



# Birmingham City Council Constitution

**Part A – Summary and Explanation**

**September 2019**

**(Temporary Amendments made April 2020)**

**(Additional Amendments made November 2020 – to be agreed by Full Council )**



MAKING A POSITIVE DIFFERENCE EVERYDAY TO PEOPLE'S LIVES

## Contents

The Council's Constitution.....	3
How the Council Operates.....	3
How Decisions are Made.....	4
The Full Council .....	4
Types of Council meetings .....	4
The Executive .....	5
Health and Wellbeing Board .....	6
Overview and Scrutiny .....	6
Regulatory and Non-Executive Committees .....	6
Regulatory committees.....	6
Non-executive committees.....	7
Ward Forums.....	7
Officers .....	7
Citizens' Rights.....	7
Finance, Contract and Legal Matters .....	8
Financial Management.....	8
Contracts .....	8
Procurement Governance Arrangements.....	8
Legal Proceedings.....	9
Common Seal .....	9
Review, Revision and Suspension of the Constitution .....	9
Duty to monitor and review the Constitution.....	9
Changes to the Constitution .....	9
Suspension of the Constitution .....	10
Limit to suspension .....	10
Annex 1.....	11

## 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.

Deleted: [A6](#)

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 – Financial Regulations:** 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 (similar to courts), 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 – Children's Wellbeing
- Cabinet Member – Education, Skills and Culture
- Cabinet Member – Finance and Resources
- Cabinet Member – Health and Social Care
- Cabinet Member – Homes and Neighbourhoods
- Cabinet Member – Social Inclusion, Community Safety and Equalities
- Cabinet Member – Street Scene and Parks
- Cabinet Member – Transport and Environment

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

## **Health and Wellbeing Board**

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

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

## **Overview and Scrutiny**

A number of Overview & Scrutiny Committees ensure that decision makers within the Council are held accountable. They assist in strategic policy development, drive improvement in public services, and ensure that the voice of the public is heard. These Committees are non-executive (not decision making) and 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. As “quasi-judicial” bodies (similar to courts), these Committees 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*)

#### **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*.

#### **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 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.

Deleted: any actual or threatened legal proceedings

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.

### Temporary Amendments Agreed by Full Council 28 April 2020, which will expire no later than 25 May 2021

~~The Common Seal shall be attested by the signature of the City Solicitor, or the person authorised by him/her, and entry shall be made by the City Solicitor or some other person authorised by him/her in a book to be provided for that purpose of every deed and other document to which the Common Seal has been affixed.~~

~~The Seal shall be attested by one of the following persons who shall subscribe his/her name thereto after sealing, that is to say, the Lord Mayor, the Deputy Lord Mayor, the Chief Executive or any senior lawyer in the employment of the City Council from time to time authorised for this purpose by or on behalf of the Council.~~

The process for sealing documents shall be determined by the Interim 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](#).

Deleted: [1](#)

Deleted: [1](#)

<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  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
Part D – Financial Regulations	D1 Financial Regulations D2 Rules relating to Contracts D3 Procurement Governance Arrangements	Full Council
Part E – Scheme of Delegations	–	Cabinet and Full Council

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

