

# **BIRMINGHAM CITY COUNCIL**

## **MEETING OF THE CITY COUNCIL**

**TUESDAY, 23 MAY 2023 AT 16:00 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 Public-I microsite [\(please click this link\)](#) 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 they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are 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 they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

**3 MINUTES**

To confirm and authorise the signing of the Minutes of the meeting of the Council held on 18 April 2023.

City Council to note that the Minutes from the Extraordinary meeting held on 18 May 2023 will be presented to the next meeting.

**4 ANNUAL REPORT OF THE LORD MAYOR 2022/23 (15 MINUTES)**

To receive the annual report of the Lord Mayor.

**5 ANNOUNCEMENT OF LORD MAYOR'S AWARDS**

Lord Mayor will announce Awards.

**6 PRESENTATION TO HONORARY ALDERMEN**

Presentation to Honorary Aldermen to be made by the Lord Mayor.

**7 ELECTION OF THE LORD MAYOR 2023/24**

To elect the Lord Mayor.

NB. A short break will follow to allow for the robing of the Lord Mayor.

**8 PRESENTATION TO THE RETIRING LORD MAYOR**

To present the retiring Lord Mayor with an ex-Lord Mayoral Badge.

**9 PRESENTATION TO THE RETIRING LORD MAYOR'S CONSORT**

To present the retiring Lord Mayor's Consort with a badge as a memento of office.

**10 VOTE OF THANKS TO THE RETIRING LORD MAYOR AND LORD MAYOR'S CONSORT**

A vote of thanks to the retiring Lord Mayor and Lord Mayor's Consort will be made.

**11 APPOINTMENT OF THE DEPUTY LORD MAYOR**

To appoint the Deputy Lord Mayor.

NB. A short break will follow to allow for guests to retire.

12 **ALLOWANCES**

To agree the allowances to be made to the Lord Mayor and the Deputy Lord Mayor in office during 2023/24.

13 **DATES OF MEETINGS**

To determine the dates of the meetings of Council to be held during the year ending with the next Annual Meeting of the Council.

It is suggested that meetings of the Council be held in the Council Chamber at 1400 hours on the following Tuesdays :-

**2023**

13 June  
11 July  
12 September  
7 November  
5 December

**2024**

9 January  
6 February  
27 February  
16 April

14 **ANNUAL MEETING IN 2024**

To confirm the date for the holding of the Annual Meeting of the Council in 2024.

It is recommended that the Annual Meeting for 2024 be held in the Council Chamber at 1600 hours on Tuesday 21 May 2024.

15 **LORD MAYOR'S ANNOUNCEMENTS**

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

16 **PETITIONS**

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.

17 **LEADER'S ANNOUNCEMENT OF CABINET MEMBERS**

The Leader will make his announcement.

**113 - 368**

18 **REVIEW OF THE CONSTITUTION**

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**The Leader to move the following recommendations:**

"That approval be given to the amendments to Parts A, B and D 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 24 May 2023."

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**369 - 386**

19 **CITY COUNCIL APPOINTMENTS**

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To consider a report of the Council Business Management Committee.

**The Leader to move the following recommendation:**

"That the City Council makes appointments to Committees and Other Bodies as set out in the Appendix to the report."

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**387 - 404**

20 **PAY POLICY 2023-2024**

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Report of the City Solicitor and Monitoring Officer.

**The Leader to move the following recommendation:**

"Council is invited to approve the updated Pay Policy 2023-2024".

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21 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Lord Mayor are matters of urgency.



**MEETING OF BIRMINGHAM  
CITY COUNCIL,  
TUESDAY, 18 APRIL 2023**

**MINUTES OF THE MEETING OF BIRMINGHAM CITY COUNCIL HELD  
ON TUESDAY, 18 APRIL 2023 AT 1330 HOURS IN THE COUNCIL  
CHAMBER, COUNCIL HOUSE, BIRMINGHAM**

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

**Councillors**

Alex Aitken	Ray Goodwin	Majid Mahmood
Deirdre Alden	Rob Grant	Lee Marsham
Robert Alden	Colin Green	Karen McCarthy
Gurdial Singh Atwal	Fred Grindrod	Saddak Miah
Raqeeb Aziz	Deborah Harries	Gareth Moore
Shabina Bano	Roger Harmer	Yvonne Mosquito
David Barker	Kath Hartley	Richard Parkin
David Barrie	Adam Higgs	Miranda Perks
Baber Baz	Des Hughes	Rob Pocock
Matt Bennett	Jon Hunt	Julien Pritchard
Jilly	Mumtaz Hussain	Hendrina Quinnen
Bermingham	Mahmood Hussain	Lauren Rainbow
Marcus	Shabrina Hussain	Darius Sandhu
Bemasconi	Timothy Huxtable	Kath Scott
Sir Albert	Mohammed Idrees	Shafique Shah
Bore	Zafar Iqbal	Rinkal Shergill
Nicky	Katherine Iroh	Sybil Spence
Brennan	Ziaul Islam	Ron Storer
Kerry Brewer	Morriam Jan	Saima Suleman
Marje Bridle	Kerry Jenkins	Jamie Tennant
Martin Brooks	Brigid Jones	Sharon Thompson
Mick Brown	Jane Jones	Paul Tilsley
Zaker Choudhry	Ayoub Khan	Penny Wagg
Debbie Clancy	Saqib Khan	Ian Ward
Liz Clements	Izzy Knowles	Ken Wood
John Cotton	Narinder Kaur	Alex Yip
Phil Davis	Kooner	Waseem Zaffar
Jack Deakin	Kirsten Kurt-Elli	
Adrian Delaney	Chaman Lal	
Diane Donaldson	Bruce Lines	
Barbara Dring	Mary Locke	
Jayne Francis	Ewan Mackey	
Sam Forsyth	Basharat	
	Mahmood	

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**NOTICE OF RECORDING**

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

- 104 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 the meeting.

There were no declarations of interest from Members.

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**MINUTES**

It was moved by the Lord Mayor, seconded and –

- 105 **RESOLVED:**

That the Minutes of the City Council meeting held on 28 February 2023 be taken as read and confirmed and signed.

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**LORD MAYOR'S ANNOUNCEMENTS****1 Death of Former Councillor Brian Meadows**

The Lord Mayor indicated her first announcement related to the death of former Councillor Brian Meadows who passed away peacefully on 1 February, aged 91.

Brian served as a Councillor for Moseley Ward from 1978 to 1986, during which time, he served on numerous Committees and Sub-Committees, some as Chair, as well as a number of outside bodies and charities.

Brian left behind his wife, Margaret and daughter, Diane.

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

106

**RESOLVED:-**

That this Council placed on record its sorrow at the death of former Councillor, Brian Meadows and its appreciation of his devoted service to the residents of Birmingham. The Council extended its deepest sympathy to Brian's wife Margaret, daughter Diane and all the 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     Death of Former Councillor, Honorary Alderman David Osborne**

The Lord Mayor indicated her second announcement related to the death of former Councillor, Honorary Alderman David Osborne, who passed away on 18 February at The Queen Elizabeth Hospital following a short illness.

David served as a Councillor for Acocks Green Ward from 1996 to 2004, and South Yardley Ward from 2004 to 2011; during which time, he served on numerous Committees and Sub-Committees, some as Chair, as well as numerous of outside bodies and charities.

He became an Honorary Alderman on the 24 May 2011.

David left behind his wife, Maureen, daughter Claire and granddaughter, Karis.

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

107

**RESOLVED:-**

That this Council placed on record its sorrow at the death of former Councillor, Honorary Alderman David Osborne and its appreciation of his devoted service to the residents of Birmingham. The Council extended its deepest sympathy to David's wife, Maureen and all the family in their sad bereavement.

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

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## **PETITIONS**

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

The following petitions were presented:-

(See document No. 1, 'Additional Meeting Documents')

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

108      **RESOLVED:-**

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

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### **Petitions Update**

A Petitions Update had been made available electronically:-

(See document No. 2, 'Additional Meeting Documents')

It was moved by the Lord Mayor, seconded and

109      **RESOLVED:-**

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

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## **QUESTION TIME**

110      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.

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## **APPOINTMENTS BY THE COUNCIL**

There were no changes to appointments by the Council.

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**SOMETHING TO AIM FOR: SCRUTINY INQUIRY ON EMPLOYMENT AND SKILLS FOR YOUNG PEOPLE**

A report from the Chair of the Economy and Skills Overview and Scrutiny Committee, Councillor Saima Suleman was submitted:-

(See document No. 3, agenda item 8)

Councillor Saima Suleman moved the recommendations which were seconded by Councillor Izzy Knowles.

A debate ensued.

Councillors Richard Parkin, Katherine Iroh, John Cotton and Brigid Jones spoke during the debate.

The Lord Mayor invited Councillor Saima Suleman to sum up.

It was therefore-

111

**RESOLVED:-**

1.) That recommendations R01 to R11, set out in Appendix 1, were approved and that the Executive were requested to pursue their implementation,

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**PROMOTING HEALTH AND WELLBEING – A COMMONWEALTH GAMES LEGACY**

A report from Councillor Jack Deakin, Chair of the Commonwealth Games, Culture and Physical Activity Overview and Scrutiny Committee was submitted:-

(See document No. 4, agenda item 9)

Councillor Jack Deakin moved the recommendations which were seconded by Councillor Gareth Moore.

A debate ensued.

Councillors Deborah Harries and Jayne Francis spoke during the debate.

The Lord Mayor invited Councillor Jack Deakin to sum up.

It was therefore-

112

**RESOLVED:-**

1.) That recommendations R01 to R13, set out in Appendix 1, be approved and that the Executive be requested to pursue their implementation

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**CHANGE FOR CHILDREN AND YOUNG PEOPLE 2023-2028 –  
BIRMINGHAM CHILDREN AND YOUNG PEOPLE'S PLAN**

A report from Councillor Karen McCarthy, Cabinet Member for Children, Young People and Families was submitted:-

(See document No. 5, agenda item 9)

Councillor Karen McCarthy moved the recommendation which was seconded by Councillor Jamie Tennant.

A debate ensued.

Councillors Alex Yip, Kerry Jenkins, Morriam Jan, Brigid Jones and Kath Scott spoke during the debate.

The Lord Mayor invited Councillor Karen McCarthy to sum up.

It was therefore-

113

**RESOLVED:-**

1.) That the City Council endorsed and adopted Birmingham's Change for Children and Young People Plan 2023-2028.

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**ADJOURNMENT**

114

It was moved by the Lord Mayor, seconded and-

**RESOLVED:-**

That the Council be adjourned until 1700 hours on this day.

The Council then adjourned at 1625 hours.

At 1700 hours the Council resumed at the point where the meeting had been adjourned.

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**CITY OF BIRMINGHAM MEDAL**

A report from the Assistant Director, Governance was submitted:-

(See document No. 6, agenda item 11)

Councillor Ian Ward moved the recommendation which was seconded from the floor.

The Lord Mayor invited Councillor Ian Ward to sum up.

It was therefore-

115

**RESOLVED:-**

1.) That City Council agreed to the creation of the City of Birmingham Medal and to agreed the criteria and process for submitting a nomination.

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**HACKNEY CARRIAGE AND PRIVATE HIRE POLICY**

A report from the Director of Regulation and Enforcement was submitted:-

(See document No. 7, agenda item 12)

Councillor Ian Ward moved the recommendation which was seconded from the floor.

A debate ensued.

Councillors Paul Tilsley and Alex Yip spoke during the debate.

The Lord Mayor invited Councillor Ian Ward to sum up.

It was therefore-

116

**RESOLVED:-**

1.) That City Council considered and approved the Policy.

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**DECISIONS NOT ON THE FORWARD PLAN AND THOSE AUTHORISED FOR IMMEDIATE IMPLEMENTATION**

A report from the City Solicitor was submitted:-

(See document No. 8, agenda item 13)

Councillor Ian Ward moved the recommendation which was seconded from the floor.

The Lord Mayor invited Councillor Ian Ward to sum up.

It was therefore-

**RESOLVED:-**

- 1.) That City Council noted the report.
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**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 Roger Harmer and Izzy Knowles had given notice of the following Notice of Motion:-**

(See document No. 9, agenda item 14)

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

In accordance with Council Rules of Procedure, Councillors Liz Clements and Chaman Lal gave notice of the following amendment to the Motion:-

(See document No. 10, 'Amendments – City Council')

Councillor Liz Clements moved the amendment which was seconded by Councillor Chaman Lal.

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

(See document No. 11, 'Amendments – City Council')

Councillor Deirdre Alden moved the amendment which was seconded by Councillor Gareth Moore.

In accordance with Council Rules of Procedure, Councillors Julien Pritchard and Rob Grant gave notice of the following amendment to the Motion:-

(See document No. 12, 'Amendments – City Council')

Councillor Julien Pritchard moved the amendment which was seconded by Councillor Rob Grant.

A debate ensued.

Councillors Ziaul Islam, Timothy Huxtable and Kerry Jenkins spoke during the debate.

The Lord Mayor invited Councillor Roger Harmer to sum up.

The amendment to the Motion in the names of Councillors Liz Clements and Chaman Lal 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 Deirdre Alden and Gareth Moore 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 Julien Pritchard and Rob Grant having been moved and seconded was put to the vote and by a show of hands was declared to be carried.

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.

**RESOLVED:-**

This Council notes:

1. The continued high level of public concern across Birmingham about dangerous driving including speeding. This risks the lives of those affected by resulting collisions and discourages residents from using forms of active travel, such as cycling. Enforcement action to tackle dangerous driving including speeding is the legal responsibility of the police.
2. The motion passed by this Council in September 2021 calling for urgent action to (a) complete the review to assess the expansion of Average Speed Cameras and (b) to bring forward an updated Comprehensive Road Safety Strategy with a comprehensive road safety plan.
3. That pledges were made in the Labour manifesto for the 2022 Birmingham City Council elections to treble the network of average speed cameras on key routes across the city and invest 'at least £10m in making the roads outside schools amongst the safest in our city.'  
These pledges were made to be delivered over the full term of the Council. The Council has focused recent efforts on rolling school streets schemes out across the city and is now investing net surplus revenues from the Clean Air Zone in road safety and clean air projects in every ward in the city.

This Council notes that member engagement to help shape the city's new Road Safety Strategy will commence at the April meeting of the Sustainability and Transport Overview and Scrutiny Committee, with road safety expected to form a key component of the committee's work programme during the course of the next municipal year. Set against plateauing reductions in road traffic collisions, fragmented road safety funding, increasing difficulty in achieving value for money to justify the delivery of local safety schemes and new policies and best practice, a refreshed approach to road safety is required. Proposals to be discussed with the committee will include the full implementation of Vision Zero, a

strategy to eliminate all traffic fatalities and severe injuries, which will require a bold and ambitious approach to reduce vehicular traffic particularly in local neighbourhoods.

This Council acknowledges the role of successive Labour administrations working with Solihull Metropolitan Borough Council and West Midlands Police to initiate and pilot average speed camera enforcement technology in the region, which has subsequently enabled rollouts in the Black Country and Coventry. The success of average speed camera enforcement has been achieved against a backdrop of reduced funding for road safety including the removal of the Road Safety Grant (capital and revenue) by the Conservative/Liberal Democrat coalition government in 2011, which funded the West Midlands Road Safety Partnership and the installation, maintenance and operation of speed camera equipment in the region.

This Council remains at the forefront of driving forward a new financially viable operating model for average speed camera enforcement with West Midlands Police and other local authorities in the metropolitan area, which should enable the expansion of the system at both a city and regional level. Such partnerships will also support the rollout of camera technology to enforce moving traffic contraventions should the Council's application to the Department for Transport for the necessary devolved powers be approved.

This Council also believes road safety work needs to prioritise the most vulnerable road users. Council also notes an increase in resident concern around unsafe and anti-social parking across Birmingham. E.g pavement parking and parking across dropped kerbs pavements and cycle lanes.

This Council acknowledges that work on improving road safety, requires co-operation between Birmingham City Council, West Midlands Police and the Combined Authority, but calls on the Council continue to be proactive in working with these partners and delivering projects that will make our roads safer. It specifically requests for the Government to be lobbied to release findings of the national parking on pavements consultation and for the Executive to:

- a. Ask the Sustainability and Transport Overview and Scrutiny Committee to review and help shape the Council's new Road Safety Strategy including looking into relevant criteria and a near miss strategy, which would enable criteria such as records of non-injury accidents, proximity to schools, community facilities with high pedestrian and cyclist use, and recorded levels of speeding to be considered.
- b. Work with partners including the police and other metropolitan local authorities to publish a clear plan for the promised development of the average speed camera network.
- c. Ensure, where possible and practicable, road and pavement resurfacing programmes are aligned with any potential road safety work.
- d. Ensure use of all potential funding sources for road safety work is maximised, including community chest, town council and parish council

funding and funding for other highways projects and money from the clean air zone revenue where appropriate. And not limit itself to the small dedicated funding for road safety schemes from Government. Noting the importance of not fettering local ward councillor discretion in how funds such as Community Chest are best applied in their area and that local funding pots, including those listed above, must remain recommended by the relevant ward councillors. And money from the clean air zone revenue where appropriate.

e. Encourage ward councillors in their role as local community leaders to bring forward road safety priorities in ward plans.

f. Reaffirm its commitment to a vision zero approach for road safety in the new road safety strategy, which should aim to eliminate all deaths and serious injuries on Birmingham's roads by 2034.

g. Ensure the new road safety strategy:

- Prioritises the most vulnerable road users (E.g. those on foot, on bike, or with access needs, such as wheelchair users), in line with the new Highway Code hierarchy of road users.
- Includes measures to tackle speeding, and anti-social obstructive and dangerous parking (e.g on pavements, cycle lanes, and across dropped kerbs) in a way that prioritises the most vulnerable road users

h. Ensure road safety schemes and other highway improvements work to design out speed and other harmful behaviours.

i. Reaffirm Birmingham City Council's commitment to 20mph on all its residential roads.

j. Lobby Government once again for the powers to make this change to 20mph without having to resort to costly Traffic Regulation Orders for every change of speed limit on every residential road.

k. Lobby West Midlands Police for more monitoring and enforcement of speed and more enforcement of anti-social, obstructive and dangerous parking that is under their jurisdiction.

l. Investigate what can be done to give greater support to groups wanting to set up and run Community Speedwatch sessions".

**B. Councillors Sam Forsyth and Kerry Jenkins had given notice of the following Notice of Motion:-**

(See document No. 13, agenda item 14)

Councillor Sam Forsyth moved the Motion which was seconded by Councillor Kerry Jenkins.

In accordance with Council Rules of Procedure, Councillors Matt Bennett and Robert Alden gave notice of the following amendment to the Motion:-

(See document No. 14, 'Amendments – City Council')

Councillor Matt Bennett moved the amendment which was seconded by Councillor Robert Alden.

In accordance with Council Rules of Procedure, Councillors Deborah Harries and Morriam Jan gave notice of the following amendment to the Motion:-

(See document No. 15, 'Amendments – City Council')

Councillor Deborah Harries moved the amendment which was seconded by Councillor Morriam Jan.

The Lord Mayor invited Councillor Sam Forsyth to sum up.

The amendment to the Motion in the names of Councillors Matt Bennett and Robert Alden having been moved and seconded was put to the vote and by a show of hands was declared to be lost.

The amendment to the Motion in the names of Councillors Deborah Harries and Morriam Jan having been moved and seconded was put to the vote and by a show of hands was declared to be lost.

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-

**RESOLVED:-**

This Council notes that:

The Independent Review into Children's Social Care recommended that the "Government should make care experience a protected characteristic". It asserted that this would provide greater authority to employers, businesses, public services and policy makers to put in place policies that promote better outcomes for care experienced people.

Should this be widely adopted it would also make the UK the first country in the world to recognise care experienced people in this way.



Care experienced people face significant challenges, including discrimination and lack of security, when they begin their adult lives. They can struggle with housing, health, education, relationships and employment and are overrepresented within the criminal justice system.

Despite making up 1.4 per cent of the UK population, care experienced people account for 25% of both the homeless and the prison population in England. Nearly 50% of all under 21-year-olds in contact with the criminal justice system have been in care.

All Local Authorities have a statutory duty to support all care leavers up to the age of 21 and up to the age of 25 if the care experienced young person requests support beyond 21. Our Birmingham Children's Trust is doing some incredible work in supporting our children and young people in care and supporting our care leavers in ensuring they are supported with housing and receive council tax exemptions.

Our Birmingham Corporate Parenting board has been successful in ensuring that all our care experienced young people, who are part of the National Apprenticeship Scheme or are in employment, have access to free medication up to the age of 25. All care experienced young people are able to access a full package of Mental Health Support with specific focus on trauma and past harm. Our care experienced young people have themselves asked the Birmingham Corporate Parenting Board to treat 'care experience' as an additional equality strand alongside the Protected Characteristics as set out in the Equality Act 2010.

The Council believes that:

As corporate parents we have a duty to support and look after young people in our care as we would our own children, affording them the same life chances and providing them with appropriate support and guidance. As corporate parents we are champions of our looked after children and it is our responsibility to challenge the negative attitudes and prejudice that exists in all aspects of society. As corporate parents we need to lead by example and work with our partners so they also seek to treat care experience as a Protected Characteristic. As corporate parents we need to proactively seek out and listen to, learn from and involve our care experienced young people in the shaping of all new policies and in improving service delivery.

The voices, needs, aspirations, priorities and rights of children and young people should be at the heart of everything we do, as part of our Birmingham Children and Young People's Plan and informing our work in becoming a UNICEF Child Friendly City. Our policies and services should be assessed through Equality Impact Assessments to understand the impact on young people with care experience. Seeking to increase the participation and pathways providing care experienced young people with meaningful and supported apprenticeships and career opportunities and mentors that can continue to support them.

The Council resolves to:

- formally support the Show Us You Care Too campaign and adopt 'care

experience' as an additional equality strand alongside the protected characteristics as set out in the Equality Act 2010.

- formally call upon our partners to treat care experience as a Protected Characteristic.
- lobby Government to amend the Equality Act 2010 to include care experience as a protected characteristic.
- continue to build on the work of our Children's Trust and to continue to support the efforts of our Corporate Parenting Board.

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The meeting ended at 1857 hours.

# **CITY COUNCIL 18 APRIL 2023**

## **WRITTEN QUESTIONS TO CABINET MEMBERS AND COMMITTEE CHAIR**

**A1**

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM  
COUNCILLOR DEBBIE CLANCY**

**“LGA Peer Review”**

**Question:**

**When does the Council intend to have its LGA Peer Review, which was postponed due to the Covid pandemic?**

**Answer:**

A principle of the LGA peer review offer is that local authorities determine the timing of their peer review to ensure best fit with local context and priorities. We are carefully considering the timing of a corporate peer review and are discussing this with the LGA.

# A2

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM  
COUNCILLOR EWAN MACKEY**

**“Property Disposal Ward Member consultation”**

**Question:**

**In answer to question A4 to Council on 28 February you said that the omission of Ward Councillor consultation for a property disposal in Bordesley and Highgate was due to a procedural breakdown that ‘will not happen again.’ On 28 March, you approved two further property disposals, again in Bordesley and Highgate, that again contained no reference to any Ward Councillor consultation. Why did you sign off these reports given this omission, and the assurances that officers had previously provided to you and promises you made to the chamber?**

**Answer:**

The Ward Councillor for the area within which the two properties authorised for sale are located, was notified of the intention to sell on 22 February 2023 via email. A copy of this can be provided if needed.

Officers are now including a commentary regarding notification in the reports under the consultation section.

# A3

CITY COUNCIL – 18 APRIL 2023

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

**“Centenary Square Fountain”**

**Question:**

**It appears that the fountain in Centenary Square is still not in operation, please can you provide an update for the reasons it is not working, the expected timeline for its repair and the total cost to the public purse of this work, including the funding source being used?**

**Answer:**

The cold and wet weather throughout the past 2 months has prevented work to repair the granite bed of the Reflective Pool. However, a specialist contractor has now been appointed to carry out these in the coming weeks. The cost for these works will be fully funded through a recharge made in September 2022 to the Organising Committee for the Birmingham 2022 Commonwealth Games.

The operational elements of the water feature are in full working order, with a regular servicing schedule in place. However, following advice from the maintenance contractor the water feature will remain switched off until the completion of the repair works to the bed of the Reflective Pool.

Since the reopening of Centenary Square in July 2019 a total sum of £1,064 has been expended to undertake repairs to the granite bed. The source of funding for these works was the ‘get ready’ element of the CWG budget. A further £5,995 has been spent to undertake re-commissioning and repair works to the water feature system (jets and pumps). This was fully recharged to the Organising Committee for the Birmingham 2022 Commonwealth Games.

**A4**

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM  
COUNCILLOR GARETH MOORE**

**“Community Chest”**

**Question:**

**By what date do you expect the new community chest to be fully implemented and available for local wards to spend?**

**Answer:**

I sent an email yesterday to Elected Members setting out the ward funding available this financial year, along with any conditions and governance arrangements.

# A5

CITY COUNCIL – 18 APRIL 2023

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

**“Smallbrook Queensway”**

**Question:**

**“Given the level of public concern, can the Leader set out the status of the Smallbrook Ringway demolition project? What will be done to retain the architectural features?”**

**Answer:**

Giving this question relates to a current planning application it would not be appropriate to comment outside of that process. These issues will be considered as part of the assessment of the planning application.



# A6

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE LEADER OF THE COUNCIL FROM COUNCILLOR  
ROGER HARMER**

**“Change of Full council date”**

**Question:**

**“In mid-March it was agreed to change the date of the Full council meeting from 4 April to 18 April to avoid the school holidays. Given that these dates are known well in advance and people had already organised childcare and holidays around them, does the Leader agree that significant date changes such as this should be given a notice period of at least 3 months? This date change was certainly avoidable.”**

**Answer:**

At Council Business Management Committee (CBMC) on 13<sup>th</sup> March it was agreed to move the meeting of Full Council to 18<sup>th</sup> April. It was recognised that the decision was taken late, but in future CBMC will ensure that any meetings of Full Council will avoid the school holidays.

**B**

**PLEASE NOTE: NO WRITTEN QUESTIONS WERE SUBMITTED TO THE  
DEPUTY LEADER**

C1

CITY COUNCIL – 18 APRIL 2023

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

**“Tribunal Decisions”**

**Question:**

**How many times, in each academic year since September 2014 (including year to date), has the Council opted to not issue an amended EHCP in line with the decision of a first-tier tribunal, pending appeal to the upper tier?**

**Answer:**

There is no statutory requirement for the Council to keep records of this nature, so it is not possible to provide this information.

The situation described in the question is an extremely rare occurrence.

# C2

**CITY COUNCIL – 18 APRIL 2023**

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

**“Oracle in schools”**

**Question:**

**“How many schools have been unable to set budgets this year because of problems with the Oracle system?”**

**Answer:**

I have been informed that all schools across Birmingham have either set their budgets for 2023/24 or are currently doing so. I understand that officers have been working with schools and considerable effort and time has and continues to be made available to support schools. I am grateful to schools for their continued patience and understanding.

**D**

**PLEASE NOTE: NO WRITTEN QUESTIONS WERE SUBMITTED TO THE  
CABINET MEMBER FOR DIGITAL, CULTURE, HERITAGE AND  
TOURISM**

**E1****CITY COUNCIL – 18 APRIL 2023****WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR DARIUS SANDHU****“Street Sweepers”****Question:****By Ward, since April 2021, how many visits has each Ward received from street sweepers?****Answer:**

Due to the number of records and data sources, it is not possible to compile this information within the time frame available to respond to this question.

The service will be happy to discuss any individual queries with Councillors and we will be arranging one to one sessions with elected members at the Council house with ASMs to go through their street cleaning schedules.

# E2

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR EWAN MACKEY**

**“Assisted Dropped Collections”**

**Question:**

**Broken down by Ward, in each month since April 2021, how many dropped collections were there for assisted collections? Please include all known dropped collections, not just those reported by residents.**

**Answer:**

For the date range in question, it is only possible to provide the reported missed assisted collections made by residents. This is residual and recycling only.



E2%20-%20Reporte  
d%20missed%20assi

REDIRECTED to Cabinet Member for Transport

**E3**

**CITY COUNCIL – 18 APRIL 2023**



REDIRECTED to Cabinet Member for Transport

**E4**

**CITY COUNCIL – 18 APRIL 2023**

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

**E5****CITY COUNCIL – 18 APRIL 2023****WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR ADRIAN DELANEY****“Cofton Park”****Question:**

**What assessment has been carried out on the impact of using Cofton Park as a temporary site for household waste during the refurbishment of Lifford Lane, and what consultation is planned to be carried out with residents on this?**

**Answer:**

Options for the provision of a temporary HWRC site during the refurbishment of Lifford Lane will be explored pending approval of the planning consent. Once a preferred option has been established any consultation will be carried out with both the Environment Agency and impacted parties. We have been looking at a number of options but these are at the very early scoping stage.

# E6

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR KERRY BREWER**

**“WRCO interventions”**

**Question:**

**In each month since the introduction of the role, how many interventions did WRCOs carry out in line with the new role agreed as part of settling the bin dispute?**

**Answer:**

Currently, most of this work is paper based and individual interventions are not counted. However, we are looking to move that to an electronic format so that we can provide this information again in the future. However, work sent to the Waste Prevention Team from the collection teams is averaging around 6000 per month. These interventions relate to contamination reports and bin assessments.

**E7**

**CITY COUNCIL – 18 APRIL 2023**

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

**“Driving Team Leader”**

**Question:**

**On what date was the job description for the Driving Team Leader role within the Waste Collection service last updated, and please provide a copy of this job description?**

**Answer:**

The Driver Team Leader role was created in 2011 and reviewed with no changes in 2017.

The job description follows.

**JOB DESCRIPTION**

<b>JOB TITLE:</b>	Team Leader (LGV driver / Manages 2 or more FTE)	<b>JOB NO:</b>	FWM/RRC/01
<b>GRADE:</b>	GR4	<b>DIVISION:</b>	Fleet and Waste Management
<b>NO OF POSTS:</b>	101	<b>SECTION:</b>	Operations

**POST REQUIRES POLICE / CRIMINAL RECORDS BUREAU CLEARANCE: NO**

**1.0 JOB PURPOSE:**

- 1.1 To manage an operational domestic refuse / recycling collection team (Driver plus 2 or more FTE) and associated operational activities, providing high quality services to the satisfaction of the citizens of Birmingham and to meet performance targets.
- 1.2 To drive and be responsible for a Large Goods Vehicle (LGV)

**2 DUTIES AND RESPONSIBILITIES:**

- 2.1 To manage and control a domestic Refuse Collection Team in accordance with the strategies and policies of the City Council, Cabinet, relevant Committees, the Directorate and the Division, to ensure effective and efficient quality services are provided.
- 2.2 To be accountable for the performance of the operational team to ensure that targets are met and work programmes are managed and controlled to achieve objectives.
- 2.3 To effectively utilise the human and other resources available.
- 2.4 To recommend, facilitate and implement managerial, organisational and operational change as required.
- 2.5 To manage, motivate and develop employees to maintain a high level of satisfaction and achievement in delivering quality services.
- 2.6 To present reports relating to the Team's performance and to represent the Division, Directorate and/or Local Authority at Council Committees, Sub Committees, Ward Committees, professional events and other meetings and occasions.
- 2.7 To undertake and ensure compliance with all of the City Council's Policies and Procedures, including Equal Opportunities, Health and Safety at Work, Performance and Development Reviews (PDR's), Managing Performance, Disciplinary Procedures, Managing Attendance, BEST and Business Transformation.

- 2.8 To be aware of and ensure compliance with all relevant Health and Safety requirements, including Safe Working Practices, Risk Assessments and the use of Personal Protective Equipment.
- 2.9 To drive a Large Goods Vehicle (LGV) and to fulfill the duties and responsibilities associated with driving that vehicle, including vehicle checks, daily log sheets, etc.
- 2.10 To be responsible for the safe handling, operation, cleanliness, appearance, operational integrity and management of equipment, machinery and vehicles associated with the Team.
- 2.11 To ensure that services are provided with minimum disruption and maximum efficiency and effectiveness in a manner that does not compromise the cleanliness of the Ward / City.
- 2.12 To be responsible for promoting and maintaining a positive public image of the City Council
- 2.13 To use initiative to maximise the production and collection of potential recyclates by maintaining a high quality service and working with the public to encourage their involvement with recycling, ensuring the proper segregation of recyclate placed out for collection
- 2.14 To support any waste minimisation / recycling incentivisation schemes through participation monitoring and the electronic scanning or weighing of boxes / containers placed out for collection.
- 2.15 To ensure that only domestic waste / recyclate is collected and that any waste which appears to be from another source is dealt with through referral to the appropriate team / Officers
- 2.16 To have access and to be responsible for the safety and security of private premises as appropriate.
- 2.17 To identify and report a range of issues outside the scope of the service, which may require intervention by another City Council service or other agency.
- 2.18 To act as the interface between the City council and the public, dealing with a range of issues relevant to the City Council and other Strategic Partners.
- 2.19 To support enforcement and regulatory activity intended to control environmental crime
- 2.20 Contribute to the City Council's Sustainability Strategy by being aware of the resources required to undertake this work and making sure that resources are not wasted and disposed of in a sustainable way.
- 2.21 Any other duties commensurate with the grade and nature of the post

### **3.0 SUPERVISION RECEIVED**

#### **3.1 SUPERVISING OFFICER JOB TITLE:**

Operations Manager

#### **3.2 LEVEL OF SUPERVISION**

~~1. Regularly supervised with work checked by supervisor.~~

2. — Left to work within established guidelines subject to scrutiny by supervisor.

3. Plan own work to ensure the meeting of defined objectives.

#### 4.0 SUPERVISION GIVEN (excludes those who are INDIRECTLY supervised (i.e. through others))

POST TITLE	GRADE	NO OF POSTS	LEVEL OF SUPERVISION*
Leading Hand	GR3	1	3
Loader	GR2	2	2

\*Use 1,2 or 3 as in 3.2

#### 5.0 SPECIAL CONDITIONS

##### PHYSICAL CONDITIONS:

- (i) Hours: 36.5 hours per week, compressed hours, 4 days out of 5 (Monday – Friday) with the opportunity for overtime according to business need, in accordance with BCC terms and conditions of employment

Out of normal office hours working, including Bank Holidays, evenings and weekends may be required.

- (ii) Driving Licence: It is essential for the post holder to have a current UK LGV Driving Licence

- (iii) Workplace: TBC.

##### CONTACTS

BCC Councillors, the public, Senior and other managers within the Division and the wider Council, Corporate Contact Centre, external organisations and service providers

COMPILED BY: K Mitchell

DATE:

**PERSON SPECIFICATION**

JOB TITLE: Team Leader (LGV driver /  
Manages 2 or more FTE)

GRADE: GR4

DIVISION: Fleet and Waste Management

SECTION: Operations

**Method of Assessment (M.O.A.)**

AF = Application Form    I = Interview    T = Test    P = Presentation

CRITERIA	ESSENTIAL	M.O.A.
<b>EXPERIENCE</b> (Relevant work and other experience)	General management experience to include employee relations, staff development and performance monitoring.	AF and I
	Ability to understand and manage data and data presentation	AF and I
	Experience at working directly with Elected Members in a political environment.	AF and I
	Direct experience and understanding of equality issues and the impact upon service delivery.	AF and I
	A detailed knowledge of environmental issues and challenges	AF and I
	Experience of heavy, outdoor, manual work including walking, lifting, bending and stretching. Working in all weather conditions.	AF and I
<b>SKILLS AND ABILITIES</b>	The ability to manage conflicting demands, prioritise and work to short deadlines.	AF and I



	Competent communication and presentation skills.	AF, I and P
	Ability to plan, manage and coordinate projects and programme services.	AF and I
	Ability to write clear, concise reports.	AF and I
	Ability to identify and respond to sensitive, complex political and equality issues relating to the services provided.	AF and I
	Ability to work corporately.	AF and I
	Demonstrate commitment to quality in all aspects of service delivery.	AF and I
<b>TRAINING</b>	To be willing to undertake appropriate training as required, including driver training, type training, tachographs, GPS systems, etc.	AF and I
<b>EDUCATION/ QUALIFICATIONS</b>	It is essential for the post holder to have a current UK LGV Driving Licence	AF
<b>OTHER</b>		

ALL STAFF ARE EXPECTED TO BE COMMITTED TO THE CITY COUNCIL'S EQUAL OPPORTUNITY POLICY

COMPILED BY: Kevin Mitchell

DATE: June 2011

# E8

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR GARETH MOORE**

**“WRCO role”**

**Question:**

**In comparison to the job role for WRCOs agreed in settling the bin dispute, including the 'day in the life' description presented in the Cabinet report, what differences are there in how the role is currently carried out?**

**Answer:**

During the Covid pandemic, WRCOs were continued to work to their role profile but with some tasks (such as resident engagement and education) temporarily suspended to ensure the focus on mitigating risk to employees and sustaining the essential waste services.

At the date of this response, WRCOs are expected to be working to the full duties of their role profile, including those engagement and education activities. The Council is improving the data collection, technology and performance management systems it operates to further target, record and drive service improvement in the engagement, and education aspects of their role.

The WRCO continues to play an important role in identifying contamination, undertaking bin assessments, tagging bins and bringing about behaviour change with residents through education.

## E9

CITY COUNCIL – 18 APRIL 2023

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

**“Tree Death Ratio”**

**Question:**

**Split between parks and highways, what is the tree death ratio from council planted trees in each of the last 4 years?**

**Answer:**

An average establishment rate across all plantings is in the region of 70% which as a ratio is 3:10 (expected failure: trees planted).

The survival rate of trees planted by BCC or in partnership with the Council varies depending on the location and type of planting plus the expected final result. Also, we do not plot and monitor every single tree planted so deriving a “number” based response is not possible.

As an overall average of all planting types and locations we expect in the region of 70% successful establishment after 3 years. At this point, barring any unforeseen problem, most trees will grow on to maturity.

**Notes:**

**For new woodland plantings** the accepted practice is to over plant on the basis that by maturity only around 40 – 60% of trees planted will remain. So, while approximately 1750 whips per acre may be planted, we would only expect in the region of 700 – 1000 to remain at 25 years+ with some as canopy trees and others as understorey replicating good woodland structure. This may still decline in numbers over time but canopy cover, carbon storage and provision of ecosystem services would increase with tree size. As such few, trees at maturity provide greater climate adaptation benefits than more trees retained in a smaller area.

**For individual standard trees planted in parks** the establishment rate is around 80 – 85% at 3 years due to more favourable rooting conditions. While climactic issues such as extreme drought/ heat will impact the establishment rates (such as during the summer of 2022) a significant proportion of trees are lost to vandalism.

**For individual standard trees planted on the Highway** the establishment rate is around 70%. Highway trees are amongst the hardest to establish, not only are the

conditions generally harsh/ unfavourable to tree planting but they are also subject to the highest levels of negligent and deliberate damage.

Key reasons for failure of tree planted on the highway are:

- Residents parking on the root ball of newly planted trees resulting in soil compaction and root death.
- Decline or death caused by direct damage – either through poor green space management or vehicular damage (other than compaction)
- Residents cutting the tree at the base or removal of the top with a saw
- Snapping or uprooting of trees – general random vandalism.
- Climate based issues - severe drought with limited resources to increase watering frequency

On the highway in partnership with Kier we are trialling several different interventions to try and eliminate a number of these issues.

Trees are being planted with mesh cages to minimise the impacts of direct damage. Trees are also being fitted with watering bags which provides a slower sustained water release and minimises evaporation.

In addition, newly planted trees will also be fitted with a “Please Water Me” tag which encourages local residents to water trees near their property (using grey or harvested water) during times of drought.

It should also be noted that with all planting on the highway or as part of development that there is a requirement for the replacement of any trees that fail to establish within the first three years. As such there is an incentive to achieve as higher level of establishment as possible first time.

For further information contact Simon Needle – Strategic lead Urban Forestry and Nature, Planning Transport and Sustainability.

# E10

CITY COUNCIL – 18 APRIL 2023

## WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT FROM COUNCILLOR DEIRDRE ALDEN

### “Tree Canopy”

#### Question:

**What is the total tree canopy by Ward, when parks are included, and when they are excluded from figures?**

#### Answer:

It has not been possible to analyse the data held in the time available to give results to the question posed.

In order to consider the canopy cover for each ward, and to provide parity with how the standardised assessment at a city wide, constituency, ward and LSOA level is undertaken it needs to consider tree canopy as a percentage of the plantable space, this is already publicly available.

This means being able to exclude areas that are not plantable or unlikely to ever be such as rivers, lakes, reservoirs and sports pitches to name a few. A significant amount of officer time would be required to create and re analyse each ward with bespoke GIS masks for each part of the question (138 in total based on the 69 wards and two variations) and with over 600 parks and gardens to extract from any calculations.

In real operational terms the data as requested is of limited value which is why it is not currently held.

We do hold an analysis of tree cover percentages by land use type which is set out in the table below.

Land use type	% Cover
Commercial	8
Education	16
Housing	16
Industrial	4
Leisure	31
Road (Highway)	14
Services	10
Religious	35

From the data in that table it can be presumed that on average that parks (contained within the leisure land use) typically are composed of >30% canopy cover except where there are significant sporting facilities such as Perry Hall Park which contains the city's largest number of cricket wickets.

In terms of how the city considers the use of canopy cover as a tool for Climate Adaptation and Resilience planning it is at Lower Super Output Area (LSOA) geography that it is most useful. This is also the level where considerations of Tree Equity are most easily considered and understood and relation to climate risk and vulnerability for our residents can be seen, and determination of planting programme potential and priority can be set.

Data on percentage canopy cover is available at this level but given there are 639 LSOA's in the city a table has not been provided here but can be made available electronically.

However, the table below provides an assessment of the canopy cover by ward and grouped by constituency.

The colour coding in the right hand column is indicative banding against a desirable base line of 25% canopy cover which is the lower end of the globally recognised thresholds for a climate change adapted and resilient city.

Constituency	Wards	Canopy % (25% baseline target)
Edgbaston	Edgbaston	33.6
Edgbaston	Harborne	30.5
Edgbaston	Quinton	30.9
Edgbaston	Bartley Green	26.1
Erdington	Gravelly Hill	17
Erdington	Kingstanding	16
Erdington	Perry Common	19.8
Erdington	Erdington	20.4
Erdington	Stockland Green	17.4
Erdington	Castle Vale	13
Erdington	Pype Hayes	17.4
Hall Green	Sparkhill	15.4
Hall Green	Hall Green South	34.1
Hall Green	Sparkbrook & Balsall Heath East	10.15
Hall Green	Hall Green North	25.3
Hall Green	Balsall Heath West	13.14
Hall Green	Moseley	33.6
Hodge Hill	Alum Rock	12.6
Hodge Hill	Ward End	15.8
Hodge Hill	Small Heath	15.1
Hodge Hill	Heartlands	20
Hodge Hill	Bromford & Hodge Hill	22.2
Hodge Hill	Glebe Farm & Tile Cross	20.6
Hodge Hill	Shard End	16.4
Ladywood	Holyhead	10.8
Ladywood	Bordesley Green	15.2

Ladywood	Ladywood	14.6
Ladywood	Soho & Jewellery Quarter	18.8
Ladywood	Bordesley & Highgate	9.66
Ladywood	North Edgbaston	26.7
Ladywood	Aston	11
Ladywood	Newtown	12
Ladywood	Nechells	13.2
Northfield	Allens Cross	20.8
Northfield	Frankley Great Park	24.8
Northfield	Rubery & Rednal	18.8
Northfield	Northfield	23.4
Northfield	Weoley & Selly Oak	19.29
Northfield	King's Norton South	26.1
Northfield	Longbridge & West Heath	23.2
Northfield	King's Norton North	30.3
Perry Barr	Birchfield	18.4
Perry Barr	Lozells	11.4
Perry Barr	Handsworth	16.4
Perry Barr	Oscott	18.6
Perry Barr	Handsworth Wood	23.8
Perry Barr	Perry Barr	20
Selly Oak	Brandwood & King's Heath	25.5
Selly Oak	Highters Heath	18.2
Selly Oak	Bournbrook & Selly Park	21.94
Selly Oak	Stirchley	19
Selly Oak	Bournville & Cotteridge	28.2
Selly Oak	Billesley	31.5
Selly Oak	Druids Heath & Monyhull	20.6
Sutton Coldfield	Sutton Wylde Green	28.1
Sutton Coldfield	Sutton Roughley	19.8
Sutton Coldfield	Sutton Mere Green	22.6
Sutton Coldfield	Sutton Reddicap	17.4
Sutton Coldfield	Sutton Walmley & Minworth	19.2
Sutton Coldfield	Sutton Trinity	46.8
Sutton Coldfield	Sutton Four Oaks	46.7
Sutton Coldfield	Sutton Vesey	36.5
Yardley	Tyseley & Hay Mills	16
Yardley	Yardley East	22
Yardley	Acocks Green	25.5
Yardley	Yardley West & Stechford	22.6
Yardley	South Yardley	20.4
Yardley	Garretts Green	11.4
Yardley	Sheldon	23.2

**E11**

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT  
FROM COUNCILLOR DAVID BARRIE**

**“Assisted Bulky Waste Collections”**

**Question:**

**By what date will the newly announced free bulky waste collections for those with assisted collections be fully implemented?**

**Answer:**

The facility for people on the assisted collection scheme to book one free bulky waste collection is open now.



# E12

**CITY COUNCIL – 18 APRIL 2023**

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

**“Perry Park”**

**Question:**

**“Following the petition presented to full Council on February 28 requesting the reinstatement of Perry Park for residents, what has been done to address the concerns of residents?”**

**Answer:**

The position has not changed significantly since the petition at the end of February. We remain committed to reopening an enhanced Park at the earliest opportunity. Reinstatement works continue to progress and will conclude at various stages during 2023. Temporary fencing remains in place in the Park to ensure the safety of pedestrians whilst the reinstatement works are undertaken. I had offered a site visit at the last Cabinet meeting and was disappointed that it was cancelled but I will be visiting this week on 19 April along with the senior officers and local members to discuss progress.

# E13

**CITY COUNCIL – 18 APRIL 2023**

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

**“Bin collections during the snow”**

**Question:**

**“What contingency was there for catch up collections during the period of snow in March, and how effective were they in covering missed collections?  
Please include data on missed or delayed collections in your response.”**

**Answer:**

Crews returned to catch up collections following the snow disruption in line with New Ways of Working (NWOW), where crews were not able to catch up all collections these were cleared on the the next scheduled collection with some picked up the following weekend which put us back in the position we were in before the snow disruption.

The majority of work was cleared prior to the following collection except at Perry Barr depot where they experienced high levels of sickness absence.

On our systems, we have 3004 of 5555 roads as being recorded as completed without any whole street exceptions actually on the correct day (Thursday 9<sup>th</sup> and Friday 10<sup>th</sup> March), the days that were affected by snow.

# E14

**CITY COUNCIL – 18 APRIL 2023**

**WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIROMENT  
COUNCILLOR MUMTAZ HUSSAIN**

**“Free bulky waste collections for the frail and disabled”**

**Question:**

**“Recently Cllr Ian Ward said that the “frail and disabled” would be eligible for 1 free bulky waste collection per year if they are in receipt of an assisted bin collection, however, the Department concerned have not received any instructions on this. When is this going to be introduced?”**

**Answer:**

The facility for people on the assisted collection scheme to book one free bulky waste collection is open now.

# E15

**CITY COUNCIL – 18 APRIL 2023**

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

**“Fleet and waste drivers”**

**Question:**

**“In February, Cllr Ron Storer asked “How many driver roles are there in the fleet and waste service, and how many of these are vacant and how many covered by agency? Please split this between each service - waste collections, street cleaning etc.”**

**As this was a public question, can all receive a copy of this information with vacancy numbers reported by month for the past 2 years, up to the present month?”**

**Answer:**

In the time available to Officers, we are unable to provide a breakdown figure by month for the past two years.

At the date of providing this written answer the vacancies are:

Refuse and recycling	193 driving positions of which 8 are vacant
Street cleansing	140 driving positions of which 56 are vacant

The service sustains 100% occupancy by using agency drivers in all cases.

In addition, under the present MOU the service also provides additional agency capacity and overtime to sustain cover for sickness, holidays and training within the refuse and recycling service that provides additional daily capacity.

# E16

CITY COUNCIL – 18 APRIL 2023

## WRITTEN QUESTION TO THE CABINET MEMBER FOR ENVIRONMENT COUNCILLOR IZZY KNOWLES

### “Pesticides”

#### Question:

**“It’s now over 6 months since the scrutiny meeting at which Bee Friendly Brum presented their petition to stop spraying of harmful pesticides in parks and streets of Birmingham. Yet, there is evidence of spraying on verges, open grass areas and parkland across Birmingham which seems totally unnecessary and is harmful to biodiversity. When will the Nature Recovery Plan be finalised and published?”**

I fully support the petition that I presented to City Council last year and it is my aim to use a series of actions to encourage a better environment for our pollinators across the city.

Our Highways contactors, Kier, have already moved away from the use of Glyphosate based sprays to control weed growth on pavements and gutters to a more organic substance found naturally occurring in plants – this being Pelargonic Acid (a fatty acid). This treatment, while more environmentally friendly, is less effective and so more treatment may be required to keep footways and roadside gutters clear.

For the Parks Service, we are where we can, transitioning our practices and reducing our reliance on glyphosate-based products to a contact pelargonic acid-based product too.

The aim is to cease the use of all Glyphosate based product by the end of this season except for the treatment of invasive weed species where there may be no other suitable alternatives.

An ongoing review is taking place to identify appropriate alternatives to chemical treatment and new products and practices coming to market. This includes cultural practices but also new biological controls which are under trial with the Department for Farming and Rural Affairs (DEFRA).

These reviews and changes in practices will form an environmental improvement action plan which will be part of a wider Birmingham Biodiversity Policy. That Policy in turn will be a key aspect of Birmingham’s Local Nature Recovery Network Strategy (LNRNS).

It is the LNRNS and Biodiversity Policy that will set the overall direction and requirements for managing the natural green spaces of Birmingham in line with the mandate created for Biodiversity Net Gain set out in the Environment Act 2021; and the additional burdens placed on Local Authorities under the Biodiversity reporting requirements from the strengthened Section 41 of the Natural Environment and Rural Communities Act.

This Policy work and all the readiness preparations for Biodiversity Net Gain, strategy, Implementation and Monitoring is being led by our strategic lead for Urban Forestry and Nature as part of the City of Nature programme, in conjunction with the Principal Ecologists, both within Places, Prosperity and Sustainability, as the statutory legislative responsibility lies with the planning authority.

The new Biodiversity Policy and LNRNS will be set out and adopted ahead of the full implementation of the Environment Act in November 2023.

# E17

**CITY COUNCIL – 18 APRIL 2023**

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

**“Council policy on Rat poison”**

**Question:**

**“What is the Council's policy on use of rat poison in both closed and open spaces and is that extended to outside contractors?”**

**Answer:**

The Council discharges its statutory duty to tackle rats in Birmingham in part by providing a free at the point of delivery pest control service for rats. This is provided to domestic premises regardless of tenure to all residents in Birmingham.

We use 3 types of bait (wax blocks, grain, and paste) in differing concentrations depending on circumstances. All pest officers engaged in rat treatments are under a duty to use the bait safely. This could be from placing in areas that people or other animals cannot get to, e.g. behind a washing machine, under wooden floors, using bait boxes in gardens or under wooden decking. There is a balance to be struck between laying baiting and effective baiting in that introducing new items into the environment can cause rats to become “bait shy” (neophobia). It is also necessary for the bait to be accessible within the areas it is laid otherwise it won't be eaten by the rats. Having said this, the baits should be used in such a way as to minimise the possibility of poisoning non-target species such as squirrels, hedgehogs, or pets.

Safe laying of poisons is required for both indoor and outdoor settings, as we treat rats in houses as well as rats in gardens. Where advice can be given to modify the environment, to make pests less likely, officers will give this. This tends to be around keeping bin areas tidy, or pest proofing houses.

The Council's Pest Control service does not employ external contractors and therefore has no interaction with them.

# F1

CITY COUNCIL – 18 APRIL 2023

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

**“Oracle security testing”**

**Question:**

**The Council’s external auditors requested that they be allowed to run an automated tool (Fastpath) to gain an understanding of security in relation to privileged access to Oracle. This request was repeated in December, January, and February. It was felt to be of particular importance given security issues previously highlighted by the auditor in successive audits relating to the old SAP system and the fact that Oracle was supposed to address these issues. Has this work now been completed, and if so, what were the results and please provide a copy of the report?**

**Answer:**

Officers have provided information to the external auditors on how Oracle handles this specific security issue. They have provided assurance that those specific practices from SAP are not being repeated in the new system, have also provided data extracts and reports at the auditors’ request and will continue to work with them to enable the running of the Fastpath tool, at a time that suits their schedule and the other work being carried out.



# F2

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR ROBERT ALDEN**

**“West Midlands Forum”**

**Question:**

**Broken down each year since 2015, how much does the Council pay to sponsor West Midlands Forum (as indicated on their website [www.westmidlandsforum.co.uk](http://www.westmidlandsforum.co.uk)). If this sponsorship is payment in kind or some other kind of non-monetary arrangement then please specify what this involves.**

**Answer:**

I can confirm that the Cabinet Office has never sponsored the West Midlands Forum (WMF). A joint event was held between the WMF and the Levelling-Up Birmingham All Party Parliamentary Group (APPG) in July of last year.

BCC is a sponsor of the APPG. At this joint event BCC shared the cost of venue hire (the Library of Birmingham) with the WMF. The event was cross party political in nature with attendance and speeches from the Mayor of the West Midlands (Con), the Co-Chairs of the APPG, Andrew Mitchell MP (Con) and Preet Gill MP (Lab) and the Leader of Birmingham City Council (Lab).

# F3

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR RON STORER**

**“Global Property”**

**Question:**

**The Birmingham Mail carried a story on 6 April 2023 which confirmed in a statement from Birmingham City Council that the Council held a contract with Global Property Management since February 2018 for the provision of temporary accommodation. Why is this contract not listed on the Council's contract register in accordance with the Government's transparency code?**

**Answer:**

From February 2018 Global Property Management were a provider of homes to be used as temporary accommodation in Birmingham, this was as part of the Council's Private Sector Leasing arrangements. When the Private Sector Leasing contract was re-tendered, Global Property Management were not successful and were not awarded a new contract for this service area. Birmingham City Council, therefore, are currently prioritising the process of securing alternative accommodation for households who remain in Global Property Management homes.

The reason why the Global Property Management contract is not on the Council's contract register is because we are now out of contract.

All contracts on the old PSL block including Global were extended until 31<sup>st</sup> June 2022 to tie in with the award of the new block contracts of which Global were not successful.

Since then we have needed to operate on a rolling basis whilst the team secures sufficient available new TA accommodation via the new block contract. We are currently prioritising the movement of families out of Global properties.

# F4

CITY COUNCIL – 18 APRIL 2023

## WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND RESOURCES FROM COUNCILLOR ADAM HIGGS

### “Temporary Accommodation”

#### Question:

Please provide a list of all private sector landlords for which the Council held a contract with for the provision of temporary accommodation under the arrangement let in February 2018, and all private sector landlords for which the Council holds a contract under existing arrangements.

#### Answer:

#### 2018 – 2022 Contract Arrangements

Ezzi Lettings Solutions Ltd  
 Finefair Ltd  
 Global Property Management (UK) Ltd  
 HP Lakha  
 Mears Housing Management Ltd  
 Metropolitan Surveyors Ltd  
 PDS Property Management Ltd  
 Second City Housing Ltd  
 Select Care Solutions Ltd  
 Weir Housing Ltd

#### 2022 – 2028 Contract Arrangements

Apex Property Services  
 Centennial Property Ltd  
 Claremont Living  
 Ezzi Lettings Solutions Ltd  
 Kwik Let Properties  
 Metropolitan Surveyors Ltd  
 Second City Housing Ltd  
 Select Care Solutions  
 Weir Housing Ltd

F5

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR RICHARD PARKIN**

**“Council Tax Data Ward Boundaries”**

**Question:**

**Why is Council Tax data still not available at Ward level according to the Wards boundaries amended 5 years ago and when do you expect this to be done?**

**Answer:**

The Local Land and Property Gazetteer (LLPG) ward alignment was initially carried out in 2015. However, at the time the project did not have the funding to develop automation of the maintenance of the wards following the implementation. It is a very complex project involving many thousands of property records. Since 2015 a further boundary change was made which is not reflected in Revenues and Benefits computer system (RBIS). The next attempt was in 2019 where approximately 10,000 properties were identified which required review. This would have been a manual task and at that time the resources were not available.

A project to implement the ward boundary change recommenced in 2022. The project identified further anomalies with moving the data and relationships between wards and constituencies on the RBIS system. Further to this, the elections team confirmed there may be a constituency change announced in 2023/24 which will reduce the number of wards which span more than one constituency. Currently, there are 69 wards and 10 constituencies which sit within the Birmingham City Council boundary. From 2023/24 it is expected that there will be 9.5 constituencies, and BCC will share a constituency with a neighbouring authority (the most recent proposals suggest this will involve BCC ‘taking in’ some of Solihull to make up a full constituency. This cross-authority boundary will only apply for the administration of parliamentary elections – and the ward/local authority boundaries will not change. Continuing to carry out the ward boundary update in 2022, only to have to reverse this update in 23/24 to align all properties with the new constituency update would have involved a huge duplication of work and effort so a prudent decision was made to pause the project.

The final recommendations from the Boundary Commission are expected to be made on Tuesday 8 November, with the final round of consultation taking place until the end of the year. The new boundaries will be laid before Parliament in July 2023, when they should come into force (there are a number of things that could impact on this timetable – not least if a general election is called before then).

Based on the further potential change (and due to the extensive work required), the project has been delayed until after this year's boundary change has been approved. The project is scheduled to restart in Quarter 3 2023/24.

**F6****CITY COUNCIL – 18 APRIL 2023****WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR DAVID BARRIE****“West Midlands Forum contract”****Question:**

**Please provide a copy of the contract with West Midlands Forum for the Council’s sponsorship of the organisation, including what the Council gets for its sponsorship.**

**Answer:**

I can confirm that the Cabinet Office has never sponsored the West Midlands Forum (WMF)

A joint event was held between the WMF and the Levelling-Up Birmingham All Party Parliamentary Group (APPG) in July of last year.

BCC is a sponsor of the APPG. At this joint event BCC shared the cost of venue hire (the Library of Birmingham) with the WMF. The event was cross party political in nature with attendance and speeches from the Mayor of the West Midlands (Con), the Co-Chairs of the APPG, Andrew Mitchell MP (Con) and Preet Gill MP (Lab) and the Leader of Birmingham City Council (Lab).

**F7****CITY COUNCIL – 18 APRIL 2023****WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR DAVID PEARS****“West Midlands Forum approval”****Question:****Who requested for the Council to provide sponsorship to West Midlands Forum and who approved it?****Answer:**

I can confirm that the Cabinet Office has never sponsored the West Midlands Forum (WMF)

A joint event was held between the WMF and the Levelling-Up Birmingham All Party Parliamentary Group (APPG) in July of last year.

BCC is a sponsor of the APPG. At this joint event BCC shared the cost of venue hire (the Library of Birmingham) with the WMF. The event was cross party political in nature with attendance and speeches from the Mayor of the West Midlands (Con), the Co-Chairs of the APPG, Andrew Mitchell MP (Con) and Preet Gill MP (Lab) and the Leader of Birmingham City Council (Lab).

# F8

CITY COUNCIL – 18 APRIL 2023

WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR JON HUNT

**“Oracle predicted savings”**

**Question:**

**“The budget and business plan shows a £1.729 investment of capital receipts, 2022-2024, into Oracle, promising annual savings of £1m at an unspecified period in the future. However, the budget also identifies a £1.5million annual increase in spending on Oracle as a pressure. When will it start to deliver savings?”**

**Answer:**

Officers have advised that Oracle will begin to deliver savings in this financial year 2023/24, specifically £2m of savings relating to reduced application costs in Digital and Technology Services. These will come about as a result of the change from SAP including reduced licenses and hosting costs.



# F9

CITY COUNCIL – 18 APRIL 2023

WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR ROGER HARMER

**“Oracle expenditure”**

**Question:**

**“The budget and business plan shows a £1.729 investment of capital receipts, 2022-2024, into Oracle, promising annual savings of £1m at an unspecified period in the future. However, the budget also identifies a £1.5million annual increase in spending on Oracle as a pressure. Why have the costs increased so much?”**

**Answer:**

The increased funding in the Council's 2023/24 budget has been agreed to support improved Oracle implementation across a range of functions including finance, procurement and people services. In any large and complex organisation there will be uncertainty around the costs of this kind of programme. We have taken appropriate steps to fund these pressures.

# F10

CITY COUNCIL – 18 APRIL 2023

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

**“Oracle functionality”**

**Question:**

**“The budget and business plan shows a £1.729 investment of capital receipts, 2022-2024, into Oracle, promising annual savings of £1m at an unspecified period in the future. However, the budget also identifies a £1.5million annual increase in spending on Oracle as a pressure. When will Oracle be working properly?”**

**Answer:**

Oracle is already delivering a wide range of important functionality including payroll, supplier payments, and accounts payable. We expect the system's functionality to continue increasing over the course of 2023/24 and beyond, as we maximise its capability and benefits.

# F11

CITY COUNCIL – 18 APRIL 2023

WRITTEN QUESTION TO THE CABINET MEMBER FOR FINANCE AND  
RESOURCES FROM COUNCILLOR ZAKER CHOUDHRY

**“Oracle future expenditure”**

**Question:**

**“The budget and business plan shows a £1.729 investment of capital receipts, 2022-2024, into Oracle, promising annual savings of £1m at an unspecified period in the future. However, the budget also identifies a £1.5million annual increase in spending on Oracle as a pressure. Can Members be assured there will be no further drawdown of revenue or capital to support Oracle?”**

**Answer:**

Financial decisions will continue to be made about Oracle on the basis of what is good value for the city as a whole. Any decisions will be made in line with the Council's constitution and financial regulations.

**G**

**PLEASE NOTE: NO WRITTEN QUESTIONS WERE SUBMITTED TO THE  
CABINET MEMBER FOR HEALTH AND SOCIAL CARE**

# H1

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR HOUSING AND  
HOMELESSNESS FROM COUNCILLOR BRUCE LINES**

**“Housing Officers”**

**Question:**

**How many housing officers (in total and as percentage) working for the Council have a professional qualification in housing, and how many do you expect this to be by 2026?**

**Answer:**

Currently the Council is not required to and does not record this information. All appointments will be made based on an assessment of candidates' relevant qualifications and/ or experience as an essential part of the recruitment process.

The Government has recently announced that professional qualifications are to be made mandatory for some social housing managers; we are still awaiting further details on what this will mean for local authorities. We are liaising with RSH and CIH with the aim of providing feedback during the consultation period.

The Council is aware of the potential impact this announcement will have for our workforce and service delivery and we are therefore taking a proactive approach. We are reviewing our workforce qualifications, training needs and plans in response to the proposals.

# H2

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR HOUSING AND  
HOMELESSNESS FROM COUNCILLOR ROBERT ALDEN**

**“Damp”**

**Question:**

**What proportion of council homes have a) most serious damp, b) serious damp, and c) notable damp?**

**Answer:**

From April 22 to March 23, we had 6,695 homes reporting damp and mould related issues across the city. This equates to 11% of our total stock. Our total stock is approximately 59,570.

The proportion of council homes with

- notable cases of damp are 6170 equating to 10% of total stock
- serious cases of damp are 456 equating to 0.76% of total stock
- most serious cases of damp are 69 equating to 0.1% of total stock

All cases are identified as damp related issues and are treated as a priority within 7 days. The extent of rectification will differ depending on the issues and severity for the citizen.

# H3

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR HOUSING AND  
HOMELESSNESS FROM COUNCILLOR ADAM HIGGS**

**“EPC Rating”**

**Question:**

**By what year does the Council expect to achieve 100% compliance with EPC C or higher for all Council homes?**

**Answer:**

Compliance with EPC Band C will be dependent on funding availability either directly from the HRA or mixed funding like Social Housing Decarbonisation Fund (SHDF). We have been successful with this year's bid for SHDF and are hopeful this support will continue over the longer term.

Our target is to aim to achieve EPC Band C by 2030. This will be a considerable challenge due to our current position. It will also be subject to carrying out further assessments of our stock condition and particularly those rated Band D and worse.

These will form part of our proposals in the new Asset Management Strategy, which is being prepared ready for review and approval in September 2023.

We are currently assessing the funding requirements to achieve this in the long-term financial plan.

I1

CITY COUNCIL – 18 APRIL 2023

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

**“Burials”**

**Question:**

**For each of the last 5 years, please provide figures for burials at each of the City's cemeteries broken down by religious belief.**

**Answer:**

Please see the attached.



I1 - Social Justice 1  
Cllr Parkin.pdf



CITY COUNCIL – 18 APRIL 2023

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

**“Burials”**

**Question:**

**For each of the City's cemeteries, please can you state the total size currently used for burial plots, and the total extra space available on each site for future expansion?**

**Answer:**

Brandwood End – 53 acres, 2 of which were sold to the Jewish Community in 1919 – all used

Kings Norton – used = 11 acres – future = 17.75 acres

Lodge Hill – 61 acres – all used

Quinton – 51 acres total, used = 31, available = 20

Yardley – 64 acres – all used

Sutton Coldfield Cemetery – 17 Acres used for burial plots – No more room for extension

Witton Cemetery – 103 Acres used for burial plots – No more room for extension

Sutton New Hall Cemetery – 25 Acres used for burial plots. 15 Acres for additional extension.

Handsworth Cemetery – 68 Acres used for burial plots – additional extension being looked into. We are looking into using a small area that we have found within the cemetery. We are undertaking initial investigations to find out whether this area is suitable for burial ground.

# I3

CITY COUNCIL – 18 APRIL 2023

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

**“Home working”**

**Question:**

**Prior to the introduction of New Ways of Working, what assessment was carried out on the impact on staff not allowed to work from home compared to those who were, including any equal pay implications, welfare, and staff satisfaction?**

**Answer:**

The business case for the NWOW programme included an equality impact assessment (EQUA674) as per Cabinet report of 27 July 2021.

No specific Equal Pay assessments relating to work location were carried out prior to new ways of working however, the HR Policy framework, staff wellbeing and training provisions, and contracts of employment have remained under review prior to and since 2020.

ITY COUNCIL – 18 APRIL 2023

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

**“Home working – musculoskeletal injuries”**

**Question:**

**Prior to the introduction of New Ways of Working, what assessment was carried out on the risks of musculoskeletal injuries from inappropriate working positions and what mitigations were put in place against these risks?**

**Answer:**

Prior to the introduction of New Ways of Working, the ‘Working for the Future’ programme (circa 2008) included risks associated to home working (primarily use of Display Screen Equipment DSE). Risks were assessed and organisational arrangements (in the form of intranet content, guidance, training and the provision of equipment) were communicated to managers and employees. The assessment of the potential for musculoskeletal injuries from inappropriate working positions was always a consideration of DSE use – utilising the HSEs VDU Workstation checklist to inform our approach. Mitigations primarily include the provision of information, training, appropriate workstations with changes of activity and regular breaks and contact with other members of the team.

CITY COUNCIL – 18 APRIL 2023

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

**“Home working percentage”**

**Question:**

**By month since January 2020, broken down by department, what percentage of staff worked from home for the majority of their working month?**

**Answer:**

Birmingham City Council currently employs 9853 staff. We do not record the number or proportion of staff who may perform their work remotely (on a hybrid basis) as this requirement varies dependent on the needs of the individual service. All employees are expected to attend their notional work base as required by their role and the needs of the business. We do not prescribe a percentage of time per week that staff are able to work from home. This is managed locally by Directors and senior management. Developing an agile, flexible workforce is supported by the New Ways of Working Programme and hybrid working practices remain under review.

The Council also employs 420 contracted homeworkers (4.3% of the total employed workforce). These are broken down by department as follows:

Department	Full time homeworkers
Adult Social Care	6
Digital and Customer Service	326
Children & Families	17
Finance and Governance	6
People Services	11
Strategy, Equality and Partnerships	0
City Housing	30
City Ops	0
Partnerships, insight and Prevention	24
Total	420

CITY COUNCIL – 18 APRIL 2023

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

**“Home working percentage”**

**Question:**

**Broken down by department, what percentage of staff are expected to be working from home for the majority of their working week, in each of the next 3 years?**

**Answer:**

Birmingham City Council currently employs 9853 staff. We do not record the number or proportion of staff who may perform their work remotely (on a hybrid basis) as this requirement varies dependent on the needs of the individual service. All employees are expected to attend their notional work base as required by their role and the needs of the business. We do not prescribe a percentage of time per week that staff are able to work from home. This is managed locally by Directors and senior management. Developing an agile, flexible workforce is supported by the New Ways of Working Programme and hybrid working practices remain under review.

The Council also employs 420 contracted homeworkers (4.3% of the total employed workforce). Refer to table on I5.

CITY COUNCIL – 18 APRIL 2023

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

**“Employees working two jobs”**

**Question:**

**Since April 2020, how many disciplinary actions have been taken against staff for working more than one job without proper notification and authorisation and what proportion of these were employees who are allowed to work from home for some or all of their working week?**

**Answer:**

To date there have been two disciplinary investigations which has resulted in one dismissal and one currently still within the disciplinary process.

We do not record the number or proportion of staff who may perform their work remotely (on a hybrid basis) as this requirement varies dependent on the needs of the individual service.

CITY COUNCIL – 18 APRIL 2023

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

**“BID security”**

**Question:**

**By BID area, please list the names of all security firms employed to patrol high streets?**

**Answer:**

Each BID within Birmingham has their own company structure and are independent from the City Council. Officers will ask each BID to provide security information that is in the public domain and will forward the responses once received.

J1

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM  
COUNCILLOR ADAM HIGGS**

**“Queen’s Baton Air Quality monitoring”**

**Question:**

**Please publish all data collected from the air quality monitor contained in the Queen's Baton for the Commonwealth Games.**

**Answer:**

The Queen’s Baton and air quality monitoring technology used as part of the Queen’s Baton Relay was developed by the Birmingham 2022 Commonwealth Games Organising Committee with support from a team at the University of Birmingham. As such the Council does not have access to any of the data collected by the Queen’s Baton.

We will make contact with the University of Birmingham to gain some more information about the project, which we will share as soon as possible.



J2

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM  
COUNCILLOR EWAN MACKEY**

**“Bus Lane enforcement”**

**Question:**

**Between 20-26 March 2023, how many penalties were issued for bus lane infringements and what was the total value of these fines?**

**Answer:**

2,369 Penalty Charge Notices were issued during the period 20-26 March 2023 for bus lane infringements.

The total £70 full fine value would equate to £165,830, but if paid within the discount period the fine is reduced to £35 and would equate to £82,915.

# J3

**CITY COUNCIL – 18 APRIL 2023**

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

**“Highways fund”**

**Question:**

**“What proportion of the Ward Highways Fund has been spent or allocated so far (breakdown by Ward)? How many projects (21/22 and 22/23) have been implemented and can you set out the timescales for incomplete projects? How many projects have been delayed? Can the data be broken down by number and length of delay?”**

**Answer:**

The attached file provides a high-level overview of Ward Minor Transport Measures activity for the period 21/22 and 22/23. The file identifies those schemes which have been completed and those that have experienced any slippage from a financial perspective. Detail on the length of calendar delay to any historic individual project is not readily available but could be produced moving forward.



J3 -  
WMTM\_Schemes\_Spe

# J4

**CITY COUNCIL – 18 APRIL 2023**

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

**“CAZ fund”**

**Question:**

**“Can you explain how and where CAZ money has been and will be spent on road safety around schools?”**

**Answer:**

We are using CAZ money to expand and enhance our existing Car Free School Streets programme, with a further phase of schools planned for September 2023, and a process in place for annual implementation with cohorts of additional schools following that. We are also progressing supplementary support packages and resources in relation to communications, stewarding, and enforcement in order to increase compliance with this restriction where it is currently in place. These measures will be funded from the Transport & Environment CAZ Programme Revenue Investment of which £1m is allocated to the Car Free School Streets programme. The Transport & Environment CAZ Programme Revenue Investment fund will also see the allocation of £1m to complete the expansion of the inner Birmingham 20mph zone which will cover streets outside and adjacent to schools.

In addition, the Brum Breathes Fund (total £4.040m) could be utilised to improve road safety around schools. Brum Breathes Fund is funding from net surplus Clean Air Zone revenues to support a range of schemes and projects that could be employed to deliver locality-based initiatives that address specific air quality challenges. These measures could include, but are not limited to, the following: school traffic exclusion plans, cycle bays; sustainable transport measures and parking restrictions.

## J5

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM  
COUNCILLOR ZAKER CHOUDHRY**

**“CAZ fund”**

**Question:**

**“In your manifesto you pledged to spend £10M on school road safety. Can you set out when and how this money is being allocated and how it compares with previous allocations?”**

**Answer:**

The 2022 Labour Manifesto stated, “We will invest at least £10 million in making our school streets among the safest in the city”.

Investment in making streets in and around our schools is to be funded from multiple projects and programmes. It should be noted that these projects and programmes will not wholly deliver improvements to streets in and around schools. Investment presented includes present forecasted funding commitments.

2022/23 to 2026/26 Forecasted Capital Investment

Local Improvement Budget, School Streets Programme, Safety Schemes Programme and Ward Minor Transport Measures Programme.

Total = £10.083m

2022/23 to 2026/26 Forecasted Transport & Environment CAZ Programme Revenue Investment

Continuation and enhancement of the Car Free School Streets programme and Expansion of the inner Birmingham 20mph zone to complete the project.

Total = £2m.

2023/24 to 2024/25 Brum Breathes Fund

Funding from net surplus Clean Air Zone revenues to support a range of schemes and projects that could be employed to deliver locality-based initiatives that address specific air quality challenges. These measures could include, but are not limited to, the following: school traffic exclusion plans, cycle bays; sustainable transport measures, parking restrictions etc.

Total = £4.040m

Further funding will continue to be sought from suitable sources.

J6

CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM  
COUNCILLOR DEBBIE CLANCY****“Grit Bins”****Question:****In each year since April 2018, how many grit bins were there in each Ward?**

Answer:

See chart below. Grit bin numbers have been stable since 2018, with only a few additions in 2022.

Ward Name	Grit Bins 2018	Grit Bins 2023
Acocks Green	10	10
Allens Cross	29	30
Alum Rock	9	9
Aston	15	15
Balsall Heath West	3	3
Bartley Green	36	38
Billesley	26	26
Birchfield	14	14
Bordesley & Highgate	10	10
Bournbrook & Selly Park	19	19
Bournville & Cotteridge	23	23
Brandwood & Kings Heath	22	22
Bromford & Hodge Hill	24	24
Castle Vale	1	1
Druids Heath & Monyhull	23	24
Edgbaston	14	14
Erdington	18	18
Frankley Great Park	21	21
Garretts Green	9	9
Glebe Farm & Tile Cross	18	18
Gravelly Hill	13	13
Hall Green North	13	13
Hall Green South	12	12
Handsworth	8	8
Handsworth Wood	47	47
Harborne	41	41

Heartlands	2	2
Highters Heath	11	11
Holyhead	3	3
Kings Norton North	29	29
Kings Norton South	34	34
Kingstanding	32	32
Ladywood	34	34
Longbridge & West Heath	37	37
Lozells	5	5
Moseley	26	26
Nechells	3	3
Newtown	5	5
North Edgbaston	15	15
Northfield	9	9
Oscott	47	47
Perry Barr	50	50
Perry Common	7	7
Pype Hayes	9	9
Quinton	37	37
Rubery & Rednal	23	24
Shard End	7	7
Sheldon	35	35
Small Heath	15	15
Soho & Jewellery Quarter	21	21
South Yardley	5	5
Sparkbrook & Balsall Heath Eas	8	8
Sparkhill	10	10
Stirchley	21	22
Stockland Green	28	28
Sutton Four Oaks	16	16
Sutton Mere Green	22	22
Sutton Reddicap	12	12
Sutton Roughley	8	8
Sutton Trinity	24	24
Sutton Vesey	29	29
Sutton Walmley & Minworth	19	19
Sutton Wylde Green	13	13
Tyseley & Hay Mills	13	13
Ward End	10	10
Weoley & Selly Oak	39	39
Yardley East	27	27
Yardley West & Stechford	6	6

**Total**

1284

1290

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CITY COUNCIL – 18 APRIL 2023

**WRITTEN QUESTION TO THE CABINET MEMBER FOR TRANSPORT FROM  
COUNCILLOR RON STORER****“Grit Bins”****Question:****In each year since April 2018, how often were grit bins checked and restocked in each Ward?****Answer:**

The data shows the number of times grit bins were re-filled in each ward during each Winter season. These occurred because of a combination of routine checks and requests from members of the public.

Over the duration of the reported 5-year period the location of some grit bins has been re-categorised in the computer system (the actual locations have not changed). This results in the blank cells in earlier years in the table below.

Ward	2018/19	2019/20	2020/21	2021/22	2022/23
Acocks Green	44	22	44	43	52
Allens Cross				58	87
Alum Rock				9	18
Aston	60	80	55	60	50
Balsall Heath W				3	9
Bartley Green	145	156	178	231	115
Billesley	108	108	108	134	106
Birchfield					14
Bordesley & H				30	10
Bordesley Green	64	32	49	48	32
Bournbrook & SP				38	38
Bournville	132	88	146	176	90
Brandwood	123	123	150	164	41
Brandwood&KH				44	44
Bromford & HH				21	48
Castle Vale				2	1
City Centre				23	23
Druids Heath&M				46	71
Edgbaston	60	80	77	80	68
Erdington	67	42	84	102	39
Frankley GP					105

Garretts Green				6	12
Glebe Farm & TC				18	36
Gravelly Hill					13
Hall Green	50	50	100	113	115
Handsworth					8
Handsworth Wood	200	150	228	200	144
Harborne	173	117	116	156	119
Heartlands				2	4
Highter's Heath					24
Hodge Hill	116	58	74	90	58
Holyhead				3	3
Kings Norton	256	256	304	320	316
Kingstanding	104	52	78	104	77
Ladywood	204	41	119	123	75
Longbridge	138	131	224	258	269
Lozells & EH	55	81	81	108	31
Moseley & Kings H	75	50	98	101	103
Nechells	42	41	31	42	20
Newtown					5
North Edgbaston					45
Northfield	224	180	176	135	126
Oscott	180	180	242	240	107
Perry Barr	156	156	208	208	102
Perry Common				21	14
Pype Hayes				18	9
Quinton	140	86	198	252	131
Rubery & Rednal					92
Selly Oak	135	56	86	112	28
Shard End	95	38	72	68	40
Sheldon	117	156	172	113	185
Small Heath					30
Soho	64	48	32	111	53
South Yardley	88	66	63	112	64
Sparkbrook	36	18	30	15	25
Sparkhill					20
Springfield	51	34	49	70	34
Stechford	123	82	80	51	82
Stirchley					42
Stockland Green	117	64	103	128	60
Sutton Four Oak	123	123	97	164	48
Sutton Mere G					66
Sutton New Hall	69	69	46	92	23
Sutton Reddicap					36
Sutton Roughley				8	16



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CITY COUNCIL – 18 APRIL 2023

WRITTEN QUESTION TO THE CHAIR OF PLANNING COMMITTEE FROM  
COUNCILLOR AYOUB KHAN

**“Planning application 2020/08399/PA”**

**Question:**

**“Can the letters of objection and support, the details of any community consultation done by Aston Villa and any other pertinent documentation relating to planning application 2020/08399/PA be sent to the Aston Councillors please?”**

**Answer:**

Officers have confirmed that documents requested will be made available for Aston Councillors and circulated accordingly.



The background of the page is a faded, grayscale photograph of a large, historic building. The building features a prominent central clock tower with a dome and multiple arched windows. The architecture is classical, with many windows and a grand entrance at the bottom. The text is overlaid on this image.

# **The Lord Mayor's Annual Report to Council**

**May 2023**

## Nature and Purposes of this Report

This is the ninth annual report from the Lord Mayor and the principal purpose is to give an overall impression of the work that is carried out by the Lord Mayor, the officers of the Lord Mayor's Office and former Civic Heads. The report draws attention to the importance of this work for the Council and for the City as a whole. Communication is vital in achieving a strong and positive understanding of the role of the Lord Mayor's Office.

The substantive sections of the report are:

1. *The Fourth Function* - setting out the context, history, attributes and perceptions of the Lord Mayoralty.
2. *The Duties of the Lord Mayor* - illustrating the wide variety of roles, responsibilities and assignments undertaken.
3. *Other Civic Positions* - explaining the roles of the Lord Mayor's Consort, Deputy Lord Mayor and Lord Mayor's Deputies.
4. *Mayoral links with the Magistracy and Judiciary.*
5. *The Lord Mayor and Voting.*
6. *The Selection of Lord Mayors.*
7. *The Mayoral Year 2022/23.*
8. *Further Information.*

## Appendices:

*Lord Mayoral Protocol.*

*The Senior Officer Position in the Lord Mayor's Office.*

*The Lord Mayor's Award.*

*Related Offices and Freedoms.*

*The Lord Mayor's Charity.*

*Civic Insignia.*

## 1. The Fourth Function

In addition to the Full Council itself, there are four, rather than the sometimes quoted three, principal areas of municipal function. These are Executive, Regulatory, Scrutiny and Civic. The fourth of these, which is delivered through the Lord Mayor's Office, arguably has the longest tradition and is the most widely recognised by our citizens. However, it is perhaps less well recognised in parts of the City Council itself.

Birmingham is the largest local authority in Europe and the Civic function of the Council should be commensurate with this status. The underlying objective of the Lord Mayor's Office is serving the people of Birmingham and, within the bounds defined by law and the provisions of the Council's constitution, interpreting the role of Lord Mayor in the context of Birmingham, its values, heritage, customs, practices and civic tradition and upholding and promoting the broad and lasting interests of the city, the City Council, our communities and our citizens as a whole.

The Civic Office carries out a wide range of public duties on behalf of the Council and the people of Birmingham. While there are great variations in roles, the concept of 'Mayor' is recognised throughout the country and indeed worldwide. Thus, the Lord Mayor has many occasions on which to promote the image and importance of Birmingham in both a regional, national and international context should opportunity be taken of this.

The principal function of the Civic Office is to serve and to represent. The Lord Mayor and civic dignitaries are the ambassadorial face of Birmingham and promote the city locally, nationally and internationally. The tradition, standing and impartiality of the office of Lord Mayor help to transcend barriers; and the Lord Mayor represents Birmingham at formal ceremonies and on both joyous and tragic occasions.

Members of the City Council are used to serving all their constituents regardless of political support, but the Lord Mayor belongs to the public as a whole in an even more fundamental way, due to the extent of the Lord Mayor's contact with communities across the city.

The Lord Mayor is politically neutral - the First Citizen being above political controversy. This is a vitally important aspect of the role and it is one that distinguishes the Lord Mayor from executive Mayors (directly elected Mayors).

The office of Mayor, together with the Domesday Book and the Feudal System, were brought to this country by the Normans. In continental Europe the office has existed since at least the fifth century.

The right to appoint a Lord Mayor is a relatively rare honour that is even less frequently bestowed than city status. Currently, 23 cities in England have Lord Mayors: Birmingham, Bradford, Bristol, Canterbury, Chester, Coventry, Exeter, Kingston-upon-Hull, Leeds, Leicester, Liverpool, the City of London, Manchester, Newcastle upon

Tyne, Norwich, Nottingham, Oxford, Plymouth, Portsmouth, Sheffield, Stoke-on-Trent, the City of Westminster and York.

The role of the Chairman of a District Council is the same as the Mayor of a Borough Council, and they have the same status as first citizen, after the Sovereign, in their district.

While the Lord Mayor holds few formal powers, the esteem in which the role is held lends itself to the significant power of influence. This stems in part from history - in the 17<sup>th</sup> and 18<sup>th</sup> centuries formal mayoral power was considerable.

The office has a central part to play in modern councils and modern society and arguably a growing one. Part of this role is as a result of the traditions it inherits. The First Citizen in any community is in a special position, and a lot of the prestige associated with the role is bound up in the traditions and ceremony that surround the Mayoralty.

The dignity of the office of Lord Mayor is protected by a time-honoured range of protocols and customs and in taking on the role, a Councillor is becoming part of this City's long history of local democratic institutions. It goes without saying that the office of Lord Mayor is immeasurably more important than the individual occupying the position. People expect that the First Citizen in their community will be shown the greatest respect. The protocols are shown in Appendix 1.

The Lord Mayor's impartiality and the avoidance of contentious issues in public discussion are essential if they are to represent the citizens of Birmingham as a whole. The taking of a public position on any issue is a potential wedge between the Lord Mayor and a section of the local community.

The title of Lord Mayor has been accorded to the first citizen of the City of Birmingham since 1896 and the Lord Mayor shall, by law, have precedence in the City but not so as to prejudicially affect Her Majesty's Royal Prerogative. The Lord Mayor is styled 'The Right Worshipful the Lord Mayor of Birmingham' and has precedence immediately after the Royal Family in civic premises and after the Lord Lieutenant elsewhere in the City.

The limited nature of the formal powers of the Lord Mayor does not mean a lack of significance for the role or an inability to initiate beneficial change. Indeed, combined with the absolute impartiality that goes with the office of Lord Mayor, the freedom from formal powers can be a positive asset. Moreover, with the enormous number of engagements that are undertaken by the first citizen, it would be impossible to exercise day to day executive powers with due diligence.

The volume of engagements undertaken by the Lord Mayor is not an indicator of quality and, if excessive, can limit the opportunities to take full advantage of the multitude of contacts and subsequent connections that could be made.

It is important that a reasonable proportion of the engagements should be proactive, for example those relating to the Lord Mayor's objectives for the year, and that requests from organisations that have not received a mayoral visit previously are encouraged. A mayoral year should not merely be a repeat of previous years.

It is also important that people at all levels of the community and voluntary organisations, particularly those in 'the front line' get a share of Mayoral time.

In a sense the Lord Mayor belongs to the people of Birmingham. This perception not only affects the way that the role is carried out but suggests that it is not for others to dispose of or encroach upon.

The Lord Mayoralty is a chance to be exposed to a wide range of issues across the board through first-hand observation and through various briefings. It provides an opportunity to reach out, encourage, involve and support and to make productive connections with and between people. What Lord Mayors say and do is heard by hundreds of thousands of people - both personally and through the media.

The city has some of the best civic insignia in the country - a matter of considerable pride and one reason why the attendance of the Lord Mayor at events is so much appreciated. Basic information on the chains, mace and badges is given in Appendix 8.

## **2. Duties of the Lord Mayor**

There are two distinct aspects of the office of Lord Mayor:

### The Lord Mayor is the Chair of Council meetings

This is a legal provision of the Local Government Act 1972, enabling Council business to be carried out in an orderly and proper manner, having regard to statutory obligations and the Constitution of the Council for the conduct of meetings. The fact that the first citizen chairs the meetings of the full City Council is an important symbol of the fact that the Council itself is the council of the people of Birmingham.

The Lord Mayor may call an extraordinary meeting of the Council subject to proper procedures being followed.

The person presiding at the Annual meeting must give a casting vote in the event of any equality of votes for the election of the new Lord Mayor. Such a casting vote would be in addition to a 'deliberative' (ordinary) vote. (1972 Local Government Act sec 4(3)).

The Lord Mayor is the first citizen and the ambassador of the city.

The majority of the Lord Mayor's responsibilities relate to the ambassadorial function of representing the Council, the city, and its people; and in so doing meeting a wide range of voluntary organisations, charities, employers, agencies, civic heads from other Local Authorities, consular and diplomatic representatives, Heads of State and members of the Royal Family.

Many of the Lord Mayor's duties are ambassadorial, representing the people and the city both at home and abroad. Responsibilities are many and varied and include, as examples:

- Presiding as ceremonial head for the Council over its civic functions and social occasions
- Acting as a focal point in times of crisis, tragedy or triumph. This arises as a consequence of precedence.
- Hosting events, receiving and welcoming members of the Royal Family, dignitaries and visitors, at all times observing the recognised protocol.
- Taking part in functions as a representative of the people of Birmingham or the City Council.
- Maintaining good relationships and links with the Armed Services and veterans' organisations, including the taking of salutes and presiding at Freedom of the City ceremonies.
- Working proactively for the Lord Mayor's Charity and supporting many other charities.
- Promoting and raising the profile of many Council initiatives and projects that benefit the citizens of Birmingham.
- Encouraging active citizenship and facilitating participation by all in the life of the city.
- Maintaining good relationships and working with faith organisations within the city, attending a variety of religious occasions and making visits.
- Supporting voluntary activities that benefit the local community and the people of Birmingham.
- Celebrating local success and recognising achievement both internal and external to the Council.
- Opening significant buildings, exhibitions and businesses
- Joining citizens in community events.
- Enhancing social cohesion, making connections and expressing the unity of the city.
- Acting as a reassuring reminder of tradition and constancy in a volatile world.
- Acting as an ambassador for the city both nationally and internationally.



The Lord Mayor also has a role in friendly relations between Birmingham and other cities and regions both at home and abroad. This latter includes, but is not confined to, twinning and Sister Cities. In more recent times, trade and the economic considerations have played a major role, but the importance of cultural and social linkage and understanding should not be lost.

There is also scope for simpler, community-to-community friendship links. Birmingham has a substantial and thriving Irish community; many having close family connections with County Councils throughout Ireland, and reciprocal visits take place regularly. Birmingham also has very strong links with the town of Albert in France, having been one of the 'War Godmother Towns' that helped to rebuild Albert after the First World War.

The Lord Mayor hosts a number of civic functions during the year. The Head of Lord Mayor's Office has the responsibility of making high level connections with a very wide range of external organisations.

Examples of the demands of the role can be found in Appendix 2.

### **3. Other Civic Positions**

#### The Deputy Lord Mayor

In Birmingham the position of Deputy Lord Mayor is occupied by the previous year's Lord Mayor.

The Deputy Lord Mayor's principal duties are:

- To assist the Lord Mayor
- To deputise in the absence of the Lord Mayor or at the request of the Lord Mayor at civic or community events.

#### The Lord Mayor's Deputies

If both the Lord Mayor and the Deputy Lord Mayor are unavailable to cover a particular event, previous Lord Mayors can be called on to act in a civic capacity as deputy and bring their considerable experience to bear as former civic heads.

The former Civic Heads represent one of the primary sources of the civic institutional memory and a number undertake many supportive roles in the office and in the delivery of the civic function, in particular acting an invaluable source of information and advice for each new Lord Mayor.

#### 4. Mayoral Links to the Magistracy and Judiciary

The Lord Mayor's formal link to the magistracy disappeared many years ago, by virtue of the Administration of Justice Act 1973 and section 10(2) of the Justices of the Peace Act 1979, although equivalent powers were retained by the Lord Mayor of London. Nevertheless, the Lord Mayor can perform certain tasks in a manner similar to a JP.

For example, the Lord Mayor may:

- Take and authenticate by their signature any written declaration not made on oath;
- Give a certificate of facts within their knowledge or of their opinion as to any matter;
- Sign any document for the purpose of authenticating another person's signature.

The Lord Mayor, in conjunction with the Liaison Judge and the Chairman of the Birmingham Bench, presides at the swearing-in ceremonies for new magistrates. In recent years there has been an expanded range of informal connections that are much appreciated.

The Lord Mayor meets with members of the Judiciary on several occasions and, through the Honorary Recorder, may sit with the Judge in trials held in Birmingham.

#### 5. The Lord Mayor and Voting

At City Council meetings the Lord Mayor may exercise a casting vote (having not voted previously) or indeed a second vote (after voting previously on the issue in question (a 'deliberative vote')).

While some Local Authorities have attempted to point the Lord Mayor towards support for the status quo, there is no convention that the Lord Mayor should seek to vote to protect the status quo.

In fact, the law requires that the Lord Mayor has complete freedom in exercising a casting vote and it is important that discretion is not seen to be fettered. The Lord Mayor should always be able to vote in accordance with his or her conscience.

The Lord Mayor may reasonably decline to use a casting vote if an affirmative vote is not required on grounds of urgency and there is an opportunity to consider the matter again in an acceptable period.

However, if there is a risk - reputational, financial or otherwise - to the Council, the Lord Mayor will no doubt deploy a casting vote as he or she sees to be in the best interests of the Council as a whole.

## 6. Selection of Lord Mayors

The Lord Mayor must be a member of the City Council, however it was not until 1974 that it became compulsory for Mayors to be selected from members of the council (Local Government Act 1972 section 3.1).

Previously, under the Local Government Act 1933, the Lord Mayor could be elected from 'those qualified' - which roughly equated to all those entitled to vote in the area.

In Birmingham, an agreed formula is applied so that a candidate is presented to the Council from the major political groups in a frequency proportional to their representation on the Council.

## 7. The Mayoral Year 2022/2023

I would like to start by thanking Councillor Ian Ward, and Councillor Robert Alden, for their kind words. I would also like to thank the Deputy Lord Mayor, Councillor Shafique Shah, former Lord Mayors, and colleagues from across the Chamber, for their support during my term of office.

My thanks must also go to those within our communities who have contributed to the Lord Mayor's Charity, which has enabled us to support many good causes in the city, and to the many thousands of people we have met, who have made this year so memorable for Malcolm and me.

It has been a privilege to represent our city in what has been an extraordinary year, beginning with the Platinum Jubilee celebrations for our late monarch Queen Elizabeth II, with Beacons lit around the country, including here in Victoria Square; the extraordinary Commonwealth Games; and ending with the Coronation of King Charles III and Queen Camilla.

Birmingham was transformed in preparation for the Commonwealth Games. In the lead up to the Games, every engagement I undertook demonstrated the wish of our communities to be involved in celebrating the Games; and not only our local communities, but the global community, with several Heads of State from countries across the Commonwealth visiting the city.

All Birmingham's visitors, whether athletes or spectators, commented on the wonderful warm welcome they received and the fantastic team of smiling volunteers, always on hand to help in any way they could.

The Games were about so much more than sport. Whilst we celebrated our brilliant athletes' achievements, and record numbers of medals for women athletes, we set new standards in creativity - the brilliant opening and closing ceremonies giving new meaning to inclusivity and sustainability.

Our communities came together, sharing the Commonwealth experience with so much joy and happiness. The legacy of the Games will live on in the newly acquired skills,

confidence, and optimism of local people who have benefited from this memorable experience.

It was an extremely proud moment, as Lord Mayor, to hand over the Commonwealth Games flag, along with one of our gold medal athletes, to Victoria in the closing Ceremony.

Some of the highlights of the Games for me were:

- Commonwealth Games Gala Dinner with HRH The Princess Royal
- Courtesy call by Australian Governor General, David Hurley (The Queen's representative in Australia)
- Lunch with the Pakistan Sports Minister
- Welcome meeting with the Premier of the British Virgin Islands
- Arrival of a delegation from Albert, France
- Official welcome to The Rt Hon Dame Cindy Kiro, Governor General of New Zealand, and her husband Dr Richard Davies
- Team England Opening Ceremony Reception
- A Royal visit by HRH The Prince of Wales to Victoria Square
- The Commonwealth Games Opening Ceremony
- Courtesy call by the President of Malta and the First Lady
- Official welcome to HE President Katonivere of Fiji and the First Lady
- Courtesy call by Mayor Fred Eisenberger from Hamilton, Ontario
- Presenting the medals at the Para Swimming event
- Dinner with Sir Hilary Beckels and the High Commissioner of Barbados
- And last but not least, attending the Commonwealth Games Closing Ceremony with HRH The Duke of Wessex

Word reached me, as I was about to address the Commonwealth Games Karate Championships at the University of Birmingham, of the passing of Her Majesty Queen Elizabeth II. Schedules were quickly changed. We shared a sense of deep sorrow with the people of Birmingham and the nation for the loss of a remarkable Monarch. As the Lord Lieutenant and I joined the crowds queuing to sign the Books of Condolence at the Hall of Memory, their grief was palpable.

Having delivered a moving tribute to our late Monarch earlier in the morning at Singers Hill Synagogue, it was then with immense pride I read the Accession Proclamation proclaiming the new king, Charles III to a packed crowd in Centenary Square. We also had the opportunity to pay tribute to our late Queen at the Civic Service of Remembrance that the Lord Mayor's office organised in her honour at Birmingham Cathedral. It was also an opportunity to look at the thousands of floral tributes to Her Majesty left in the Cathedral grounds.

I have been delighted to welcome members of the Royal Family on their many visits to Birmingham throughout my year of office. These have included: HRH The Princess Royal's visit to Moseley RFC and later to Summerfield Stables, HRH Queen Camilla's visit to Elmhurst Ballet School and most recently the visit by the Prince and Princess of Wales to the Rectory in St Paul's Square.

We have been privileged to see our armed forces at some amazing displays of skill and courage at the RAF Cosford Air Show, the Royal Tattoo in Edinburgh, Birmingham's International Tattoo and of course at our Remembrance Sunday Service and Parade.

As a city we celebrate being the UK's first super diverse city. My Consort and I were inspired by the warm welcome we received from all our communities.

It was humbling to witness the extraordinary work done by so many people from all walks in life, doing remarkable things for their local community, giving that precious gift of their time to help and support others, they made such a valuable contribution to many events before, during and after the Games. It made me very proud to be a resident of this amazing city.

It was a great privilege to be able to reward some of Birmingham's unsung heroes with Lord Mayor's Award, not least to give recognition to Birmingham's super band, Duran Duran who I presented with their Award at their homecoming concert in Birmingham.

I was also very proud to meet some of Birmingham's extraordinary sporting stars, Leon Edwards the MMA star, boxer and poet Matt Windle, and the multi-award winning, Joe Fraser.

In addition to visiting dignitaries mentioned earlier in this report, my Consort and I also hosted several inward delegations to the City from visiting dignitaries across the world, including:

- Ambassador Josefa Gonzalez Blanco of Mexico
- HE Shaikh Fawaz Al Khalifa, the Ambassador for Bahrain
- The new Consul General of Pakistan, Ms Bakhtwar Mir
- The Mayor of Limerick
- HE Ambassador Nguyen Hoang Long of Viet Nam
- Sophia Arvanitis, Agent General to the Government of Ontario

Birmingham's wealth of art and culture is acknowledged far and wide. We were privileged to support the Birmingham Royal Ballet, a world class Ballet Company during my year. We also joined the City of Birmingham Symphony Orchestra in New York during its tour of North America, when they received two standing ovations at Carnegie Hall - such a proud moment.

We were privileged to visit our Friendship city Albert in the Somme Region of France, when we shared memories of the tragic events during the first world war, as well as celebrating the future with local school children. We then travelled to Paris to support the CBSO on its European tour, when we also met with the Orchestra's new major sponsor – the Birmingham Based International Company SCC, as well as Elected representatives of our Partner City Lyon and representatives of the British Embassy in Paris.

Welcoming the Frankfurt Market back into Victoria Square, the Lord Mayor's tricorne hat transformed me into Jack Sparrow, with lighthearted banter from young visitors. During December we attended numerous church services and concerts. All had their own special moments and memories.

Holocaust Memorial Day was a moving experience, joining faith leaders from across the city in remembrance. A young Jewish refugee from Ukraine told of his heart-breaking experiences. He was just 17 years old and he was determined that he would return home. It was a deeply moving story and reminded us of the reality of the ongoing war in Ukraine.

There have been many high points during the year. One of them being the Cutting of the Steel for the latest HMS Birmingham; a type 26 anti-submarine frigate. HMS Birmingham has a proud history dating back to 1917. Although we are a land-locked city our engineering and technological expertise is in great demand.

It has been an amazing year, finishing back in Centenary Square, where the Accession Proclamation was made, as we celebrated with thousands of people the crowning of our new Monarch King Charles III and Queen Camilla. Opening Birmingham's Coronation celebrations will live long in my memory.

I would like to conclude by thanking our amazing Team in the Lord Mayor's office for their hard work and support. Challenging roles for them all, keeping my Consort and me sane. The scope and number of civic engagements always kept me on my toes

And finally, to my Consort, my husband Malcolm, at times it has felt like navigating Cape Horn in a rowing boat. Thank you, Malcolm, for your support and encouragement in what has been a truly amazing and historic year.

## 8. Further Information

Members who would like to learn more about civic traditions, protocol and ceremonial heritage throughout the country are referred to *Civic Ceremonial* by Paul Millward - upon which this report draws extensively. The Local Government Acts of 1972 and 2000 give valuable information on precedence and protocol.

A concise history of the Lord Mayoralty in Birmingham has been written by Professor John Stewart of INLOGOV, University of Birmingham. Debrett's *Correct Form* is also a valuable reference for procedure and etiquette.

Councillor Maureen Cornish  
Lord Mayor of Birmingham 2022/2023

## Appendix 1

### Lord Mayoral Protocol

#### **General Information**

The Lord Mayor is the first citizen of the City of Birmingham. In maintaining the dignity of this widely respected position of long standing, it is important that due regard is paid to the office as it has been since the title of Lord Mayor was first accorded in 1896.

There is an established protocol regarding precedence, procedure, speaking arrangements and other matters at events when the Lord Mayor of Birmingham is present. In terms of precedence it is expressly laid down by statute (31 Henry VIII c10) that the determination of precedence is a matter for the Royal prerogative.

The following notes indicate the procedure that should be followed in the City when the Lord Mayor and Lady Mayoress of Birmingham are attending public functions.

#### **Precedence**

*The Lord Mayor shall, by law, have precedence in the City with the sole exception that this shall not prejudicially affect Her Majesty's Royal Prerogative. This means that the Lord Mayor takes precedence over all other members and officers of the Council at all events.*

The Lord Mayor's office will be pleased to assist organisers - within or outside of the Council - on any protocol issues when these involve the attendance of the Lord Mayor, the Lady Mayoress, the Deputy Lord Mayor or a Deputy acting on behalf of the Lord Mayor.

#### **Arrival and Departure**

As, in many instances, the Lord Mayor may be unacquainted with those responsible for the organisation of your function, it is mutually helpful if an appointed person meets the Lord Mayor at the entrance to the building when he arrives.

The Lord Mayor (and the Consort/Lady Mayoress if he/she attends) should then be escorted and introduced immediately to the President, Chairman or whoever is acting as host for the function, or, in certain circumstances, to the assembled company.

When the Consort/Lady Mayoress only attends the function, or when the Lord Mayor is represented by the Deputy Lord Mayor or by a Deputy, similar arrangements should be made.

The departure time from the function that has been agreed with the Lord Mayor's Office is expected to be observed.



## Reception

When the Lord Mayor of Birmingham enters an assembly, it is customary for those present to rise. Similarly, this courtesy is extended to him when he/she leaves the meeting.

## Precedence at Visits and Functions

As the first citizen of Birmingham, the Lord Mayor should be the first to receive Royal visitors to the Council. The Lord Mayor should also be the first to receive emissaries and diplomatic visitors such as Ambassadors, Charges d’Affaires or Consuls.

At meetings, unless the Lord Mayor occupies the Chair, he should be seated on the immediate right of the Chairman. This also applies to seating arrangements at lunches and dinners.

At lunches and dinners, when the toast of “*The City of Birmingham*” is given (although this toast is not obligatory) it usually follows that of “*The Queen*”.

When the toast is omitted but the Lord Mayor has previously consented to speak, it is customary to accord him/her the privilege of being the first to propose or respond to the toast immediately following the loyal toast.

Similarly, at meetings or social gatherings, the Lord Mayor would be the first speaker, although an introduction may appropriately be made by the Chairman of the meeting.

In programmes or printed material that contains a ‘welcome’ at an event where the Lord Mayor is to be present, the ‘welcome’ should be by the Lord Mayor or, if several ‘welcomes’ are included, that of the Lord Mayor should be first.

## Information for the Lord Mayor

The provision of a comprehensive briefing is essential to the Lord Mayor’s participation in your event. The briefing form, *which must be completed in full with no elements omitted*, should be sent to the Lord Mayor’s Office at the earliest convenient date *but at least two weeks before the function*.

## Photographs, Filming and Recorded Interviews

The Lord Mayor and the Consort/Lady Mayoress will normally be pleased to be included in a reasonable number of photographs taken at your event. However, *photographs must on no account be used for commercial or political purposes*.

If the event is to be filmed, this should be notified to the Lord Mayor’s Office in advance. If, in addition to other participation in the event, a filmed or recorded interview with the Lord Mayor or Lady Mayoress is desired, filming and subject matter should be agreed with the Office in advance of the event. Informal use of video cameras by members of the audience is allowable within reason.



## Forms of address

The formal announcement to be made when the Lord Mayor only is present is:

*“The Right Worshipful, The Lord Mayor, Councillor \*\*\*\*\*”.*

When the Consort/Lady Mayoress is also present the announcement is: -

*“The Lord Mayor and Her Consort or “The Lord Mayor and The Lady Mayoress”,  
“Councillor \*\*\*\*\* and Mr \*\*\*\*\*”  
or “The Lord Mayor and The Lady Mayoress Councillor \*\*\*\*\*”.*

When the Lady Mayoress only is present it is: -

*“The Lady Mayoress, Mrs \*\*\*\*\*”.*

When the Lord Mayor’s Consort only is present it is

*“The Lord Mayor’s Consort, Mr \*\*\*\*\*”.*

These are also the correct descriptions for use in printed materials.

The usual mode of address is:

*“Lord Mayor – Lady Mayoress”. “Lord Mayor – Lord Mayor’s Consort”. The older form: “My Lord Mayor” is also correct but nowadays is less frequently used.*

When the Lord Mayor is represented by the Deputy Lord Mayor, he/she is addressed as *“Deputy Lord Mayor”*.

Similarly, if the Lord Mayor is represented by a deputy, who will be a former Lord Mayor, it is: *“Mr / Madam Deputy”*.

The correct descriptions are: -

*“The Deputy Lord Mayor, Councillor \*\*\*\*\*.” and  
“The Lord Mayor’s Deputy (Councillor (or Honorary Alderman) ...).”*

## Variations and Queries

The Lord Mayor will wish to help ensure the success of every event. In this it is emphasised that precedence must be observed by all participating in the event and any variations to the programme must observe precedence.

The Lord Mayor, the Consort/Lady Mayoress or Deputies should not be asked to deliver a formal speech or address, conduct a recorded or filmed interview or play a particular or changed role in any ceremony associated with the function they are attending, unless a prior request has been made to the Lord Mayor’s Office and consent obtained.

Organisers may have other queries and the Lord Mayor’s Office should always be consulted on these should there exist any remaining doubt.

## Appendix 2

### Head of Lord Mayor's Office

Given the significance of the role, this position calls for an appropriate status and title. Very broadly the principal functions are as follows:

Acting as the chief protocol officer for the City Council

Acting as Private Secretary to the Lord Mayor of Birmingham and director of the civic affairs function of the City of Birmingham.

Providing essential support for the Deputy Lord Mayor and former civic heads when acting in deputising capacities.

Acting as adviser to the Lord Mayor, Consort /Lady Mayoress, Deputy Lord Mayor and Lord Mayor's Deputies on issues relating to protocol, non-politicisation and conduct befitting the office.

Acting as Adviser to the Leader of the Council on civic and Mayoral matters.

Working closely with the Leader of the Council to manage reputational risk and ensure collaborative working and best possible communication between the two offices.

Managing the overall budget for the Lord Mayor's Office.

Directing and administering the Lord Mayor's Office in light of current legislation and internal procedures; and writing policy documents.

Oversight of all personnel and activities managed and administered by the Lord Mayor's Office.

Managing the programme of major civic and ceremonial events including Remembrance Sunday, Royal Visits and visits from Heads of State, Freedom Parades, the Annual Civic Service and the Annual Mayor-Making Dinner.

Organising the full calendar of civic functions.

Arranging overseas visits.

Working as the link officer with other civic offices both nationally and internationally to develop and enhance partnerships and exchange information.

Co-ordinating the City's response to national and international disasters/tragedies/atrocities; including drafting responses from the Lord Mayor on behalf of the City to Heads of State and the media, managing the half-masting of flags, observances of silences and/or other memorial events as appropriate, and ensuring that all Government directives are actioned appropriately.

Developing and maintaining a Birmingham Protocol for major operations and relevant policy documents.

To co-ordinate the City's nominations for Queen's Honours.

The co-ordination and administration of the Lord Mayor's Award.

Dealing with numerous and significant organisations and individuals on a regular basis, including:

- The Lord Lieutenant's Office
- The Armed Forces (Remembrance Sunday, Freedom Parades, Regimental visits)
- The consulates of over 20 countries
- The office of the High Sheriff
- Government departments (such as the Home Office, The Lord Chancellor's Office, MHCLG)
- The Church of England, the Roman Catholic Church, the Muslim, Sikh, Jewish, Buddhist and other faith communities.
- The Royal British Legion
- The Broadcast Media
- The Birmingham Federation of Ex-Service Associations
- The Honorary Recorder and the Crown Court
- The Magistrates Association
- The Local Government Association
- West Midlands Police
- West Midlands Fire Service
- The Lunar Society
- The Civic Society
- Cathedrals and Major Churches
- BARRA
- War Widows
- War evacuees
- Birmingham City University (the Lord Mayor is Chancellor)
- Rotary Clubs
- Birmingham Royal Ballet
- Birmingham Irish Association
- The Chinese Community
- The Birmingham Society
- Broad Street Business Improvement District
- A wide range of companies with civic engagement such as Sandvik, Firmins, Elkington & Co and Ede & Ravenscroft

Further information is available from the Lord Mayor's Office.

## Appendix 3

### The Lord Mayor's Award

The Lord Mayor's Award fills the significant gap between a letter of appreciation from the Lord Mayor and the award of the Freedom of the City. The standard has been set high; it being envisaged that a relatively small number of such awards would be made each year in order to preserve its distinction. Nominations for the Lord Mayor's Award should have broad support throughout the council. The recipient could be an individual, a group of individuals or an organisation. Each recipient receives a testimonial presented at Full Council at the end of the Lord Mayor's term of office.

The overriding principle is that any Lord Mayor's Awards must be on merit, this being defined as outstanding achievement or exceptional service to the City and people of Birmingham.

No Councillor, past or present, would be considered for the Award, as the same are already considered for the title of Honorary Alderman. To avoid the Award becoming politicised, the Award is not given for services rendered to any Political Party or related organisation.

The Lord Mayor's Award is not made simply for a job well done or because someone has reached a particular level. The Award will recognise 'going the extra mile' in the contribution. The person(s) should stand out from their peers in what they have achieved.

Accordingly, consideration for the Award is given to individuals or organisations who have, through their sustained endeavours, initiative and dedication:

- improved the reputation or benefited the perception or fabric of the City of Birmingham;
- benefited a significant number of the people in Birmingham or improved their lives;
- represent outstanding examples of selfless service to the City of Birmingham and its citizens;
- command the respect of their peers and who are exceptional role models in their field; or
- 'against the odds' demonstrated great moral courage and loyalty to the City and people of Birmingham.

Nominations can be made by Birmingham Councillors and / or members of the public at any time, although it is envisaged that the Lord Mayor will make the awards at the Council AGM. Nominations received are considered by the Lord Mayor, in conjunction with former Lord Mayors, and the Awards are administered and supported by the Lord Mayor's Office.

## Appendix 4

### Related Offices and Freedoms

#### **The Lord Lieutenant**

The Lord Mayor works closely with the Lord Lieutenant during the year. The office of Lord Lieutenant dates from the sixteenth century. The Lord Lieutenant had various tasks throughout history and was originally responsible for local military defence and the keeping of order. The Lieutenancy role also has historic associations with the magistracy and the most recent legislation is the Lieutenancies Act 1997.

The Lord Lieutenant is appointed by the Queen and is Her Majesty's representative in the region - in our case the West Midlands. The Lord Lieutenant has primary responsibility for Royal visits. The Lord Lieutenant has considerable involvement with the armed forces, undertakes some charitable and benevolent activities and is 'keeper of the rolls' (concerned with the conduct of JPs).

The Lord Lieutenant may have a large number of Deputy Lieutenants (typically 30 or 40) and is supported by a Lieutenancy Office. As determined nationally, the Lord Lieutenant takes precedence over the Lord Mayor except within civic premises. The Lord Lieutenant once appointed may remain in office until the age of 75.

#### **The High Sheriff**

A High Sheriff is appointed for each county in England and Wales. The office of High Sheriff is an ancient one dating back to Anglo-Saxon times. Before the creation in Tudor times of the office of Lord Lieutenant, the High Sheriff was the Sovereign's sole representative in a County.

The position is not to be confused with the much newer post of City or Borough Sheriff which exists in around sixteen councils in England. The Lord Mayor and High Sheriff are each present at a number of ceremonial occasions and there are significant opportunities to develop connections and common interests further.

The High Sheriff is appointed for one year and is responsible to the Crown with formal responsibility for the well-being of High Court Judges. The High Sheriff is supported by an Under Sheriff. The Shrievalty Association publishes a guide to the office of High Sheriff

**Honorary Freemen**

This is the highest honour that the City Council can bestow and therefore it should not be awarded lightly or frequently. It is awarded to persons who have, in the opinion of the council, rendered eminent services to the city. Local Government Act 1972 Sec 249 (5).

“After the passing of the resolution a newly appointed Freeman may, depending on custom, take the appropriate Freeman’s Oath and sign the Freeman’s Roll, his or her signature being witnessed by the Lord Mayor and Chief Executive.”

**Freedom of the City**

The freedom of entry associated with the Freedom of the City is granted to military service units which have rendered conspicuous service, and which are closely associated with the city and the recruitment of people from the region.

The Freedom of the City is bestowed as an honour. It is worth noting that Councils outside London probably do not in any case have powers to prevent entry by HM forces even should they wish to do so.

## Appendix 5

### The Lord Mayor's Charity

The Lord Mayor of Birmingham's Charity raises funds to support projects and good causes either based in Birmingham or for the benefit of the people of Birmingham.

This ensures that all of the funds raised by the Charity will be spent right here in the city.

Local organisations can apply to the Lord Mayor for funding by providing full details of the project and what donations will be spent on; and donations are made throughout the year.

Corporate supporters can also apply for funding from the Lord Mayor's Charity for specific projects that their companies support, which enhances partnership working.

## Appendix 6

### Civic Insignia

The Lord Mayor's engagements fall into three relatively distinct categories: ceremonial, formal and informal, and regalia and clothing are appropriate to the occasion. On ceremonial occasions (for example the Civic Service, Remembrance Sunday, the Annual Meeting and Freedom Ceremonies) the robes and chain are worn.

The chain is worn on formal occasions ranging from important major events such as Royal Visits, presentations and official visits or openings of community functions.

For other engagements, for example receiving visitors in the Lord Mayor's Parlour, non-public meetings, small localised events either the chain or the day badge may be worn although, given the interest associated with it, the chain is preferred on most occasions, particularly for community events. The badge is frequently worn at internal business and briefing meetings, at City Council and on black tie occasions.

The essential factor is the continued maintenance of the dignity of the Lord Mayor and the City. The attendance of the Lord Mayor, whether it be in robes, chain or badge, is an honour to the event and should not be regarded as a right by the organisers.

The mace is used on ceremonial and some other formal occasions and for meetings of the full City Council. It was made in Birmingham in 1897 by Elkington and Company. The mace, 4 feet 3 inches in length, is silver, cast and chased and gilded.

The Lord Mayor's chain is 18 carat gold, made and maintained in Birmingham. The chain has 55 enamelled links in two rows suspended from two shoulder clasps in the form of wreathed Tudor roses terminating in an oval enamelled badge bearing the initials of William Scholefield.

Incorporated in the suspension link is a diamond, cut by a refugee from occupied Europe (1939-45). From this badge hangs a Maltese cross incorporating the first diamond to be cut in Birmingham.

Two new links were added in 1989 for the City's Centenary. These bear the initials of Frederick Chapman and Harold Blumenthal who were the Lord Mayors in that year. The measurements of the chain are: circumference (outer row): 60 inches; (inner row): 46 inches; height of the pendant badge: 5 inches; width: 3 ½ inches.

The Lady Mayoress's chain was presented to the City by Alderman F C Clayton in 1914 and is 18 carat gold. There are 25 links alternately double-sided fleur-de-lys end openwork scrolling enclosed collet set diamonds. The central badge of openwork scrolling enclosing the letter 'B' in diamonds is set in platinum. Suspended from this is a larger badge with the City coat of arms in gold and enamel. The length of the chain is 36 inches and contains over 70 diamonds.

The Lord Mayor's Consort does not wear a Chain of Office but wears a civic badge.



# Birmingham City Council

## City Council

23 May 2023



**Subject:** Review of the Constitution  
**Report of:** Janie Berry, City Solicitor and Monitoring Officer  
**Report author:** Christian Scade, Head of Scrutiny and Committee Services, 07517 550013, [christian.scade@birmingham.gov.uk](mailto:christian.scade@birmingham.gov.uk)

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 : N/A

### 1 Executive Summary

- 1.1 Council constitutions provide a framework within which people can understand their own responsibilities, and the responsibilities of others. They allow decision-making, within a democratically elected body, to be consistent, accountable and transparent. They facilitate strong, effective relationships.
- 1.2 A constitution should be a living document – one that reflects not only evolving practice and law, but also one that is periodically strengthened and refined (as a whole document) to ensure it stays both relevant and consistent.
- 1.3 This report sets out proposed amendments to the Council's Constitution and asks Full Council, following consideration by Council Business Management Committee on 9 May, to approve the changes.

### 2 Recommendation

- 2.1 That approval be given to the amendments to Parts A, B and D 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 24 May 2023.

### 3 Background

- 3.1 During the autumn a cross party working group was established, by Council Business Management Committee (CBMC), to review areas of the Constitution.

This was to help ensure business continues to be well managed and decisions are taken effectively and efficiently, in accordance with statutory requirements and the council's governance framework.

- 3.2 As part of this work, following agreement from Council Business Management Committee in December, Professor Colin Copus, Emeritus Professor of Local Politics, De Montfort University, was invited to consider and research the work and role of Full Council.
- 3.3 This research, which has recently concluded, was based on securing a cross-section of opinion from members, officers and the public on what, if any, changes might be required to full council meetings with the aims of rethinking the purpose of full council meetings and the most effective ways of engaging members, officers and the public in that purpose. Although a draft report is expected from Professor Copus in mid/late May, at this stage proposals and options for the future are not yet available which means any potential changes to the Constitution, as a result of his work, will need to be considered at a later stage.
- 3.4 In addition to reviewing the procedure rules in relation to Council, the working group, with support from officers, has been looking at a wide range of other issues to ensure the Constitution remains fit for purpose. Unfortunately, due to diary availability, it has not been possible to conclude this work before the end of the 2022/23 Municipal Year.
- 3.5 As a result, work in this area will need to continue next year. However, this will provide an opportunity for Members of the working group to consider recent guidance, and technical advice, from the Centre for Governance and Scrutiny which has recently been published ([click here](#)) to:
  - introduce key features of modern council constitutions, and the governance framework, to an audience which might not be specialists in those areas;
  - provide officers with responsibility for governance, with general advice to assist them in digging into the technical detail of their constitutional material;
  - ensure that, between members and officers, material exists which gives everyone a common understanding of what good governance is, what its key components are (and what the usual components of a council constitutions are), and to introduce the kinds of technical issues that usually need to be addressed to support it.
- 3.6 As a result, the proposed changes set out in the Constitution Change Log (Appendix 1) and in tracked change versions of the Constitution (Appendix 2) are limited to those that are required, and can be implemented, immediately. Minor amendments to wording for clarity, consistency and accuracy reasons are set out in the tracked change document only.
- 3.7 The changes set out via Appendix 1 and Appendix 2 were all supported by Council Business Management Committee on 9 May. However, it should be

noted that Cllr R. Alden and Cllr G. Moore did not support the changes proposed in relation to the breach procedures, set out in Part D2 of the Constitution.

#### **4 Legal Implications**

- 4.1 The Local Government Act 2000 requires the Council to have and maintain a constitution. Full Council is the decision making body with responsibility to adopt and amend the Constitution. The Monitoring Officer must be satisfied that the Council's Constitution continues to fulfil its stated purposes.

#### **5 Financial Implications**

- 5.1 There are no direct financial implications arising from this report.

#### **6 Public Sector Equality Duty**

- 6.1 There are no direct equality implications arising from this report.

#### **7 Background Papers**

- 7.1 [The-review-and-redrafting-of-constitutions-v.3.pdf \(cfgs.org.uk\)](#)

#### **8 Appendices**

- 8.1 Appendix 1 – Constitution Change Log
- 8.2 Appendix 2 – Constitution with tracked change amendments



## Appendix 1

### Birmingham City Council Constitution – Change Log for Proposed Changes – May 2023

#### Part A. Summary and Explanation

Section	Change	Reason
A. Summary and Explanation	Information in relation to Cabinet Members to be updated (in due course) to reflect portfolios for 2023/24.	To be updated (if required) to reflect the Leader of the Council's announcement of Cabinet Members (for 2023/24) which will take place at the Annual Council Meeting on 23 May 2023.

#### Part B – Roles, Functions and Rules of Procedure

Section	Change	Reason
B6	Updated Membership for Group Company Governance	This is a Cabinet Sub Committee and only Cabinet Members can be voting Members of the Committee. As a result, Members of the Opposition can only observe as they do not have membership rights.
B7. Cabinet Portfolios	Cabinet Portfolios for 2023/24	To be updated (if required) to reflect the Leader of the Council's announcement of Cabinet Members which will take place at the Annual Council Meeting on 23 May 2023.

Section	Change	Reason
B10. Ward Forums	Ward Forum Meetings and Allocation of Localised Budgets	The updated wording is in line with the Leader's announcement at Budget Council in February 2023. This change will ensure robust governance and enable ward forums to spend their localised funding.
B11. Overview and Scrutiny Committees	Updated Terms of Reference	<p>The remit and workload of committees is currently uneven. Particularly, the remit of the Housing &amp; Neighbourhoods and Health &amp; Social Care Committees is much larger than that of other committees.</p> <p>The present Co-ordinating O &amp; S members have reviewed the terms of reference of Scrutiny Committees and are recommending arrangements for 2023-24 which will ensure that the workloads of the committees are more evenly balanced and, in part, better aligned with the remits of Cabinet Members.</p> <p>Co-ordinating O &amp; S will consult further over the next 6 months on further changes to the structure and operation of Scrutiny.</p>
B18. Summary of Quoracy	Amended to reflect the changes above in relation to the membership for Cabinet Committee – Group Company Governance and the revised terms of reference / title for Education, Children and Young People OSC.	To reflect changes made elsewhere.
Throughout document	Wording and minor amends	To tidy up and making meaning clearer.

## Part C – Codes and Protocols

No changes are proposed to Part C at this stage.

## Part D – Procurement and Contract Governance Rules

Section	Change	Reason
D2. Procurement and Contract Governance	Update to the Breach Procedure set out at D2 section 1.30	To enable waivers to be reported direct to the Section 151 Officer rather than Cabinet.

## Part E – Scheme of Delegations

No changes are proposed to Part E at this stage.

## Notes

The changes outlined above were all supported by Council Business Management Committee on 9 May. However, it should be noted that both Cllr R. Alden and Cllr G. Moore did not support the changes proposed in relation to the breach procedures, as set out in Part D2 of the Constitution.







# Birmingham City Council Constitution

## Part A – Summary and Explanation

May 2023

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## The Council's Constitution

Birmingham City Council has agreed a Constitution which governs how the Council operates, how decisions are made, and the procedures which are followed to ensure efficiency, transparency and accountability to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Council will exercise all its powers and duties in accordance with the law and this Constitution. This Constitution complies with the requirements of the Local Government Act 2000, related regulations and government guidance on constitutional matters.

The purpose of the Constitution is to:

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

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

The Constitution is divided into five parts:

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

## How the Council Operates

The Council is composed of 101 [Councillors](#), one of whom is elected as Leader. The **Leader** is elected by the Councillors, normally for a four-year term of office. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

All Councillors meet together as the Council. These meetings are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council elects a Leader, who appoints the **Cabinet**. Cabinet's main role is to develop and implement policy on behalf of the Council. It constitutes the Executive (decision making) part of the Council, though some decisions, such as the approval of the budget, rest with Full Council. **Overview & Scrutiny Committees** ensure that decision makers within the Council are held accountable and assist in strategic policy development, drive improvement in public services, and ensure that the voice of the public is heard.

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

The Council also appoints **Regulatory Committees** to perform the Council's regulatory functions such as Planning and Licensing. Other specialist committees are appointed by the Council from time to time. As "quasi-judicial" bodies, these Committees are also cross-party and independent of the Executive.

The Council has established a **Standards Committee** to advise on the adoption and implementation of a Code of Conduct for Councillors. All Councillors have agreed to follow the Code so as to ensure high standards in the way they undertake their duties. The Standards Committee ensures there is appropriate training and advice on the Code. Further information can be found in Part B16: *The Standards Committee*.

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

## How Decisions are Made

### The Full Council

All Councillors meet together as the Council (sometimes called Full Council). The Council has responsibility for all Non-Executive functions including approving the policy framework and budget. The Council, as a whole, retains responsibility for regulatory functions and has a role in holding the Executive to account.

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

## Types of Council meetings

There are three types of Council meeting:

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

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

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

## The Executive

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

The Executive is made up of the following:

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

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

The Cabinet, acting as a collective and in accordance with the provisions of the Constitution, has to make decisions which are in line with the Council's overall policy framework and budget. If it wishes to make a decision which is a change to the budget or policy framework, this must be referred to the Council to decide.

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

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

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

Deleted: July 2022

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

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

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

### Health and Wellbeing Board

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

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

### Overview and Scrutiny

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

Overview & Scrutiny Committees can "call-in" a decision which has been made by Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They also support the work of the Cabinet and the Council as a whole through contribution to policy development. They may submit reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

These Committees will, normally, meet in public to discuss and make recommendations on the development of policies and on improving service performance, and to hold the Executive to account for their actions.

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

### Regulatory and Non-Executive Committees

The Council also appoints Regulatory Committees to perform the Council's regulatory functions such as Planning and Licensing. Other specialist committees are appointed by the Council from time to time. These Committees operate in a "quasi-judicial" manner and are also cross-party and independent of the Executive.

Regulatory and Non-Executive Committees are not part of the Executive functions and neither are they part of the Scrutiny arrangements.

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

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

#### Regulatory committees

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

#### Non-executive committees

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

#### Ward Forums

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

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

#### Joint Committees

The City Council has established the following Joint Arrangements:

##### West Midlands Combined Authority (WMCA)

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

#### Officers

The title "Officers" refers to all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of "employees" to cover those engaged under short term, agency or other non-employed situations.

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

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

## Citizens' Rights

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

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

Citizens have the right to:

- (i) Vote at local elections if they are registered;
- (ii) Contact their local Councillors about matters of concern to them;
- (iii) Obtain a copy of the Constitution;
- (iv) Attend meetings of the Council, the Cabinet and Committees;
- (v) See reports, background papers and records of decisions made by the Council, the Cabinet and Committees;
- (vi) Complain to the [Council](#) about service delivery;
- (vii) Complain to the [Ombudsman](#);
- (viii) Complain to the Council's [Standards Committee](#) if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- (ix) Inspect the Council's accounts during a statutory period and make their views known to the external auditor.

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



## Finance, Contract and Legal Matters

### Financial Management

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

### Contracts

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

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

### Procurement Governance Arrangements

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

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

### Legal Proceedings

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

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

### Common Seal

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

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

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

## Review, Revision and Suspension of the Constitution

### Duty to monitor and review the Constitution

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

### Changes to the Constitution

The Council has authorised the Council Business Management Committee to take all necessary steps, through the year, to amend, add, substitute or delete any of the City Council's non-Executive Constitutional amendments and refer all changes to Full Council for approval, save that authority to make certain changes is delegated to the Monitoring Officer as set out below.

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

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

- as a result of legislative change or decisions of the Council<sup>1</sup> or Executive<sup>2</sup> 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](#).

<sup>1</sup> Including Council Committees and Officers acting under delegated authority.

<sup>2</sup> 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 <sup>3</sup>
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

<sup>3</sup> Subject to delegation to Monitoring Officer [above](#)

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



# Birmingham City Council Constitution

## Part B – Roles, Functions and Rules of Procedure

May 2023

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## B1. ROLES

### 1.1 Citizens and the Council

#### Citizens' Rights

- i. Citizens have general rights with regard to the business of the Council. Their right to information and /or to participate in Council business is explained in more detail in Part C2: Meetings and Access to Information.
  - a) **Voting and petitions:** Citizens on the electoral roll for the area have the right to vote, and all citizens may present petitions.
  - b) **Information:** Citizens have the right to:
    - o Attend meetings of the Council and to film, record and report the proceedings of Cabinet and Committees except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private (see Part C2 for rules on accessing meetings and C3 for rules on filming at meetings);
    - o Find out from the Forward Plan which key decisions are likely to be taken and when;
    - o See reports and background papers, and any records of decisions made by the Council and the Executive, except where confidential or exempt information is likely to be disclosed;
    - o Inspect the Council's accounts during any prescribed statutory period(s) and make their views known to the external auditor; and
    - o Such other information as may be specified in the Council's Freedom of Information Act 2000 Publication Scheme.
  - c) **Participation.** Citizens may ask questions at Full Council Meetings having given notice. Citizens may be granted the right, if invited to do so by the Chair of the relevant Committee, to participate and contribute to the discussion, except where confidential or exempt information is likely to be disclosed, and the meeting is held in private.
  - d) **Complaints.** Citizens have the right to complain to:
    - o The [Council](#) about service delivery;
    - o The [Ombudsman](#);
    - o The Council's [Standards Committee](#) if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct:

#### Citizens' Responsibilities

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

## 1.2 Members of the Council (Councillors)

### Composition and Eligibility

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

### Election and Terms of Councillors

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

### Roles and Functions of all Councillors

- iv. Key roles:
  - a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions for the City Council;
  - b) Contribute to the good governance of Birmingham and actively encourage community participation and citizen involvement in decision making;
  - c) Responsibility to represent the interests of all the residents of the City Council area with special responsibility to the residents of their Ward;
  - d) Respond to constituents' enquiries and representations, fairly, promptly and impartially;
  - e) Balance different interests identified within the Ward and represent the Ward;
  - f) Maintain high standards of ethical conduct and behaviour.
- v. Rights and duties:
  - a) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - b) Councillors will not publicise information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know.
  - c) For these purposes, "confidential" and "exempt" information are defined in Part C2 of the Constitution: *Access to Information* or as advised by the City Solicitor.

### Conduct

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

#### Allowances

- vii. Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme. The [Members Allowances Scheme](#) is Section C10 of the Constitution and can be found on the Council's website.<sup>1</sup>
- 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.

<sup>1</sup> [https://www.birmingham.gov.uk/downloads/file/4222/members\\_allowances\\_scheme](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**<sup>2</sup> – 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 Service<sup>3</sup>)
  - o Strategic Director, Council Management (& s151 officer<sup>4</sup>)

<sup>2</sup> Designated under Section 5 Local Government and Housing Act 1989

<sup>3</sup> Designated under Section 4 Local Government and Housing Act 1989

<sup>4</sup> Appointed in accordance with Section 151 Local Government Act 1972



- Strategic Director, Adult Social Care (& Director of Adult Social Services<sup>5</sup>)
- Strategic Director, Place, Prosperity and Sustainability
- Strategic Director, Children and Families (& Director of Children's Services<sup>6</sup>)
- Strategic Director, City Operations
- Strategic Director, City Housing
- Director of Strategy, Equality and Partnerships
- Director, Digital & Customer Services
- Director, Public Health
- Director, People Services
- Director, Transformation
- City Solicitor (Monitoring Officer)
- Chief Executive, Children's Trust
- Programme Director, Commonwealth Games
- Assistant Director, Corporate Communications

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

#### **Member / Officer Relations Protocol**

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

<sup>5</sup> Appointed under Section 6 Local Authority Social Services Act 1970

<sup>6</sup> 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 <sup>7</sup>	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	-

<sup>7</sup> Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2

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

<sup>8</sup> s34(4) Social Security Act 1998<sup>9</sup> S94(1), (1A) and (4) School Standards and Framework Act 1998<sup>10</sup> S95(2) School Standards and Framework Act 1998<sup>11</sup> Part IIA Environmental Protection Act 1990 and subordinate legislation<sup>12</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993<sup>13</sup> s80(I) Environmental Protection Act 1990

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

<sup>14</sup> s8 Noise and Statutory Nuisance Act 1993<sup>15</sup> S79 Environmental Protection Act 1990<sup>16</sup> s79 Environmental Protection Act 1990<sup>17</sup> s330 Town and Country Planning Act 1990<sup>18</sup> s16 Local Government (Miscellaneous Provisions) Act 1976<sup>19</sup> Section 278 Highways Act 1980

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

### 2.3 Council (Non-Executive Functions) <sup>20</sup>

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

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

<sup>21</sup> As set out in Part E: Scheme of Delegations

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

<sup>22</sup> Item 39 of Para. I of Schedule 1 of the 2000 Regulations

<sup>23</sup> Regulation 4(4) of the 2000 Regulations

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

<sup>24</sup> Regulation 2(11) of the 2000 Regulations<sup>25</sup> Item 40 of Para. I of Schedule 1 of the 2000 Regulations<sup>26</sup> Item 43 of Para I of Schedule 1 of the 2000 Regulations<sup>27</sup> Item 44 of Para I of Schedule 1 of the 2000 Regulations<sup>28</sup> Section 28 Localism Act 2011

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

### 3.1 Who Can Take Decisions in the Council?

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

#### A) Council Decisions

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

#### B) Executive Decisions

- iv. Executive Decisions are made in relation to Executive functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended; and in accordance with section B6 [Executive Roles, Functions and Procedure Rules](#) of this Constitution.
- v. There are three types of Executive decision in Birmingham:
  - Key Decisions (see paragraph [vi-vii](#) below);
  - Cabinet Member decisions based on a Chief Officer report (see paragraph [ix](#) below);
  - An executive decision delegated to officers (see paragraph [xii](#) below).
- vi. A decision will be a “**key decision**” if:
  - a) it is an Executive decision relating to the discharge of an Executive function
  - b) AND is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant:
    - In the case of capital projects, if they involve entering into new commitments and/or making savings in excess of £1M; or
    - In the case of revenue projects, if they involve entering into new commitments and/or making new savings at the value of, or in excess of, £500,000 (gross value).OR is significant in terms of its effect on communities living or working in an area comprising two or more Wards in the area of the local authority.
- vii. “Key decisions” taken by **Cabinet** must be done so by acting jointly and in accordance with the provisions of this Constitution as set out in B6.2 [Cabinet](#).

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

<sup>29</sup> 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.

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

### 3.2 Principles of decision-making

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

### 3.3 General Roles and Responsibilities of Members and Officers

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

## B4. FULL COUNCIL ROLE, FUNCTION AND PROCEDURE RULES

### 4.1 Role of the Full Council

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

#### Policy Framework

- iv. The Policy Framework means the policies, plans or strategies to be approved or debated by the Full Council as set out below:
  - a) Annual Budget and Pay Policy
  - b) Those required by the Local Authorities (Functions and Responsibilities) (England) 2000 to be adopted by the Council <sup>31</sup>:
    - o Community Safety Strategy <sup>32</sup>
    - o Statement of Licensing Policy under the Licensing Act 2003
    - o Statement of Licensing Principles under the Gambling Act 2005 <sup>33</sup>
    - o Plans and strategies which together comprise the Development Plan
    - o Youth Justice Plan <sup>34</sup>
  - 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;

<sup>31</sup> Some elements of the 2000 Regulations have been repealed by subsequent legislation.

<sup>32</sup> This fulfils the requirement to produce a Crime and Disorder Reduction Strategy

<sup>33</sup> This is the policy statement under the Gambling Act 2005

<sup>34</sup> Section 40 Crime and Disorder Act 1998

- Commit the Council to significant expenditure over and above that already in the budget or over a long period of time;
  - 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 <sup>35</sup>

- 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;

<sup>35</sup> 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.
<b>Holding to Account</b>		
Question time	<p>70 minutes</p> <p>Questions from members of the public to any Cabinet Member or Ward Forum Chair.<sup>36</sup></p> <p>Questions from any Councillor to a Committee Chair, Lead Member of a Joint Board or Ward Forum Chair.<sup>4</sup></p> <p>Questions from Councillors other than Cabinet Members to a Cabinet Member.<sup>37</sup></p> <p>Questions from Councillors other than Cabinet Members to the Leader or Deputy Leader.<sup>5</sup></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.
<b>Policy Development / Council Business</b>		
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.
<b>Members' Debate</b>		
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;

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

<sup>37</sup> 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.<sup>38</sup>

#### F. Questions (Oral and written)

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

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

- Not require the disclosure of confidential or exempt information, or refer to legal proceedings being taken or being anticipated by or against the Council;
  - Not refer to individual planning or licensing matters, or any matter of a personal nature.
- ii. **Written Questions:** any Councillor may ask one written question (with no sub-questions) of any Cabinet Member, Committee Chair, Ward Forum Chair<sup>39</sup>, 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.

<sup>39</sup> 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.<sup>40</sup> 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.

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<sup>40</sup> 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.

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- 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.<sup>41</sup>. 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.

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

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

#### Rules of Procedure – Key Decisions

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

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

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

vii. Taking a decision:

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

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

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



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

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

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

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

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

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

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

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

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

#### Rules of Procedure – Cabinet Meetings

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

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

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

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

xviii. **Non-Cabinet Members attending 'Private Sessions' of Cabinet meetings:** A maximum of two of the major Opposition Group members and a maximum of one of the other Opposition Group members – to include their Group Leader(s) – may receive notice of

Cabinet meetings, the relevant papers and remain and participate during the deliberations of the private sessions of the Cabinet, save that they do not have any entitlement to vote on any Cabinet matter.

- xix. The Chairs of any of the Council's Overview & Scrutiny Committees (or their nominee from the relevant committee) shall be entitled to attend Cabinet meetings and to remain and participate during the deliberations of the Cabinet during any of its 'Private Sessions', save that they do not have any entitlement to vote on any Cabinet matter.

#### **Roles and Duties of Cabinet Members**

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

### **6.3 Cabinet Committee – Group Company Governance**

#### **Role of Cabinet Committee – Group Company Governance**

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

#### **Functions of Cabinet Committee – Group Company Governance**

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

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varying Articles of Association, varying ownership and structure and varying share rights;<sup>43</sup>

- 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 2 Cabinet Members as deemed appropriate by the Deputy Leader;

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

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

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

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

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

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

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

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

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

Attendance by Members of the Opposition

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

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

Rules of Procedure – Cabinet Committee: Group Company Governance

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- x. Cabinet Committee decisions shall only be taken based on written report(s) from Chief Officers and after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer. All reports are to be presented in the template prescribed by the City Solicitor.
- xi. Cabinet Committee decisions are only effective and actionable provided they are taken in accordance with this Constitution, and when posted on the Council's website by Committee Services and following the call-in process.

## 6.4 Health and Wellbeing Board

### Role of the Health and Wellbeing Board

- i. The Health and Wellbeing Board is constituted as a Committee under the Chair of the Cabinet Member for Health and Social Care in order to discharge the functions of a Health and Wellbeing Board as set out in the Health and Social Care Act 2012, including the appointment of Board Members as set out in the schedule of required Board Members in the Act.
- ii. The Health and Wellbeing Board will:
  - a) Promote the reduction in Health Inequalities across the City through the commissioning decisions of member organisations;
  - b) Report on progress with reducing health inequalities to the Cabinet and the various Clinical Commissioning Group Boards;
  - c) Be the responsible body for delivering the Joint Strategic Needs Assessment for Birmingham (including the Pharmaceutical Needs Assessment);
  - d) Deliver and implement the Joint Health and Wellbeing Strategy for Birmingham;

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

## 6.5 Cabinet Member Decision Making

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

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

## 6.6 Emergency or Urgent Decisions (Special Urgency Decisions)

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

## 6.7 Officers

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

## 6.8 Record of Executive Decisions

### Cabinet, Cabinet Committee and Cabinet Member/Chief Officer Decisions

- i. As soon as reasonably practicable (and no more than three working days) after any meeting of the Cabinet or any of its Committees or Cabinet Member/Chief Officer, whether held in public or private, the Committee Services Officer will publish a record of every executive decision taken at that meeting on the Council's website.
- ii. The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a "Request for call-in" is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet).
- iii. The Monitoring Officer is authorised to correct any minor errors in the recording of Executive Decisions but not so as to replace or otherwise substantially amend the decision of the Executive. In the event of a major alteration, the relevant decision-maker or decision body will be asked to make another Executive decision to correct the Executive record.

### Officer Delegated Decisions

- iv. All decisions with a value of £50,000 or more made by Officers under delegated powers should be recorded in writing and a single copy for each Directorate sent to the Chief Executive and the Leader/Deputy Leader on the 30<sup>th</sup> September and 31<sup>st</sup> March of each year.

## 6.9 Immediate Decision Implementation

- i. If the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in his/her absence) may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period.
- ii. The exercise of such power shall be clearly noted on the record of the decision.

## B7. CABINET PORTFOLIOS

### 7.1 Leader's Portfolio

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

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

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

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



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

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

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

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

The Cabinet Member has accountability for:

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

## 7.4 Cabinet Member for Digital, Culture, Heritage and Tourism

The Cabinet Member has accountability for:

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

## 7.5 Cabinet Member for Finance and Resources

The Cabinet Member has accountability for:

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

## 7.6 Cabinet Member for Health and Social Care

The Cabinet Member has accountability for:

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

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

## 7.7 Cabinet Member for Housing and Homelessness

The Cabinet Member has accountability for:

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

## 7.8 Cabinet Member for Social Justice, Community Safety and Equalities

The Cabinet Member has accountability for the following:

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

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

## 7.9 Cabinet Member for Environment

The Cabinet Member has accountability for:

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

## 7.10 Cabinet Member for Transport

The Cabinet Member has accountability for:

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

## **B8. APPOINTMENTS TO OUTSIDE BODIES**

### **8.1 Appointments to Outside Bodies**

- i. Appointments that are reserved to the Full City Council to determine can be found in [B4.3](#) above and the proportionality rules shall apply where three or more members are appointed.
- ii. All other appointments of members and officers to outside bodies shall be within the remit of Cabinet to determine, and the proportionality rules will not automatically apply.



## B9. JOINT ARRANGEMENTS

### 9.1 Joint Arrangements

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

### 9.2 Joint committees

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

## B10. WARD FORUMS

### 10.1 Role

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

### 10.2 Functions

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

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

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

- ii. Members should hold at least four ward forum meetings per year.

### 10.3 Membership

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

### 10.4 Ward Forum Meetings and Allocation of Localised Budgets

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

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B10 Ward Forums

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

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

## B11. OVERVIEW AND SCRUTINY COMMITTEES

### 11.1 Principles of Good Scrutiny

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

### 11.2 Role

- i. Overview and Scrutiny Committees will:
  - Make reports and/or recommendations to the full Council, the Executive and / or other organisations in connection with the discharge of the functions specified in their terms of reference;
  - Consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; and
    - is relevant to the Council’s strategic objectives; and/or
    - is relevant to major issues faced by officers in managing a function of the Council; and/or
    - is likely to make a contribution to moving the Council forward and achieving key performance targets.
  - Exercise the “request for call-in” and “call-in” any Cabinet, Cabinet Committee or Cabinet Member decisions made but not yet implemented by the Executive.
  - Overview and Scrutiny Chairs should maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the Council’s policy priorities in a timely way.

### 11.3 Functions

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

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- Question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and
- Liaise with other external organisations operating in the city, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

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

- Review and scrutinise the Executive decisions made by and performance of the Executive and/or Chief Officers in relation to decisions taken by them or in relation to their areas of responsibility / department;
- Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas – including the areas of responsibility of the Regulatory and Non-Executive Committees, but not the actual decisions of the Regulatory and Non-Executive Committees;
- Make recommendations to the Executive, Chair of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;
- Review and scrutinise the performance of other relevant public bodies in Birmingham (including Health Authorities) and to invite reports from them by requesting them to attend and engage with the Overview and Scrutiny Committee about their activities and performance;
- Question and gather evidence from any person (with their consent); and
- Establish sub-committees to undertake aspects of that committee's remit, or Task and Finish Committees to carry out specific time limited enquiries as agreed with the eight Overview and Scrutiny Committee Chairs and subject to available resources.

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

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

## 11.4 Membership

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

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

### 11.5 Terms of Reference of Overview and Scrutiny Committees

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

#### Co-ordinating Overview and Scrutiny Committee

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

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

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

Deleted: July 2022

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

iii. These functions include:

- 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) overseeing the development and delivery of a balanced work programme of Scrutiny Committees using a range of scrutiny methodologies and reporting regularly to City Council;
- e) considering Overview and Scrutiny development, working practices and constitutional arrangements.

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giving such guidance to the Overview and Scrutiny Committees in any cases of uncertainty, as to work which they should or should not be undertaking, as may be necessary to achieve such co-ordination, including the allocation of "call-in" to the appropriate Committee;

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

#### **Finance and Resources Overview and Scrutiny Committee**

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

- Council Business Plan and Medium Term Financial Plan/Budget

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

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

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



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

#### **Education, Children and Young People, Overview and Scrutiny Committee**

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

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

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Deleted: & Children's Social Care

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

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

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

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

#### Economy and Skills Overview and Scrutiny Committee

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

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

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

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#### Health and Adult Social Care Overview and Scrutiny Committee

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

Deleted: adult safeguarding, social care and public health;

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

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To discharge the relevant overview and scrutiny role set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, including:

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

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### **Neighbourhoods Overview and Scrutiny Committee**

Deleted: Housing and Neighbourhoods

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

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

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

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

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### **Homes Overview and Scrutiny Committee**

Deleted: Commonwealth Games, Culture and Physical Activity

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

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

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

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### Sustainability and Transport Overview and Scrutiny Committee

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

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

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

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

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Deleted: (Flood and Water Management Act 2010).

## 11.6 Rules of Procedure

- i. A Scrutiny meeting may be called by the Chair of the relevant Overview & Scrutiny Committee.
- ii. All meetings of an Overview & Scrutiny Committee shall be open to the public in accordance with Section C2 *Access to Information*. In addition to their rights as Councillors, Members on an Overview & Scrutiny Committee have additional rights to documents as set out in Section C2 *Access to Information*.
- iii. No Overview & Scrutiny Committee may undertake a review into:
  - Any decision of the Planning Committee, the Licensing and Public Protection Committee or a Licensing sub-committee;<sup>44</sup>
  - 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;<sup>45</sup>

<sup>44</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>45</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

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

### 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.

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

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

- i. When an Executive decision is taken by the Cabinet, Cabinet Committees, or Cabinet Member(s), the decision shall be published on the website, and copies of it shall be available at the main offices of the Council, normally within three days of being made. All Members and Chief Officers will be sent a notification of all such decisions within the same timescale, by the Committee Services Officer responsible for publishing the decision.
- ii. The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a “Request for call-in” is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet). The “Request for Call In” should state the reason for call-in.
- iii. Once a “Request for Call In” has been received, the Chair of Co-ordinating O&S Committee will agree which Overview and Scrutiny Committee should hear the call-in. That Committee must meet to consider the request. The meeting should take place not later than 15 clear working days after the original publication of the decision.
- iv. It is for the Committee to decide whether to Call In a decision or not. The Council does not expect an Overview and Scrutiny Committee to Call In an Executive decision unless one or more of the following criteria applies.
- v. Where the Committee does decide to call in a decision, the “re-consideration” which is then required must take place at a meeting of the full Cabinet – irrespective of who made the original decision on behalf of the Executive.

### Call-In Criteria

	(a) Is the Executive decision within existing policy?
1	the decision appears to be contrary to the Budget or one of the ‘policy framework’ plans or strategies;
2	the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;
3	the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);
	(b) Is the Executive Decision well-founded?
4	the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;
5	the Executive appears to have overlooked some relevant consideration in arriving at its decision;
6	the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;
7	there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.
	(c) Has the Executive decision been properly taken?

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

## **B12. PLANNING COMMITTEE**

### **12.1 Role**

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

### **12.2 Membership**

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



## B13. LICENSING AND PUBLIC PROTECTION COMMITTEE

### 13.1 Role

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

### 13.2 Functions

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

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

### 13.3 Membership

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

### 13.4 Procedure Rules

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

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

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

## B14. AUDIT COMMITTEE

### 14.1 Purpose

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

### 14.2 Functions

- a) To review the City Council's Annual Accounts and Annual Governance Statement (AGS). This will include advising on significant changes throughout the year to financial regulations and policies.
- b) To monitor progress in addressing control or governance issues identified in the AGS.
- c) To review and provide the Executive with assurance on the embedding and maintenance of an effective system of corporate governance, including the Council's Corporate Governance Code and Framework, risk management framework, and the associated control environment.
- d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- e) To review the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and treasury management practices.
- f) Responsibilities as set out in the terms of reference in relation to external audit including reviewing the planned programme of work, noting fees and terms of engagement of the external auditor, considering and advising the executive on responses to audit management letters, reports and investigations and reviewing whether agreed external audit or inspection recommendations have been implemented as timetabled.
- g) To review and make recommendations to the executive regarding the effectiveness of internal audit to include ensuring the internal audit function is adequately resourced, to review its strategy, receive, challenge and approve its annual plan and monitor its delivery and to review significant audit findings and monitor progress by managers in implementing agreed recommendations.
- h) To consider and make recommendations to the executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.
- i) To consider reports from the Ombudsman and monitor management response in relation to these.
- j) To consider, approve or make recommendations in respect of any other matters at the request of the Council.

### 14.3 Membership

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

### 14.4 Conflicts of interest

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

## B15. TRUSTS AND CHARITIES COMMITTEE

### 15.1 Role

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

### 15.2 Functions

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

### 15.3 Membership

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

## B16. THE STANDARDS COMMITTEE

### 16.1 Role

- i. The Standards Committee's role is:
  - a) Advising the City Council on the adoption or revision of the Code of Conduct;
  - b) Monitoring the operation of the Code of Conduct and the arrangements for how the Council will deal with any complaints;
  - c) Advising, training or arranging to train members and co-opted members on matters relating to the City Council's Code of Conduct.
  - d) Determining complaints brought by members of the public alleging a breach of the Code of Conduct by Councillors.
  - e) Determining the penalty to be imposed in the event of a breach of the Code being upheld.
  - f) Hearing appeals as may be necessary.
  - g) Granting any dispensations and dealing with any other powers granted to Standards Committees by legislation.
  - h) To submit an Annual report on the work of the Standards Committee and, generally, promoting the standards of ethical conduct and behaviour expected of Councillors.
- ii. The Standards Committee shall also determine under Sections 1 and 2 of the Local Government and Housing Act 1989: -
  - a) any application received from any officer of the Council for exemption from political restriction; and
  - b) any application to consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

### 16.2 Membership

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

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



## **B17. INDEPENDENT REMUNERATION PANEL**

### **17.1 Panel Composition**

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

### **17.2 Terms of Reference**

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

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## B18. SUMMARY OF QUORACY

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

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# Birmingham City Council Constitution

## Part C – Codes and Protocols

May 2023

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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><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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>

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

<i><b>And commit to</b></i>	<i><b>Supported and evidenced by our</b></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**

<b><i>And commit to</i></b>	<b><i>Supported and evidenced by our</i></b>
<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.

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

#### 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 adviser<sup>2</sup>; 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.

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

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

- 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 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 –	

<b>Category</b>	<b>Condition</b>
(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (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.

#### **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.
- 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.

#### 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](https://www.birmingham.gov.uk/info/20154/foi_and_data_protection/408/make_a_freedom_of_information_request).<sup>3</sup>

<sup>3</sup> [https://www.birmingham.gov.uk/info/20154/foi\\_and\\_data\\_protection/408/make\\_a\\_freedom\\_of\\_information\\_request](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).

## 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

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.



## 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.*

*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.**

*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants)<sup>4</sup>. 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

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

**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

- 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 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.

### 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.



**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.

**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.

## 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;

- 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.

**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

~~May 2023,~~

Part C Codes and Protocols

C6 Employee Code of Conduct

Deleted: July 2022

## 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 Officer<sup>5</sup> 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.

<sup>5</sup> 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.

- 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

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.

- 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 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;
  - “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 OFFICERS<sup>6</sup>

### 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

<sup>6</sup> 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.

- 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**

- i. 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**

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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**

- i. 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

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 deferred 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.

- 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.

- 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

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.

Birmingham City Council Constitution

Part C Codes and Protocols  
C10 Members Allowance Scheme

~~May 2023,~~

Deleted: July 2022

## 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 ~~14 June 2022,~~
- ii. The Scheme can be found [here](#).<sup>7</sup>

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<sup>7</sup> [https://www.birmingham.gov.uk/downloads/download/910/members\\_allowances](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.

- 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 D – Finance, Procurement and Contract Governance Rules

May 2023

Deleted: August 2022



MAKING A POSITIVE DIFFERENCE EVERYDAY TO PEOPLE'S LIVES

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## D1. FINANCIAL REGULATIONS

### 1.1 Financial Regulations

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

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

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

## 1.2 Financial Accountability Arrangements to Deliver Sound Financial Management

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

### THE ROLE OF MEMBERS

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

#### FA1 Financial Planning & Control

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

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

#### FA2 Financial Management

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

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

**FA3 Financial Assurance and Oversight**

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

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

**FA4 Financial Governance**

The Council will appoint an Audit Committee to oversee financial governance

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

**FA5 Core Strategies that support Sound Financial Management**

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

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

**FA6 Delivery and adherence to Core Strategies**

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

**THE CHIEF FINANCE OFFICER (\$151 Officer)**

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

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

**FB1 Financial Planning**

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

**FB2 Financial Management & Control**

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

**FB3 Financial Oversight**

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



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

**FB4 Financial Governance**

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

**FB5 Core Strategies that Support the Budget**

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

**FB6 Delivery and Adherence to Core Strategies**

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

**ROLE OF DIRECTORS**

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

**FC1 Financial Planning & Control**

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

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

#### **FC2 Financial Management**

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

#### **FC3 Financial Oversight**

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

**FC4 Financial Governance**

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

**FC5 Core Strategies that Support the Budget**

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

**FC6 Delivery and Adherence to Core Strategies**

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

**Appendix A: Financial Approval Framework**

CFO – Chief Finance Officer

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

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

CFO – Chief Finance Officer

Within Director Delegations ( <a href="#">note 1</a> )	Above Director Delegation & below Key Decision	Key Decision
Below £200,000	£200,000 up to £1m	from £1m

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

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

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

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

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

**5. Property Transactions**

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

**Financial Approval Framework – Supporting Notes****Thresholds**

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

**Technical budget adjustments**

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

**Corporate and Specific Capital Resources**

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



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

#### Capital budget virements within a project

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

#### Gateway Reports

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

#### Scope of Capital Gateway approvals

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

#### Outline Business Cases

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

#### Loans, other investments, guarantees and underwritings

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

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

## D2. PROCUREMENT AND CONTRACT GOVERNANCE

### Section1 - Introduction

#### Introduction and Purpose

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

#### Principles to be applied

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

#### Scope

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

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

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

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

**Out of Scope**

1.8 These Rules do not apply in the following circumstances:

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

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

#### Compliance

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

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

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

#### Waiver of the Rules

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

#### Breach Procedure

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

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

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**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
<b>Chief Officer</b>	<p>Chief Officers must ensure the following arrangements are in place within their Directorate to:</p> <ul style="list-style-type: none"> <li>• Ensure their staff comply with the Rules.</li> <li>• Adherence in the application of supporting guidance in their role as a signatory for Waivers and Emergency process where required.</li> <li>• 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.</li> <li>• Ensure that contract award decisions are made in accordance with the Council's Constitution and Scheme of Delegation.</li> <li>• 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.</li> </ul>
<b>Assistant Director (Procurement)</b>	<ul style="list-style-type: none"> <li>• Overall ownership of these Rules and ensuring that the overall governance and assurance framework for commercial considerations is complied with robustly and effectively.</li> </ul>

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

ROLE	AREA OF RESPONSIBILITY
<b>Corporate Procurement Service</b>	<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"> <li>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.</li> <li>Support Directorates in assessing the commercial considerations at the design stage, drafting of the route to market strategy for procurement activity and putting the contract management arrangements in place in accordance with the contract management framework.</li> <li>Work with Directorates to develop proportional and informed category strategies.</li> <li>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.</li> <li>Explore options for collaboration with other contracting authorities where appropriate.</li> <li>Ensure the compliance of all procurement processes over £25k with the Rules and the Regulations, and monitoring and intervention as appropriate below £25k.</li> <li>Through category management seek to develop strategic opportunities for synergy between contracts to enable the Council to get better value.</li> </ul>

## 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**

<b>Thresholds (excluding VAT)</b>	<b>Minimum Tender Process <sup>-3</sup></b>	<b>Advertising opportunity on <sup>-3</sup>: i) Contracts Finder ii) Find a Tender</b>	<b>Posting Contract Notice of Award on: i) Contracts Finder ii) Find a Tender</b>	<b>Publishing on Contract Register</b>	<b>Use of electronic Tendering System</b>	<b>Minimum Tendering Timescales <sup>-2</sup></b>
<b>Up to £5k</b>	Proceed to purchase	(i) Not required (ii) Not required	(i) Not required (ii) Not required	Not required	Not required	Not applicable
<b>Low Value Quotation £5k to &lt;£25k</b>	Preference of three quotations (two from local suppliers or SMEs where possible), with a minimum of one quotation (local supplier or SME where possible) <sup>-1</sup>	(i) Optional (ii) Not required	(i) Not required (ii) Not required	Yes	Optional	5 to 7 working days but preferred 15 working days
<b>Supplies and Services: £25k to Below Threshold relevant Regulation (inc. For Light Touch Regime (LTR) / Concessions / Utilities contracts)</b>	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 <sup>-3</sup>	Advertising opportunity on <sup>-3</sup> : 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 <sup>-2</sup>
<b>Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold</b> (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
<b>Works Contracts: Over £250k but below Threshold</b> (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
<b>Above Threshold Supplies, Services, Works to £10m</b> (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
<b>Over £10m</b>	Formal tender procedure compliant with the Rules and Regulations	(i) Yes (ii) Yes	(i) Yes (ii) Yes	Yes	Yes	As per Regulations

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

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

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

*Unlikely to require use of Council's electronic Tendering System*

*Timescales may be variable*

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

**Table 2: Authorisations and Approvals**

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

Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
<b>£5k up to £25k</b>	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.
<b>Supplies and Services: £25k to Below Threshold relevant Regulation</b> (inc. For Light Touch Regime (LTR) / Concessions / Utilities Contracts) <sup>-6</sup>	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 <sup>-2</sup> Chief Officer (in accordance with Directorate Scheme of Delegation approval level).	Purchase Order and where relevant agreed terms and conditions pertinent to the Quotation / Tender process.
<b>Works Contracts: Low Value Quotation (£25k - £250k) or to relevant Threshold</b> (Concessions / Utilities Contracts) <sup>-6</sup>	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 <sup>-2</sup> Chief Officer (in accordance with Directorate Scheme of Delegation approval level)  Concessions / Utilities Contracts – In accordance with the Directorate Scheme of Delegation approval level.	Purchase Order and where relevant agreed terms and conditions pertinent to the Quotation / Tender process.



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

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Thresholds (excluding VAT)	Pre-procurement (Authorising procurement activity)	Post-procurement (Awarding of procurement activity)	Contract (as a minimum)
<b>Over £10m</b> <sup>-4 -5</sup>	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 <sup>-2</sup> 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.
<b>Negotiated Contracts - £0 to £200k (revenue or capital)</b>	Negotiated Procedure Report by sign off by Chief Officer (in accordance with Directorate Scheme of Delegation approval level) and the Assistant Director (Procurement).	Further signature of the Section 151 Officer (or their delegate) is required on the Negotiated Procedure Report.	Purchase Order and where relevant agreed terms and conditions pertinent to the Contract Negotiations.
<b>Negotiated Contracts - £200k to £500k</b> <sup>-4</sup> (revenue) <b>£200k to £1million</b> (capital)	Negotiated Procedure Report submitted as an appendix for Cabinet approval by way of a Directorate led Formal Cabinet Report.	Contract Award Report <sup>-2</sup> by means of Delegated Procurement Report (DPR) subject to Cabinet confirming delegated approval permitted at pre-procurement stage.	Purchase Order and relevant agreed terms and conditions pertinent to the Tender process plus for Works Contract which exceeds £250,000 and over £1m for Supplies and Service in value, shall be sealed with the Common Seal of the Council and shall be executed as a Deed.

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

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

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

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

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

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

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

## Section 4 - Process

### Processes

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

### Pre-Procurement Stage

#### Make or Buy Considerations

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

#### Route to Market

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

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

#### **Prior information and Public Reports**

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

#### **Planned Procurement Activities Report (PPAR)**

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

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

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

#### **Procurement Strategy Report**

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

#### **Competitive Procurement Stage**

##### **Drafting Quotation and Tender Documents**

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

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

#### **Submission and opening of Quotations and Tenders**

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

#### **Evaluation and Award**

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

#### **Contract Award (including modifications)**

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

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

#### **Contract Extension and Modifications**

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

#### **Contract Management**

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



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

#### Other considerations

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

#### Due Diligence

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

#### Clarifications

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

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

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

#### Frameworks

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

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

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

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

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

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

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

#### **Negotiated Contracts without competition**

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

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

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

#### Decision Making and Tolerances

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

#### Record of decisions

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

#### Equalities Impact Assessments

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

**Subsidy Control**

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

**Section 5 – Definitions**

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

Contract Award Report	Means the formal Council defined Award Report in relation to contract awards with third party suppliers.
Contract Register	Means the electronic register for storing and documenting Contract information and associated documents. At the time of drafting these Rules shall mean Oracle.
Contract Standing Orders	Means these Rules which form the Standing Orders in relation to Contract spend In line with section 135 of the Local Government Act 1972.
Council	Means Birmingham City Council.
Council's E-Tendering System	Means the Council's preferred electronic system for advertising of contracts and opportunities, i.e. Oracle or its successor.
Council's Corporate Retention Schedule	Means the Council's formal Retention Schedule setting out the relevant time frames for how long certain types of documents and records need to be kept for.
Dynamic Market(s)	Means dynamic arrangements and / systems as set out in the Public Sector Procurement Regulations.
Financial Regulations	Means the formal Financial Regulations of the Council which form part of the overall Council constitution.
Framework Agreement	Means agreements as set out in the Public Sector Procurement Regulations.
Grant	Means a payment made by the Council to help the recipient (e.g. charity) to 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	Means the Council's internal measure for determining if the requirements are best suited to be delivered through internal mechanisms, e.g. internal service area, Council owned company or partnership where the Council is a majority partner versus a competitive process.
Light Touch	Means appropriate Contracts which able to be subject to Light Touch procedure as defined within the Public Sector Procurement Regulations.

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

Birmingham City Council Constitution  
~~May 2023~~

Part D - Procurement and Contract Governance Rules

Deleted: July 2022

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.



# Birmingham City Council Constitution

## Part E – Scheme of Delegations

May 2023

Deleted: July 2022





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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:
  - (i) be subject to the City Council's Policy Framework and/or Budget;
  - (ii) 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:
  - (i) 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;
  - (ii) such authorisations should only be given where there is significant administrative convenience in doing so;
  - (iii) the officer authorised by the other should act in the name of the officer who received the original delegation;
  - (iv) 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.

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

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 10<sup>th</sup> 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.

## 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 30<sup>th</sup> September and 31<sup>st</sup> 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.

## E3. DELEGATIONS TO CHIEF OFFICERS<sup>1</sup>

### 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

<sup>1</sup> Chief Officers are those officers reporting to the Chief Executive (Director of Strategy, Equality and Partnerships and all Strategic Directors).

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



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.

- (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.

## 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;

- (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

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:

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.
3. Tackling inequality and promoting equality within the community and workforce
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;
- 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.

## 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.<sup>2</sup>

<sup>2</sup> 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.

## 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
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

	<i>Description</i>	<i>Source</i>
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)

### 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;
  - (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 court<sup>3</sup>
  - (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;

<sup>3</sup> "Court" to be construed widely including but not limited to tribunals, inquiries and other quasi-judicial hearings.

- Councillors via group support offices;
- The full Council meeting;
- Cabinet;
- Committees appointed by full Council;
- Overview & Scrutiny;
- Training and development of councillors.

#### 7.4 Local Choice Functions

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;<sup>4</sup>
- 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.

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<sup>4</sup> s34(4) Social Security Act 1998

## 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.<sup>5</sup>

### 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.

<sup>5</sup> 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.<sup>6</sup>

### 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;<sup>7</sup>
- To make arrangements for appeals by governing bodies.<sup>8</sup>

<sup>6</sup> Appointed under Section 18 Children Act 2004

<sup>7</sup> s94 (1), (1A) and (4) School Standards and Framework Act 1998

<sup>8</sup> s95 (2) School Standards and Framework Act 1998



## 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:
  - 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.

## 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):

Birmingham City Council Constitution  
~~May 2023~~  
 Sustainability

Part E Scheme of Delegations  
 E11 Strategic Director of Place, Prosperity and

Deleted: July 2022

- The control of pollution or the management of air quality jointly with the Strategic Director, City Operations;<sup>9</sup>
- To obtain information about interests in land;<sup>10</sup>
- To obtain particulars of persons interested in land;<sup>11</sup>
- To make agreements for the execution of highways works jointly with the Strategic Director, City Operations<sup>12</sup>

<sup>9</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

<sup>10</sup> s330 Town and Country Planning Act 1990

<sup>11</sup> s16 Local Government (Miscellaneous Provisions) Act 1976

<sup>12</sup> Section 278 Highways Act 1980

## 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;

## 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:

- Creation, management and enhancement of green spaces<sup>13</sup>;
  - 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:

<sup>13</sup> Including parks & city centre beds, nature reserves & woodlands, playgrounds, allotments

- 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 work<sup>14</sup>;
- Monitoring and control of infectious diseases;

<sup>14</sup> other than in relation to Birmingham City Council staff or activities

- Private water supply monitoring; and
  - Animal health and welfare enforcement<sup>15</sup>.
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;

<sup>15</sup> 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;<sup>16</sup>
- To serve an abatement notice in respect of a statutory nuisance;<sup>17</sup>
- To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;<sup>18</sup>
- To inspect the authority's area to detect any statutory nuisance;<sup>19</sup>
- To investigate any complaint about the existence of a statutory nuisance.<sup>20</sup>
- The control of pollution or the management of air quality;<sup>21</sup>
- To make agreements for the execution of highways works.<sup>22</sup>

<sup>16</sup> Part IIA Environmental Protection Act 1990 and subordinate legislation

<sup>17</sup> s80(l) Environmental Protection Act 1990

<sup>18</sup> s8 Noise and Statutory Nuisance Act 1993

<sup>19</sup> S79 Environmental Protection Act 1990

<sup>20</sup> s79 Environmental Protection Act 1990

<sup>21</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

<sup>22</sup> Section 278 Highways Act 1980



# Birmingham City Council

## City Council

23 May 2023



**Subject:** City Council Appointments  
**Report of:** Council Business Management Committee  
**Report author:** Ben Patel-Sadler  
 Senior Committee Manager  
[Ben.Patel-Sader@birmingham.gov.uk](mailto:Ben.Patel-Sader@birmingham.gov.uk)

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 Recommendation:

- 1.1 That the City Council makes appointments to Committees and other bodies as set out in the Appendix to the report.

### 2 Executive Summary

- 2.1 This report sets out appointments to Committees and other Bodies to be approved by the City Council for the 2023/2024 Municipal Year.

### 3 Appendix

- 3.1 City Council Appointments 2023/2024.



## **CITY COUNCIL APPOINTMENTS 2023/24**

In accordance with aggregate proportionality requirements based on 114 seats, the following adjustments need to be reflected in the composition of **Committees**: ie

Labour	=	0 seats
Conservative	=	- 2 seats
Liberal Dem	=	0 seats
Green	=	+ 2 seats

**Committees will have regard to aggregate number of seats on all the Sub-Committees which they appoint.**

1. **APPOINTMENT OF MEMBERS TO SERVE ON OVERVIEW AND SCRUTINY COMMITTEES UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(A) **CO-ORDINATING OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**12 Members**

Labour (8)	Conservative (3)	Liberal Democrat (1)
Cllr Sir Albert Bore	Cllr Ewan Mackey	Cllr Roger Harmer
Cllr Akhlaq Ahmed	Cllr Darius Sandhu	
Cllr Mick Brown	Cllr Alex Yip	
Cllr Jack Deakin		
Cllr Shabrana Hussain		
Cllr Mohamed Idrees		
Cllr Kerry Jenkins		
Cllr Lee Marsham		

**Councillor Sir Albert Bore as Chair**

(B) **FINANCE AND RESOURCES OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
Cllr Jack Deakin	Cllr Meirion Jenkins	Cllr Paul Tilsley
Cllr Sybil Spence	Cllr Ken Wood	
Cllr Hendrina Quinn		
Cllr Rashad Mahmood		
Cllr Alex Aitken		

**Councillor Jack Deakin as Chair**

**(C) HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (1)	Liberal Democrat (1)	Green (1)
Cllr Mick Brown	Cllr Gareth Moore	Cllr Paul Tilsley	Cllr Julien Pritchard
Cllr Kath Hartley			
Cllr Jane Jones			
Cllr Kirsten Kurt-Elli			
Cllr Rob Pocock			

**Councillor Mick Brown  
as Chair**

**(D) EDUCATION, CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
Cllr Kerry Jenkins	Cllr Adam Higgs	Cllr Morriam Jan
Cllr Shabina Bano	Cllr Debbie Clancy	
Cllr Jilly Bermingham		
Cllr Des Hughes		
Cllr Shehla Moledina		

**Councillor Kerry Jenkins as Chair**

Other Voting Members (4)

1 Church of England diocese representative – Sarah Smith

1 Roman Catholic diocese representative – Justine Lomas

2 Parent Governor Representatives – Rabia Shami and Omar Hanif

**(E) ECONOMY AND SKILLS OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)

Cllr Akhlaq  
Ahmed

Cllr Bushra Bi

Cllr Raqeeb  
Aziz

Cllr Katherine  
Iroh

Cllr Jamie  
Tennant

Conservative (2)

Cllr Simon Morrall

Cllr Richard Parkin

Liberal Democrat (1)

Cllr Izzy Knowles

**Councillor Akhlaq Ahmed as Chair**

**(F) SUSTAINABILITY AND TRANSPORT OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
Cllr Lee Marsham	Cllr Timothy Huxtable	Cllr Colin Green
Cllr Saima Ahmed	Cllr Richard Parkin	
Cllr David Barker		
Cllr Martin Brooks		
Cllr Waseem Zaffar		

**Councillor Lee Marsham as Chair**

**(G) HOMES OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
Cllr Mohammed Idrees	Cllr Ken Wood	Cllr Roger Harmer
	Cllr Ron Storer	
Cllr Lauren Rainbow		
Cllr Ziaul Islam		
Cllr Saqib Khan		
Cllr Rinkal Shergill		

**Councillor Mohammed Idrees as Chair**

**(H) NEIGHBOURHOODS OVERVIEW AND SCRUTINY COMMITTEE**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
Cllr Shabrana Hussain	Cllr Deirdre Alden	Cllr Roger Harmer
	Cllr Kerry Brewer	
Cllr Marcus Bernasconi		
Cllr Marje Bridle		

Cllr Ray Goodwin

Cllr Gurdial Singh  
Awtal

**Councillor Shabrana Hussain as Chair**

2. **APPOINTMENT OF MEMBERS TO SERVE ON THE REGULATORY COMMITTEES UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(A) **PLANNING COMMITTEE**

(Must comply with proportionality requirements)

**15 Members**

Labour (10)	Conservative (3)	Liberal Democrat (2)
Cllr Martin Brooks	Cllr Gareth Moore	Cllr Colin Green
Cllr Akhlaq Ahmed	Cllr David Barrie	Cllr Mumtaz Hussain
Cllr Jack Deakin	Cllr Rick Payne	
Cllr Diane Donaldson		
Cllr Mahmood Hussain		
Cllr Jane Jones		
Cllr Lee Marsham		
Cllr Yvonne Mosquito		
Cllr Lauren Rainbow		
Cllr Shehla Moledina		

**Councillor Martin Brooks as Chair**

(B) **LICENSING AND PUBLIC PROTECTION COMMITTEE**

(Must comply with proportionality requirements)

**15 Members**

Labour (10)	Conservative (2)	Liberal Democrat (2)	Green (1)
Cllr Phil Davis	Cllr Adam Higgs	Cllr Penny Wagg	Cllr Julien Pritchard
Cllr Diane Donaldson	Cllr Simon Morrall	Cllr Izzy Knowles	
Cllr Barbara Dring			
Cllr Sam Forsyth			
Cllr Zafar Iqbal			
Cllr Saddak Miah			
Cllr Narinder Kaur Kooner			
Cllr Sybil Spence			
Cllr Mary Locke			
Cllr Ziaul Islam			

**Councillor Phil Davis as Chair**

(B1) **LICENSING SUB-COMMITTEE A**

(Must comply with proportionality requirements except when meeting to consider matters under the Licensing Act 2003 and the Gambling Act 2005)

**3 Members**

Labour (2)	Conservative (1)	Liberal Democrat (0)
Cllr Phil Davis	Cllr Adam Higgs	
Cllr Mary Locke		

**Councillor Phil Davis as Chair**



(B2) **LICENSING SUB-COMMITTEE B**

(Must comply with proportionality requirements except when meeting to consider matters under the Licensing Act 2003 and the Gambling Act 2005)

**3 Members**

Labour (2)                                      Conservative (1)                                      Liberal Democrat (0)

Cllr Diane Donaldson                                      Cllr Simon Morrall

Cllr  
Saddak  
Miah

**Councillor  
Diane  
Donaldson  
as Chair**

(B3) **LICENSING SUB-COMMITTEE C**

(Must comply with proportionality requirements except when meeting to consider matters under the Licensing Act 2003 and the Gambling Act 2005)

**3 Members (1 seat given up by Conservative Group to the Liberal Democrat group)**

Labour (2)                                      Conservative (0)                                      Liberal Democrat (1)

Cllr Sam Forsyth    Cllr Penny Wagg

Cllr Zafar  
Iqbal

**Councillor  
Sam  
Forsyth as  
Chair**

3. **APPOINTMENT OF MEMBERS TO SERVE ON THE COUNCIL BUSINESS MANAGEMENT COMMITTEE UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(Outside of proportionality requirements)

**9 Members –**

Labour Group Leader, Deputy Leader, Group Secretary & Chair of Co-Ordinating O&S Committee

Conservative Group Leader & Group Secretary

Liberal Democrat Group Leader or Group Secretary

2 Labour

Labour (6)                                      Conservative (2)                                      Liberal Democrat (1)

Cllr John Cotton                                      Cllr Robert Alden                                      Cllr Baber Baz  
Cllr Sharon Thompson                                      Cllr Gareth Moore

Cllr Des Hughes  
Cllr Sir Albert Bore  
Cllr Brigid Jones

Cllr Miranda Perks

**Councillor John Cotton as Chair**

4. **APPOINTMENT OF MEMBERS TO SERVE ON THE AUDIT COMMITTEE  
UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
------------	------------------	----------------------

Cllr Fred  
Grindrod

Cllr Meirion Jenkins  
Cllr Bruce Lines

Cllr Paul Tilsley

Cllr  
Shabrana  
Hussain

Cllr  
Shafique  
Shah

Cllr Miranda  
Perks

Cllr Amar  
Khan

**Councillor  
Fred  
Grindrod as  
Chair**

**APPOINTMENT OF MEMBERS TO SERVE ON THE TRUSTS AND  
CHARITIES COMMITTEE UNTIL THE ANNUAL MEETING OF THE  
COUNCIL IN MAY 2024**

(Must comply with proportionality requirements)

**8 Members**

Labour (5)	Conservative (2)	Liberal Democrat (1)
------------	------------------	----------------------

Cllr Marcus  
Bernasconi

Cllr Maureen  
Cornish

Cllr Mumtaz Hussain

Cllr Jilly  
Birmingham

Cllr David Pears

Cllr Basharat  
Mahmood

Cllr Kath Scott

Cllr Lisa  
Trickett

**Councillor Marcus Bernasconi as Chair**

6. **APPOINTMENT OF MEMBERS TO SERVE ON THE STANDARDS COMMITTEE UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(City Councillor appointments outside of proportionality requirements)

**6 Members**

Labour (2)	Conservative (2)	Liberal Democrat (2)
Cllr Kath Hartley Cllr Mahmood Hussain	Cllr Gareth Moore Cllr Deirdre Alden	Cllr Paul Tilsley Cllr Colin Green

6 Independent lay members:

Stephen Atkinson  
Alastair Cowan  
Mohammed Khan  
Peter Wiseman  
Steven Jonas  
Professor Stephen Shute

1 member representing the New Frankley in Birmingham Parish Council and  
1 member representing the Sutton Coldfield Parish Council  
(Parish member must be present when matters relating to the Parish Council  
or its Members are being considered):

New Frankley in Birmingham Parish Councillor Cllr Ian Bruckshaw  
Sutton Coldfield Parish Councillor Cllr Derrick Griffin

Peter Wiseman as Chairman (independent)

The quorum is 5 members, including at least one of the Independent Lay  
Member and the Parish Councillor if it relates to a Parish Council matter.

7. **ANNUAL APPOINTMENTS TO OUTSIDE BODIES UNTIL THE ANNUAL MEETING OF THE COUNCIL IN MAY 2024**

(A) **Local Government Association – General Assembly**

(4 Councillors to exercise 17 votes in accordance with proportionality)

Labour Group Members	11 votes
Conservative Group Member	4 votes
Liberal Democrat Group Member	2 votes
Cllr John Cotton	(Lab)
Cllr Sharon Thompson	(Lab)
Cllr Robert Alden	(Con)
Cllr Roger Harmer	(Lib Dem)

**(B) West Midlands Fire and Rescue Authority**

**(4 Councillors** appointments must comply with proportionality requirements)

Labour (3)                                      Conservative (1)

Cllr Basharat Mahmood      Cllr David Barrie  
Cllr Sybil Spence  
Cllr Gurdial Singh  
Atwal

**Cllr Basharat Mahmood as Lead Member**

**(C) West Midlands Police and Crime Panel**

To appoint two Labour members and one Conservative member and their named substitutes to serve on West Midlands Police and Crime Panel.

Member	Substitute
Cllr Shabina Bano (Lab)	Cllr Vacancy (Lab)
Cllr Kath Scott (Lab)	Cllr Vacancy (Lab)
Cllr Gareth Moore (Con)	Cllr David Barrie (Con)

Midyear Birmingham to nominate to the Met Leaders 2 Labour representatives to serve on West Midlands Police and Crime Panel, along with named substitutes.

Member	Substitute
Cllr Alex Aitken (Lab)	Cllr Vacancy (Lab)
Cllr Vacancy (Lab)	Cllr Vacancy (Lab)

**(D) West Midlands Shareholders Airport Committee**

Leader of the Council - Voting Member  
Cllr Vacancy (Lab) and Cllr Robert Alden (Con) as observers to attend each year one of the scheduled meetings of the West Midlands Shareholders Airport Committee:

**(E) Departmental Consultative Committees**

Chairmen of Departmental Consultative Committees:

Inclusive Growth Directorate (previously Economy)	Cllr Katherine Iroh
Education and Skills Directorate (previously Children and Young People)	Cllr Jilly Bermingham
Housing Directorate (previously Neighbourhoods)	Cllr Des Hughes
City Operations Directorate	Cllr Narinder Kaur Kooner



**(F) Association of Councillors**

The appointment is for a 3 year period of office ie May 2023 to May 2026 and the person appointed must be a Member of the Council.

Councillor Diane Donaldson

**(G) Joint Scrutiny Committee for the Supervisory Board of the Greater Birmingham and Solihull Local Enterprise Partnership**

Appoint one member of Authority and a substitute Member

Cllr Narinder Kaur Kooner (Lab) and Cllr Shabrana Hussain (Lab) (Substitute)

**(H) West Midlands Combined Authority**

The following appointments need to be made

**WMCA Board**

Member	Substitute
Cllr John Cotton (Lab)	Cllr Jane Jones (Lab)
Cllr Sharon Thompson (Lab)	Cllr Mariam Khan (Lab)

**WMCA Overview and Scrutiny Committee**

Member	Substitute
Cllr Jamie Tennant (Lab)	Cllr Miranda Perks (Lab)
Cllr Lauren Rainbow (Lab)	Cllr David Barker (Lab)
Cllr Ken Wood (Con)	Cllr Ewan Mackey (Con)

**Transport Delivery Committee**

**(7 Councillors** appointments must comply with proportionality requirements)

Labour (4)	Conservative (2)	Liberal Democrat (1)
Cllr Mary Locke	Cllr Timothy Huxtable	Cllr Zaker Choudhry
Cllr Narinder Kaur Kooner	Cllr Robert Alden	
Cllr Saddak		

Miah

Cllr Ian  
Ward

**Cllr Mary Locke as Lead Member**

**WMCA Transport Scrutiny Sub-Committee**

Cllr Rinkal Shergill (Lab)



## **WMCA Audit, Risk & Assurance Committee**

Member

Substitute

Cllr Brigid Jones (Lab)

Cllr Marje Bridle (Lab)

## **WMCA Housing & Land Delivery Board**

Cllr Jayne Francis (Lab)

## **WMCA Investment Board**

Cllr Sharon Thompson (Lab)

## **WMCA Public Service Reform Board**

Cllr John Cotton (Lab)

## **WMCA Wellbeing Board**

Cllr Karen McCarhy (Lab)

## **WMCA Environment Board**

Cllr Majid Mahmood (Lab)

## **Strategic Economic Delivery Board**

Cllr John Cotton (Lab)

## **WMCA HS2 Delivery Board**

Cllr John Cotton (Lab)

### **(I) WM Growth Company - Board of Directors**

The Leader will be the Council's nomination.

### **(J) Safety Advisory Groups**

To make appointments on the basis of 1-1-1 plus the Local Ward Member

Aston Villa Football Club Safety Advisory Group

Councillor Ray Goodwin (Lab)

Councillor Alex Yip (Con)

Councillor Ayoub Khan (Lib Dem)

Councillor Morriam Jan (One Aston Ward Member/Lib Dem)

## Birmingham City Football Club Safety Advisory Group

Councillor Shabina Bano (Lab)  
Councillor Richard Parkin (Con)  
Councillor Baber Baz (Lib Dem)  
Councillor (Bordesley and Highgate Ward Member)

## Warwickshire County Cricket Club Safety Advisory Group

Councillor Fred Grindrod (Lab)  
Councillor Robert Alden (Con)  
Councillor Paul Tilsley (Lib Dem)  
Councillor Deirdre Alden (One Edgbaston Ward Member)

### (K) **Annual Appointments to Other Bodies**

(Historically, proportionality has been applied to positions requiring two or more members, although it does not need to be applied to such appointments).

#### **Body**

#### **Representative**

(a) Standing Advisory	Cllr Nicky Brennan	(Lab)
Council on Religious	Cllr Gurdial Singh Atwal	(Lab)
Education –	Cllr Bushra Bi	(Lab)
<b>8 Representatives</b>	Cllr Sybil Spence	(Lab)
	Cllr Vacancy	(Lab)
(To comply with proportionality - 5 Lab; 2 Con; 1 Lib Dem)	Mr Peter Fowler	(Con)
	Mr Guy Hordern	(Con)
	Cllr Zaker Choudhry	(Lib Dem)

#### **Cllr Nicky Brennan as Chair**

(b) City Housing Liaison Board	Cllr Jayne Francis	(Lab)
<b>3 Councillors plus 1 Lab</b>	Cllr Mary Locke	(Lab) alt
<b>alternate</b>	Cllr Richard Parkin	(Con)
1 Lab; 1 Con; 1 Lib Dem	Cllr Roger Harmer	(Lib Dem)

# Birmingham City Council

## City Council

23 May 2023



**Subject:** Pay Policy 2023-2024  
**Report of:** Janie Berry, City Solicitor and Monitoring Officer  
**Report author:** Janie Berry, City Solicitor and Monitoring Officer

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 Council is required to publish an annual Pay Policy setting out the pay policies and senior officer salaries. The Policy has been updated to reflect the Council's position in response to statutory guidance published in respect of severance payments.

### 2 Recommendation(s)

- 2.1 Council is invited:  
 To approve the updated Pay Policy 2023-2024.

### 3 Background

- 3.1 In accordance with s40 Localism Act 2011, the Council is required to publish an annual Pay Policy to set out its pay policy position and salary details for its senior staff. The Accounts and Audit Regulations 2011, also require the council to publish details of the number of employees who are paid £50,000 and above.
- 3.2 The Pay Policy was last published and approved by Council at Budget Council on 28 February 2023, however the Policy has now been updated to reflect the Council's position in respect of nationally published statutory severance guidance.

#### **4 Options considered and Recommended Proposal**

- 4.1 Council can choose not to adopt the Pay Policy, however, to do so would be a breach of the Localism Act 2011.

#### **5 Legal Implications**

- 5.1 The legal implications are detailed within the body of this report.

#### **6 Financial Implications**

- 6.1 There are no direct financial implications related to this report.

#### **7 Public Sector Equality Duty**

- 7.1 To aid transparency, the Council is required to publish its senior officer salaries and pay policy matters on an annual basis.

#### **8 Other Implications**

- 8.1 There are no direct other implications arising from this report.

#### **9 Background Papers**

- 9.1 Agenda and Minutes of Budget Council held on 28 February 2023.

#### **10 Appendices**

- 10.1 Appendix 1 – Pay Policy 2023-2024

# Pay Policy Statement 2023/24



**BE BOLD BE BIRMINGHAM**

# Contents

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## 1.0 Introduction and Purpose

This Pay Policy Statement sets out the Council's approach to pay policy in accordance with the requirements of Section 38 to 43 of the Localism Act 2011 and takes account of the final guidance for 'Openness and Accountability in Local Pay' as issued by the Department for Levelling Up, Housing and Communities. The purpose of the statement is to provide transparency with regard to the Council's approach to setting the pay of its employees (excluding those working in local authority schools) by identifying:

- The methods by which, salaries of all employees are determined.
- The detail and level of base remuneration of its most senior employee's i.e. 'chief officers', as defined by the relevant legislation.
- The detail and level of base remuneration of the lowest paid employees
- The relationship between the remuneration for highest and lowest paid employees
- The Committee(s)/Panel responsible for ensuring the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to the full Council.

Once approved by the Full Council Meeting, this policy statement will come into immediate effect for the 2022/23 financial year and will be subject to review again for 2023/24 in accordance with the relevant legislation prevailing at that time. If the pay policy needs to be amended during the current financial year, any amendments will be subject to approval.

## 2.0 Legislative Framework

In determining the pay and base remuneration of all its employees, the Council will comply with all relevant employment legislation. This includes the Equality Act 2010, Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000, Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, The Agency Workers Regulations 2010 and where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations.

The Council pays due regard to the Equal Pay requirements contained within the Equality Act, the Council ensures there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified through the use of an equality proofed job evaluation scheme that directly relates an employee's salary to the requirements, demands and responsibilities of the role.

## 3.0 Senior Management Remuneration Policy

For the purposes of this statement, senior officer means 'chief officers' as defined within S43 of the Localism Act 2011. The Chief Executive is employed under the terms and conditions of the Joint National Council for Chief Executives and all other senior officers are under the terms and conditions for Joint National Council for Chief Officers.

The Council currently determines pay levels through a job evaluation process and grading structure that has been specifically designed for senior positions that determines the pay range for senior officers as defined by the Localism Act 2011. A cost-of-living rise of £1,925 has been applied to the Senior Officer Pay Structure, as a result of pay bargaining undertaken by Joint Negotiating Committee for Chief Officers of Local Authorities, with effect from 1<sup>st</sup> April 2022. See Annex 1 for the senior officer pay structure effective as at 1<sup>st</sup> April 2022.

Those employees working in senior positions do not receive overtime payments and all other pay related allowances are the subject of either nationally or locally negotiated rates, having been determined from time to time in accordance with collective bargaining machinery and/or as determined by Council Policy.

In determining its grading structure and setting remuneration levels for all posts, the Council takes account of the need to ensure value for money in respect of the use of public expenditure, balanced against the need to recruit and retain employees who are able to meet the requirements of providing high quality services to the community, delivered effectively and efficiently and at times at which those services are required.

In particular, it is the Council's policy that no Chief Officer or Deputy Chief Officer (subject to JNC conditions of service for Chief Officers) is paid a supplement for Returning Officer duties, whether in respect of local elections or national elections (e.g. General Elections, elections for European Parliament, national referenda etc.). Fees paid in respect of these elections by Government are used to supplement the pay of non-senior officer employees who have worked on the relevant election.

### **3.1 Senior Management Positions**

#### **JNC Chief/ JNC Deputy Officers**

The senior officer positions will continue to be reviewed on a regular basis as part of the overall savings that have to be made by the Council due to the savings targets faced by local authorities in general over the next few years. See Annex 1 for full details.

### **3.2 Recruitment to Senior Management Positions**

When recruiting to all posts the Council will take full and proper account of its own equal opportunities, recruitment and redeployment policies. Appointments made to chief officer (CO) and JNC deputy chief officer (DCO) positions are all made by the Chief Officers and Deputy Chief Officers Appointments Dismissals and Service Conditions Sub-Committee. Other appointments are made by the Chief Executive or relevant delegated officer.

The determination of the remuneration to be offered to any newly appointed Chief Officer or Deputy Chief Officer will be in accordance with the local JNC (Senior) pay spine (further details can be found in Annex 1) and relevant policies in place at the time of recruitment. Where the Council is unable to recruit or retain at the designated grade, it will consider using, on a temporary basis, market supplements and retention payments in accordance with its relevant policies.

Where the Council remains unable to recruit under an employment contract, or there is a need for interim support to provide cover for a vacant substantive senior management position, the Council will, where necessary, consider and utilise engaging individuals under 'contracts for service'. These will be sourced through the relevant procurement process ensuring the Council is able to demonstrate the maximum value for money benefits from competition in securing the relevant service.

### **3.3 Additions to Salary of Chief Officers/Deputy Chief Officers**

The Council does not apply any bonus to the salary of Chief Officers/Deputy Chief Officers, however progression within the salary scales is performance related as mentioned under 3.0. There is no



element of earn back for senior manager's salaries and any pay progression is currently consolidated into basic pay.

In addition to basic salary, set out below are details of other elements of 'additional pay' which are chargeable to UK Income Tax and do not solely constitute reimbursement of expenses incurred in the fulfilment of duties;

The following are applicable to all senior manager positions

- A mileage allowance is paid to all employees using their own vehicle for work purposes and the payments are in linked to the approved HMRC rates (For current HMRC mileage rates please see <http://www.hmrc.gov.uk/paye/exb/a-z/m/mileage-expenses.htm>)
- There are currently no salary supplements or additional payments for undertaking additional responsibilities such as shared service provision with another local authority or in respect of joint bodies.
- Market supplements/recruitment allowances are paid where it is justified to recruit and fulfill a role or to retain an officer within a role.

### **3.4 Payments on Termination**

The Council's approach to severance and discretionary payments on termination of employment, prior to reaching retirement age, is set out in accordance with regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 and regulation 12 and 13 of the Local Government Pension Scheme Regulations 2013.

The Council applies this policy to all employees and in all cases. Any changes to this policy, whether permanent or time limited, will be agreed by the Council's JNC Core Panel. The City Solicitor has the authority to settle, if appropriate and in the interests of the Council, any actual or threatened legal proceedings as set out in the Council's Constitution.

Any other payments falling outside the Public Sector Exit Payments regulations, or the relevant periods of contractual notice shall be subject to a formal decision made by the full Council or the relevant elected members, committee or panel of elected members or officer with delegated authority to approve such payments, dependent on the post.

Any severance packages with a value in excess of £100,000 (including any Pension Strain costs) will be approved by Council before they are agreed. This procedure applies to severance packages pursuant to a settlement agreement. However, it does not apply in relation to the cost of early access to, and/or enhancement of a retirement pension, where the employee's employment is terminated on grounds of ill health.

The Council has adopted [the statutory guidance on Special Severance Payments](#) where non-contractual exit payments above certain thresholds are subject to additional scrutiny, approval and disclosure processes. This is to comply with our best value duty as set out in section 3 of the Local Government Act 1999. Further details will be set out in the Special Severance Payments Guidance.

Provisions in the Finance (No.2) Act 2017 changed the rules on the taxation of termination payments to remove the distinction between contractual and non-contractual payments in lieu of notice, effective from April 2018. The Council continues to comply with these requirements.

Employers are liable to pay Class 1A national insurance contributions on termination payments above £30,000 that are subject to income tax by the employee. The Council is fully compliant with this requirement.

### **3.5 Comparators Influencing Pay Levels**

For the purpose of context in the local government sector, Birmingham City Council is not only the largest local authority in the UK, but also the largest unitary authority in Europe serving over one million residents and has a revenue budget of c £3.1bn. The Council needs to maintain competitive pay levels to attract suitable candidates for senior positions that can demonstrate sufficient skills, experience and capacity required at this level as would be evidenced, for example, by fulfilling a comparable role in a large complex local authority. There is often a very small pool from which to recruit candidates with other authorities offering very competitive salaries in relation to their size.

As a consequence, it may be necessary, from time to time, to review senior pay scales by benchmarking Chief Executive remuneration with the Core Cities Group which is comprised of councils that represent the largest eight economies outside London, to ensure alignment with external pay markets, both within and outside the sector, which may result in the review of JNC salaries and/or temporary additions of market supplements (as per 3.3), as appropriate.

### **4.0 Non-Chief/Deputy Chief Officer Employees**

Based on the application of an analytical job evaluation process, the Council uses the nationally negotiated pay spine as the basis for its local grading structure with additional spine points. This determines the salary of the large majority of the non-school based workforce, together with the use of other nationally defined rates such as Soulbury and JNC/Y&C. The Council presently adheres to national pay bargaining in respect of the national pay spine with the most recent increase effective 1<sup>st</sup> April 2022.

Progression within the grading structure for 2022/23 is automatic incremental progression within the grade, in line with agreed defined criteria effective from 1<sup>st</sup> April. Once the maximum spinal column point (as seen in annex 2) has been reached there will be no further progression.

### **4.1 Recruitment**

New appointments will normally be made at the minimum of the relevant grade, although this can be varied where necessary to secure the best candidate. From time to time, it may be necessary to take account of the external pay market in order to attract and retain employees with particular experience, skills and capacity. Where necessary, the Council will ensure the requirement for such is objectively justified by reference to clear and transparent evidence of relevant market comparators, using appropriate data sources available from within and outside the local government sector.

### **4.2 Lowest Paid Employees**

The lowest paid employees under a contract of employment with the Council are employed on full time equivalent (FTE) salary in accordance with the minimum spinal column point (SCP) currently in use

within the Council's grading structure. The minimum SCP for 2022 (based on April 2022 pay rates) is £20,258 (SCP1). See Annex 2 for the BCC NJC Pay Structure, effective 1<sup>st</sup> April 2022.

The Council has chosen to pay the 'Real Living Wage' equivalent of £9.90 per hour. Following the recent review by the Living Wage Foundation, this has been increased to £10.90 per hour and, in consideration of current cost of living pressures, this has been implemented with effect from 01 December 2022. For the purpose of this pay policy statement the lowest paid employee's will be defined as those on a FTE salary of £20,744 based on the Real Living Wage hourly rate of £10.90 per hour.

The statutory guidance under the Localism Act recommends the use of pay multiples as a means of measuring the relationship between pay rates across the workforce and that of senior managers, as included within the Hutton 'Review of Fair Pay in the Public Sector' (2010). The Hutton report was asked by Government to explore the case for a fixed limit on dispersion of pay through a requirement that no public sector manager can earn more than 20 times the lowest paid person in the organisation. The report concluded that the relationship to median earnings was a more relevant measure and the Government's Code of Recommended Practice on Data Transparency recommends the publication of the ratio between highest paid salary and the median average salary of the whole of the authority's workforce. Whilst the ratio between the highest and lowest paid employees within the Council does not exceed 20 times, the Council does not set a ratio ceiling within its pay policy for senior officers.

The following tables illustrate various pay differentials between the salary of the Chief Executive and the lowest paid full time equivalent employee, median employee pay, and average employee pay based on base pay, and does not include any pension benefits, or any other variable elements of pay (e.g. non contractual overtime, allowances etc.)

<b>Pay Differential between Chief Executive and lowest paid full time equivalent employees</b>	CEX salary	£244,820
	Lowest FTE salary	£20,744
	Pay Multiple	<b>11.8:1</b>

<b>Pay Differential between Chief Executive and the median pay for full time equivalent employees</b>	CEX salary	£244,820
	Median salary	£27,852
	Pay Multiple	<b>8.79:1</b>

<b>Pay Differential between Chief Executive and the average pay for full time equivalent employees</b>	CEX salary	£244,820
	Average salary	30785
	Pay Multiple	<b>7.95:1</b>

The following tables illustrate the various pay differentials between Chief/Deputy Chief Officers and the lowest paid full time equivalent employee, median employee pay and average employee pay based on base pay, and does not include any pension benefits, or any other variable elements of pay (e.g. non contractual overtime, allowances etc).

<b>Pay Differential between the average of Chief Officers pay and the lowest paid full time equivalent employee</b>	Average Chief Officer salary	£117,263
	Lowest FTE salary	£20,744

	Pay Multiple	<b>5.65:1</b>
<b>Pay Differential between the median of Chief Officers pay and the median pay for a full-time equivalent employee</b>	Median Chief Officer salary	£111,723
	Median salary	£27,852
	Pay Multiple	<b>4.01:1</b>
<b>Pay Differential between the average of Chief Officers pay and the average pay for a full-time equivalent employee</b>	Average Chief Officer salary	£117,263
	Average salary	£30,785
	Pay Multiple	<b>3.81:1</b>

### 4.3 Accountability and Decision Making

In accordance with the Constitution of the Council, the Chief Officers and Deputy Chief Officers Appointments Dismissals and Service Conditions Sub-Committee are responsible for decision making in relation to the recruitment, pay, terms and conditions and severance arrangements in relation to employees of the Council on JNC terms and conditions.

## 5 Publication

The Pay Policy 2022/23 will be submitted as a document within the Financial Planning Papers, and upon approval by the full Council, this statement will be published as part of those papers, and separately in its own right, on the Council's Website [www.birmingham.gov.uk/cosd](http://www.birmingham.gov.uk/cosd). Other formats will also be made available on request.

In addition, for employees where the full-time equivalent salary is £50,000 or more, excluding employer superannuation contributions, the Councils Annual Statement of Accounts will include the number of employees in bands of £5,000.

## Annex 1 Birmingham City Council - Senior Pay Spine (Chief/Deputy Chief Officers)

Pay structure effective as at 1<sup>st</sup> April 2022

Job Level	Grade	Minimum £	Maximum £
Chief Executive	B04	£190,718	£285,114
Corporate Director	B03	£143,079	£213,656
Service Director	B02	£107,459	£160,226
Assistant Director	B01	£80,126	£119,226

The posts falling within the statutory definition for Chief Officers of the Local Government and Housing Act 1989, which covers the statutory officers and those others that report to the Chief Executive, are set out below:

- a) Chief Executive - The head of paid service defined under section 4(1) of that Act.  
The salary for the above post falls within a range from £190,718 rising to a maximum of £285,114. There is no additional supplement paid for returning officer duties incorporated into this role.
- b) Strategic Director of Council Management (Section 151 Officer) - A statutory chief officer defined under section 2(6) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656.
- c) City Solicitor & Monitoring Officer Legal and Governance – A statutory chief officer defined under section 5(1) of that Act.  
The salary for the above post falls within a range between £107,459 rising to a maximum of £160,226.
- d) Strategic Director of Adult Social Care – A statutory officer defined under section 2(6) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656.
- e) Strategic Director of Children & Families - A statutory officer defined under section 2(6) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656.
- f) Strategic Director of City Operations - A non-statutory chief officer defined under section 2(7) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656.

- g) Strategic Director of City Housing - A non-statutory chief officer defined under section 2(7) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656.
- h) Strategic Director Places, Prosperity & Sustainability - A non-statutory chief officer defined under section 2(7) of that Act.  
The salary for the above post falls within a range between £143,079 rising to a maximum of £213,656
- i) Director of Strategy, Equalities & Partnerships – A non-statutory chief officer defined under section 2(7) of that Act.  
The salary for the above post falls within a range between £107,459 rising to a maximum of £160,226
- j) Director of Public Health – A statutory post under section 73A (7) of the NHS Act 2006.  
The salary for the above post falls within a range between £107,459 rising to a maximum of £160,226. There are also two statutory payments made in relation to this role.

## Annex 2 Birmingham City Council – NJC Pay Spine

Pay structure effective as at 1<sup>st</sup> April 2022.

Grade	Spinal Column Point	Salary FTE
GR1	1	£20,258*
GR1	2	£20,441*
GR1	3	£20,812
GR2	3	£20,812
GR2	4	£21,189
GR2	5	£21,575
GR2	6	£21,968
GR2	7	£22,369
GR2	8	£22,777
GR3	9	£23,194
GR3	10	£23,260
GR3	11	£24,054
GR3	12	£24,496
GR3	13	£24,948
GR3	14	£25,409
GR3	15	£25,878
GR3	16	£26,357
GR3	17	£26,845
GR3	18	£27,344
GR3	19	£27,852
GR3	20	£28,371
GR3	21	£28,900
GR3	22	£29,439
GR4	23	£30,151
GR4	24	£31,099
GR4	25	£32,020
GR4	26	£32,909
GR4	27	£33,820
GR4	28	£34,723
GR4	29	£35,411
GR4	30	£36,298
GR4	31	£37,261
GR5	32	£38,296

GR5	33	£39,493
GR5	34	£40,478
GR5	35	£41,496
GR5	36	£42,503
GR5	37	£43,516
GR5	38	£44,539
GR5	39	£45,495
GR5	40	£46,549
GR6	41	£47,573
GR6	42	£48,587
GR6	43	£49,590
GR6	44	£51,127
GR6	45	£52,676
GR6	46	£54,222
GR6	47	£55,781
GR6	48	£57,322
GR6	49	£58,981
GR7	50	£60,633
GR7	51	£62,307
GR7	52	£64,262
GR7	53	£66,294
GR7	54	£68,397
GR7	55	£70,570
GR7	56	£72,828
GR7	57	£75,160
GR7	58	£78,123

\*Real Living Wage supplement paid to colleagues on SCP1 and 2



## Annex 3 JNC Deputy Chief Officers

The positions in the table below are core establishment, JNC deputy chief officers as mentioned in section 2(8) of the Localism Act, i.e. JNC officers that report directly to any of the JNC chief officers listed in Annex 1:

Designation	Directorate	Grade	Range
Director of Finance (& Deputy S151 Officer)	Council Management	B02	£107,459 - £160,226
Director Development & Commercial (& Deputy S151 Officer)	Council Management	B02	£107,459 - £160,226
Assistant Director Audit	Council Management	B01	£80,126 – £119,226
Assistant Director Governance & Deputy Monitoring Officer	Council Management	B01	£80,126 - £119,226
Assistant Director Legal Services	Council Management	B01	£80,126 - £119,226
Director of People Services	Council Management	B02	£107,459 - £160,226
Director Digital & Customer Services	Council Management	B02	£107,459 - £160,226
Assistant Director Health Protection & Environmental Health	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Knowledge, Evidence & Governance	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Health Behaviours & Communities	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Adults & Older People	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Children's & Families	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Deputy Director Public Health	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Consultant Public Health Parks & Neighbourhoods	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Communications	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226

Designation	Directorate	Grade	Range
Assistant Director Strategic Partnerships, External Affairs & Corporate Leadership	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Assistant Director Insight & Strategy	Strategy, Equalities & Partnerships	B01	£80,126 - £119,226
Service Director of City Housing Solutions & Support Services	City Housing	B02	£107,459 – £160,226
Service Director of City Housing Management	City Housing	B01	£80,126 – £119,226
Service Director of City Housing Asset Management	City Housing	B01	£80,126 – £119,226
Assistant Director Strategic & Enabling	City Housing	B01	£80,126 – £119,226
Director of Street Scene	City Operations	B02	£107,459 – £160,226
Director of Regulation & Enforcement	City Operations	B02	£107,459 – £160,226
Assistant Director Community Safety & Resilience	City Operations	B01	£80,126 – £119,226
Assistant Director Highways & Infrastructure	City Operations	B01	£80,126 – £119,226
Assistant Director Neighbourhoods	City Operations	B01	£80,126 – £119,226
Director Planning, Transport & Sustainability	Place, Prosperity & Sustainability	B02	£107,459 – £160,226
Assistant Director Birmingham Property Services	Place, Prosperity & Sustainability	B01	£80,126 – £119,226
Assistant Director Housing Development	Place, Prosperity & Sustainability	B01	£80,126 – £119,226
Assistant Director Place, Strategy & Performance	Place, Prosperity & Sustainability	B01	£80,126 – £119,226
Assistant Director Property & Investment	Place, Prosperity & Sustainability	B01	£80,126 – £119,226
Assistant Director Schools & Achievement	Children & Families	B01	£80,126 - £119,226

Designation	Directorate	Grade	Range
Assistant Director Home to School Transport	Children & Families	B01	£80,126 - £119,226
Director of C&F Strategy, Transformation & Commissioning	Children & Families	B02	£107,459 - £160,226
Director of SEND & Inclusion	Children & Families	B02	£107,459 - £160,226
Director of Lifelong Learning & Employability	Children & Families	B02	£107,459 - £160,226
Director of Thriving Children & Families	Children & Families	B02	£107,459 - £160,226
Director of Adult Social Care Delivery	Adult Social Care	B02	£107,459 – £160,226
Director of Adult Social Care Commissioning	Adult Social Care	B02	£107,459 – £160,226
Assistant Director Community Services and Equality, Diversity & Inclusion	Adult Social Care	B01	£80,126 – £119,226
Assistant Director Quality & Improvement	Adult Social Care	B01	£80,126 – £119,226
Assistant Director Early Intervention & Prevention	Adult Social Care	B01	£80,126 – £119,226

