOL REGARDING THE RECORDING OF COUNCIL MEETINGS

- i. For the purposes of this section, recording includes webcasting, filming and photography.
- ii. The Council is committed to openness and transparency in its decision making. Recording is permitted at Council meetings that are open to the public. The Council understands that some members of the public attending its meetings may not wish to be recorded and will seek to ensure that any such requests are respected.
- iii. The rules that the Council will apply are:
 - a) All recordings must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. Where meetings are recorded by the Council, this will be stated at the start of each meeting.
 - b) The Chair of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
 - c) Recording must stop if the meeting goes into private session where the public is excluded for confidentiality or exempt reasons. In such a case, the person filming should leave the room ensuring all recording equipment is switched off.
 - d) Any member of the public has the right not to be recorded. Agendas for, and signage at, Council meetings should make it clear that recording can take place – anyone not wishing to be recorded must advise the Chair at the earliest opportunity.
 - e) The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.
- iv. If someone refuses to stop recording when requested to do so by the Chair of the meeting, then the Chair will ask the person to leave the meeting. If the person refuses to leave, then the Chair may adjourn the meeting.
- v. If media outlets wish to record meetings, then it is helpful to have some advance notice to ensure space is available.
- vi. The use of social media in council meetings is permitted for members of the public and media so long as this does not cause any disruption or disturbance. The Chair's decision on this point is final. (Councillors are not permitted to use social media during the private part of any council meeting).

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C4. CODE OF CONDUCT FOR MEMBERS

Introduction

- i. It is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. Your conduct as an individual councillor affects the reputation of all councillors. The role of councillor should be one that people aspire to and individuals from a range of backgrounds and circumstances should be putting themselves forward to become councillors.
- ii. This Code has been designed to protect your democratic role, encourage good conduct and safeguard the public's trust in local government.

Definitions

- i. For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who
 - a) is a member of any committee or sub-committee of the authority, or;
 - b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;
- ii. and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".
- iii. For the purpose of this Code of Conduct, "local authority" includes district councils, parish councils and town councils.

Purpose of the Code of Conduct

- i. The purpose of the Code is to assist you, as a councillor, in modelling the behaviour that is expected of you to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, officers and the reputation of the council.
- ii. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

- i. Everyone in public office at all levels, all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers, should uphold

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the Seven Principles of Public Life, also known as the Nolan Principles (see section 4.6 below).

- ii. Building on these principles, the following general principles have been developed specifically for the role of councillor.
- iii. In accordance with the public trust placed in me, on all occasions:
 - I act with integrity and honesty;
 - I act lawfully;
 - I treat all persons fairly and with respect; and
 - I lead by example and act in a way that secures public confidence in the role of councillor.
- iv. In undertaking my role:
 - I impartially exercise my responsibilities in the interests of the local community;
 - I do not improperly seek to confer an advantage, or disadvantage, on any person;
 - I avoid conflicts of interest;
 - I exercise reasonable care and diligence;
 - I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest;
 - I affirm my commitment to and encouragement of others to promote Corporate Parenting (including their safeguarding and welfare) in respect of the City Council's children in care;
 - I will take into account and abide by all other relevant council policies and procedures.

Application of the Code of Conduct

- i. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor or co-opted member.
- ii. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:
 - you are acting in your capacity as a councillor and /or as a representative of your council;
 - you are claiming to act as a councillor and/or as a representative of your council;

- you are giving the impression, or the circumstances may give rise to the perception, that you are acting as a councillor and/or as a representative of your council;
 - you refer publicly to your role as a councillor and/or as a representative of your council.
- iii. This Code applies to all forms of communication and interaction, including:
- at face to face meetings;
 - at online or telephone meetings;
 - in written communication;
 - in verbal communication;
 - in non-verbal communication; and
 - in electronic and social media communication, posts, statements and comments.
- iv. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.
- v. The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

The Nolan Principles

- vi. Everyone in public office at all levels, all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers, should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

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Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Standards of Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed. Guidance is shown in italics.

- i. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. As part of this you should not swear or use inappropriate language during any meetings. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

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In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

ii. Bullying, harassment, discrimination and victimisation

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and not discriminate unlawfully against any person.

2.4 I do not victimise any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or during phone calls, in the workplace or at work-related social events. Such behaviour may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

iii. Impartiality of officers of the council

As a councillor

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

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Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants)⁴. They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

iv. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone;
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - i) I have received the consent of a person authorised to give it;
 - ii) I am required by law to do so;
 - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv) the disclosure is:
 - 1) reasonable and in the public interest; and
 - 2) made in good faith and in compliance with the reasonable requirements of the local authority; and
 - 3) I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

v. Disrepute

⁴ Officers of the Council must abide by the Employee Code of Conduct- set out in part C of the constitution

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As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your or its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to challenge constructively and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

vi. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

vii. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources;

7.2 I will, when using the resources of the local authority or authorising their use by others:

a. act in accordance with the local authority's requirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones and computers

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- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

viii. Complying with the Code of Conduct

As a councillor:

- 8.1 I undertake Code of Conduct training provided by the local authority;**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination;**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings;**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

ix. Interests

As a councillor:

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as

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open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

x. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage;

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt;

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Conduct at Meetings of the Council

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

APPENDIX TO CODE

Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or well-being of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a) your own financial interest or well-being;
 - b) a financial interest or well-being of a friend, relative, close associate; or
 - c) a financial interest or well-being of a body included under Other Registerable Interests as set out in Table 2you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** financial interest or well-being:
 - d) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
 - e) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.
If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

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Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and

Subject	Description
	(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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Table 2: Other Registerable Interests

You must register as an Other Registerable Interest:

- a) Any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your authority;
- c) any body
 - i. exercising functions of a public nature
 - ii. directed to charitable purposes or
 - iii one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

of which you are a member or in a position of general control or management.

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C5. MEMBER / OFFICER RELATIONS PROTOCOL

Introduction

- i. The purpose of this Protocol is to guide Members and officers of the Council in their relations with one another in such a way as to ensure that the Council is not brought into disrepute, that a high standard of conduct is maintained and to ensure the business of the Council is transacted in a transparent, effective and efficient manner.
- ii. 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.
- iii. 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 Code of Conduct, as set out in the Constitution.
- iv. This Protocol seeks to promote greater clarity and certainty as to working relationships between Members and officers. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are not subject to accusations of bias, and any undue influence from Members.
- v. The Protocol is to a large extent a written statement of current practice and convention and given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It offers guidance on some of the issues which most commonly arise and serves as a guide to dealing with other circumstances as they arise.
- vi. It also seeks to reflect the principles underlying the Code of Conduct for Members ("the Members' Code") and the Code of Conduct for Employees ("the Employees' Code"). The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- vii. Members do not have any special immunity from civil or criminal wrongs that they may commit against any fellow Members, officers or members of the public.
- viii. This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.

Roles of Members and Officers

- i. The Elected Members are responsible for:
 - a) Initiation and direction of policy;
 - b) Democratic accountability to the electorate for policies and for service delivery;

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- c) Scrutiny of Council services;
 - d) Community leadership; and
 - e) Promotion of partnership working.
- ii. The officers are responsible for:
 - a) Providing the professional advice that Members must have before them when formulating policy and when taking decisions;
 - b) Implementing Members' decisions that have followed due process;
 - c) Running the Council's services and day-to-day administration;
 - d) Taking managerial and operational decisions in accordance with the Council's schemes of delegation; and
 - e) Providing information regarding Council services and approved Council policies.

Working Relationships

- i. Both Members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and officers are responsible to the Council as a whole. The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- ii. An informal and collaborative approach to working between Members and officers is encouraged. Members and officers should overall treat each other as they would wish to be treated.
- iii. However, both Members and officers should be guarded as personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and officers can damage the relationship of mutual respect and prove embarrassing to other Members and officers.

Constructive Criticism and Redress

- i. Challenge in a constructive and non-confrontational way is important in ensuring that policies and service performance are meeting the Council's strategic objectives. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Committee. Nothing herein is intended to inhibit constructive criticism delivered with courtesy and officers should not feel their employment is at risk as a result of such intervention.

- ii. Members should guard against putting inappropriate pressure, in particular, on junior officers and need to be aware that it is easy for junior officers to feel at a disadvantage in their interactions with Members.
- iii. Members should not pressurise any Officer to change his/her professional opinion on any Council business matter or do anything that compromises the impartiality of officers.
- iv. If a Member considers that he or she has not been treated with proper respect or courtesy by an Officer, he or she may raise it with the Officer's line manager or Chief Officer or the Monitoring Officer without delay if it is not possible to resolve it through direct discussion. If the issue still remains unresolved appropriate action may be taken by the Chief Officer in accordance with the Council's normal procedures, should the allegations be proved to be true. Feedback should be given to the Member on the outcome and confidentiality, unless otherwise agreed, must be maintained by all parties.
- v. If an Officer considers that he or she has not been treated with proper respect or courtesy by a Member, and a direct discussion is impractical or fails to resolve the matter, he or she has the option of raising the matter in private with the Monitoring Officer in the knowledge that the matter will be handled with sensitivity and in confidence. In such circumstances, the Monitoring Officer will take such action as is appropriate either by approaching the Member and/or Party Group Leader and also advising the Chief Executive as Head of Paid Service. It may also be appropriate to advise the Chief Officer. Unless otherwise expressly agreed between parties, confidentiality including the identity of the Officer will be maintained at all times. This protocol does not affect the Officer's right to raise the matter via the Council's usual grievance procedures.
- vi. Members should not raise matters relating to the conduct or capabilities of an Officer at meetings held in public or before the Press as officers have no means of responding in public.
- vii. Nothing in this protocol shall prevent a Member or Officer expressing a relevant concern under the Council's Whistleblowing Policy.

Officer Reports and Advice

- i. The Chief Officer /Head of Service where they are named in a report to the Council (or any part of its formal decision-making structure) will always be fully responsible for the contents of it.
- ii. A report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. On occasions, officers will need to express a professional view on a matter which may not support the view of the Executive and/or the relevant Chief Officers of the Council. However, it remains for Members to determine the Council's policies and for officers to act on those policies.

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Officer Advice to Party Groups

- i. It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by senior officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual Members. All officers must, in their dealings with political groups and individual Members, maintain political neutrality and treat them in a fair and even-handed manner.
- ii. Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an Officer during discussions with a party group, that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Authority in so far as that is necessary to perform their duties.
- iii. This Protocol can be revised or amended at any time in accordance with Constitutional requirements.

Birmingham City Council Constitution

~~July 2022~~

Part C Codes and Protocols
C6 Employee Code of Conduct

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C6. EMPLOYEE CODE OF CONDUCT

The Employee Code of Conduct can be found here: [Birmingham City Council Code of Conduct | Birmingham City Council](#)

C7. EMPLOYMENT PROCEDURE RULES – JNC OFFICERS

General Notes

- i. These Rules shall be regarded as Standing Orders of the Council for the purposes of The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') and Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 ('the 2015 Regulations').
- ii. Full Council has delegated to the Chief Officer and Deputy Chief Officer⁵ Appointments, Dismissals and Service Conditions Sub-Committee (the 'JNC Panel') the responsibilities set out in these employment procedure rules.

Recruitment and Appointment

Declarations

- i. The Council will draw up a statement requiring any candidate for appointment as a Chief Officer or Deputy Chief Officer (Statutory or Non-Statutory) to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or of the partner of such persons. A candidate who fails to declare such relationship will be automatically disqualified from such appointment with immediate effect.
- ii. No candidate so related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him/her for that purpose.
- iii. Every Member and senior officer of the Council shall disclose to the Head of Paid Service or relevant officer any relationship known to that person to exist with a candidate for any appointment. It shall be the duty of the relevant Chief Officer or Deputy Chief Officer (Statutory and Non Statutory) to report to the Council or to the JNC Panel including any Member or officer to whom power has been delegated to make an appointment, any such disclosure made by a candidate, Member, or senior officer.
- iv. The HR Director shall record in a book to be kept for the purpose particulars of such disclosure made under this Rule.
- v. Where relationship to a Member of the Council is disclosed, that Member shall withdraw from the meeting while the appointment is under consideration.

⁵ Chief Officers are defined in Part B1.7; Deputy Chief Officers are officers Assistant Directors or equivalent

Seeking support for appointment

- vi. Subject to paragraph viii below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- vii. Subject to paragraph viii below no Councillor will seek support for any person for any appointment with the Council.
- viii. Nothing in paragraphs 7.2i and 7.2ii above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

Equal Opportunities

- ix. The Council will not unlawfully discriminate in the recruitment and appointment of officers and all appointments shall be made on merit.

Recruitment of Chief Officers and Deputy Chief Officers

- i. The Council has appointed a JNC Panel to exercise all of its powers in relation to the appointment, discipline, grievances and dismissal of Chief Officer and Deputy Chief Officer posts, where not restricted or prohibited by law. References to the Panel include a sub-committee of the Panel established by it to carry out its functions. The Panel must include at least one member of the Cabinet.
- ii. Where the Council proposes to appoint a Chief Executive (Head of Paid Service) or a Chief Officer or Deputy Chief Officer (Statutory and Non Statutory) the Council will:
 - a) Draw up a statement specifying:
 - o The duties of the officer concerned; and
 - o Any qualifications or qualities to be sought in the person to be appointed;
 - b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - c) Make arrangements for a copy of the statement mentioned in paragraph a) to be sent to any person on request.
- iii. Where a post has been advertised as provided in rule 7.3i b) the Council shall:-
 - Interview all qualified applicants for the post, or
 - Select a shortlist of such qualified applicants and interview those included on the shortlist and
 - Give the JNC Panel the names of those candidates to be interviewed.

- iv. Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with Rule 7.3i.b.

Appointment of Chief Executive (Head of Paid Service)

- i. Following a recommendation of the JNC Panel that a particular candidate should be appointed to the post of Chief Executive (Head of Paid Service), the Director of HR shall notify every member of the Cabinet of the following:
 - a) The name of the person to whom the JNC Panel recommends that the post be offered;
 - b) Any other particulars relevant to the appointment which the JNC Panel has notified to the Director of HR;
 - c) The period within which any objection to the making of the offer is to be notified to The Director of HR. The standard period will be three working days, but may be shortened by the Chair of the JNC Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.
 - d) The Director of HR has, within the period specified in the notice under paragraph c), notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or
 - e) The Director of HR has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or
 - f) The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the JNC Panel.
- ii. Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the JNC Panel will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If the full Council approves the recommendation, then a formal offer of appointment can be made.
- iii. Where following the interviews the JNC Panel is of the view that there is no suitable candidate, it will re-advertise the post.
- iv. Where full Council does not approve the recommendation of the JNC Panel, they shall indicate how they wish to proceed.

Appointment of Chief Officers (Statutory and Non-Statutory) and Deputy Chief Officers

- i. The JNC Panel will appoint all Chief Officers and Deputy Chief Officers (including the Chief Finance Officer (Section 151 Officer) and the Monitoring Officer) in accordance with the Council's recruitment and selection process.

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- ii. Following a recommendation of the JNC Panel that a particular candidate should be appointed; the Director of HR shall notify every member of the Cabinet of the following:
 - a) The name of the person to whom the JNC Panel recommends that the post be offered;
 - b) Any other particulars relevant to the appointment which the Employment Committee has notified to the Director of HR;
 - c) The period within which any objection to the making of the offer is to be notified to The Director of HR. The standard period will be three working days but may be shortened by the Chair of the JNC Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.
- iii. The Director of HR has, within the period specified in the notice under paragraph 7.5ii.c, notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or
- iv. The Director of HR has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or
- v. The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh any other factors taken into consideration by the JNC Panel.
- vi. In the event that a reasoned objection is received, the Director of HR shall refer the matter to a specially convened meeting of the JNC Panel (the members of the specially convened Panel must be the same members who recommended the appointment of the Director) and the decision of this specially convened Panel will be final.

Disciplinary Action – Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer (The S151 Officer)

- i. The JNC Panel has power to decide whether to investigate any allegation of misconduct by a statutory chief officer and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.
- ii. These rules are in accordance with the 2015 Regulations.

Suspension

- iii. The Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer may be suspended on full pay whilst an investigation takes place into alleged misconduct. The decision to suspend the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer shall be made by the JNC Panel.
- iv. The responsibility for implementing the suspension of the Chief Executive will be the Director of HR with the Leader of the Council and the responsibility for implementing the

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suspension of the Monitoring Officer and Chief Finance Officer will be the Chief Executive and the Director of Human Resources.

Disciplinary Action and Dismissal

- v. The JNC Panel may take disciplinary action short of dismissal or recommend to full Council that the Chief Executive (Head of Paid Service) or the Chief Finance Officer (S151 Officer) or the Monitoring Officer be dismissed. Only full Council can approve the dismissal of the Chief Executive (Head of Paid Service), the Chief Finance Officer (S151 Officer) or the Monitoring Officer.
- vi. An independent panel must be appointed by the authority at least 20 days before the relevant meeting and should comprise a minimum of two independent panel members appointed under s28(7) of the Localism Act 2011.
- vii. Before taking a vote at the relevant Council meeting on whether or not to approve such a dismissal, the Council must take into account, in particular-
 - a) Any advice, views or recommendations of the independent panel;
 - b) The conclusions of any investigation into the proposed dismissal; and
 - c) Any representations from the officer concerned.

Disciplinary Action – Chief Officers and Deputy Chief Officers (Statutory and Non-Statutory)

- viii. The JNC Panel has power to decide whether to investigate any allegation of misconduct by a non-statutory chief officer or deputy chief officer and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.

Suspension

- i. Chief Officers and Deputy Chief Officers may be suspended whilst an investigation takes place into alleged misconduct. The decision to suspend on full pay shall be made by the Chief Executive (Head of Paid Service) in consultation with the Leader of the Council and/ Deputy Leader and the Director of HR.
- ii. The responsibility to implement the suspension or to implement action short of dismissal shall be the responsibility of the Head of Paid Service or their designated nominee

Disciplinary Action and Dismissal

- iii. The JNC Panel may dismiss or take disciplinary action short of dismissal.
- iv. Dismissal or disciplinary action short of dismissal can only take effect where no well-founded objection has been made by any member of the Cabinet. Any objection needs to relate to the Council's disciplinary, capability and related procedures and policies.

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- v. In the event that a reasoned objection is received, the Director of HR shall refer the matter to a specially convened meeting of the JNC Panel (the members of the specially convened Panel must be the same members who recommended the dismissal/disciplinary action) and the decision of this specially convened Panel will be final.

Grievances

- i. Grievances made by all Chief Officers and Deputy Chief Officers including the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer will be dealt with in accordance with the Council's relevant procedures at the relevant time or as set out in the Chief Officer Handbook Joint Negotiation Committee in force at the relevant time.

Political Assistants

- i. Not more than one political assistant's post shall be allocated by the Council, from time to time, to each of the qualifying political groups into which the Council is divided.
- ii. No appointment to a political assistant's post shall be made until the Council has allocated such a post to each qualifying political group.
- iii. For the purpose of this Rule, a "qualifying political group" means a political group which qualifies for the allocation to it of a political assistant's post in accordance with sub-sections 6 and 7 of Section 9 of the Local Government and Housing Act

Terms and Conditions and Remuneration

- i. Terms and Conditions of employment including remuneration of all Chief Officers and Deputy Chief Officers will be approved by the JNC Panel.

Annual Pay Policy Statement

- ii. Section 38 of the Localism Act 2011 requires the Council to prepare and publish a pay policy statement for the following financial year. This annual statement will set out the Council's policies relating to the remuneration of Chief officers and its lowest paid officers and the relationship between the remuneration of its Chief Officers and that of its employees who are not Chief Officers. The annual pay policy statement will be adopted by Council before the end of March of each year. The Council has the power to amend the statement in year.

Appointments and Dismissal – Other Officers

- i. Appointment, and Dismissal and Disciplinary action of officers below Directors who are not Chief Officers or Deputy Chief Officers (other than assistants to political groups) are the

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responsibility of the Chief Executive (Head of Paid Service) or his/her nominee and may not be made by Councillors.

- ii. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group. Dismissal and Disciplinary action of an assistant to a political group is the responsibility of Chief Executive (Head of Paid Service) or his/her nominee, and may not be made by Councillors
- iii. Councillors will not be involved in the disciplinary process in respect of any officer below Chief Officers or Deputy Chief Officers except where such involvement is necessary for any investigation or inquiry into alleged misconduct or appeal process.

Membership of Committee and Virtual Meetings

- i. Membership of the JNC Panel shall comprise the Leaders of the three main political parties (or their nominees), and two other members subject to the proportionality rules. The Chair of the Panel will be the Leader of the Council or his/her nominated deputy.
- ii. The quorum for each meeting of the JNC Panel is three, including a member of the main opposition party.
- iii. There may be circumstances when a decision of the JNC Panel may be agreed by all five members of that Panel in consultation with the Chief Executive and Director of Human Resources and Monitoring Officer or their nominated deputies without an actual meeting of that Panel taking place. The exercise of such decision shall be noted on the record of decision including setting out the reasons for the urgent circumstances.

Definitions

- i. In these Rules :
 - “the 1989 Act” means the Local Government and Housing Act 1989;
 - “the 2000 Act” means the Local Government Act 2000;
 - “the 2001 Regulations” means the Local Authorities (Standing Orders) Regulations 2001;
 - “Chief Finance Officer” has the same meaning as set out in Regulation 2 of the 2001 Regulations;
 - “disciplinary action” has the same meaning as set out in Regulation 2 of the 2001 Regulations;
 - “Director” means a Chief Officer, a Statutory Chief Officer, a Deputy Chief Officer or Deputy Statutory Chief Officer as set out below and includes the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
 - “Head of the Paid Service” has the same meaning as set out in Regulation 2 of the 2001 Regulations;

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“member of staff” means a person appointed to or holding paid office or employment to the Council;

“Independent Person” means a person appointed under section 28(7) of the Localism Act 2011 by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate;

“Independent Persons Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority in accordance with Schedule 3 to the 2001 Regulations, including or comprising at least two Independent Persons who have accepted an invitation to be considered for appointment to the Panel and who have been appointed to it in accordance with the following priority order

(a) an independent person who has been appointed by the authority and who is a local government elector in the Council’s area;

(b) any other independent person who has been appointed by the authority;

(c) an independent person who has been appointed by another authority or authorities.

“Monitoring Officer” has the same meaning as set out in Regulation 2 of the 2001 Regulations;

“Statutory Chief Officer” has the meaning as set out in section 2 (6) of the 1989 Act and for this Council will be the Director of Adult Social Care, the Director of Children’s Services, the Chief Finance Officer/section 151 Officer, the City Solicitor and Monitoring Officer, the Director of Public Health and for this Council are also known as Directors.

“Non-Statutory Chief Officer” means a person who reports to the Head of the Paid Service or who is directly accountable to the local authority or any committee or subcommittee of the authority as set out in Section 2 (7) of the 1989 Act and for this Council will be any other Director appointed by the Council who are not Statutory Chief Officers.

“Deputy Chief Officer” means a person who for most or all of his/her duties is required to report direct, or is directly accountable, to a statutory or non-statutory Chief Officer as set out in section 2 (8) of the 1989 Act.

C8. PLANNING CODE OF PRACTICE FOR MEMBERS AND OFFICERS⁶

Purpose of this Code

- i. This Planning Code of Practice ('the Planning Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.
- ii. The Planning Code is in addition to Birmingham's adopted Code of Conduct for Members and subject to the responsibilities and requirements as set down by the Monitoring Officer from time to time. The responsibility for declaring an interest rests with individual Members and officers. Members should seek legal advice if they are unsure as to whether they have an interest which may prevent them from taking part in a discussion or vote on a particular planning application. Planning Committee Members must exercise an independent mind on issues before the Committee.
- iii. The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and officers in dealing with approaches from property owners.
- iv. If you have any doubts about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place, from the Director (Planning, Transport & Sustainability) and/or the Assistant Director Planning/Assistant Director Development.

Roles and responsibilities

- i. Members and officers have different but complementary roles in the planning process. Members have more than one role in the process – as Ward Members and as Planning Committee Members.

Ward Members not on the Planning Committee

- ii. Ward Members who are not on the Planning Committee are in a position to represent the interests of their Ward when it comes to planning and related applications. Ward Members may:
 - Observe virtual meetings of the Planning Committee

⁶ As amended by Planning Committee on 24th February 2022

- Submit written representations to the Planning Committee, subject to the provisions in the public participation protocol;
- consultations on the draft heads of terms for section 106 agreements;

Members who are on the Planning Committee

- iii. The role of Members who are involved in the planning decision making process is to exercise their judgment properly on the planning application before them – and be seen to do this. In coming to a decision on a planning application Members should make this decision based solely on material planning considerations. Officer reports to the Planning Committee will identify what is regarded as material to a decision and if Members are unclear on what matters may or may not be material to a decision they should seek advice from officers.
- iv. Whilst Members must act within the law, the exercise of planning judgment is theirs and theirs alone. The Planning Committee must take into account all relevant ministerial guidance, local plans (and related documents) and the advice of officers. The weight Members attach to the relevant considerations is a matter of their planning judgment and Members should not give weight to non-planning related matters that may be raised by members of the public.
- v. Planning Committee Members often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should electronically forward a copy of the correspondence to the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development or inform them at the Planning Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.
- vi. Where Planning Committee Members are involved in pre-application discussions, they should be advised by the appropriate officers of the Council, which should always include a senior planning officer. The involvement of Planning Committee Members in such discussions should be recorded as a written file record of the meeting.
- vii. Planning Committee Members should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation.
- viii. Members are democratically accountable to their electors and to the wider public on whose behalf they act.

Officers

- ix. The Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development have a dual role in the decision making process:
 - Making decisions on the majority of planning applications under delegated powers.

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- Making recommendations on planning matters which are determined by Members at Planning Committee. When making such recommendations the function of officers is to support and advise Members, ensure that any decision they make is lawful and identify any possible consequences of taking decisions.

Predetermination and Bias

- In making their decisions, Members of the Planning Committee should not be seen to side with either the applicant or the objector/s prior to the hearing of the application when all the relevant facts are known. Members are required to keep an open mind. This is a requirement of the law and a separate guidance note on predetermination and bias to assist Members in complying with this complex area of legislation and case law is set out in [Section C8.13](#) below.

Development Proposals submitted by Members and Employees

- Where development proposals are submitted by Members and employees in respect of their own property or land it is particularly important that the Council ensures that such applications are handled in a way that gives no grounds for accusations of favouritism.
- Serving Members of Council who submit applications or act as agents should play no part in the decision making process for that application. Further, they should not take part in the processing of the application nor should they lobby employees or officers either directly or indirectly.
- Any planning officer who submits an application for their own property or on behalf of a friend or family member will inform the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development in writing and such applications will be determined in accordance with the Scheme of Delegation.
- Officers are required under the Employee Code of Conduct to make a declaration by completing the Register of Interests/Conflict of Interest Form, declaring any matters which may conflict with duties as an employee and their personal interests such as:
 - Any financial interest in any planning application;
 - Other interest where others may think that a conflict of interest may arise, such as for proposals near their residence.
- In circumstances where there is a conflict of interest, the officer has no involvement in any part of the decision making process. If there is doubt about any conflict it is better to be cautious and for the officer to have no involvement.

Member contact with applicants and developers

- The Government encourages applicants to enter into pre-application discussions. Such discussions are a normal part of the planning process to seek further information and to seek to identify improvements to proposals at an early stage. These discussions and meetings provide an opportunity for the potential applicant to receive advice and

information about the policy and technical requirements that must be met and advice on design, on community engagement and other issues which may improve the chances of an application being acceptable to the Local Planning Authority (LPA). However, it should be made clear that any guidance given will not bind the LPA to making a particular decision.

ii. To minimise the prospect of challenges based on predetermination and bias, the guidelines below should be followed:

- It will always be made clear that any information or statements made cannot bind the LPA to making a particular decision.
- Wherever possible, Members should be accompanied by an officer when meeting with applicants.
- Members should refer applicants who approach them for advice to officers.
- A written record of the discussion should be made by the officer.
- Planning Committee Members are free to take part in meetings with potential applicants or their agents but extra care is needed to avoid any perception of predetermination or bias.

Pre-application presentations

iii. Agents or prospective applicants have the opportunity to present their proposals to members of the Planning Committee at presentations organised in accordance with the 'Protocol for Pre-application Presentations to Planning Committee'.

Planning Committee meetings

Attendance at meetings

- i. It is important to ensure that Members taking planning decisions are in possession of all the relevant facts, including matters pointed out or that come to light during a site visit by Planning Committee, matters that may have been raised during public speaking and matters that may have been discussed and considered by Planning Committee on earlier occasions. Attendance of Members on all occasions during the application phase, i.e. once the application has been submitted, will not only demonstrate that Members are fully informed but will also ensure that high quality, consistent and sound decisions are made, and that the risks of legal challenge are minimised.
- ii. A Planning Committee Member should not vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee for the whole of the deliberations on that particular application. In the case of a virtual committee meeting that means having listened to the entire presentation and debate relating to a particular application. By taking part in the vote on a particular item, members will be deemed to have made a declaration to that effect.

- iii. In cases where an application has been discussed at Planning Committee on more than one occasion, if a Member has not attended on each occasion during the application phase and wants to take part in the decision on an application, he or she should consider whether or not they are fully appraised of all the facts and relevant information necessary to properly reach a decision. If there is any doubt, legal advice should be sought by the Member concerned.

Conduct at meetings

- iv. The Chair of the Planning Committee is responsible for the conduct of the meeting in accordance with the relevant Council procedure rules and for the effective delivery of business.
- v. The Planning Committee meetings are open to the public and they are often well attended particularly when there is a contentious application on the agenda. Meetings are also attended by the applicants/agents and/ or other parties supporting an application and/or objectors against an application. It is important to demonstrate that decisions have been made fairly and transparently and in the correct manner. Any debate should be confined to the planning merits of the matter.
- vi. A legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes.
- vii. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item, and if considered necessary this may include requesting from each Member as to how they have voted, noting this and the Member's name.

Decisions different to the officer recommendation

- i. Decisions on planning applications must be taken in accordance with the Development Plan unless material considerations indicate otherwise. From time to time the Committee may attach different weight to the potential planning considerations and, therefore, take a decision which differs from the officer recommendation.
- ii. Where this occurs, Members must be able to give a clear basis and reason for not taking the officer recommendation. It is important to ensure, as far as possible, that any decision made will be capable of surviving a legal challenge or appeal. This could mean deferring consideration for a further report addressing the provisional reasons for refusal. However, if the reasoning is clear and the officers are satisfied that reasons for refusal can be satisfactorily drafted then it will not always be necessary to defer an application. In the event that an application is deferred, the Chair will ensure that the following principles are followed:-
 - When a planning application has been deferred following a resolution not to accept the officer recommendation, the Chair shall put to the meeting a proposed statement

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of why the recommendation is not considered acceptable, which, when agreed by the Committee, will be formally recorded in the minutes.

- In these circumstances, at a subsequent meeting, the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development will respond in a further written report the provisional reasons formulated by the Committee for granting or refusing permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for the decision and a summary of those planning reasons shall be given. The reasons will then be recorded in the minutes of the meeting.
- The officer attending the meeting should be given the opportunity to explain the implications of the decision.
- Members should ensure they clearly identify and understand the planning reasons leading to this conclusion. These reasons must be given before the vote and be recorded.

- iii. Where an appeal to the Secretary of State is subsequently lodged against a decision which was different to the officer's recommendation, planning officers will act as a professional witness at the inquiry or hearing unless there is reason to suggest that this would prejudice the outcome. However, it should be noted that where the Planning Officer giving evidence is the officer that recommended approval, then their role is that of advocate for the Council's case.

Deferred applications

- i. In some cases, planning applications may come before the Committee on more than one occasion. This is particularly the case with larger schemes where a pre-application presentation is presented to the Planning Committee, or when an application is differed for a site visit or further information. Where an application is deferred then the reasons for deferral will be clearly stated and minuted.

Public speaking

- i. Any ward members or members of the public wishing to make representations to the committee following the publication of an agenda can do so by registering to speak at Planning Committee in accordance with the **Planning Committee Public Speaking Protocol**.
- ii. Where Members have a disclosable pecuniary interest in the application then they must not submit representations in relation to the application, even as a member of the public, unless they have a dispensation from the Head of Paid Service.
- iii. Speakers will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair of Planning Committee on the grounds that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers will only be able

to speak about new matters or the amended details and not about matters which have been previously considered by the Committee.

- iv. Speakers should not raise any substantial new information (including correspondence, other documents, photographs or models) at the Planning Committee meeting, as this does not give all parties adequate time to consider and respond to the submissions, and Members of the Committee will not be able to give proper consideration to issues raised in the material.
- v. It is important that members of the public are not permitted to communicate with or pass messages to individual Committee Members as this may give the appearance of partiality.

Site Visits

- i. Planning Committee site visits shall be arranged and take place in accordance with the Planning Committee Site Visit Protocol.

Member training

- i. It is important that all Members involved in the planning process are aware of their role in the process and the policy and legal framework in which they operate.
- ii. Therefore, Members serving on Planning Committee should participate in, where possible, the following training each year:
 - For Members new to the Planning Committee two sessions comprising a governance and conduct session and mid-year update session;
 - For experienced Members of the Planning Committee, a single mid-year update session.
- iii. A record of attendance for the compulsory training will be maintained by Planning Officers and a list provided to Party Whips and Democratic Services for monitoring.
- iv. Other specialised training will be offered periodically throughout the year which will enhance and extend Members' knowledge of planning matters. These are not compulsory but will assist Members in carrying out their role on the Planning Committee

Reviewing and Updating this Guide

- i. The responsibility for reviewing and updating this Planning Code of Good Practice will be undertaken by the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee on an annual basis. Ad hoc reviews may occur if there are significant changes to be made; again these will be considered by a meeting of the Planning Committee.

Guidance Note on Bias and Predetermination in the Planning Process

What is Bias and Predetermination?

- i. The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly.
- ii. Decision makers are entitled to be predisposed to particular views. However, predetermination occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.
- iii. The leading case on local authority bias and predetermination acknowledges the difference between judges sitting judicially and councillors making decisions in a democratic environment. Given the role of councillors, there must be 'clear pointers' before predetermination is established.

Section 25 Localism Act 2011

- iv. Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
 - a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - b) the matter was relevant to the decision.
- v. The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.
- vi. Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.
- vii. The case law has also made it clear that the words used by particular Members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

Guidance

- viii. With this in mind:-

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.
- It is advisable not to give a view in advance of the decision. If you do comment on a development proposal in advance of the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of the advice and material put before you and having regard to the discussion and debate in the Committee meeting.
- Particular care should be taken where there are chance encounters with objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

Concluding Comments

- ix. Councillors should avoid giving a view/making statements in advance of determination of a planning application. If such views are given, these should be declared to the Planning Committee and legal advice should be sought if necessary as to whether that particular Member can continue to be part of the decision-making process. Any views given in advance should avoid giving the impression that you have already made up your mind and that your part in the decision is a foregone conclusion.

Protocol for public speaking at the Planning Committee meetings

Introduction

- i. This Protocol sets out the procedures to allow public speaking at the meetings of the Planning Committee.
- ii. Subject to the exceptions below, public speaking does not apply where Members are considering a report for information or where Members are considering detailed reasons for refusal or conditions of approval following a decision of an earlier Committee not to accept the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development recommendation. It also does not cover applications subject to non-determination appeals, where Members' views may be sought.

Matters for determination or other matters requiring a decision:

- iii. Any members of the public wishing to make representations to the committee following the publication of an agenda can only do in accordance with the public speaking protocol below.
- iv. Applicants, supporters and objectors to an application or other form of consent before the Committee for determination or other matter requiring a decision, will normally be allowed to speak to the Committee, subject to the details of the procedure set out herein and on

giving notice of their wish to do so by completing an online form no later than 12 noon on the Friday immediately preceding the Committee.

- v. When an objector has registered to speak in accordance with point (iv), applicants will have an automatic right of reply even when they have not given notice of their wish to do so beforehand.
- vi. If a speaker does not attend the meeting or is not available to speak at the allotted time, the meeting will go ahead nonetheless.
- vii. Applicants, supporters or objectors will have the equivalent of a maximum of three minutes to address the Committee
- viii. In the event of more than one applicant, supporter or objector wishing to submit written representations, a spokesperson should be nominated who will submit written representations on behalf of all registered speakers. If there is no spokesperson nominated, the written submission will be equally divided between the registered speakers.
- ix. Where an application is recommended for approval, objectors to an application will be heard first.
- x. Where an application is recommended for refusal, the objector will only be allowed to speak if the applicant or supporter has registered their intention to address the Committee, except in circumstances outlined in paragraph xv.
- xi. The applicant, supporter and objectors shall take no further part in the Committee debate.
- xii. If the applicant or supporters do not speak in relation to an application recommended for refusal the objectors will not normally be invited to speak.
- xiii. If no objector wishes to speak to an application for approval, the applicant or supporter will not normally be invited to speak.
- xiv. In the circumstances where the officer's recommendation of **approval** is not accepted by Committee and the applicant or supporters have not been given an opportunity to speak, they shall be given the opportunity to address the Committee for up to three minutes when detailed reasons for refusal are reported.
- xv. In the circumstances where the officer's recommendation of **refusal** is not accepted by Committee and the objectors have not been given the opportunity to speak they shall be given an opportunity to address the Committee for up to three minutes when detailed conditions for approval are reported.
- xvi. For the avoidance of doubt applicants, supporters or objectors will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair on the basis that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers should only speak about new matters or the amended details, not about matters which have been previously considered by the Committee.

Passing around of information

- xvii. The circulation of display materials will not be accepted during the meeting. Public speaking is an opportunity to highlight important points already made in representations, rather than to introduce new information. Members of the Committee will not be able to give proper consideration of any new issues raised in the material.

Members of Planning Committee

- xviii. A Member of the Planning Committee having a disclosable pecuniary interest in an application must either declare that interest or bring it to the attention of the meeting and may not participate in the discussion or vote on the matter and must leave the room.
- xix. In line with the Birmingham Code of Conduct for Members, a Member must declare any interest in an application and complete the Register of Interest/Conflict of Interest Form.
- xx. No Members with a disclosable pecuniary interest (whether they are a member of the Planning Committee or not) are entitled to address the Committee in accordance with the terms of this protocol for public speaking.

Review

- xxi. This Protocol may be reviewed, revised or revoked by the Director (Planning, Transport & Sustainability) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee at any time.

C9. LICENSING COMMITTEE CODE OF PRACTICE FOR MEMBERS AND OFFICERS

Purpose of This Code

- i. This Licensing Code of Practice ('the Licensing Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory Licensing functions. This Code will also inform potential applicants and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its Licensing powers.
- ii. The Licensing Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council in June 2012. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Licensing Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.
- iii. The provisions of this Licensing Code are designed to ensure that Licensing decisions are taken on proper grounds, are applied in a consistent and open manner and that Members making such decisions are held accountable for those decisions. The Licensing Code is also designed to assist Members and officers in dealing with approaches from applicants or those who already have a relevant Licence/permit, etc.
- iv. Throughout this Code, reference is made to the Licensing Committee. This refers to the Licensing and Public Protection Committee ("LPPC"), in the context of its determination of applications for licences i.e where the Committee performs the functions of the Licensing Authority, rather than in the context of non-Licensing Authority decisions.
- v. Any reference to Licensing Committee equally refers to any Licensing Sub-Committee.

Context

- i. This Licensing Code applies to both Councillors and officers– it is not therefore restricted to Licensing Committee members. The successful operation of the Licensing system relies on mutual trust and understanding of each other's role. It also relies on both Members and officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.
- ii. The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.
- iii. This code must be read in conjunction with (where appropriate):
 - The LPPC Policies, Procedures and Delegations;

- The Statement of Licensing Policy;
- Home Office Guidance (s182) – issued under S182 Licensing Act 2003;
- The Statement of Gambling Principles and relevant guidance issued by the Gambling Commission;
- The Sexual Entertainment Venue Policy;
- Code of Conduct for Members;
- Code of Conduct for officers.

General Considerations

- i. In relation to Hackney Carriage and Private Hire applications (generally speaking) the Licensing Authority MUST NOT issue a licence to a driver, operator or vehicle proprietor unless they are satisfied the applicant is a fit and proper person.
- ii. In relation to Licensing Act matters, where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn, the licensing authority MUST grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.
- iii. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations.
- iv. Birmingham City Council's [Code of Conduct for Members](#) (section C4) must be complied with throughout the decision making process, which includes mandatory requirements with regard to Member interests.
- v. The responsibility for declaring an interest rests with individual Members and officers of the Council. This Licensing Code outlines further rules applicable to the Licensing process in Birmingham.
- vi. Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on Committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council, the Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect,

courtesy and understanding of each other's positions. This relationship, and the trust which underpins it, should never be abused or compromised.

- vii. Both Councillors and officers are guided by Codes of Conduct, Birmingham's [Code of Conduct for Members](#) (section C4) provides standards and guidance for Councillors. Employees are subject to the [Employees' Code of Conduct](#) (sections C6). In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business. There is also a Member / Officer Protocol that assists in defining the relation with both.
- viii. Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the Licensing process. Of particular relevance to Councillors serving on the Licensing Committee or Executive, or who become involved in making a Licensing decision, is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.
- ix. The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.
- x. From time to time applicants or other parties may submit confidential information, for example a financial appraisal, or evidence from an ongoing criminal matter in relation to an application. Such information will be taken into account in relation to determination of the application, but such information may be exempt from the requirement from disclosure.

Public Speaking

- xi. During public speaking at Licensing Committee, the following should not occur:-
 - Members should not cross-examine members of the public at any time;
 - Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
 - Members should only ask relevant questions; and
 - Late evidence should not be introduced by speakers at Committee – unless authorised at the discretion of the Chairperson with the agreement of all parties.

Conflicts of Interest

- xii. Some Members in general are more likely than others to be uncomfortable in the role of Licensing Committee Member owing to the combined pressures of their local business interests, the Ward Member advocate role, and the constraints of the Licensing system.

Any potential licence-related background may also give rise to a perception by the public that they are more likely to be in favour of an application, even where they are determining cases completely impartially. In order to minimise the risk for the Council and the Member concerned, the Member in question should discuss their position carefully with the Assistant Director of Regulation and Enforcement and Monitoring Officer for the Council, to see whether it would be suitable for him/her to become a Member of Licensing Committee or if already a Member take part in the determination of any applications before them.

Lobbying and Attendance at Public Meetings

General

- i. Given the requirement that Members of the Licensing Committee should exercise an independent mind to applications in accordance with the relevant considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on Licensing applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of all the evidence, representations and submissions made. Members should be careful not to publicly commit themselves to a particular outcome on an application prior to its full consideration at Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Assistant Director of Regulation and Enforcement and/or the Monitoring Officer (or their representatives) not to:
 - a) Take any further part in the consideration of the application; and
 - b) Vote on the application. This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole decision making process. If the relevant Member wishes to speak at Committee then they should declare their pre-determined position and withdraw from the meeting. This is to ensure Members of the Licensing Committee do not, by their presence, influence or seek to influence the remainder of the decision making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.
- ii. Members of the Committee who may be involved in the determination of an application are, of course, free to listen to a point of view about a proposal, give procedural advice and agree to forward any comments, but should then refer the person to officers. Members in this situation may indicate (or give the impression of) support for or opposition to a proposal, but should avoid giving the impression of a closed mind.

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- iii. Whilst Members involved in making decisions on applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the evidence, representations and submissions made.
- iv. The Chairman of the Committee should attend a briefing with officers prior to a Full Committee meeting, to help give an effective lead in the Committee.
- v. Councillors involved in decision making on Licence applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within that Committee Member's Ward, can make written representations to the Licensing Committee.
- vi. A Member involved in determining applications may respond to lobbying by openly expressing an opinion prior to the full report of the Assistant Director of Regulation and Enforcement to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) but should indicate they will not make a final decision until after full consideration of all the evidence, representations and submissions.
- vii. If a Member involved in determining applications goes so far as to make it clear beyond doubt that they have a completely closed mind which could not be shifted, this would amount to predetermination and the Member concerned should respond as in C9.4i.
- viii. Where Members involved in the determination of applications are in attendance at public meetings or Ward meetings they may listen to the debate on current applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in C9.4vi.

Members Predetermination of Applications

- ix. Section 25 of the Localism Act 2011 states that prior indications of a view of a matter do not amount to predetermination in the following situations:
 - (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-
 - (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and
 - (b) the matter was relevant to the decision.
- x. The advice provided by the Monitoring Officer is that this is the present position with regard to the Legislation but, whilst Members are entitled to express a view in relation to

an application, Members should indicate they still have an open mind in relation to an application until they have had the opportunity to consider the report of the Assistant Director of Regulation and Enforcement and that the final decision in relation to the application can only be made by Committee. This caveat is intended to safeguard so far as possible the decision made by Committee from Judicial Review until further case law and guidance has assisted with the interpretation of Section 25 of the Localism Act 2011.

Dealing with Correspondence

- xi. Members of the Committee and Executive often receive correspondence from constituents, applicants and other interested parties asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Regulation and Enforcement or inform him/her at the Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.
- xii. Communication which is intended to be an objection to (or support for) a licence application MUST be properly served on the Licensing Service, not with elected members or other Council Officers. Such communication should be forwarded immediately to the Licensing Offices.

Pre-Application Discussions

- xiii. When involved in pre-application discussions, officers should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, applicants or Members. A written record of all such discussions must be retained on the Licensing file.

Site Visits by Members with Officers (Uncommon)

- xiv. The deferral of a relevant application for a site visit should not be on the basis of exposing members of the Committee to local opinion, but should be on sound and proper Licensing reasons, which shall be recorded in the minutes of the meeting.
- xv. Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be:
 - a) To brief Members on the Licensing applications(s), the subject of the visit and explain the reasons why the application was deferred for a visit;
 - b) To ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Licensing Committee to form the basis of a further discussion at a subsequent meeting.
- xvi. The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.

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- xvii. Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts of the site, which is the subject of the Applications.
- xviii. The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the Licensing application and which would not be apparent from the Licensing application to be considered by the Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted. A Member of Committee who has an interest in a Licensing application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Licensing Committee. However, the Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.
- xix. Whilst on site visits, Members of Committee can express an opinion on the application or its merits, but should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. Whilst Members of Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Members and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Licensing Officer and/or Members should be made in the presence of the other parties (or their representatives if there is a large scale public interest).
- xx. Members and officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:
 - the impact of the proposed application is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
 - there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- xxi. Where there is substantial public interest in a proposal and relevant representations have been made, the Council may invite all parties to visit the site so that they may point out all the areas of contention to Members of the Licensing Committee and give their views. A note of proceedings will be taken at these meetings and minutes kept as part of the official record.
- xxii. Results of the site visit will be reported to the next available meeting of the Committee.

- xxiii. Once the results of a site visit have been reported back to Committee, Members of the Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that Licensing application.

The Role of Ward Councillors and MPs on Site Visits

- xxiv. Where relevant representations have been made, Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of Licensing applications rests solely with the Licensing Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

Meetings of the Licensing Committee

- i. A Member shall not vote in relation to any Licensing application unless he or she has been present in the meeting of the Licensing Committee for the whole of the deliberations on that particular application.
- ii. A senior legal officer should always attend meetings of the Licensing Committee to ensure the probity and propriety of the Licensing and decision-making processes.
- iii. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each Member as to how they have voted, noting this and the Member's name.
- iv. Chairmanship: the chairman should ensure
 - Members' comments at Committee only relate to the relevant merits of the application before them;
 - Reference at Committee to matters which are not relevant should be disregarded;
 - The cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and done in accordance with the appropriate Procedural Rules for the Hearing in question.

Training

- i. Members dealing with Licensing issues will attend such training sessions as required each year to receive guidance in relation to Licensing matters and processes and on procedural matters such as declaration of pecuniary or non-pecuniary interests. Training will be conducted in accordance with the training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:-
 - Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy;

- Special topic groups to consider thorny issues in depth;
- Formal training by internal and external speakers;
- Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session.

Licence Applications Submitted by Councillors and Officers

- i. Serving Councillors or their relatives who act as agents for people pursuing a Licensing matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their own proposal to the Council, they will take no part in its processing, as in both cases they will have an interest in the matters.
- ii. In cases where officers of this Department or members of their family submit a licence application, or where they have an interest in a particular application they should inform the Assistant Director of Regulation and Enforcement and Monitoring Officer accordingly (e.g. where an application is submitted by a limited company and an Officer is a director (or similar) of the company).

Registration and Declaration of Interests

- i. The Localism Act 2011 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members' participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members.

Complaints about the Determination of Licensing Applications

- i. Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- ii. There is a city-wide procedure for dealing with complaints, as well as customer comments and compliments. Complaints alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Monitoring Officer.
- iii. So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule

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is that every application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Assistant Director of Regulation and Enforcement, where there is no report to a Committee. Such decisions should be well documented and form part of the case file.

- iv. It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.
- v. Where any right of appeal exists against a decision of the Licensing Committee, that right is to be communicated at the time of the notification of decision.
- vi. Where the complaint relates to the decision made by the Licensing Committee, this decision cannot be overturned other than by following the statutory appeal process if one exists. No complaint procedure can overturn the decision of the Committee.

10. Concluding Remarks

- vii. Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Licensing Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serves an essential part in the local and corporate governance of Birmingham City Council.
- viii. The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- ix. If any person believes that a Member or Officer has breached any aspect of this Licensing Code, s/he should refer the matter to the City Council's Monitoring Officer.

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C10. MEMBERS ALLOWANCE SCHEME

- i. The City Council's Members Allowances Scheme, made under Section 18 of the Local Government and Housing Act 1989 and as amended on 30th April 2001, was agreed by the City Council at the meeting on 13 April 2021.
- ii. The Scheme can be found [here](#).⁷

⁷ https://www.birmingham.gov.uk/downloads/download/910/members_allowances

C11. PROTOCOL ON SUBSTITUTE MEMBERS

Key Principles

- i. Formal substitutes are not appointed by Full Council for Birmingham City Council committees.
- ii. Formal substitutes are appointed for some joint committees:
 - West Midlands Police and Crime Panel
 - West Midlands Combined Authority Board
 - WMCA Overview and Scrutiny Committee
 - WMCA Audit, Risk & Assurance Committee
- iii. For how these committees operate substitute members, see the rules of procedure for each committee.
- iv. A committee may have substitute members if the Constitution allows it – currently Health and Wellbeing Board, Cabinet Committee Group Company Governance and Licensing Sub-Committees.
- v. Members are responsible for finding their own substitutes.
- vi. A substitute member shall be entitled to attend in place of a regular Member provided:
 - That the Chair and Committee Services has been notified of any substitution before the meeting begins.
 - That a Cabinet Member may only be substituted by another Cabinet Member.
- vii. The substitute arrangement must be announced at the beginning of the meeting and recorded in the minutes.
- viii. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.
- ix. If the substitution is for a committee where political proportionality rules apply, the substitute member must be a member of the Council drawn from the same political group as the ordinary member who is unable to attend the meeting and must not already be a member of the Committee concerned.
- x. With the exception of Licensing sub-Committee, a member acting as a substitute for the Chair or Vice-Chair of a committee will not, by virtue of that substitution, be entitled to act in either capacity. In the absence of both the Chair and Vice-Chair from a meeting (and the appointment of substitute members to attend in their place) the meeting shall appoint a Chair for the meeting who may be drawn from any members (including any substitute member) present and with voting rights.

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- xi. The substitute member may speak and vote in their own capacity and is not constrained by the views of the ordinary member they are replacing.
- xii. 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 Committee.
- xiii. Once a meeting has started with the ordinary member in place, no substitution can then be made during the course of the meeting to replace that member.
- xiv. If the substitute member fails to attend and the ordinary member is present, then the ordinary member may take their place on the committee with full voting rights.
- xv. Where a substitute member has attended a meeting which is adjourned, the ordinary member may attend the reconvened meeting as the voting member, provided that the meeting is not part way through the consideration of an item or issue.
- xvi. Substitute members must receive copies of agendas and reports of the committees they are assigned to at the same time as ordinary members.

Licensing Sub-Committees

- xvii. In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed a pool of substitute Members, comprising all other suitably trained members of the Licensing and Public Protection Committee. As the pool of members is therefore limited, whilst every effort will be made to ensure proportionality, it may not always be possible.
- xviii. 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.
- xix. No substitute member at Licensing Sub- Committees may vote unless they have been present for the entire consideration of the item under discussion.



Birmingham City Council Constitution

Part E – Scheme of Delegations

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E1. SUMMARY AND EXPLANATION

1. Each Chief Officer/Chief Officer has a number of delegations which are set out below. The following sections set out the delegations to officers:

- Officer delegated decision making – setting out general notes on the parameters of the delegations and the process for taking officer delegated decisions;
- Financial delegations to Chief Officers – setting out the financial and governance delegations to all Chief Officers (including the Chief Executive, Strategic Directors and Director of Strategy, Equality and Partnerships);
- Functional Delegations to each of the Chief Officers.

2. Each of these may be supplemented by a Scheme of Sub-Delegations.

E2. OFFICER DELEGATED DECISION MAKING

2.1 General Notes

1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.

2. The exercise of a delegated power, duty or function shall:

- be subject to the City Council's Policy Framework and/or Budget;
- be subject to the requirements of the Constitution including the Council Procedure (B4), Executive Procedures (B6) Financial Procedure Rules (Part D), Procurement and Contract Governance Rules (Part D) Corporate Standards (C1) and any delegations contained therein.

3. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:

- such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;
- such authorisations should only be given where there is significant administrative convenience in doing so;
- the officer authorised by the other should act in the name of the officer who received the original delegation;
- no authorisation may be given if the statute or the law prohibits it.

Authorisations of this kind should not be considered to be the norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.

Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.

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4. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
5. Any reference to any Act of Parliament includes reference to Regulations or subordinate legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
6. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
7. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
8. Delegations to officers are subject to:
 - (i) The right of the delegating body to decide any matter in a particular case;
 - (ii) The officer may, in lieu of exercising his/her delegated power, refer to the delegating body for a decision; and
 - (iii) Any restrictions, conditions or directions of the delegating body.
9. In exercising delegated powers, the officer shall:
 - (i) Take account of the requirements of this Constitution and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
 - (ii) Shall exercise the delegation so as to promote the efficient, effective and economic running of that Directorate and the Council, and in furtherance of the Council's visions and values; and
 - (iii) Where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
10. Except where otherwise expressly provided either within the Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
11. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Director.
12. The Scheme of Delegations is maintained by the City Solicitor, and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Scheme before solely relying on this document.
13. The City Solicitor shall have the power to amend the Scheme of Delegations to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.
14. Any post specifically referred to in the Scheme of Delegations shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any

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particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Scheme in anticipation of any reorganisation may be exercised in accordance with the preceding Scheme to the date of that reorganisation.

15. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
16. Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
17. All enquiries about the Scheme of Delegations should be made to the City Solicitor.
18. All matters of interpretation of this document will be determined by the City Solicitor.
19. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the delegating body.
20. Functions, matters, powers, authorisations, delegations, duties and responsibilities etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
21. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any function that is not therefore specified must be assumed to be executive.
22. Advice on procedures and matters to be taken into account in exercising officer delegated powers, is set out in the guidance on decision-making issued by the City Solicitor.
23. This Scheme of Delegations was approved as part of the Council's Constitution on 10th September 2019. Ad hoc additional revisions will be considered by the Council as appropriate.
24. For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees cost or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
25. Where there is doubt over the responsibility for the exercise of the delegated power, the Chief Executive or his or her nominee is authorised to act.

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2.2 Process and Recording of Delegated Decisions

Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and also put appropriate systems in place for recording the exercise of delegated powers in the following manner and circumstances:

- (i) All decisions with a value of £50,000 or more made by Officers under delegated powers should be recorded in writing and a single copy for each Directorate produced to the Chief Executive and the Leader/Deputy Leader on the 30th September and 31st March of each year.
- (ii) Additionally, all decisions taken by Cabinet Members (based on a written report by the Chief Officer) should be recorded using the prescribed template. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.

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E3. DELEGATIONS TO CHIEF OFFICERS¹

3.1 Summary

The Council, its Committees and the Executive will make decisions on matters of significant policy. The Chief Executive and Directors are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as set out below.

In relation to all delegated authorities conferred on Chief Officers, the Chief Executive may allocate or reallocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit.

Chief Officers may take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution.

Chief Officers may take all decisions necessary to give effect to implement the contents of any approved Policy Framework plan, in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.

3.2 General Delegations

The Chief Executive and Chief Officers have the following delegated powers in respect of all matters which are not “key decisions” and not reserved for decision by the Council or by a Committee of the Council:

- (i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:
 - The sum expended is within the approved budget for the Directorate and/or relevant portfolio, and
 - The amount in relation to any single matter does not equal or exceed £200,000 or
 - The amount in relation to any single matter that is at or above £200,000 and below £500,000 (revenue) or £1m (capital) is a Cabinet Member(s) decision (based on a written report from the Chief Officer).
 - The requirements of the Financial Approvals Framework in this Constitution and other requirements in the Constitution are complied with.
- (ii) Determine employment matters relating to staff including all changes to staffing structures below JNC level and the annual implementation of the contractual pay increment system. These powers will not include changes to terms and conditions of

¹ Chief Officers are those officers reporting to the Chief Executive (Director of [Strategy, Equality and Partnerships](#) and all [Strategic](#) Directors).

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employment (the Birmingham Contract) or additional payments to any individual member of staff above the general financial threshold delegated to officers (£200k).

- (iii) To approve tender strategies and award contracts in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed are between the Procurement Threshold (see [Procurement and Contract Governance Rules set out in Part D of the Constitution](#)) and £10,000,000 in value, over the contract length.

- (iv) Where no other viable alternative exists to approve contract extensions, where no extension option in the contract exists, in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed do not exceed £500,000.

- (v) To write off any individual debts of income (including any associated court costs and bailiffs' fees) within their service directorate responsibility, and after consultation with the Director of Council Management, up to the sum of £25,000 per individual or organisation, which in the opinion of the Director, is considered to be uneconomical to collect or is irrecoverable. *All individual debts above this amount can only be written off by the Director of Council Management.*

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

- (vii) The Chief Executive has all the above delegated authority in respect of all executive and non-executive expenditure, and as may be necessary, determine which Directorate discharges any particular Council function if this is not clear.

Chief Executive and the [Strategic](#) Director of Council Management

- (viii) The Chief Executive and the [Strategic](#) Director of Council Management may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

- (ix) The Chief Executive and the [Strategic](#) Director of Council Management together (and no other Director) without financial limit have the following additional powers to make decisions in relation to:

- All future forms of indemnity on behalf of the Council including the signing of certificates under the Local Government (Contracts) Act 1997.
- The Council's loan and investment portfolios in accordance with the statutory borrowing limits determined by the Council and the Council's Treasury Policy

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Statement and Management Strategy as approved from time to time by the Council and all such decisions are exempt from the reporting requirements.

- Trust fund and accountable body investments;
- Banking arrangements including opening bank accounts and credit card facilities;
- Non land and building leases;
- The application for financial assistance to the City Council and the authorisation of any grant claims;
- The administration of the Housing Rents, Council Tax and Housing Benefit systems and the collection of Community Charge, Council Tax, Housing Rents and Non-Domestic Rates (including setting Non-Domestic rates and applications for relief or reduction in accordance with the criteria and policy guidance approved from time to time by the Cabinet);
- Matters relating to the transfer of pension rights.

Chief Executive and the Strategic Director of Place, Prosperity and Sustainability

- (x) The Chief Executive and the Strategic Director of Place, Prosperity and Sustainability have the following additional powers to make decisions in relation to:

- The acquisition and disposal of leasehold interests for rent (including the granting and surrendering of any rights over such land and property) provided that any rental does not exceed £200,000 p.a.;
- The acquisition and disposal of freehold and leasehold interests at a premium, provided that the premium does not exceed £1,000,000;
- The management of all of the Council's land and properties, including the authorising and payment of discretionary contributions towards trade/loss and or removal expenses and all payments due under an approved Compulsory Purchase Order, provided that the cost does not exceed £200,000;
- Save that land and property held by the Council as Trustee shall be the responsibility of the Trusts and Charities Committee.

Strategic Director of Place, Prosperity and Sustainability, Strategic Director of Council Management and City Solicitor

- (xi) The Leader and Cabinet Member, Finance and Resources, jointly with the Strategic Director of Place, Prosperity and Sustainability, Strategic Director of Council Management and the City Solicitor (or their delegates as set out in the Scheme of Sub-Delegations) have the following additional powers to make decisions in relation to the approval of acquisitions to, and disposals from, the Investment Property portfolio up to a limit of £25m in any one transaction.

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- (xii) These decisions will take the form of Cabinet Member decisions based on written reports from Chief Officers and as such are subject to the provisions in Part B6.5 of the Constitution.

City Solicitor

- (xiii) The City Solicitor may exercise all proper Officer and any other functions of the Council which do not fall within the Directorate or budget responsibility of a Director and has the powers set out in the Legal Proceedings section of the Constitution.

Strategic Director of Children and Families

- (xiv) The Strategic Director of Children and Families (and in their absence the Strategic Director of Council Management) has the authority to authorise and approve the completion of (but not limited to) the grant of long term leases, commercial transfer agreements and any other ancillary documentation relating to the changing status of schools pursuant to the Academies Act 2010 or any associated legislation relating to the changing status of schools, as well as requesting the making and varying of Instruments of Government for maintained schools, subject to the agreement of the City Solicitor.

3.3 Emergency Plan/Business Continuity

- (i) Chief Officers and Statutory Officers (or deputising officers) are empowered to authorise all necessary actions in relation to disasters and emergencies as designated under the Council's Emergency Plan when activated; or under Business Continuity Plans in the event of a business continuity disruption.
- (ii) In the event of the Emergency Plan being activated, and following action taken, the Chief Officer must notify the Director of Council Management in writing of the circumstances and estimated financial impact and report formally to the relevant Cabinet Member or, for non-executive matters, to the next available meeting of the relevant committee.
- (iii) The principles of decision-making set out in Part B3.2 will apply.

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E4. CHIEF EXECUTIVE

4.1 Overall Responsibility

The Chief Executive shall be the Head of Paid Service and be provided by the authority with such resources as s/he deems necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services.

4.2 Emergency Reports

Part B6.6 of the Constitution provides that the Chief Executive may make decisions that are of special urgency.

The Chief Executive may decide that a special urgency situation arises when:

- (i) A decision **must** be made before the next scheduled meeting of the Cabinet; or
- (ii) A recommendation to the Cabinet should be implemented prior to the next scheduled meeting of the Cabinet by which it could be approved.

In either case, if the Chief Executive is satisfied that the making of the decision is urgent and cannot reasonably be deferred then the following shall apply:

Urgent Key Decisions

Where the decision is a "key decision" pursuant to B3.1 vi) the Chief Executive, (or may designate a Chief Officer) shall obtain agreement that the making of the decision is urgent and cannot be reasonably deferred, from the following:

- (i) the Leaders of each of the Political Groups; and
- (ii) the Chair of the relevant Overview and Scrutiny Committee; or
- (iii) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, the Lord Mayor (or in their absence the Deputy Lord Mayor).

As soon as is reasonably practicable after the Chief Executive, or delegated Chief Officer, has obtained agreement pursuant to (i) – (iii) above they must:

- (i) Make available at the Council offices a notice setting out the reasons that the decision is urgent and cannot be reasonably deferred; and
- (ii) Publish that notice on the Council's website.

Further:

- (i) that the Chief Executive, or designated Chief Officer, before making a decision shall consult with the City Solicitor and the Chief Finance Officer or their nominated deputies;

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The exercise by the Chief Executive, Director of Council Management and Director of any powers under this delegation shall be subject to the following conditions: ¶

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that the Chief Executive, Director of Council Management or designated Director before making a decision shall consult with the Leader (or in his/her absence the Deputy Leader); ¶

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- (ii) that a record of all decisions made or recommendations implemented, together with the consultations referred to above shall be published on the Council's website within 10 working days; and
- (iii) that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Cabinet (for noting).

Urgent Non-Key Decisions

Where the decision is not a "key decision" pursuant to B3.1 vi) the Chief Executive shall have the power (or may designate a Chief Officer who will then have power) to determine the question or matter or to implement the recommendation (as the case may be) in the name of and without further reference to the Executive.

The exercise by the Chief Executive, or designated Chief Officer, of any powers under this delegation shall be subject to the following conditions:

- (i) that the determination of the question or other matter or implementation of the recommendation is capable of determination under law in this manner;
- (ii) that the Chief Executive, or designated Chief Officer, before making a decision shall consult with the Leaders of each of the Political Groups;
- (iii) that the Chief Executive, or designated Chief Officer, before making a decision shall consult with the City Solicitor and the Chief Finance Officer or their nominated deputies;
- (iv) that a record of all decisions made or recommendations implemented, together with the consultations referred to in (ii) and (iii) above shall be published on the Council's website within 10 working days; and
- (v) that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Cabinet (for noting).

Each Chief Officer (in their service area) and City Solicitor (all areas) may exercise the powers of the Chief Executive in the event of his/her incapacity, absence or unavailability.

4.3 Immediate Implementation

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.

The exercise of such power shall be clearly noted on the record of the decision.

4.4 Extraordinary Meetings

The Chief Executive and the City Solicitor acting together may call an extraordinary meeting of the Council (see Part B4.4C). 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

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Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called.

4.5 Executive Functions

In the event of the Emergency Plan being activated, the Chief Executive (or deputising officer) is empowered to authorise all necessary actions as the Local Authority Strategic Commander. All authorities relevant to the management of the incident are delegated to duty officers as set out in the plan.

4.6 Non-Executive Functions

The Chief Executive is authorised to discharge the following non-Executive functions:

- The appointment, termination and disciplinary arrangements of Officers who are not Chief Officers or Deputy Chief Officers (other than assistants to political groups) in line with the Council's normal recruitment, disciplinary and termination policies;
- Community Governance: proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval;
- Reorganisation orders implementing recommendations of a community governance review.

4.7 Local Choice Functions

The Chief Executive is authorised to discharge the following Local Choice Functions which have been assigned to full Council and Cabinet (see Part B2 of the Constitution):

- 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:
 - 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).
- To make agreements with other local authorities for the placing of staff at the disposal of those other authorities (Cabinet).

E5. **DIRECTOR OF STRATEGY, EQUALITY AND PARTNERSHIPS**

5.1 Summary

The **Director of Strategy, Equality and Partnerships** leads the Directorate.

5.2 Non-Executive Functions

The **Director of Strategy, Equality and Partnerships** is authorised to discharge the following functions:

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1. Joint coordination of the Council Plan (with the Strategic Director of Council Management).

5.3 Executive Functions

The Director of Strategy, Equality and Partnerships is authorised to discharge the following functions:

2. Insight, partnerships and strategy, including:

- (i) Strengthening the Council's use of evidence to generate insight, inform decision making and drive improvements across services;
- (ii) Developing the Council's policy agenda;
- (iii) Promotion of collaborative working with stakeholders and partners, including the West Midlands Combined Authority and Core Cities;
- (iv) Strengthening the Council's approach to public participation;
- (v) Third sector partnership and engagement.

4. Corporate communications services, including:

- (i) the council's communications strategy and policy;
- (ii) internal and external communications; and
- (iii) Press and media relations.

5.4 Director of Public Health (DPH)

The Director of Public Health is a statutory appointment as a Chief Officer of the Council appointed jointly with the Secretary of State for Health and Social Care.

The DPH has to be a professionally registered Public Health Consultant.

The DPH is accountable for appropriate use of the ring-fenced public health grant and ensuring the Council delivers the mandated public health services.

The DPH leads the Public Health Division.

The DPH has specific statutory responsibilities; the DPH's specific responsibilities and duties arise directly from Acts of Parliament – mainly the NHS Act 2006 and the Health and Social Care Act 2012 – and related regulations including:

- Responsibility to protect and improve the health of the local population;
- Responsibility to ensure arrangements for planning for, and responding to, emergencies;
- Ensuring co-operation with police, probation and prison services in relation to violent and sexual offenders;

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Supporting arrangements in relation to

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ensure the council meets its duties to improve public health¶
ensure the delivery of public health protections and health improvement responsibilities¶
ensure the council plans and responds to emergencies that present a risk to public health¶
ensure the council meets other local government public health responsibilities¶
setting, supporting and monitoring the council's policy on community safety including:¶
after communities;¶
domestic violence;¶
social cohesion and inclusion;¶
prevent and counter-terrorism;¶

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Birmingham City Council Constitution

Part E Scheme of Delegations

July 2022

E5 Director of Strategy, Equality and Partnerships

- Provide public health response as a responsible authority to Licensing applications;
- Responsibility for ensuring provision of Healthy Start vitamins where child health clinics and maternity services are commissioned by the local authority;
- Write an annual Director of Public Health report;
- Be an active member of the Health and Wellbeing Board.

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E6. **STRATEGIC** DIRECTOR OF COUNCIL MANAGEMENT

6.1 Summary

The **Strategic** Director of Council Management is the responsible officer for the proper administration of the Council's financial affairs under the Local Government Act 1972, Section 151. The **Strategic** Director of Council Management Protocol is set out in Part D of this Constitution.

In addition, the post holds overall responsibility for Digital & Customer Services, Performance Management, Procurement, HR functions and management of the Council's Programme Management Office. The City Solicitor also reports into the **Strategic** Director of Council Management.

6.2 Section 151 Officer Functions

The **Strategic** Director of Council Management is authorised to take all action as is necessary or expedient to fulfil the statutory obligations under Section 151 Local Government Act 1972.

1. Ensuring effective financial management and controls, including:
 - Reporting on the robustness of the Council's financial plans;
 - Managing the Council's borrowing and investment requirements;
 - Managing and monitoring the Council's revenue budget and capital programme;
 - Preparation and closure of the Council's financial accounts;
 - Managing the Council's tax affairs; and
 - Internal audit.
2. Setting, supporting and monitoring the council's policies and procedures for managing:
 - Budgets;
 - Procurement and purchasing;
 - Commissioning;
 - Contract management;
 - Internal trading operations;
 - Business Charter for Social Responsibility;
 - Risk management.
3. To make standing orders in relation to Finance and contracts.³

³ Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972 and Section 135 of the Local Government Act 1972

4. Setting, supporting and monitoring the council's policies and procedures for managing:

- Performance and service improvement;
- Projects and programmes.

6.3 Non-Executive Functions

The Strategic Director of Council Management is authorised to discharge the following Council (non-executive) functions:

1. Joint coordination of the Council Plan (with the Director of Strategy, Equality and Partnerships).

6.4 Director, Digital and Customer Services

The Director, Digital & Customer Services is authorised to discharge the following functions in line with the provisions of this Constitution:

1. The Council's Information and Communications Technology Strategy and Citizen Access strategy;
2. Information and Communications Technology Service including:
 - Deliver a reliable, flexible, integrated, secure, accessible and well managed service;
 - Create the capability to turn information into insight;
 - Deliver 'Value for Money' services through the commissioning of excellent ICTD;
 - Be innovative; to make changes to what's established, by introducing new methods, ideas, and solutions.
3. The Council's corporate customer services and business support functions including:
 - The telephone contact centre;
 - Digital access including the council's website and e-services;
 - Business support functions supporting all Directorates
4. Revenues, Benefits and Rents services including:
 - Council tax processing and billing arrangements;
 - Local Council Tax Support and recoverability of excess Council Tax Support payments;
 - National non domestic rates;
 - Local hardship schemes;
 - Housing benefit, including recoverability of overpayments, and education benefit services;
 - Financial and social inclusion initiatives;
 - Collection of Housing Rents.

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6.5 Director of People Services Executive

The Director of People Services is authorised to discharge the following functions:

1. Setting, supporting and monitoring the council's policies and procedures for managing human resources and effective organisational development (including Occupational Health, Safety and Wellbeing).

Non-Executive

2. Employment of staff and terms and conditions.
3. Functions relating to local government pensions, including:
 - To make arrangements to consider and determine employee appeals in relation to grievances, grading and dismissal
 - To determine employee terms and conditions
 - To make standing orders in relation to Officer Employment

E7. CITY SOLICITOR

7.1 Executive Functions

The City Solicitor is authorised to take any action intended to give effect to a decision of the Council (including decisions taken by a Council committee in accordance with its terms of reference or by a Director in accordance with this scheme of delegation).

The City Solicitor is authorised to institute, defend or participate in any legal proceedings or settle (up to the value of £500,000), if appropriate, any actual or threatened legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the 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 Director of Council Management and/or the Chief Executive in consultation with the City Solicitor.

7.2 Non-Executive Functions: Monitoring Officer

The City Solicitor is the Monitoring Officer for the Council. The Monitoring Officer is a statutory appointment and provides advice to protect and safeguard the Council. The functions are summarised below.

	Description	Source
a)	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 and Section 5A Local Government and Housing Act 1989
b)	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 and Section 5A Local Government and Housing Act 1989

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	Description	Source
c)	Appointment of Deputy	Section 5 and Section 5A Local Government and Housing Act 1989
d)	Report on resources	Section 5 and Section 5A Local Government and Housing Act 1989
e)	Receive copies of whistleblowing allegations of misconduct	Public Interest Disclosure Act 1998 and Whistleblowing Code of Practice
f)	Arrange investigations of complaints of any Member misconduct	Section 28 Localism Act 2011
g)	Establish and maintain registers of Members' interests and gifts and hospitality	Section 29 Localism Act 2011 and Code of Conduct for Members
h)	Advise on disclosable pecuniary interests	Section 30 Localism Act 2011
i)	Advise on sensitive interests	Section 32 Localism Act 2011
j)	Grant of dispensations re: restrictions on Members' participation in meetings	Section 33 Localism Act 2011
k)	Advice to Members on interpretation of Code of conduct for Members	Section 28 Localism Act 2011 and Code of Conduct for Members
l)	New ethical framework functions in relation to Parish Councils	Section 27 Localism Act 2011
m)	Compensation for maladministration	Section 92 LGA 2000
n)	Advice on vires issues, maladministration, probity and policy framework to all Members	DCLG guidance
o)	Advise on any indemnities and insurance issues for Members / Officers	Section 101 LGA 2000 and Local Authorities (Indemnities for Members and Officers) Order 2004 (SI 2004/3082)

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7.3 Non-Executive Functions: Other

The City Solicitor is authorised to discharge the following Council (non-executive) functions:

1. Supporting the corporate governance of the council, particularly in respect of:
 - (i) Monitoring and reviewing the effectiveness and operation of the constitution;
 - (ii) The requirements of the Members' Code of Conduct;
 - (iii) Setting, supporting and monitoring the council's policies and procedures for managing and access to information including data protection laws;
 - (iv) The appointment of committees and discharge of Council functions;
 - (v) The appointments to outside bodies;
 - (vi) The Members' Allowance Scheme;

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(vii) The power to make, amend or revoke byelaws.

2. Legal and Governance services including

- (i) Legal advice and related support services;
- (ii) Functions relating to the role of Solicitor to the Council including:
 - o taking any action intended to give effect to a decision of the Executive;
 - o the commencement, defence, withdrawal or settlement of proceedings;
 - o the authorisation of Council officers to conduct legal matters in court⁴
- (iii) Governance Services including support to elected members in their responsibilities, particularly in respect of:
 - o The Leader and Deputy Leader of the Council and Cabinet Members;
 - o The Lord Mayor;
 - o Councillors via group support offices;
 - o The full Council meeting;
 - o Cabinet;
 - o Committees appointed by full Council;
 - o Overview & Scrutiny;
 - o Training and development of councillors.

7.4 Local Choice

The City Solicitor is authorised to discharge the following Local Choice Functions which have been assigned to full Council (see Part B2 of the Constitution):

- To appoint review boards under the Social Security Act 1998;⁵
- To amend this Constitution (as set out in Part A6 of this Constitution);
- To make arrangements for the appointment of Committees and discharge of Council's functions.

⁴ "Court" to be construed widely including but not limited to tribunals, inquiries and other quasi-judicial hearings.

⁵ s34(4) Social Security Act 1998

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E8. RETURNING OFFICER AND ELECTORAL REGISTRATION OFFICER

The Assistant Director Governance is the Returning Officer and Electoral Registration Officer and is authorised to discharge the following Council (non-executive) functions:

No	Function	Reference
a)	To assign officers in relation to requisitions of the registration officer	Section 52(4) of the Representation of the People Act 1983
b)	To provide assistance at European Parliamentary elections	Section 6(7) and (8) of the European Parliamentary Elections Act 2002
c)	To divide constituency into polling districts	Section 18A to 18E of and Schedule A1 to the Representation of the People Act 1983
d)	To divide electoral divisions into polling districts at local government elections	Section 31 of the Representation of the People Act 1983
e)	Powers in respect of holding of elections	Section 39(4) of the Representation of the People Act 1983
f)	To pay expenses properly incurred by electoral registration officer	Section 54 of the Representation of the People Act 1983
g)	To fill vacancies in the event of insufficient nominations	Section 21 of the Representation of the People Act 1985
h)	To declare vacancy in office in certain cases	Section 86 of the Local Government Act 1972
i)	To give public notice of a casual vacancy	Section 87 of the Local Government Act 1972
j)	To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Section 10 of the Representation of the People Act 2000

E9. STRATEGIC DIRECTOR OF ADULT SOCIAL CARE

9.1 Summary

The Strategic Director of Adult Social Care, is the responsible officer for the Adult Social Services.⁶

9.2 Executive Functions

The Strategic Director of Adult Social Care, is authorised to discharge the following functions:

1. Services to support adults including:

- Integration and personalisation of health and social care services across the city for the benefit and health and well-being of Birmingham citizens;
- Information, advice and advocacy;
- Prevention and Recovery: to take steps to prevent, reduce or delay the need for care and support for all people including:
 - Preventative Services: Provision or arrangement of community and home based services to adults with less intensive needs; and
 - Re-ablement Services: Provision or arrangement of early intervention time-limited services to meet the immediate requirements of adults with short-term social care needs.

2. Safeguarding including:

- Co-ordination of multiagency arrangements to ensure that resources are deployed in safeguarding vulnerable adults;
- Delivery of safeguarding training; and
- To promote and enable identification of and appropriate action for vulnerable adults at risk of abuse or neglect.

3. Assessment and eligibility

4. Charging and financial assessments including undertaking financial assessments and the provision of deferred payments.

⁶ Appointed under Section 6 Local Authority Social Services Act 1970

E10. STRATEGIC DIRECTOR OF CHILDREN AND FAMILIES

10.1 Summary

The Director, Education & Skills, is the responsible officer for the Children's Services.⁷

10.2 Executive Functions

The Strategic Director of Children and Families is authorised to discharge the following functions:

1. Education of Children and Young People including:
 - School improvement;
 - School places and travel to and from school;
 - Oversight of the Dedicated Schools Grant.
2. Special Educational Needs and Disability (SEND).
3. Early Years Provision
4. Children's Services and Safeguarding, including:
 - Overseeing the Children's Trust;
 - Safeguarding and Child Protection;
 - Youth Offending Services
5. Corporate Parenting.
6. Skills and employability
 - Skills and entrepreneurship in schools;
 - Youth engagement and youth services;
 - Employment Opportunities.
7. Library of Birmingham and community libraries.

10.3 Local Choice Functions

The Strategic Director of Children and Families is authorised to discharge the following Local Choice Functions which have been assigned to Cabinet (see Part B2 of the Constitution):

- To make arrangements for appeals against exclusion of pupils from maintained Schools;
- To make arrangements for appeals regarding school admissions;⁸

⁷ Appointed under Section 18 Children Act 2004

⁸ s94 (1), (1A) and (4) School Standards and Framework Act 1998

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Part E Scheme of Delegations
 E11 Strategic Director of Place, Prosperity and

- To make arrangements for appeals by governing bodies.⁹

E11. STRATEGIC DIRECTOR OF PLACE, PROSPERITY AND SUSTAINABILITY

11.1 Executive Functions

The Strategic Director of Place, Prosperity and Sustainability is authorised to discharge the following functions in line with the provisions of this Constitution:

1. International and domestic inward economic investment including tourism and the visitor economy.
2. Economic growth, including:
 - Development programmes;
 - Land use planning;
 - Housing development.
3. Transport & Connectivity including:
 - Development of the Council's transport strategies and programmes;
 - The authority's strategic traffic management role and network planning;
 - Street naming and numbering;
 - Design of minor and major transport and highways projects;
 - The making of agreements for the execution of highways works under S278 Highways Act 1980;
 - Powers and duties relating to rights of way (including closures) under the Wildlife and Countryside Act, Highways Act, Town and Country Planning Act or Clean Neighbourhoods Act;
 - Air Quality via the Clean Air Zone.
4. Local Land Charges functions including:
 - Maintenance of the Local Land Charges Register; and
 - Responsibility for processing local authority searches.
5. Planning functions including:

⁹ s95 (2) School Standards and Framework Act 1998

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Birmingham City Council Constitution

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Part E Scheme of Delegations
E11 Strategic Director of Place, Prosperity and

- Deal with any applications for planning permission or other consents (including demolitions);
- Development of the Council's planning and transport policies;
- Management of the planning service;
- Building conservation and urban design; and
- Obtaining of information as to interests in land.

6. Property Services including:

- Council land use and property;
- Operational Property Management
- Asset Management;
- Central Administration Building (CAB) Accommodation and Management;
- Valuations and Acquisitions;
- Property Sales;
- Property Strategy Delivery;
- Investment Estate & Property Management;
- Property Asset Management and Income;
- Strategic Investment Property Management;
- Property Development;
- Security Services.

11.2 Non-Executive functions

The Strategic Director of Place, Prosperity and Sustainability, and Strategic Director of City Operations are authorised jointly to discharge the following functions in line with the provisions of this Constitution:

- Power to create footpaths and bridleways;
- Power to stop up footpaths and bridleways;
- Power to divert footpaths and bridleways;
- Powers relating to the preservation of trees;
- Powers relating to the protection of important hedgerows.

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Birmingham City Council Constitution

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Sustainability

Part E Scheme of Delegations
E11 Strategic Director of Place, Prosperity and

11.3 Local Choice Functions

The Strategic Director of Place, Prosperity and Sustainability is authorised to discharge the following Local Choice Functions which have been assigned to full Council (see Part B3 of the Constitution):

- The control of pollution or the management of air quality jointly with the Strategic Director, City Operations;¹⁰
- To obtain information about interests in land;¹¹
- To obtain particulars of persons interested in land;¹²
- To make agreements for the execution of highways works jointly with the Strategic Director, City Operations;¹³

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¹⁰ Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

¹¹ s330 Town and Country Planning Act 1990

¹² s16 Local Government (Miscellaneous Provisions) Act 1976

¹³ Section 278 Highways Act 1980

Birmingham City Council Constitution
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Part E Scheme of Delegations
E12 Strategic Director of City Housing

E12. STRATEGIC DIRECTOR OF CITY HOUSING

12.1 Executive Functions

1. Housing Services including:

- Council housing management services;
- Liaison with Registered Social Landlords;
- Housing Options;
- Tenant engagement in social housing;

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E13. STRATEGIC DIRECTOR OF CITY OPERATIONS

13.1 Executive Functions

1. Waste Strategy and Services including:

- Waste collection;
- Waste disposal;
- Recycling.

2. Cleaner Neighbourhoods including:

- Street cleansing;
- Pest control;
- Litter bin provision and maintenance;
- Provision and cleaning of public conveniences;
- Graffiti removal;
- Dog control and dog warden service.

3. Arts, Culture and Sports, including:

- Museums and galleries;
- Arts;
- Sporting events;
- Leisure centres and community sports facilities.

4. Parks and Allotments including:

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July 2022

- Creation, management and enhancement of green spaces¹⁴;
 - Creation, management and enhancement of related visitor attractions and facilities;
 - Public rights of way and provision and maintenance of footpaths and bridleways;
 - Woodland and tree management;
 - Provision of educational events and programmes;
 - Grass cutting and grounds maintenance;
 - Management of designated conservation sites.
5. Bereavement Services including:
- Cemeteries, crematoria, burial grounds and mortuaries including the authority's role as burial authority;
6. To discharge the Council's statutory obligations in relation to the operation of the Community Right to Bid for Assets of Community Value and the Community Right to Challenge.
7. To exempt the Illegal money lending team from provisions in Part D2 in relation to FinditinBirmingham (as per the footnotes in that section), if it is prudent to do so for operational, geographical and policy reasons. Value for money will also be a consideration in line with the ringfenced grant agreement.
8. Highways and Infrastructure including:
- The authority's role as a highways, traffic and streetworks authorities;
 - Maintenance of highway assets of roads, bridges, retaining walls, street lighting and associated infrastructure;
 - Design and delivery of major and minor highway schemes;
 - The making of agreements for the execution of highways works under S278 Highways Act 1980;
 - Powers and duties relating to rights of way (including closures) under the Wildlife and Countryside Act, Highways Act, Town and Country Planning Act or Clean Neighbourhoods Act;
 - To act as the Authority's Representative on behalf of the Council in accordance with the terms of the Highway Maintenance and Management Service PFI Contract;
 - Discharging statutory duties with respect to the delivery of operational parking functions, including Civil Parking Enforcement
 - Flood and water management including:

¹⁴ Including parks & city centre beds, nature reserves & woodlands, playgrounds, allotments

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- Discharging duties as Lead Local Flood Authority and other duties and responsibilities associated with the Flood Water Management Act;
- Land drainage activities;
- The delivery and maintenance of flood alleviation schemes
- Flood response.

9. The council's city-wide resilience and emergency planning functions.

10. Neighbourhood Management.

13.2 Non-Executive Functions

The Strategic Director, City Operations is authorised to discharge the following functions:

1. Regulation and Enforcement, including
 - Environmental Health Service, Trading Standards Service, England Illegal Money Lending Team, Regional Investigation team, the Licensing Service, the Waste Enforcement Unit (street scene) and the private rented sector (housing);
 - Enforcement activities, including the authorisation of proceedings and defending proceedings on behalf of the council in relation to civil and criminal matters in respect of these services and other services as appropriate.
2. Licensing functions including:
 - Functions of a licensing authority including (but not restricted to):
 - The administration of licenses for entertainment, gambling and the sale of alcohol;
 - Taxi and Private Hire;
 - Miscellaneous licensing functions;
 - Private Rented Sector licensing and regulation.
 - Adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)
 - Adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)
3. Environmental Health including:
 - Food hygiene and safety;
 - Health and safety at work¹⁵;
 - Monitoring and control of infectious diseases;

¹⁵ other than in relation to Birmingham City Council staff or activities

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- Private water supply monitoring; and
- Animal health and welfare enforcement¹⁶.

4. Trading Standards including:

- Tackling rogue traders
- Product safety
- Misleading claims, scams and illegal trading practices.
- Underage sales
- Illegal advertising

5. Registrars functions including:

- Registration of births, deaths, marriages and civil partnerships; and
- Provision of civic weddings, civil partnerships and citizenship ceremonies.

6. Public Health Protection and Control of Statutory Nuisance including:

- Flytipping, commercial and household Duty of Care and rubbish accumulations;
- Domestic, commercial and industrial noise, fumes and odours;
- Air quality management; and
- Other forms of pollution harmful to public health.

7. To authorise action and exercise powers in relation to the Anti-Social Behaviour, Crime & Policing Act 2014. · Setting, supporting and monitoring the council's policy on Community Safety including:

- Safer communities;
- Domestic abuse;
- Prevent and Counter-terrorism;
- To discharge local authority approvals for S35 Dispersal Orders and other statutory instruments relating to local community safety;
- To Host the Community Safety Partnership and produce a Community Safety Strategy including reducing reoffending and serious violence strategies.

8. Highways:

- Duty to assert and protect the rights of the public to the use and enjoyment of highways;

¹⁶ including livestock markets and animal breeding and boarding establishments

- 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;
- Power to make limestone pavement order.

13.3 Local Choice Functions

The [Strategic](#) Director, City Operations is authorised to discharge the following Local Choice Functions which have been assigned to full Council:

- Any function relating to contaminated land;¹⁷
- To serve an abatement notice in respect of a statutory nuisance;¹⁸
- To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;¹⁹
- To inspect the authority's area to detect any statutory nuisance;²⁰
- To investigate any complaint about the existence of a statutory nuisance.²¹
- The control of pollution or the management of air quality;²²
- To make agreements for the execution of highways works.²³

¹⁷ Part IIA Environmental Protection Act 1990 and subordinate legislation

¹⁸ s80(l) Environmental Protection Act 1990

¹⁹ s8 Noise and Statutory Nuisance Act 1993

²⁰ S79 Environmental Protection Act 1990

²¹ s79 Environmental Protection Act 1990

²² Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

²³ Section 278 Highways Act 1980

Birmingham City Council

City Council

12 July 2022



Subject: Scrutiny Business Report

Report of: Cllr. Sir Albert Bore, Chair of Co-ordinating Overview and Scrutiny Committee

Report author: Christian Scade, Interim Head of Scrutiny and Committee Services, 07517 550013, christian.scade@birmingham.gov.uk

Does the report contain confidential or exempt information? ☐ Yes ☒ No

1 Executive Summary

- 1.1 This report sets out the priorities and issues identified for the planned work programmes of Overview & Scrutiny Committees for the forthcoming year.

2 Recommendation

- 2.1 That the report be noted.

3 The Start of the Year

- 3.1 At the beginning of the municipal year the Council welcomed new members to the Scrutiny Committees and the following Chairs were appointed:

Co-ordinating O&S Committee	Cllr. Sir Albert Bore
Commonwealth Games, Culture and Physical Activity O&S Committee	Cllr. Jack Deakin
Economy and Skills O&S Committee	Cllr. Saima Suleman
Education and Children's Social Care O&S Committee	Cllr. Kerry Jenkins
Health and Social Care O&S Committee	Cllr. Mick Brown
Housing and Neighbourhood O&S Committee	Cllr. Mohammed Idrees
Resources O&S Committee	Cllr. Akhlaq Ahmed
Sustainability and Transport O&S Committee	Cllr. Chaman Lal

- 3.2 During June each O&S Committee held an informal meeting and received information on the development of the Council's Corporate Plan, the City Observatory and Indicators and the priorities of the relevant service areas to inform the development of the committee work programmes. Each of the informal meetings also considered how the data and analysis that will be available from the City Observatory will be used to inform the work of the Overview and Scrutiny Committees and ensure that equalities are integral to their work.
- 3.3 Some of the key issues that have been identified for the 2022/23 work programme are set out in Sections 4-10 below. In addition to the agenda items for the Committee meetings members also identified issues they would like to consider as part of an in-depth Inquiry. The proposed Inquiry will be considered and prioritised at the Co-ordinating Scrutiny Committee on the 8 July and a verbal update will be provided to City Council. Through these inquiries Overview and Scrutiny Committees can influence policy development and be a catalyst for change to deliver against the 5 Grand Challenges the city faces of:
- Unemployment, skills and the economy
 - Health and well being
 - Community cohesion and living standards
 - The climate emergency
 - Opportunities for children and young people

4 Scrutiny Priorities for 2022/23

Co-ordinating O&S Committee

- 4.1 At meeting in July, the Committee will focus on the Scrutiny Work Programme to confirm the items that will be considered at future meetings of the Co-ordinating O&S Committee and agree the Scrutiny Inquiry that will be carried out by the relevant Overview and Scrutiny Committees during 2022/23. The Committee will continue to monitor the implementation of the recommendations from previous work and will receive reports in the Autumn on the Everyone's Battle, Everyone's Business Action Plan, recommendations of the Exempt Accommodation Inquiry and how the work on complaints has informed the Council's approach to Customer Services.
- 4.2 Other issues that may be considered as part of the Committee's work programme include the West Midlands Devolution Deal, the cost of living crisis, planning enforcement and the development of the Council's Corporate Communications Plan.
- 4.3 The Co-ordinating Scrutiny Committee remit aligns with work of the Leader, the Deputy Leader and Cabinet Members for Social Justice, Community Safety and Equalities, and Digital Culture, Heritage and Tourism. A key part of the work

programme will be to hear from each of these portfolio leads on how they are delivering against their priorities.

5 Commonwealth Games, Culture & Physical Activity O&S Committee

- 5.1 The Committee will receive an update report at the July meeting on the preparation and delivery of the Commonwealth Games. After the games have finished a report will be brought to the Committee in September to provide an overview of the delivery of the games and legacy plans, and at subsequent meetings the Committee will consider the legacy impact of the Games in more detail. The Cabinet Members for Digital, Culture, Heritage & Tourism and Health and Social Care will be invited to report on the delivery of their priorities.
- 5.2 In addition, the Committee identified the following issues for consideration in the work programme including a mapping of physical activity and cultural assets in neighbourhoods, the development of a new Culture Strategy 2023-2033, and a new Physical Activity Strategy.

6 Economy and Skills O&S Committee

- 6.1 At the July meeting the Committee will receive an update on the East Birmingham Inclusive Growth Strategy and major developments including the Our Future City Plan. The Committee has identified the following items for consideration at future meetings: Apprenticeships including for those with Special Educational Needs and Disabilities (SEND), Engagement with Council for SMEs, Night-time economy & impact on the city and the role of universities in the city economy. Members also identified the Commonwealth Games employment and skills legacy as a potential item. This may be considered jointly with the Commonwealth Games Scrutiny Committee.
- 6.2 The Leader, Deputy Leader and Cabinet Members for Children & Young People and Digital, Culture, Heritage & Tourism will be invited to Committee meetings to report on their priorities.
- 6.3 The Committee has proposed an Inquiry focussing on the skills agenda for Birmingham and ensuring that this provides the skills employers need now and in the future.

7 Education & Children's Social Care O&S Committee

- 7.1 At July Committee meeting members will receive a report on the SEND Improvement and the Accelerated Progress Plan (APP), the Children's Travel Service and the Youth Justice Strategic Plan. During the year the Committee will receive reports from the Children's Trust, the SEND Commissioner, and the Birmingham Children's Safeguarding Partnership on the work on inclusion with schools.
- 7.2 The Cabinet Members for Children & Young People and Health & Social Care will be invited to the Committee to report on their priorities.

- 7.3 The Committee agreed to work with the Health and Social Care Scrutiny Committee on the impact of the pandemic on the mental health of children and young people and decided that their Inquiry to go forward for consideration at the Co-ordinating Scrutiny Committee will focus on Child Exploitation and County Lines.

8 Health and Social Care O&S Committee

- 8.1 The Integrated Care System (ISC) will formally be established on the 1 July 2022 and replace the Clinical Commissioning Groups (CCG) as commissioners of health services – this will be a focus of the work for both the Joint Birmingham/Solihull Health Scrutiny Committee and the Birmingham Health and Social Care O&S Committee (HOSC) which will have an important part to play in engaging and commenting on emerging plans that will impact on the people of the city.
- 8.2 At the informal meeting in June the Committee agreed that the Cabinet Member for Health and Social Care will be invited to attend a future meeting and the Committee will continue to monitor the performance of adult social care services, Forward Thinking Birmingham, Substance Misuse Services CGL, Birmingham Sexual Health Services, and receive the Birmingham Safeguarding Adults Board Annual Report. Members also identified further issues for consideration in the work programme that will be confirmed at the July meeting.
- 8.3 The Committee will also monitor the implementation of the recommendations from the previous work on Period Poverty and Raising Period Awareness and infant mortality.
- 8.4 In addition to these the Committee proposed 3 issues for consideration by the Co-ordinating Scrutiny Committee as in-depth inquiries
- Proposed joint Scrutiny Inquiry with Commonwealth Games, Culture and Physical Activity focussing on the health and wellbeing legacy of the Commonwealth Games.
 - Proposed joint Scrutiny Inquiry with Education and Children's Social Care focussing on mental health in young people including the impact of the pandemic.
 - Proposed HOSC Inquiry focussing on why dementia is different for women.

9 Housing and Neighbourhoods O&S Committee

- 9.1 At the July meeting the Committee will consider the scope of an in-depth inquiry on cleaner streets. Other key items identified for consideration in the work programme to date included, improving the standards of Birmingham City Council void properties, the new tenant engagement strategy and progress towards on localisation and the Working Together in Birmingham's Neighbourhoods policy. The Committee will continue to consider the performance reports provided by Housing and City Operations. Further items for the work programme are likely to be identified in July.

- 9.2 Following the motion agreed at City Council on the 14 June the Committee will receive an update at the September meeting on how Birmingham City Council is engaging and working with the Coroner, partners and communities to eliminate the delays in release of deceased for burial and in the registration processes for births and deaths. The committee will also receive an update on work to develop a new mortuary facility for the city, which will include a permanent digital autopsy scanner.
- 9.3 The Leader and Cabinet Members for Housing and Homelessness; Environment; and Social Justice Community Safety and Equalities will be invited to attend to report on the delivery of their priorities.
- 9.4 This Committee is the statutory Crime and Disorder Committee and as such receives an annual report from the Birmingham Community Safety Partnership. This is currently scheduled for November 2022.

10 Resources O&S Committee

- 10.1 At the July meeting the Committee will continue to scrutinise the quarterly financial monitoring and during the autumn will monitor the implementation of the recommendations from the Task and Finish Group on Procurement and Governance Arrangements. Other issues that the Committee have identified include monthly corporate exception reports, the planned procurement activities report, the outcome of the CIPFA Budget Sufficiency Review of Education and Skills Directorate (now the Children and Families Directorate), how the revenue and benefits service is mitigating the financial risk to the council of the cost of living crisis through early intervention, the council's approach to commercialisation and the performance management indicators that will be used to assess the quality of services provided within the remit of the Committee.
- 10.2 The Leader and Cabinet Members for Finance & Resources and Social Justice, Community Safety & Equalities will be invited to report on the delivery of their priorities.

11 Sustainability and Transport O&S Committee

- 11.1 At the July Committee meeting members will receive a report on the Low Traffic Neighbourhood (LTN) and the Cabinet Member for Transport has been invited to report on delivery of their priorities. Issues that the Committee identified for consideration at future meetings included the Clean Air Zone (CAZ), re-procurement of the Highways PFI Contract and the Parking Civil Enforcement Contract, a new Street Works Permit Scheme, the annual Flood Risk Management Report, the development of a new Road Safety Strategy and the procurement of the waste disposal contract.
- 11.2 The Cabinet Member for the Environment will be invited to report on delivery of their priorities.

12 Scrutiny Training

- 12.1 Chairs and members of Overview and Scrutiny Committees have been offered training provided by the Local Government Association (LGA) which will enable them to develop the skills required to undertake effective scrutiny that provides challenge and adds value. Training available to members includes:
- 12.2 Scrutiny for councillors: All councils must have an overview and scrutiny function. This is to ensure that decisions taken are robust and fulfil the needs of the local community. This module is aimed at councillors who sit on the Overview and Scrutiny committee of a council, involved in scrutiny work or wish to learn more about the overview and scrutiny function of a council.
- 12.3 Leadership Essentials: Effective Scrutiny: The Leadership Essentials: Effective Scrutiny 2-day programme is for new or aspiring scrutiny chairs or task-and-finish group review lead members covering:
- Leading and managing a scrutiny review
 - Chairing scrutiny meetings in all their forms
 - Increasing participation by members and the public
 - Ensuring impact of scrutiny recommendation
- 12.4 Further training from the LGA for all scrutiny members will also be available in person. The scope for this is still to be confirmed and details will be circulated when available.

13 Other Scrutiny Work: West Midlands Police & Crime Panel

- 13.1 The Council's Scrutiny team provides the officer support to the West Midlands Police & Crime Panel. The Panel is a joint scrutiny body of the West Midland authorities with a dual role to 'support and challenge' the work of the Police and Crime Commissioner (PCC). The Council's current representatives on the panel are Cllr Alex Aitken, Cllr Gareth Moore and Cllr Kath Scott.
- 13.2 The Panel acts as a critical friend to the PCC on behalf of West Midlands residents and must perform the following statutory functions:
- Review and comment on the PCC's draft Police and Crime Plan.
 - Review the PCC's Annual Reports.
 - Scrutinise decisions and actions by the PCC.
 - Review (with the power to veto) the PCC's proposed Council Tax precept.
 - Hold confirmation hearings before the PCC makes certain senior appointments (Chief Constable, Deputy PCC, Chief Executive and Chief Finance Officer), with the power to veto the Chief Constable appointment.
 - Handle non-criminal complaints about the conduct of the PCC and Deputy PCC, referring serious complaints to the Independent Office for Police Conduct (task delegated to the Birmingham Monitoring Officer).

- Appoint an acting PCC if required.
- Suspend the PCC if charged.

13.3 The Panel's work programme consists of statutory tasks (listed above) and wider exploratory work to build knowledge and insight into the strategic policing and the wider community safety and criminal justice landscape to fulfil its role to hold the PCC to account.

13.4 The Panel will meet for the first time in July. At this meeting, the Panel will consider its work programme for 2022-23.

Birmingham City Council

City Council

12 July 2022



Subject: Motions for Debate from Individual Members

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

To consider the following Motions of which notice has been given in accordance with Council Procedure Rules (section B4 G of the Constitution).

A. Councillors Liz Clements and Jayne Francis have given notice of the following Notice of Motion:-

“The Council notes that:

- Shift work is widespread in many industries, particularly hospitality, and can often entail late-night working.
- Many workers, especially women, are increasingly worried about their safety travelling to and from work at night.
- The West Midlands Police and Crime Commissioner’s Women’s safety survey, conducted in 2021, found that 67% of respondents had felt unsafe on a bus, and 43% had felt unsafe in a taxi. 80% of respondents had expressed feeling unsafe following incidents such as cat calling, wolf whistling, up skirting or inappropriate behaviour, 93% did not report this to the police.
- A YouGov poll in 2019 about experiences of sexual harassment on public transport found that 37% of women had experienced someone ‘deliberately pressing against them’ compared to 12% of men, and 22% of women had a ‘sexual statement directed against them’ in comparison to 7% of men.
- Only 2% of victims go on to report sexual harassment on public transport.

The Council believes that:

- While employers may feel their duty of care to staff ends when an employee finishes a shift, they also need to take into consideration journeys home, especially during unsocial hours.
- Unite the union's 'Get Me Home Safely' campaign, which calls on employers to take all reasonable steps to ensure workers get home safely from work at night, should be supported.
- The weakness of enforcement of the law against sexual assault on public transport, including up-skirting, is failing women and girls.
- Greater numbers of trained staff and stronger enforcement of the law against sexual assault and harassment on public transport are urgently needed
- The Government's Safety of Women at Night Fund, which limits grants to only £300,000, is wholly inadequate to tackle the important issue of the safety of women and girls in public spaces, including public transport, at night and in the night-time economy.

The Council resolves to:

- Publicly call for improvement to late night and off-peak transport service provision.
- Publicly call for the lowering of fares and oppose any cuts to public transport funding, including the early ending of the Bus Recovery Grant, and call on the West Midlands Mayor to use his political platforms to achieve this.
- Publicly support Transport for West Midlands' evaluation of the options on the future delivery of bus services, including bus franchising.
- Lobby the government for stronger enforcement of the law against sexual assault and harassment on public transport.
- Call on the West Midlands Mayor and the government to support Unite the Union's 'Get Me Home Safely' campaign."

B. Councillors Bruce Lines and Darius Sandhu have given notice of the following Notice of Motion:-

"That this Council notes the concern of residents with the drastic increase in the number of off-road motor bikes and other mechanically propelled vehicles such as quad bikes within Birmingham. These vehicles, when inappropriately used, are a risk to public safety, create a noise nuisance for residents, deter cyclists and pedestrians and cause damage to parks and footways.

Therefore, the Council calls on the Executive to

- Introduce a City-Wide Public Space Protection Order, as has been done in authorities such as Coventry City Council and Kensington and Chelsea London Borough Council to give the police more powers to tackle problems caused by off road motor vehicles.
- Implement noise triggered ANPR cameras in nuisance areas to catch those cars causing excessive noise.
- Assesses whether more stringent defensive measures could be taken to prevent off-road vehicles from causing a nuisance and damage to known sites and neighbourhoods.
- Work with the Police and Crime Commissioner to dedicate more resources to tackling this issue and notes the hard work officers are doing to tackle this issue already.”

