

Birmingham City Council Constitution – Change Log Annual Review 2020

Part A

Section	Proposed Change	Reason
Page 3 and 10	Removed references to A6 and A1 respectively	Sections no longer numbered
Page 9	<p>Amended section relating to City Solicitor powers:</p> <p>Legal Proceedings</p> <p>The City Solicitor is duly authorised to institute, defend or participate in any <u>actual or threatened</u> legal proceedings or settle <u>the same</u> (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 Chief Finance Officer and/or the Chief Executive in consultation with the City Solicitor.</p> <p>Part D of this Constitution (Financial Regulations) governs the arrangements for signing of contracts and sealing of relevant documents.</p>	Re-wording at request from Legal – to make it clearer

Part B

Section	Change	Reason
Part B1.7 v	<p>Amend Returning Officer role:</p> <p>Returning Officer and Electoral Registration Officer – This will be the Assistant Director, Governance.</p>	Following Rob Connelly's appointment to the AD role

Section	Change	Reason
Part B1.7 vi	References to CMT changed to CLT and add Chief Executive, Children's Trust and Programme Director, CWG	Following changes introduced by the Acting Chief Executive (October 2019)
Part B3.1, B6.1, B6.2, B6.5, B11.2 B4/B5	Wording amended to clarify Cabinet Member with Chief Officer decision-making, and Cabinet delegations; amend references to standing orders	Following feedback from officers
B4.2	Add new para iii <p>“Recorded vote on the Council’s budget and council tax: In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council’s budget and council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments relation to the budget and council tax.”</p>	For clarity, in line with regulations NOTE: this has been the practice in previous years, but not set out in the Constitution.
B4.4A	To amend text: <p>“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 June”</p>	In line with LGA 1972 Schedule 12
B4.4B vi	Amend text: <p>vi. The order of business and the time limit allocated to items on the Agenda may be varied <u>by agreement at Council Business Management Committee or</u> by a resolution passed on a Motion which, after being moved and seconded, shall be put to the vote without discussion.</p>	To reduce need for procedural motions to vary council timings in the council meeting itself
B4.4B vii	To review the following:	

Section	Change	Reason
	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.	
B4.4C iii	Amend wording “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 possible reasonably practical, at 2:00 pm on a Tuesday, within 10 working days of the request being received, subject to any statutory requirements. “	For clarity
B5.2	Add “Membership shall include the Chair of the Co-ordinating O&S Committee”	As agreed by CBM on 21 st October 2019
B5.3	Delete “Lord Mayor’s Advisory Group” from CBM sub-committee	As agreed by CBM on 10 th February 2020
B6.2	Add new para iii “Recorded vote on the Council’s budget and council tax: In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council’s budget and council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments relation to the budget and council tax.”	For clarity, in line with Regulations as cited
B6.3	Add new paragraph ix: “A member of the Cabinet Committee Group Company Governance should not be appointed to serve as a Director on any of the City Council’s wholly or partly owned companies”	As agreed at Group Leaders in September 2019
B7.5	Add “Approves the use of consultants” to portfolio of Finance and Resources	

Section	Change	Reason
B7.6	Remove "Domestic Violence" from health portfolio (sits with social Inclusion, and Equalities)	To remove repetition
B11.4	To review paragraph vi which currently states: "A member should not be appointed to serve on both the Resources O&S Committee and the Audit Committee"	To discuss at CBM as to whether this should be amended. CIPFA guidance suggests that separating the two roles is best practice, but there appears to be no prohibition to sitting on both.
B11.4	Amend vii: <u>The</u> Chair of <u>Resources</u> Overview & Scrutiny Committee should not be appointed to serve as a Director on any of the City Council's wholly <u>or partly</u> owned companies.	As agreed at Group Leaders in September 2019
B13.4 iv	<p>The Licensing functions of the Council shall be carried out by the following bodies:</p> <ul style="list-style-type: none"> 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. <i>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.</i> 	Added text in response to Independent Remuneration Panel's suggestion that the Constitution be strengthened with regards to the Chairs of Licensing Sub Committees following the awarding of an SRA
B14	Audit Committee terms of reference updated, including	On advice of Audit officers

Section	Change	Reason
	Add new paragraph ix: “The Chair of the Audit Committee should not be appointed to serve as a Director on any of the City Council’s wholly or partly owned companies”	

Part C

Section	Change	Reason
C2.1	Tidying up of language	
C2.8	<p>Amend sections iii to iv to apply to Audit Committee members as well as Scrutiny members, i.e. amend heading: Scrutiny and Audit Members Access – Additional Statutory Rights</p> <p>i. An Overview and Scrutiny Committee and/or Audit Committee will be entitled to copies / inspect documents which are in the possession or control of the Executive or its Committees and which contain material relating to:</p> <p>a) Any business transacted at a public or private meeting of the Executive or its Committees; or</p> <p>b) Any decision taken by an individual Cabinet Member.</p> <p>ii. An Overview and Scrutiny Committee and/or Audit Committee will not be entitled to:</p> <p>a) Any document that is in draft form;</p> <p><u>b)</u> 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;</p> <p>c) <u>Any legally privileged information</u>; or</p> <p>d) The advice of a Political Adviser or Assistant (if any have been appointed).</p>	<p>Following motion to Full Council: “...to set out a clear right for all members of the Audit Committee to have access to any information that is relevant to their role to be discussed by Group Leaders for the wording to be agreed.”</p> <p>September 2019</p>

Section	Change	Reason
	iii. Copies of documents requested under this section must be supplied within 10 clear days of receipt of the request.	
C4.4	Amend wording in relation to dispensations: “ix. Dispensations are available by application to the Chair of Standards Committee <u>or nominated deputy, in consultation with the Monitoring Officer</u> in the limited circumstances that apply by law. If required please write to the Monitoring Officer with reasons for the application”	For clarity and to facilitate speedier decision <u>making</u>
C9	Licensing Code of Practice – wording amends plus additional clarification on “dealing with correspondence” and complaints	For clarity (from licensing officers)
C10	Member allowance rates updated	Following Full Council on 15 September 2020

Part D

Section	Change	Reason
D1	The Financial Regulations for Birmingham City Council have been updated in line with emerging best practice for simpler more concise financial regulations that clearly set out the responsibilities of Member, Chief Finance Officer and Directors .	See briefing note
D2.3i	Every contract made by the Council shall comply with these Rules and be carried out in a fair, open and transparent manner that treats all contractors equally and without discrimination, provided that this does not include contracts for the appointment of barristers, or legal advice <u>firm</u> where in the opinion of the City Solicitor urgent advice is needed to protect the interests of the e Council.	Following feedback from officers
D2.3 vi	Additional section noting that services with a UK remit may need exemptions from aspects of the framework.	Following feedback from officers (particularly Illegal money Lending Team)
D2.4	Amend time for contracts to be on FinditinBirmingham to 10 days	Officer recommendation to better accommodate bank holidays etc

Section	Change	Reason
D2.5	Amendments to wording on Single and Multiple Contractor negotiations to clarify process	Following concerns raised by members of Resources O&S Committee and in line with officer advice.
D3.4	Amendments to clarify when a decision in PPAR goes back to Cabinet	Officer feedback
All	Wording changes to tidy up language	

Part E

Section	Change	Reason
E2.2, 3.2	Wording amended for clarity.	Following feedback from officers
E4.2 (and Part B3)	<p>Emergency Decisions: Re-name as “Urgent Decisions” Amend text to make clear that decisions are posted on CMLs, and that Cabinet “note” the report. Amendments below: “The exercise by the Chief Executive, Chief Finance Officer, Assistant Chief Executive and Director of any powers under this delegation shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (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, Chief Finance Officer, Assistant Chief Executive or designated Director before making a decision shall consult with the Leader (or in his/her absence the Deputy Leader); (iii) that the Chief Executive, Chief Finance Officer, Assistant Chief Executive or designated Director before making a decision shall consult with the City Solicitor and the Chief Finance Officer or their nominated deputies; 	<p>To avoid confusion with powers under Emergency Plan</p> <p>Following points made in Resources O&S committee after consideration of emergency decision made in December 2019</p>

Section	Change	Reason
	<p>(iv) that a record of all decisions made or recommendations implemented, together with the consultations referred to in (ii) and (iii) above shall be recorded <u>published on the Council's website</u> and maintained by the City Solicitor; and</p> <p>(v) that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Cabinet <u>(for noting)</u>. “</p>	
E11.1 (6) E12.2	To add “flood response” to highways delegations under Director, inclusive Growth Amendments to licensing under Director, Neighbourhoods	As requested by Directorate