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**VOLUME B**  
**SUPPORTING DOCUMENTS TO THE CONSTITUTION**

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Website  
Updated – ~~July~~ August 2016

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SUPPORTING DOCUMENTS TO THE CONSTITUTION****TABLE OF CONTENTS**

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## B1 – Council Standing Orders

### STANDING ORDERS DEALING WITH THE PROCEDURE AT MEETINGS OF THE FULL COUNCIL

#### 1 Order of Business

- (1) The order of business and the indicative timescales at every ordinary meeting of the Council shall usually be –

Standard Item	Time Limits	Indicative Timetable
Minutes, Lord Mayor's Announcements	5 minutes for Lord Mayor's Announcements - and <u>no presentations.</u>	2.00 – 2.05 p.m.
Lord Mayor's Annual report (AGM only)	15 minutes	
Petitions A schedule of outstanding petitions will be available electronically	10 minutes	2.05 – 2.15 p.m.
Question time	90 minutes	2.15 – 3.45 p.m.
Questions from members of the public to any Cabinet Member or District Committee Chairman	20 minutes 1 minute for each question 2 minutes for each answer	
Questions from any Councillor to a Committee Chairman or Lead Member of a Joint Board. Each Councillor may ask only one question. No supplementary questions.	20 minutes 1 minute for each question 2 minutes for each answer	
Questions from Councillors other than Cabinet Members to a Cabinet Member. Each Councillor may ask one question and one supplementary question.	25 minutes 1 minute for each question 3 minutes for each answer	
Questions from Councillors other than Cabinet Members to the Leader or Deputy Leader. Each Councillor may ask one question and one supplementary question.	25 minutes 1 minute for each question 3 minutes for each answer	
Appointments	10 minutes	3.45 - 3.55 p.m.
Policy Plans or Reports from CBM	30 minutes	3.55 – 4.15 p.m.
Adjournment Break	<del>15</del> 30 minutes	4.15 – 4. <del>30</del> 45 p.m.
Overview & Scrutiny reports	60 minutes	4. <del>30</del> 45 – 5. <del>30</del> 45 p.m.
Motions submitted by individual Councillors rotated equally between the political groups as determined by CBM	90 minutes If the time for the item has elapsed, any motions or amendments not moved and recorded formally (without comment) should be put to the	5. <del>30</del> 45 – 7. <del>00</del> 15 p.m.

	vote without discussion.	
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- (2) 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.
- (3) The order of business may be varied by a resolution passed on a Motion which, after being moved and seconded, shall be put to the vote without discussion.
- (4) Question time will be excluded from the agenda at the Annual Meeting and the Annual Budget Meeting of the Council.

## 2 Record of Attendance and Quorum

The Chief Executive shall record the attendance of Councillors.

A Quorum is 30 Councillors.

## 3 Urgent Business

- (1) Urgent business may be moved or raised at the meeting with the prior agreement of the Lord Mayor.

## 4 Motions and Reports to the City Council for Debate

### (A) *Motions submitted by individual Councillors*

- (1) A motion to be submitted to the Council (other than at the Annual General Meeting) for debate under Part (A) of this Standing Order must be relevant to any of the Council's Policy Framework Plans and/or the Budget Framework, be in writing signed by two members and must be delivered to the Chief Executive 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. No Motions under Standing Order 4A are permitted for the meeting of the City Council reserved for the Annual Budget debate.
- (2) The Chief Executive shall maintain a record of all such motions and the order in which they have been received and this record shall be open to inspection by any member of the Council. The Chief Executive shall also provide the Lord Mayor with copies of all such motions and shall have the power, after receiving appropriate advice from the Monitoring Officer, to seek appropriate amendments from the proposer of the Motion, so as to ensure compliance with any legal and/or constitutional aspects and in the event that the proposer is unable to agree, the proposed Motion will not appear on the summons for the Council meeting.
- (3) 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 -

- (a) have the effect of materially increasing the expenditure, or materially decreasing the revenue, of the Council;
- (b) involve capital expenditure not provided for in the Council's approved capital budget; or

the 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.

*(B) Motions submitted via the Council Business Management Committee*

- (1) Prior to each ordinary meeting of the Council, the Council Business Management Committee shall consider and determine what motions it is necessary or appropriate to submit to that meeting.
- (2) The Chief Executive shall set out in the Summons, for each meeting, the motions which the Committee has determined should be submitted.

*(C) Annual Report of the Leader*

- (1) The Leader of the Council will, on an annual basis
- (2) submit a "Leader's Policy Statement."
- (3) No amendment to the Motion "to receive the Report" will be allowed.

## **5 Conduct of Debate**

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded.
- (2) Every motion and amendment, except when printed in the Summons 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.
- (3) Every amendment shall, unless the Lord Mayor otherwise indicates, be reduced to writing, signed by the mover and delivered to the Chief Executive before it is moved.
- (4) 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.
- (5) A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
  - (a) to speak once on an amendment moved by another member;

- (b) on a point of order as defined by Standing Order 5(6);
  - (c) by way of personal explanation as defined by Standing Order 5(6);
- (6) 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 standing order or statutory provision and the member shall specify the standing order 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. 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 Standing Orders.
- (7) When a motion is under debate no other motion shall be moved except the following -
- (a) to amend the motion,
  - (b) to proceed to the next business;
  - (c) to adjourn;
  - (d) that the question be now put;
  - (e) that a member (named) under Standing Order 15 be not further heard or do leave the meeting;
  - (f) to suspend Standing Orders;
  - (g) to exclude the public under S.100(A) of the Local Government Act 1972;
  - (h) to re-admit the public;
  - (i) that the consent of the Council be given where the consent of the Council is required by these Standing Orders (e.g. to extend time limits, to withdraw motions, etc.)
- (8) The Lord Mayor may permit two or more 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.
- (9) An amendment shall be relevant to the motion and shall be –
- (a) to leave out specified words; or
  - (b) to insert or add specified words; or

- (c) 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.

- (10) 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.
- (11) Not every debating possibility has been covered by these Standing Orders and, in the event of anything not being covered in Standing Orders, the Lord Mayor's ruling on the matter shall be final and binding on the Council.

## **6 Suspension of Standing Orders**

Standing Orders may be suspended by resolution of the Council, provided that a motion to suspend Standing Order 13 (Length of Council Meetings) 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.

## **7 Voting**

- (1) Motions shall be determined (as the Lord Mayor may direct) by a show of hands.
- (2) 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 apply -
  - (a) the division bell will be rung for one minute;
  - (b) the doors of the Council Chamber will then be closed;
  - (c) 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.

## **8 Petitions**

- (1) Every petition to the Council meeting shall either be in writing presented by a Councillor or an e-petition from the Council's website.
- (2) A Councillor presenting a petition or the Lord Mayor (on behalf of Councillors who have submitted their petitions to the Chief Executive 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.
- (3) At each meeting of the City Council, the Chief Executive 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 A

last annual General Meeting ~~of 2005~~. Where a petition has been discharged, the Update Report does not need to mention the same.

## 9 Questions

### (A) *Written Questions*

Any Councillor may ask one written question (with no sub-questions) of any Cabinet Member, Committee Chairman or Lead Councillor for a West Midlands Joint Authority by submitting the question in writing to the Chief Executive by no later than 1200 hours on the Tuesday prior to the day of the Council meeting. 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.

### (B) *Oral Questions*

#### (1) *Questions from Members of the Public*

A member of the public may ask one oral question of any Cabinet Member or District Committee Chairman by submitting the question in writing to the Chief Executive 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.

- The question must refer to an issue which affects Birmingham or falls within the Council's responsibilities.
- 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.
- The question must not be defamatory, frivolous, vexatious or offensive.
- The question must not require the disclosure of confidential or exempt information.
- The question must not refer to individual planning or licensing matters, or any matter of a personal nature.

#### (2) *Questions from Councillors*

Councillors may ask questions as set out in the order of business.

## 10 Conduct at Meetings of the Council

- (1) Councillors are expected to treat each other with respect and abide by the Code of Conduct.
- (2) The Lord Mayor may, as she/he sees fit, direct a Councillor to discontinue his/her speech.

- (3) If there is more general disorder, the Lord Mayor may direct a Councillor causing such disorder to retire from the meeting.

### **11 Disturbance by Members of the Public**

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.

### **12 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 given effect thereto.

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.

### **13 Length of Council Meetings**

If a meeting of the Council has not come to an end by 7:00 p.m, the following procedure shall apply

- (i) 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;
- (ii) 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
- (iii) the Lord Mayor shall then close the meeting.

### **14 Conflict resolution between Full Council and the Executive**

- (1) 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;
- (2) if the Leader registers an objection, the full Council must meet to reconsider the issue in light of the objection;
- (3) ultimately, full Council can insist on its decision.

### **15 Appointment of Committees**

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

## B2 – Standing Orders Relating to Contracts and Procurement Governance Arrangements

### PART A – STANDING ORDERS RELATING TO CONTRACTS

#### INTRODUCTION TO THE COUNCIL'S STANDING ORDERS RELATING TO CONTRACTS

The Council has a statutory duty under Section 135 Local Government Act 1972 to make Standing Orders with respect to the making by them or on their behalf 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.

These amended Standing Orders apply to all new procurement processes which are instituted after **1 March 2016**.

#### 1.0 APPLICATION AND INTERPRETATION

##### 1.1 Definitions

In these Standing Orders:-

**"Authorised Recipient"** means the officer responsible for the receipt of tenders and quotations.

**"Best Value"** means the Council's duty under Section 3 Local Government Act 1999.

**"Building Regulation Authority"** means a local authority as defined by Section 126(1) Building Act 1984.

**"Closing Date"** means the time and date specified in the invitation to tender, quote or negotiate (or any later date that is notified to all persons invited to tender, submit a quote or negotiate where such notification is provided at least 24 hours before the previous Closing Date).

**"Competitive Dialogue"** means a procedure in which any Contractor may request to participate and whereby the Council conducts a dialogue with the Contractors admitted to the dialogue with the aim of developing one or more suitable alternative solutions capable of meeting its requirements and on the basis of which the Contractors chosen by the Council are invited to tender.

**"Contract"** means a contract for supplies, services, or for the execution of any works and also includes a Framework Agreement. It excludes contracts for the acquisition or disposal of an interest in land, and the grant of a licence.

**“Contractor”** means any person seeking to enter into a Contract with the Council.

**“Decision Maker”** means the Council, Cabinet, Cabinet Member, Committee or Sub-Committee (including any District Committee), or Authorised Officer to whom a function has been delegated in accordance with the Council’s Constitution.

**“Estimated Total Cost”** means the aggregate total cost of the supplies or services to be provided or works to be performed under a Contract estimated prior to its procurement.

**“European Directives”** means the procurement directives of the European Union and any regulations that implement them within the United Kingdom.

**“European List”** means a list of Contractors compiled by another contracting authority following the entry into a Framework Agreement, in accordance with European Directives.

**“European Threshold”** means the threshold applying to local authorities at which supplies and services Contracts are subject to the European Directives.

**“Framework Agreement”** means a Contract which establishes the terms under which a contractor will enter into contracts with a contracting authority in the period during which the framework agreement applies.

**“LEP Authority”** means the following local authorities:-

Solihull MBC. East Staffordshire Borough Council, Lichfield Borough Council, Tamworth Borough Council, Bromsgrove District Council and Cannock Chase District Council and any other local authority (or authorities) that may join the Greater Birmingham & Solihull Local Enterprise Partnership.

**“Restricted Procedure”** means a procedure leading to the award of a Contract where only contractors selected by the Council may submit tenders.

**“Unforeseen Priority”** means a situation where there is an overwhelming and immovable requirement to complete an item of work, such requirement could not have been foreseen within sufficient time to have allowed a competitive procurement, and the adverse consequences of delaying the completion of such work significantly outweigh the consequences of not securing effective competition.

## 1.2 **Compliance**

Every Contract made by the Council shall comply with these Standing Orders PROVIDED THAT this does not include contracts for the appointment of barristers.

## 1.3 **Subdivision of Contracts**

No Contract shall be subdivided into smaller contracts so as to avoid compliance with Standing Orders.

#### 1.4 **VAT**

All figures in Standing Orders are net of VAT.

#### 2.0 **EXEMPTION**

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

#### 3.0 **QUOTATIONS**

##### 3.1 **Low Cost Quotations**

Where the Estimated Total Cost of a Contract does not exceed £10,000 no Contract shall be entered into unless 3 written quotations have been secured from Contractors listed on the finditinbirmingham.com database who the Authorised Recipient considers are suitable PROVIDED THAT if the Authorised Recipient is unable to secure the submission of 3 written quotations then the Authorised Recipient shall only be required to secure a quotation from one Contractor.

##### 3.2 **High Cost Quotations**

Where the Estimated Total Cost of a Contract exceeds £10,000 but is below the European Threshold no Contract shall be entered into unless either:-

3.2.1 the Contract has been advertised on finditinbirmingham.com and 14 days allowed for the submission of quotations and at least 3 quotations have been submitted. If at the end of 14 days less than 3 quotations have been submitted then direct contact may be made with at least 3 Contractors to request the submission of quotations in accordance with Standing Order 7; or

3.2.2 where there is a suitable European List at least 3 quotations have been submitted from Contractors on the European List. If the rules for the operation of the European List do not require a mini-competition then a quotation shall be requested from a Contractor on the European List.

##### 3.3 **Building Regulation Authorities and LEP Authorities**

Where the proposed Contract is for building consultancy work with a Building Regulation Authority or for services to be undertaken by a LEP Authority and the Estimated Total Cost of the Contract does not exceed the European Threshold the Council shall be entitled to enter into the Contract with the Building Regulation Authority or the LEP Authority as appropriate without first seeking quotations or advertising the Contract on finditinbirmingham.com.

#### **4.0 TENDERS**

No Contract whose Estimated Total Cost exceeds the European Threshold shall be entered into unless tenders have been invited in accordance with either the Open, Restricted or European List Procedure.

##### **4.1 Open Procedure**

Contracts shall be advertised on finditinbirmingham.com describing their scope, what Contractors have to do to tender and the Closing Date.

##### **4.2 Restricted Procedure**

Contracts shall be advertised on finditinbirmingham.com inviting interested parties to apply by a specified date. All Contractors who complete any pre-qualification questionnaire shall be considered for invitation .

##### **4.3 European List Procedure**

Invitations to tender for a Contract shall be issued in accordance with the rules for the operation of the European List.

##### **4.4 Pre Estimate of Tender Sum**

No tender shall be invited for a Contract unless: -

4.4.1 an authorised officer has prepared an estimate in writing of the probable expense of obtaining the supplies or services or of executing the works; and

4.4.2 in the case of a tender for the execution of any work, an authorised officer has prepared an estimate of the annual running costs after completion.

#### **5.0 NEGOTIATED CONTRACTS AND COMPETITIVE DIALOGUE**

##### **5.1 Multiple Contractor Negotiations**

5.1.1 A Contract may be negotiated with three or more prospective Contractors where the City Solicitor, the Strategic Director– Finance and Legal, or the Assistant Director Corporate Procurement Services has certified in writing prior to the commencement of such negotiations that: -

5.1.1.1 the method of procurement satisfies Best Value; and

5.1.1.2 Contractors would be unlikely to submit an unqualified tender or quotation.

5.1.2 Where a certificate has been issued under Standing Order 5.1.1, Standing Orders 3 and 4 (except Standing Order 4.4), shall not apply to that Contract.

**5.2 Single Contractor Negotiations**

5.2.1 A Contract may be negotiated with a single Contractor where the City Solicitor, the Strategic Director– Finance and Legal, or the Assistant Director Corporate Procurement Services has certified in writing prior to the commencement of such negotiations that: -

5.2.1.1 as a result of a market investigation there is only one contractor that can meet the Council's requirements for that Contract; or

5.2.1.2 there is an Unforeseen Priority.

5.2.2 Where a certificate has been issued under Standing Order 5.2.1, Standing Orders 3, 4 (except Standing Order 4.4) and 7 shall not apply to that Contract.

**5.3 Competitive Dialogue**

5.3.1 A Contract may be the subject of Competitive Dialogue where the City Solicitor, the Strategic Director - Finance and Legal, or the Assistant Director of Corporate Procurement Services has certified in writing prior to the commencement of the Competitive Dialogue that the Council is not objectively able to either:-

5.3.1.1 define the technical means capable of satisfying its needs or objectives; or

5.3.1.2 specify either the legal or financial make-up of a project or both; and

the use of the open or restricted procedure will not allow the award of that Contract.

5.3.2 Where a certificate has been issued under Standing Order 5.3.1, Standing Orders 3 and 4 (except Standing Order 4.4) shall not apply to that Contract.

**6.0 FRAMEWORK AGREEMENTS****6.1 Single Contractor Framework Agreement**

Where a single Contractor has entered into a Framework Agreement with the Council the issue of individual orders for work within the scope of the Framework Agreement shall not require further action under Standing Orders.

**6.2 Multiple Contractor Framework Agreements**

When more than one Contractor has entered into a Framework Agreement with the Council then unless the issue of orders is in accordance with any allocation rules specified by the Decision Maker on the award of the Contract, then there shall be a report issued to the Decision Maker under Standing Order 8.2 setting out the

reason for the award to the particular Contractor and how the price payable by the Council has been reached.

## **7.0 SUBMISSION OF QUOTATIONS AND TENDERS**

### **7.1 Method of Submission**

All invitations to tender or quote shall state that no tender or quotation shall be considered unless it is submitted in accordance with the requirements described in the instructions for tendering or submitting quotations.

### **7.2 Closing Date**

No tender or quotation received after the Closing Date shall be accepted or considered.

### **7.3 Record**

The Authorised Recipient shall be responsible for ensuring that there is an accurate record of the receipt of tenders and quotations.

## **8.0 EVALUATION**

### **8.1 Evaluation principles**

All invitations to tender or to submit quotation shall specify the evaluation criteria.

### **8.2 Evaluation Report**

A written report on the evaluation of tenders including the outcome of negotiations for negotiated contracts shall be issued to the Decision Maker.

## **9.0 CONTENT OF CONTRACTS**

### **1) Every Contract shall be in writing and shall contain clauses which are currently approved by the City Solicitor which address:-**

9.1 The prevention of corruption;

9.2 Equal opportunities; and

9.3 The Council's procurement policy framework for jobs and skills where applicable.

**10.0 EXECUTION OF CONTRACTS****10.1 Sealing**

Every works Contract which exceeds £250,000 in value and every Contract 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 by the Contractor as a Deed.

**10.2 Signing**

Subject to Standing Order 10.1 every Contract shall be signed on behalf of the Council either by a senior lawyer who is duly authorised by the Council or an authorised officer.

**10.3 Members**

No member of the Council shall enter either orally or in writing into any Contract on the Council's behalf.

**PART B – PROCUREMENT GOVERNANCE ARRANGEMENTS****1. Scope**

This sets out the governance arrangements for approval and award of contracts and for the exercise of the chief officer delegations under Article 12.4 (a) where the supplies, materials, services to be purchased or the works to be executed are between the European Threshold (currently £164,176) and £10,000,000 in value. (These figures refer to the Council's expenditure only, notwithstanding that the Council may permit its framework agreements to be used by other contracting authorities). Where the estimated value of a contract exceeds £10,000,000 and therefore Cabinet is required to approve a strategy report, it shall normally delegate the contract award decision to Chief Officers in accordance with the Procurement Governance Arrangements, provided that the tolerances in paragraph 5 below are not exceeded in which case such contract award decision will be made jointly by the Cabinet Member - Value for Money and Efficiency together with the relevant Chief Officer.

**2. Objective**

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.

**3. Planned Procurement Activities Report**

The Assistant Director of Corporate Procurement Services (CPS) shall present a report to every meeting of Cabinet plus a copy to the Corporate Resources Committee of all

relevant planned procurement activity (**“Planned Procurement Activities Report”**). The report is in header form listing the contract values and goods or services with estimated timescale, together with a briefing note. This report is to alert Cabinet of any procurement activities planned, to identify any sensitivities or requirements to come to Cabinet for a decision prior to starting the tender or awarding the contract. Any planned procurements can, at the discretion of Cabinet, be brought back to Cabinet for an executive decision.

#### 4. Strategy Report

Prior to commencing a procurement process and the issue of tender documents, a brief outline of the proposed activity (**“Strategy Report”**) will be prepared by the Directorate Chief Officer, or if the contract is designed to service 2 or more Directorates, the Assistant Director of Corporate Procurement Services (**“the Contract Owner”**) seeking approval from:

- Finance - to validate that the anticipated benefits can be realised and to confirm the budget is available;
- Legal - to confirm the proposal including the method of procurement is within the Council’s powers, is likely to secure effective competition and provide value for money; and
- Procurement - to confirm the best form of procurement and approve the market engagement strategy.

The Contract Owner shall gain approval to the content of the Strategy Report from Legal Services, Finance and Corporate Procurement by email. It is required that the same, final version of the Strategy Report be seen and signed off by all parties.

#### 5. Tolerances for operation

If a Planned Procurement Activities Report is not approved for the goods or services required then an executive decision will need to be made by Cabinet (or the relevant Cabinet Member in consultation with a Chief Officer if it is within the financial limits in Article 6.4). Also if:-

- the estimated total value of the contract exceeds the figure stated in the Planned Procurement Activities Report by 20% or £500,000 (whichever is the lower), or exceeds £10,000,000;
- the proposed length of the contract exceeds by more than 6 months the term stated in the Planned Procurement Activities Report;
- there is a material change to the scope of the contract as set out in the Planned Procurement Activities Report;

the executive decision on contract award will be delegated to the Cabinet Member - Value for Money and Efficiency acting jointly with the relevant Chief Officer.

**6. Contract award report**

At the end of the tender and to enable a contract award to be made, a short award report shall be produced for consideration by the relevant Chief Officer in order to authorise approval ("Contract Award Report"). Where the Contract Award Report is for the award of a framework agreement, then the Contract Award Report will specify the following limitations ("the Framework Limits"):-

- the pre estimate of expenditure or the total value of orders; and
- the rules for the allocation of orders.

The Contract Award Report shall have been approved by the relevant representatives of the City Solicitor, the Strategic Director– Finance and Legal and the Assistant Director of Corporate Procurement Services. The same, final version of the Contract Award Report be seen and signed off by all parties.

**7. Combined Strategy and Contract Award report**

Where the proposed procurement route is the use of another contracting authority's framework agreement, a combined strategy and contract award report may be presented to the relevant Chief Officer provided that the report contains a detailed options appraisal stating:-

- the justification for the use of the framework agreement;
- how the Council's policies (including the Social Value Policy) will be addressed; and
- the benefits over a Council tender.

**8. Contract extension report**

A Contract Award Report may authorise an extension to a contract where a contract has expired and a replacement contract has not been procured in time and there is no option outstanding to extend the contract provided that:-

- Legal, Finance and Procurement are satisfied that there is no viable alternative solution;
- The value of the extension does not exceed £500,000;
- The contract conditions are similar to those of the contract which has expired; and
- There is no change to the specification to that contained in the contract which has expired.

Such Contract Award Report shall set out the business case and appraisal of options, the outcome of any negotiations with the contractor and the reasons why it was not

practicable to complete a procurement process and award a contract prior to the expiry of the current contract.

## **9. Framework agreements**

Where the award of a framework agreement has been approved by a Cabinet Member jointly with a Chief Officer, or by a Chief Officer in accordance with the Procurement Governance Arrangements then Chief Officers may issue further orders under the framework agreement provided that they comply with the Framework Limits.

## **10. Record of decisions**

The Assistant Director of Corporate Procurement Services shall:-

- maintain a record of all decisions made by Chief Officers; and
- report on a quarterly basis to Cabinet on all decisions taken by Chief Officers during the previous quarter;

to which these Procurement Governance Arrangements apply. The report will be in header form listing the contract values, timescales and goods, services or works.

## **11. Compliance**

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

## B3 – Financial Regulations

### Section 1 - Introduction

- 1.1 The functions of the Council are exercised by Cabinet Members, Committees and officers as set out in the Council's **Volume A: The Constitution**. However, the exercise of this function is subject to the supervision of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer - who have a duty to report to the meeting of the full Council any *proposed or actual unlawful activity or expenditure*.
- 1.2 Whilst reference is made to Strategic Director throughout these regulations this title also includes the Chief Executive and it is emphasised that financial responsibility does not solely reside with these specific officers, and managers and other staff must all have due regard to these regulations and their responsibilities in the discharge of the Council's activities.
- 1.3 The Financial Regulations provide an internal framework for financial administration and control within the Council. They form an integral part of the regulations and procedures used within the Council and should be read in conjunction with the Policies, Standards, Procedures and Guidance, which provides more detail on matters covered by these Financial Regulations which should not be considered in isolation. Various formal guidance notes will also be issued from time to time by the Strategic Director - Finance and Legal.

### Section 2 – Compliance with Financial Regulations

- 2.1 Each Strategic Director must ensure that they and their relevant staff follow these Financial Regulations and the Policies, Standards, Procedures and Guidance to ensure that their services are administered in line with best practice. A list of the areas currently covered in the Policies, Standards, Procedures and Guidance is contained in Appendix A.
- 2.2 The Policies, Standards, Procedures and Guidance should be used as the basis of any Directorate Financial Procedures to ensure public accountability and high standards of financial integrity and consistency throughout the City Council.
- 2.3 The Strategic Director –Finance and Legal is the responsible officer for the proper administration of the Councils financial affairs under the Local Government Act 1972, Section 151.
- 2.4 Where reference within these Financial Regulations is made to Strategic Director and the Monitoring Officer it is taken to also mean his / her nominated deputy / representative.
- 2.5 The Financial Regulations are applicable at all times and apply to both Members and employees of the City Council and external parties acting as the agent of the City Council or otherwise agreed with the Strategic Director - Finance and

Legal. The Financial Regulations exclude schools for which separate regulations apply.

- 2.6 Failure to comply with Financial Regulations, or instructions issued under them, may constitute misconduct.
- 2.7 The Strategic Director - Finance and Legal is responsible for reviewing, maintaining and revising these Financial Regulations and only then with the approval of the Council.
- 2.8 The Strategic Director - Finance and Legal is responsible for maintaining the Policies, Standards, Procedures and Guidance. Any requests to make changes to the Policies, Standards, Procedures and Guidance must be directed to the Strategic Director - Finance and Legal who has the authority to approve the changes.
- 2.9 The Strategic Director - Finance and Legal has the right to be present and give appropriate advice, at all meetings, where the Council's financial arrangements are discussed.

### **Section 3 - Delegated Authorities**

#### Strategic Director – Finance and Legal

- 3.1 To fulfil the requirements of section 151 of the Local Government Act 1972, section 113 of the Local Government Finance Act 1988 and the Accounts and Audit (England) Regulations 2011, the Strategic Director - Finance and Legal will be the officer responsible for the proper administration of the City Council's financial affairs.
- 3.2 The Strategic Director - Finance and Legal has a statutory responsibility to ensure there are appropriate and adequate systems and procedures within the City Council to:
  - 3.2.1 account for all income and expenditure.
  - 3.2.2 protect assets from loss, waste, theft or fraud.
- 3.3 The Strategic Director - Finance and Legal will discharge this responsibility in part, by the issue and maintenance of a Policies, Standards, Procedures and Guidance approval of Directorate Financial Procedures.
- 3.4 Any guidance issued by the Strategic Director - Finance and Legal on corporate financial standards and financial management will comply with recognised best professional practice.

Strategic Directors

- 3.5 Each Strategic Director must ensure they have appropriate organisational structures in place to achieve effective financial administration in the fulfilment of their service responsibilities.
- 3.6 Each Strategic Director must:
- 3.6.1 ensure that all expenditure is lawful (intra vires), has been properly authorised and all necessary processes have been complied with.
  - 3.6.2 ensure there are adequate controls and procedures in operation within their departments
  - 3.6.3 proper and legal budgets have been set.
  - 3.6.4 the identification, reconciliation, recording and security of all income due/received.
  - 3.6.5 the security, custody and management of all assets.
- 3.7 Each Strategic Director must report to the Monitoring Officer and the Strategic Director - Finance and Legal, where there is doubt over the legality of proposed, or already incurred expenditure and or actions.
- 3.8 Each Strategic Director and their employees must:
- 3.8.1 ensure that net expenditure (revenue and capital) in their areas of responsibility does not exceed the annual budgets set for their services and projects.
  - 3.8.2 comply with all laid down financial, professional, management, legal and ethical standards.
- 3.9 It is the responsibility of each Strategic Director to ensure they have effective financial systems process and procedures in place. To facilitate this, each Strategic Director must either wholly adopt the procedures determined by the Strategic Director - Finance and Legal in the Policies, Standards, Procedures and Guidance for his / her staff to follow or, where authorised to do so by the Strategic Director - Finance and Legal, tailor this to meet specific local requirements, as part of a Directorate Financial Procedures.
- 3.10 Each Strategic Director must prepare Equality Impact Needs Assessments for their areas of responsibility and for any proposals for major change, in a format specified by the Head of Equalities.
- 3.11 Each Strategic Director must ensure that all of their employees receive up to date financial and systems training to properly perform their duties.
- 3.12 Each Strategic Director will, in accordance with the arrangements approved by and in agreement with, the Strategic Director - Finance and Legal nominate an Accounting Officer (the Assistant Director (Finance) for the service) who will manage the finance function for the Strategic Director.

**Section 4 - Accounting Arrangements**

- 4.1 The Strategic Director - Finance and Legal is responsible for determining the accounting policies used in the preparation of the annual accounts and budgets with due regard to the provision of Section 151, the Accounts and Audit (England) Regulations 2011 and other statutory and corporate provisions which affect the financial affairs of the Council. The Strategic Director - Finance and Legal is responsible for co-ordinating and producing the City Council's annual corporate financial accounts.
- 4.2 The Strategic Director - Finance and Legal will determine the form and standard of all financial records, statements and accounts in line with statutory requirements and CIPFA's Accounting Code of Practice.
- 4.3 Each Strategic Director, through the appropriate Accounting Finance Officer, is responsible for ensuring adequate controls relating to accounting arrangements in accordance with the principles of effective management. Strategic Director's must avoid any arrangement which would enable one officer to authorise, process and record a complete financial transaction. In cases where this would be impractical, the Strategic Director - Finance and Legal must approve alternative arrangements and the Strategic Director must ensure that the work is properly monitored.
- 4.4 Periodic reports on actual spending against budget must be submitted by each Strategic Director in conjunction with the Strategic Director - Finance and Legal, to the appropriate executive party/Committee in a format and timetable prescribed by the Strategic Director - Finance and Legal, with explanations of variances and any mitigating actions.
- 4.5 Each Strategic Director must provide the Strategic Director - Finance and Legal with the necessary information for the purposes of accounting and budgetary control, financial statements and returns, employee information and other financial information in a format prescribed by the Strategic Director - Finance and Legal and in accordance with the timetable issued by that officer.
- 4.6 The Strategic Director - Finance and Legal will decide the period for which accounting records and supporting documents will be kept (including the type of storage media) and Strategic Director's must ensure that the records and documents are kept safely for that period.
- 4.7 Each Strategic Director is responsible for regularly reviewing and ensuring the completeness and accuracy of Unofficial funds held in their areas of responsibility. Unofficial Funds are funds for which the City Council is legally, either in whole or in part, the custodian, but which do not form part of the City Council's revenue or capital accounts or constitute a formal trust fund of which the City Council is a trustee. The number of funds must be kept to a minimum and in accordance with the Policies, Standards, Procedures and Guidance and policy / guidance relating to unofficial funds.

**Section 5 - Revenue and Capital Budget Allocations & Approvals**

- 5.1 The Council must approve the Annual Business Plan (including the revenue and capital budget) for each financial year before the preceding 10 March.
- 5.2 The Council must approve the level of Council Tax in accordance with the Local Government Finance Act 1992.
- 5.3 The Strategic Director - Finance and Legal will:
  - 5.3.1 determine the timetable for the completion of the Business Plan (including the Budget).
  - 5.3.2 co-ordinate its production for approval.
- 5.4 After the Council has approved the Annual Corporate Budget, the service revenue budgets for each Directorate and Committee:
  - 5.4.1 must by 31 March be prepared within the parameters and policies contained within the Council Business Plan and incorporated budget.
  - 5.4.2 once approved will give authority for revenue expenditure to be incurred provided it complies with the City Council's Financial Regulations and Standing Orders.
  - 5.4.3 are cash limited and should not be exceeded without prior consent of the Cabinet.
- 5.5 If approval is given to exceed the budget, any resultant over spends may be deducted from the following year's budget allocation or the relevant Directorate/Committee net resources. Any under spends may only be carried forward with prior consent of the Cabinet.
- 5.6 Each Strategic Director will be responsible for preparing and providing information for the content of revenue and capital estimates, which will be prepared in conjunction with the Strategic Director - Finance and Legal.
- 5.7 Budget Allocations and project approval decisions shall be made in accordance with the financial approval framework (Appendix B) and the Gateway procedure (Appendix C). The Gateway procedure describes a four stage process which must be followed for all projects:
  - (a) Project Definition Document - explores options to deliver the desired outcomes and seeks authority to develop the most appropriate option further.
  - (b) Full Business Case - seeks approval of the developed option to implementation and to procure appropriate resources.

- (c) Contract Award – seeks authority to contract award in line with Standing Orders and Procurement Governance Arrangements.
- (d) Post Implementation Review – reviews actual project performance against budget, milestones, outputs/outcomes etc. approved at FBC stage.

### **Section 6 - Final Accounts & Year End Procedures**

- 6.1 The Strategic Director - Finance and Legal must make arrangements for the accurate and timely production of the City Council's accounts.
- 6.2 Each Strategic Director plays a key role in enabling the Strategic Director - Finance and Legal in discharging his / her responsibilities in relation to the accounts. Each Strategic Director:-
  - 6.2.1 is responsible for closing directorate accounts in accordance with accounting principles, and guidance notes and timetable provided by the Strategic Director - Finance and Legal to ensure compliance with the Accounts and Audit (England) Regulations 2011 and subsequent amendments.
  - 6.2.2 is responsible for providing the Strategic Director - Finance and Legal and Director of Property with an accurate and up to date list of assets within the assets register on 31st March.
  - 6.2.3 must maintain prime documentation used in the preparation of the Accounts in order to provide a clear audit trail and in line with any requirements of the City Council's External Auditors.
  - 6.2.4 must produce completed grant claims and necessary supporting documentation to and for inspection by the Strategic Director - Finance and Legal in a format prescribed by him/her.
- 6.3 The Director of Finance is responsible for reporting the City Council's outturn to Cabinet and for producing the Council's Statement of Accounts for approval by the Audit Committee.

### **Section 7 - Corporate Financial Systems**

- 7.1 Each Strategic Director must ensure that wherever possible, the City Council's corporate financial systems, which are detailed within the Policies, Standards, Procedures and Guidance (including property record systems), are used by all appropriate employees within his / her areas of responsibility.
- 7.2 Each Strategic Director must ensure that if standalone systems are used, irrespective of whether these feed into the City Council's corporate financial systems or not, they have adequate prevention and detection controls and prior approval has been obtained from the Strategic Director - Finance and Legal to use the system(s).

- 7.3 The Strategic Director - Finance and Legal will need to approve the specification, prior to tendering, for any system which will feed into the City Council's corporate financial systems.

### **Section 8 - Value for Money**

- 8.1 Each Strategic Director must ensure that actions are taken to deliver services in accordance with agreed performance standards and demonstrate that they are delivering value for money.
- 8.2 Each Strategic Director must prepare, monitor and present performance indicators against agreed benchmark targets to the appropriate executive party/committee.

### **Section 9 – Risk Management**

- 9.1 Each Strategic Director must ensure they have identified, evaluated (using the Council's corporate risk management methodology) and recorded the risks, financial or otherwise, which exist within their area of service delivery.
- 9.2 Each Strategic Director must ensure there are adequate controls, procedures and resources in operation, to manage the identified key risks and take appropriate action to mitigate the risks.

### **Section 10 - Assurance Statements**

- 10.1 Each Strategic Director must annually, produce an annual Assurance Statement disclosing the following:-
- 10.1.1 in the format prescribed by the Strategic Director - Finance and Legal, each Strategic Director or Head of Service has carried out reviews to evaluate, correct and report on the controls and systems in operation and retained evidence to support any conclusions.
  - 10.1.2 they have complied with the City Council's Financial Regulations and Standing Orders and have, by using the corporate risk methodology identified, evaluated, recorded and managed the key risks, financial or otherwise, which exist within their area of service delivery.
  - 10.1.3 if no risk management or reviews have been carried out then this must be disclosed within the statement, together with appropriate reasons as to why they have not been carried out and the actions that will be taken to meet these requirements in the future.
- 10.2 In preparing this statement, the Strategic Director must require from all relevant officers reporting to him/her a similar statement for their area of responsibility.

**Section 11 - Insurance**

- 11.1 The Strategic Director - Finance and Legal in consultation with Strategic Director's is responsible for determining the Council's policy in terms of insurable risks. However, each Strategic Director is responsible for ensuring any risk management processes identify, evaluate and record both insurable and uninsurable risks.
- 11.2 Each Strategic Director is responsible for minimising the risks from insurance claims and must ensure that procedures are in place to do so.

**Section 12 - Internal Audit**

- 12.1 Each Strategic Director must ensure there is an open, honest, transparent and accountable culture in operation within their area of responsibility and must make its services available as and when required for audit both internally and externally.
- 12.2 The Assistant Director of Audit & Risk Management provides a continuous internal audit and reviews the Council's financial records and operations. The service is in accordance with the Accounts and Audit (England) Regulations 2011 and relevant professional guidance.
- 12.3 The role of the Assistant Director of Audit & Risk Management is to review and assess both the operational and financial systems used by the Council for the delivery of its services and to advise and where appropriate participate in service reviews report on areas of significant non-delivery to the relevant Strategic Director and Strategic Director - Finance and Legal.
- 12.4 The, Assistant Director of Audit & Risk Management on the authority of the Strategic Director - Finance and Legal, shall have authority to:-
- 12.4.1 enter any Council premises or land at all reasonable times.
  - 12.4.2 have access to all records, documents, data and correspondence relating to all transactions of the City Council, or unofficial funds operated by an employee as part of their duties.
  - 12.4.3 require any employee of the City Council to provide such explanations, information or any other assistance necessary concerning any matter under audit examination.
  - 12.4.4 require any employee of the Council to produce cash, stores or any other property under his / her control, belonging to the Council or held as part of the employee's duties.
- 12.5 The rights in 11.3 apply equally to organisations which have links with or provide services on behalf of the Council (e.g. voluntary aided schools, wholly owned companies, voluntary organisations or other agents acting on behalf of the Council) where the City Council has a statutory or contractual entitlement to

exercise such right. These rights shall be included in all contractual arrangements entered into with such organisations.

- 12.6 Internal Audit will review corporate governance structures, roles, reporting lines and responsibilities of Officers.
- 12.7 Internal Audit will notify the results of internal reviews in writing to Strategic Directors who must respond in writing to any recommendations contained in audit reports in accordance with any agreed protocols.

### **Section 13 - External Audit**

- 13.1 The key responsibilities of the Strategic Director - Finance and Legal with regard to External Audit are to:
  - 13.1.1 maintain accounting records and prepare statements of account.
  - 13.1.2 Liaise and work with External Audit on a regular basis.
  - 13.1.3 receive and deal with all queries relating to the work of the Council from External Audit. Strategic Director's and their designated officers should not deal directly with External Audit on matters of accounting principles. These queries / concerns should be directed through the Strategic Director - Finance and Legal.
  - 13.1.4 inform External Audit of all fraudulent cases that have been referred to the Police.

### **Section 14 - Irregularities, Fraud and Corruption**

- 14.1 The responsibility for prevention and detection of fraud rests with all employees.
- 14.2 Each Strategic Director must ensure that the Strategic Director – Finance and Legal, Assistant Director of Risk Management and, if applicable, the Monitoring Officer, is notified immediately whenever a matter arises which involves, or is thought to involve, any financial irregularities, fraud and corruption.
- 14.3 The Strategic Director - Finance and Legal is responsible for deciding on the action to be taken to investigate suspected financial irregularities, including referring the matter to the Police.
- 14.4 If there are any suspicions that a Member may be involved/or associated either directly or indirectly in an incident that may require investigation, then the Strategic Director must report this to the Strategic Director - Finance and Legal, who may refer the matter to the appropriate Cabinet Member or Committee.
- 14.5 Each Strategic Director must implement the Anti-Fraud Strategy, the Criminal Acts Procedure and the Confidential Reporting (Whistle blowing) Code and Public Interest Disclosure Act 1998.

**Section 15 - Income and Banking**

- 15.1 Each Strategic Director must ensure that all systems and procedures relating to income and banking:
  - 15.1.1 have adequate prevention and detection controls.
  - 15.1.2 are in accordance with the Accounts and Audit (England) Regulations 2011.
  - 15.1.3 each transaction is identified, recorded, and accounted for, and sums received kept secure and promptly banked.
  - 15.1.4 comply with the requirements of the Income and banking section of the Policies, Standards, Procedures and Guidance.
  - 15.1.5 comply with the Corporate Charging Policy.
- 15.2 A report must be presented at least annually to gain the agreement of the appropriate decision maker regarding any fees and charges levied by the City Council, following consultation with the Deputy Leader.
- 15.3 Strategic Director's must consult with the Strategic Director - Finance and Legal on each occasion that the delegated authority to write off accounts up to £25,000 is exercised. The Strategic Director - Finance and Legal must report, at least annually, all write-offs to the Cabinet in accordance with the procedures and limits detailed in the Policies, Standards, Procedures and Guidance.
- 15.4 Each Strategic Director must maintain an up to date list of authorised signatories in accordance with the procedures and limits detailed in the Policies, Standards, Procedures and Guidance.
- 15.5 Only the Strategic Director - Finance and Legal or authorised representative where applicable, shall have authority to:
  - 15.5.1 operate all such bank accounts considered necessary.
  - 15.5.2 approve all dealings and arrangements with the City Council's bankers.
  - 15.5.3 authorise the ordering of cheques ( inc. National Giro payment forms) and make proper arrangements for their safe custody.
  - 15.5.4 approve and sign all alterations and amendments to cheques.
  - 15.5.5 make all requests for City Council credit cards.
- 15.6 All cheques drawn on the City Council's main banking accounts will bear the facsimile signature of the Strategic Director - Finance and Legal or be signed in manuscript by the Strategic Director - Finance and Legal or authorised representative.

**Section 16 - Orders and Payments**

- 16.1 Each Strategic Director must ensure that all expenditure is lawful (intra vires), has been properly authorised and all necessary processes have been complied with. Additionally, each Strategic Director must ensure there are adequate controls and procedures in operation within their areas of responsibility to ensure:
- 16.1.1 the City Council's Standing Orders relating to Contracts are complied with
  - 16.1.2 orders are only raised where there is sufficient budget remaining to cover all costs associated with the order taking into account likely future commitments as well as the cost relating to a particular order.
  - 16.1.3 wherever possible orders are only raised under contracts which have been centrally negotiated or with suppliers who appear on the City Council's Voyager E-catalogue.
  - 16.1.4 orders are raised, processed and paid using the City Council's Voyager System and in accordance with the procedures and limits detailed within the Policies, Standards, Procedures and Guidance, unless it has been authorised by the Strategic Director - Finance and Legal, not to do so.
  - 16.1.5 goods and services are ordered and paid for, which are for official purposes and help the effective operation of the City Council.
  - 16.1.6 payments are only made on appropriately certified documents (i.e. invoices, student award applications etc. ) and in accordance with the procedures and limits detailed within the Policies, Standards, Procedures and Guidance.
  - 16.1.7 orders and payments are accounted for in accordance with the procedures and limits detailed within the Policies, Standards, Procedures and Guidance.
  - 16.1.8 a list of officers authorised to certify payments is maintained in accordance with the procedures and limits detailed within the Policies, Standards, Procedures and Guidance.
  - 16.1.9 salaries, wages, gratuities, compensation, voluntary redundancy payments and other emoluments are paid in accordance with the procedures and limits detailed within the Policies, Standards, Procedures and Guidance.

**Section 17 – Grants to Outside Bodies**

- 17.1 Grants to outside bodies must follow the Council's Conditions of Grant Aid to that body.

- 17.2 The Strategic Director - Finance and Legal will issue guidelines for each Strategic Director to follow, for any bids for grants, company or partnership funding, or applications submitted to Central Government, the European Commission or any other external organisation for financial support towards the costs of City Council projects / programmes or where the City Council is otherwise involved.

### **Section 18 – Accountable Body Roles**

- 18.1 Each Strategic Director must ensure that all accountable body arrangements comply with all legal requirements and relevant City Council procedures, and that arrangements are in place to identify and manage the associated financial, reputational and performance risks.

### **Section 19 - Companies & Partnerships**

- 19.1 Where a Strategic Director feels that it is appropriate to discharge a service or provide a function through the formation of a new legal entity (company or otherwise), the relevant Strategic Director should consult with the Monitoring Officer and the Strategic Director - Finance and Legal.
- 19.2 Each Strategic Director must notify the Monitoring Officer and the Strategic Director - Finance and Legal of any changes in relation to membership or financial management of any company formed by the Council to discharge its services or function.

### **Section 20 - Treasury Management**

- 20.1 The City Council has adopted CIPFA's Treasury Management in the Public Services: code of Practice and Cross Sectoral Guidance Notes, including the four clauses in financial regulations 19.2 to 19.5 below:
- 20.2 The City Council will create and maintain, as the cornerstones for effective treasury management:
- a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
  - suitable treasury management practices (TMPs), setting out the manner in which the City Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the City Council. Such amendments will not materially deviate from the Code's key principles.

- 20.3 The City Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year. Cabinet will as a minimum receive, a mid year review and an annual report after the year end, in the form prescribed in its TMPs.

- 20.4 Responsibility for the implementation and regular monitoring of treasury management policies and practices is delegated to Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.
- 20.5 The relevant Overview and Scrutiny sub-committee shall be responsible for ensuring effective scrutiny of the Treasury Management strategy and policies, and Audit Committee shall be responsible for reviewing the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and TMPs.
- 20.6 Employees of the Council must not invest Council monies, or borrow, or enter into currency exchange or hedging transactions without a written delegation from the Section 151 Officer. Money held by School Governors under Fair Funding should be invested by Governors in accordance with the City Council's scheme for financing schools.
- 20.7 All money in the custodianship of the City Council should be under the control of the Strategic Director - Finance and Legal.

**Appendix A****Contents of the Finance PSPG as at January 2016**

Administration of Finance PSPG  
Accountable Bodies  
Agency Agreements  
Annual Closedown of Accounts  
Anti-Money Laundering  
Car Mileage  
Cashbooks  
Cashiering & Banking  
City Council Companies  
Collection Fund  
Credit Cards  
Disposal of Obsolete Equipment  
Engagement of Consultants and Interims  
Fair Funding for Schools  
Fees & Charges  
Financial & Organisational Master Data  
Financial Regulations & Accounting Standards  
Fixed Asset Accounting  
Foreign & Domestic Travel  
General Accounting Processes  
Grant Accounting  
Grants to Outside Bodies  
Income & Debtors  
Income Tax  
Insolvencies  
Insurance  
Internal Recharges  
Internal Trading  
Inventory Procedures and Use of Council Property  
Loans & Leases to Employees  
Loans, Shares, Investments and Guarantees Provided for Service Provision  
Members Allowances  
Payment Activities  
Payroll  
Petty Cash  
Procurement  
Project Governance & Accounting  
Property Management  
Public Inspection of the Accounts  
Risk Management  
Statutory Publicity Account  
Stores Procedures  
Treasury Management  
Trusts  
Unidentified Income  
Unofficial Funds  
VAT

**Governance and Audit PSPG as at January 2016**

External Audit Protocol

Fraud Awareness

Internal Check

Retention of Financial Records

**Gateway and Related Financial Approval Framework – March 2016**

Threshold Key		Within Strategic Director Delegations (note 1)	Above Strategic Director Delegations & below Key Decision (note 10)	Above Key Decision
		< Threshold 1	> Threshold 1 and < Threshold 2	> Threshold 2
1 - £200k				
2 – £500k Revenue or £1m Capital.				
<b>1.0 Business Case Approvals – Capital Project ‘Gateway’ (Notes 2,3 &amp; 4)</b>				
1.1	Project Definition Document (Options Appraisal) reports and Full Business Case reports <b>(based on estimated whole project cost)</b> . (Discretion to Strategic Director – Finance and Legal to vary Business Case requirements according to circumstances).	Strategic Director (no QA & G assessment required and reporting formats to be determined locally)	Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee; following QA & G assessment	Cabinet following QA & G assessment
1.2	Post Implementation Review reports where required.			
1.3	Capital Project and Programme overspends i.e. >10% or £200k (whichever is greater) of approved Full Business Case	Revised Full Business Report must be presented to the original FBC approver (note 8)		
<b>2.0 Capital Allocation Approvals</b>				
2.1	Allocation of additional Corporate Capital Resources (note 5)	Strategic Director – Finance and Legal	Cabinet	Cabinet
2.2	Allocation of Capital Contingency			
2.3	Virement or reallocation of capital budgets held by Directorates			
2.4	Virement or reallocation of corporate capital budgets between projects (note 6)			
2.5	Resource allocations in kind, e.g. asset swaps, appropriations and discounted sales where cost is not met by service			
2.6	Land appropriations where cost is met by service			
2.7	Virement of specific capital resources between projects/programmes held by Directorates (note 5)			Cabinet

2.8	Allocation of approved general programme capital budgets to individual projects within the existing policy framework	Strategic Director	Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee	Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee
2.9	Approval to bid for external capital resources (including any associated Accountable Body roles) to be included in a Project Definition Report. (note 7).		Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee	Cabinet
2.10	Approval to incur expenditure funded by accepting external capital resources (including any associated Accountable Body roles) where 2.9 is not applicable (eg where no bid submission was required) (note 7)			
2.11	Technical capital budget reallocations or adjustments (e.g. resulting from reorganisation)	Strategic Director – Finance and Legal	Strategic Director – Finance and Legal	Strategic Director – Finance and Legal
2.12	Capital Project and Programmes underspends	No approvals required, but any corporate resource underspends must be returned to the corporate resource pool		

<b>3.0</b>	<b>Revenue Allocation Approvals</b>			
3.1	Allocation of corporate revenue budgets	Strategic Director – Finance and Legal (in consultation with the Chief Executive and Leader if over £100k)	Cabinet	Cabinet
3.2	Allocation of <b>general</b> revenue Policy Contingency			
3.3	Virement or reallocation of revenue budgets between Directorates			
3.4	Virement or reallocation of revenue budgets held by Directorates. (These approvals relate to in year virements – all ongoing virements over £500k would require Cabinet approval)	Strategic Director	Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee	Cabinet
3.5	Approval to bid for external revenue resources (including any associated Accountable Body Roles) to be included in a Project Definition Report. (note 7)			
3.6	Approval to incur expenditure funded by accepting external revenue resources (including any associated Accountable Body roles) where 3.5 is not applicable (eg where no bid submission was required) (note 7)			
3.7	Technical revenue budget reallocations or adjustments (e.g. resulting from reorganisation)	Strategic Director – Finance and Legal	Strategic Director – Finance and Legal	Strategic Director – Finance and Legal
3.8	Allocation of <b>specific</b> revenue Policy Contingency	Strategic Director - Finance and Legal, in consultation with the	Strategic Director – Finance and Legal, in consultation with	Strategic Director – Finance and Legal, in consultation with

		Chief Executive and Leader	the Chief Executive and Leader	the Chief Executive and Leader
<b>4.0</b>	<b>BCC Loans, Investments, guarantees and underwritings made to Other Organisations, (Note 9)</b>			
4.1	Requires approval of PDD and FBC which must include Treasury Management and QA & G assessment in accordance with the PSPG Procedure.	Strategic Director	Either relevant Cabinet Member jointly with relevant Strategic Director or Regulatory Committee; (£200k - £500k)	Cabinet

**Gateway and Related Financial Approval Framework – Supporting Notes**

1. Strategic Director delegation level is £200,000. Whilst the report formats for approval below this level are to be determined locally they must support good decision making and provide adequate justification for the proposal being put forward.
2. 'Capital Project/Programme' means any capital expenditure, including 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 Quality Assurance & Governance Team (QA & G) before completion and which may include the consideration of wider delegations to officers as appropriate. In relation to Emergency Health and Safety works these are an exception to the usual Gateway reporting requirements and the approach to seeking authority to these works should be discussed with the Quality Assurance & Governance Team (QA & G).
3. 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' PDD or FBC approvals, as long as the assessment/appraisal process has been reviewed by the QA & G and is of a comparable or higher standard than the BCC gateway appraisal process.
4. Project Definition Documents will require a recommendation to release development funding and prudential borrowing must be approved in Full Business Cases. Approval to external funding will also need to be included in these reports in order to comply with 2.9 and 2.10.
5. 'Corporate Capital Resources' means capital resources which the Council can use for any purpose, including all capital receipts, earmarked capital receipts, un-ringfenced capital grants, and other general resources as determined by the Strategic Director – Finance and Legal; it excludes 'specific capital resources'. Specific capital resources are all other resources which have a restricted purpose, and include revenue contributions from a Directorate's own budget. Capital resources include 'Provisional allocations' as well as Approved capital budgets.
6. Capital virements within a project (e.g. from one Work Breakdown Structure element to another) can be approved by the Project's Board.
7. Approvals in respect of external resources also need to cover; other associated revenue or capital financial implications e.g. running costs, matched funding, costs to other Directorates etc; risks; Accountable Body implications; any funding conditions.
8. The allocation of any additional capital resources as a result of a capital overspend must be approved in accordance with the Resource allocation section of this Framework.
9. Capital controls treat the giving of certain loans and investments as capital expenditure. These therefore require PDDs, FBCs and executive approval in accordance with sections 2 and 3 above. However, the giving of a loan or investment which is not treated as capital, is a 'balance sheet' transaction only. Advancing the loan is not revenue expenditure, but any writedown of the loan would be revenue expenditure to the relevant service. Section 4 above

therefore sets out PDD, FBC and executive decision requirements for all non-capitalised loans, investments, guarantees and other underwriting.

10. Decisions made by relevant Cabinet Members and relevant Strategic Directors/Regulatory Committees must be made using the Executive Decision Report template and recorded on Democracy in Birmingham. In the case of PDDs and FBCs the relevant Cabinet Member must also include the Cabinet Member - Value for Money and Efficiency (VME).

GATEWAY DECISION MAKING MATRIX

		Project Definition Document (Note1)			Full Business Case (Note1)			Contract Award (Notes 1,4 & 6)			Post Implementation Review (Note1)		
Type of expenditure	Stage	Whole Project Cost (note 3)			Whole Project Cost (note 3)			Procurement value			Whole Project Cost (note 3)		
		<Threshold 1	>Threshold 1 and <Threshold 2	>Threshold 2	<Threshold 1	>Threshold 1 and <Threshold 2	>Threshold 2	<European Threshold (Note 4)	>European Threshold and less than the 'Chief Officer limit'	>'Chief Officer Limit'	<Threshold 1	>Threshold 1 and <Threshold 2	>Threshold 2
Revenue Project or Capital Project (Property and Non Property Related) (Notes 2)	Corporate Evaluation by Quality Assurance and Governance Team (Note 5)	Not Required	Required	Required	Not Required	Required	Required	Not Required	Required	Required	Not Required	Required	Required
	Approval	Relevant Strategic Director	Either the Cabinet Member for VME and the relevant Cabinet Member jointly with the Relevant Strategic Director or Regulatory Committee	Cabinet	Relevant Strategic Director	Either the Cabinet Member for VME and the relevant Cabinet Member jointly with the Relevant Strategic Director or Regulatory Committee	Cabinet	Relevant Strategic Director	Relevant Strategic Director	Cabinet	Relevant Strategic Director	Cabinet Member for VME and the relevant Cabinet Member jointly with the relevant Strategic Director for information	Cabinet Member for VME and the relevant Cabinet Member jointly with the relevant Strategic Director for information

**Threshold Key**

1 - £200k .

2 - £500k Revenue or £1m Capital.

**NOTES TO MATRIX**

The Matrix above summarises the requirements of the Constitution in relation to Executive decision making and the requirements for project/programme appraisal.

1. All Executive Decision Reports on projects should use the standard report template. These reports must also be supported as appropriate (as appendices) by a Project Definition Document, Full Business Case or Post Implementation Review. The templates for these documents can be found on inline/PSPG/gateway. Contract award report templates are available from Corporate Procurement Services.

2. "Capital Project" means any capital expenditure, including programmes of capital works.

"Revenue Project" means any revenue expenditure which it is decided to treat as a Project for this purpose (the Strategic Director – Finance and Legal to decide).

"Property Related" means capital expenditure on the purchase, build, enhancement or refurbishment of land or property and also revenue maintenance projects.

This includes the issue of Orders for works on Council property under a Framework contract. All other expenditure is to be treated as Non-Property.

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 Business Case approach to programmes should be agreed with the Quality Assurance and Governance Team before completion.

3. "Whole Project Cost"

For capital expenditure this is the entire gross capital cost of the investment to the City Council, however funded (including for example expenditure funded by capital grants). For revenue projects this is the whole lifecycle cost of the project (i.e. the discounted value of all costs including operating costs)

4. The European Threshold is defined by the Council's Standing Orders relating to Contracts as meaning the threshold applying to local authorities at which supplies and services contracts are subject to the European Directives. The Chief Officer Limit is £10,000,000 for non-property related contracts. Where it is likely that the award of a contract will result in staff employed by the Council transferring to the successful contractor under TUPE then if the value of the contract

exceeds the European Threshold then any decision which would otherwise be taken by a Chief Officer under the above matrix will be made by Cabinet.

5. Corporate Evaluation by the Quality Assurance and Governance Team: please forward draft reports to [richard\\_teague@birmingham.gov.uk](mailto:richard_teague@birmingham.gov.uk) in the Financial Strategy Team for corporate review.
6. In respect of Non Property Related Contracts, "Contract Award" means all stages of the procurement process from the decision to commence a procurement process up to and including contract award. This will include the definition of the procurement strategy, and the drafting of the specification and outcomes. The contract award template is held by Corporate Procurement Services.

## B4 – Meetings Administration

These Rules set out below apply to Council meetings, Executive, Forward Plan and Committees of Council.

### 1. NOTICES OF MEETING

The Council will give at least 5 clear 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.

### 2. ACCESS TO AGENDA, REPORTS AND DECISION RECORDS

The Council will make copies of the Agenda and relevant Reports open to the public and available for inspection at the Council House at least 5 clear 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.

For the avoidance of doubt, "clear days" does not include weekends, statutory holidays, the day of the notice or the actual day of the meeting.

Agendas, Reports and Decision Records, save for those which contain exempt or confidential information; will be found on the Council's website (Birmingham.gov.uk) Background papers identified in Reports can be obtained from the Contact Officer named on the Report.

### 3. ACCESS BY THE PUBLIC TO MEETINGS

Members of the public have the right to attend meetings but the press and the public must be excluded from meetings when confidential information would be disclosed.

- (a) The press and public may be excluded from meetings where exempt information would be disclosed, unless this is not in the public interest.
- (b) "**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.
- (c) "**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), 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).

**4. THE FORWARD PLAN**

A "Forward Plan" will be prepared on a weekly basis to cover a period of four months.

The Forward Plan will contain details of all Reports for Cabinet and 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) the Cabinet meeting at which the "key decision" is due to be taken;
- (d) who will be consulted before the "key decision" is taken;
- (e) how, to whom and by when representations (about the "key decision") can be made;
- (f) what reports/papers are, or will be, available for public inspection;
- (g) whether the report is a private report with reasons.

The Forward Plan is published once a week and is available on the Council's website.

**5. LATE REPORTS AND REPORTS NOT ON FORWARD PLAN**

All late reports (those which cannot be sent out by Committee Services with 5 working days' notice) must comply with the requirements set out in the Protocol for Executive Reports – see B12 of this Constitution.

If a matter which is likely to be a 'key decision' has not been included in the Forward Plan, the "key 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 Chief Executive; and
- (b) the relevant Chief Officer (or his nominee) has obtained the agreement of the Chair of a relevant Overview and Scrutiny Committee of the matter to which the decision relates; and
- (c) the Committee Services Officer has made copies of the relevant notice available to the public at the Council House.

A late private report (less than 28 days' notice) requires agreement from the Chairman of the relevant Overview and Scrutiny Committee that the report is urgent and cannot reasonably be deferred.

The Leader of the Council will submit a report to Council on an annual basis detailing all late reports not on the Forward Plan and all reports authorised for immediate implementation (see 6 below).

## **6. EMERGENCY REPORTS**

In an emergency an executive report may be agreed by the Chief Executive in consultation with the Leaders of the Political Groups.

## **7. IMMEDIATE DECISION 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.

## **8. RECORD OF EXECUTIVE DECISIONS**

- (a) As soon as reasonably practicable after any meeting of the Executive or any of its Committees, whether held in public or private, the Committee Services Officer will produce a record of every executive decision taken at that meeting.
- (b) No report to the Executive or any Executive decision shall be deliberately subdivided by any Member/Officer to circumvent the "key decisions" definition.
- (c) Prior to any decision being taken by the Executive, the relevant Chief Officer shall ensure that the Head of Paid Service, the Monitoring Officer and the Chief Financial 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 Head of Public Relations and Communications is consulted before any Executive decision is taken.
- (d) 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.

## **9. OVERVIEW AND SCRUTINY COMMITTEES: ACCESS TO DOCUMENTS**

An Overview and Scrutiny Committee will be entitled to copies / inspect documents which are in the possession or control of the Executive or its Committees and which contain material relating to:-

- (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.

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).

**B5 – Cabinet Portfolios**

Cabinet comprises of ten Councillors, including the Leader and Deputy Leader:

- Leader
- Deputy Leader
- Cabinet Member – Children, Families and Schools
- Cabinet Member – Value for Money and Efficiency
- Cabinet Member – Transport and Roads
- Cabinet Member – Clean Streets, Recycling and Environment
- Cabinet Member – Health and Social Care
- Cabinet Member – Housing and Homes
- Cabinet Member – Jobs and Skills
- Cabinet Member – Transparency, Openness and Equality

**LEADER’S PORTFOLIO**

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

Strategic policies	Development and implementation of the Council Business Plan, Budget and Leader’s Policy Statement.
Financial strategy	The council’s strategic approach to financial resources and budget, including alignment between partners, the BCC General Fund, Housing Revenue Account and capital spending.
Policy and Partnerships	Where appropriate, leadership of city, regional, national, European and international policy, strategic partnerships and appropriate relations with the media.
Major projects	Major physical regeneration and infrastructure projects in the city.
Promotion of the city and Inward Investment	Promotion of Birmingham regionally, nationally and internationally. This includes work with partners such as Marketing Birmingham, the universities and cultural organisations of citywide, regional or national significance.  Marketing strategies to encourage investment in Birmingham.
Structure and Governance of the Council	Overall organisational design of the council, including corporate governance arrangements.

Council land use and property assets	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 community value.  Including oversight of council owned land and property facilities, amenities and services including markets.
Local Government Ombudsman	Appropriate action in response to local government ombudsman reports.
Emergency Planning	Arrangements for the council's response to emergencies.
Combined Authority and the West Midlands Mayoral Combined Authority	Appropriate arrangements for the Council's response and review to changes in the Constitution, consultation and devolution deals. Acting as the main representative for the City Council on the Combined Authority.
Economic growth and jobs	Strategic approach to economic growth and regeneration programmes and strategic planning policy in consultation with the Cabinet Member for Jobs and Skills.
Bereavement Services	Strategic leadership for the development of Cemeteries, Crematoria and Mortuary and Coroners Court Services.
Business Improvement Districts	Partnerships with the Business Improvement Districts, including city centre management opportunities.

**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:

Finances	Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures.
Business Change	All major business change programmes.
Performance review and improvement for the council, including	Arrangements to review and improve the performance of services and the delivery of priority outcomes and services for Birmingham residents and businesses.

performance of externalised services	Trading Services, WOCs and Acivico (when Executive decisions needed).
Human Resources	<p>An effective organisational development function for shaping the future workforce of the council.</p> <p>Development of effective change/transformational programmes deployed corporately.</p> <p>Member development programmes.</p> <p>Processes and procedures to support good staff performance development and equality objectives.</p> <p>Staffing structures at JNC level and personnel procedures that comply with good practice and natural justice (in consultation with the Leader).</p> <p>[The Council Business Management Committee deals with issues around the employment of staff and their terms and conditions of employment].</p>
Communications	Internal and external stakeholder consultation on performance and use of resources.
Risk Management	Policy for risk management and holding officers to account on the management of risks.
Lord Mayor's office	Appropriate support to the Lord Mayor and other holders of civic office.
Revenues and Benefits Service	Effective management of the Revenues and Benefits service.
Sports and Events Development	Development, delivery and promotion of sports, events and festivals.
Arts and Culture	Sustaining and promoting events, including management of grants and the economic opportunities that derive from arts and culture.
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 <del>and</del> including both the vital part libraries play in communities, learning and skills.

Museums	Oversight of the provision and activity of the Birmingham Museums Trust.
Safer Communities	Strategic Leadership in relation to Prevent.
Land Use Planning	Local Development Plan, Neighbourhood Plans, Development Briefs and Supplementary Guidance; including advice to planning committee.
Whistleblowing and Corporate Complaints Procedure	To take a corporate lead in relation to Whistleblowing and complaints.

**CABINET MEMBER FOR CHILDREN, FAMILIES AND SCHOOLS**

The Cabinet Member for Children, Families and Schools has an integrated brief that extends across the educational, safeguarding, social and emotional needs of children and young people. Sustainable improvement of children’s safeguarding will be a major focus of this portfolio.

The needs of all children and young people, especially the most disadvantaged and vulnerable children and their families and carers, will be realised through a partnership approach with schools, third sector educational providers and partner organisations.

The Cabinet Member has accountability for:

Children’s Services	Needs of all children and young people, especially the most disadvantaged and vulnerable, and their families and carers.  Political responsibility and accountability for the leadership, strategy and effectiveness of children’s services. This includes all responsibilities of the statutory Lead Member for Children role.
Safeguarding Children and Young People	With statutory partners, the safety and wellbeing of all children.
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.
Education and Wellbeing of Children and Young	Political leadership on strategic and statutory duties, including school improvement, special educational

People	needs and disability, early years, school places and travel to and from school.
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**CABINET MEMBER VALUE FOR MONEY AND EFFICIENCY**

The Cabinet Member will have accountability for the management of all commissioning, procurement, contract compliance and council wide efficiency.

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.
Procurement	Oversight of procurement management, including ensuring the development of appropriate approved lists of suppliers.
Contract Management	Strategic approach to and compliance with contract management policy to ensure value for money.
Internal Trading Operations	Effectiveness and holding to account the management of all internal trading operations.
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 the Birmingham Living Wage policy.
Council Wide Efficiency	To take a strategic lead in relation to efficiency across all council services and to foster lean governance in all areas of council work and to promote working relationships with stakeholders and partners.

**CABINET MEMBER FOR TRANSPORT AND ROADS**

To be responsible for the transport infrastructure, the key highway networks and strategic highway policy, which are key to Birmingham establishing a well-founded reputation as a successful City.

The Cabinet Member has accountability for:

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.

**CABINET MEMBER FOR CLEAN STREETS, RECYCLING AND ENVIRONMENT**

The Cabinet Member will position Birmingham as a ‘Green City’ ready for the challenges of the future and with a sustainable infrastructure that supports these objectives through initiatives that are delivered by the city council and also by partner agencies, private and third sector organisations.

The Cabinet Member has accountability for:

Green City	Strategic leadership of the city's sustainability agenda, advising all Cabinet Members of initiatives that need to be taken and particularly in respect of employment, highways, transport, waste recycling and disposal matters, health and housing.
Climate Change	Strategic lead on policy and its implementation to address issues including climate change, carbon reduction, flood management, clean air zones, energy security, fuel poverty, food security and green spaces.

Waste Strategy and Services	<p>Development of a financially and environmentally sustainable waste strategy for the city.</p> <p>Collection and sustainable disposal of waste from residential and other properties within the city and street cleansing on operational matters.</p> <p>Promotion of recycling.</p>
Pest Control	Provision of the Pest Control Service
Cleaner Neighbourhoods	Street Cleaning, Litter prevention, fly tipping, graffiti, placarding.
Local Parks and Allotments	Provision, maintenance and usage of local facilities.

**CABINET MEMBER FOR HEALTH AND SOCIAL CARE**

The objective of this portfolio is to create a city – where people live long, healthy and independent lives in their own homes, making people responsible for their own care.

The development of the Health and Wellbeing Board, together with the transfer of public health functions from the NHS adds coherence to the policies and actions around the health and wellbeing needs of the residents of Birmingham, across all life stages from young children to older people.

The Cabinet Member has accountability for:

Adult Social Care and Health	<p>Development of the Health and Wellbeing Board and relationships with the NHS and private providers.</p> <p>Strategic leadership of social care services and safeguarding for adults.</p> <p>Development of an integrated health and social care economy in Birmingham and neighbouring local authorities around the STP.</p>
Public Health	Leadership on public health services, working with the Health and Wellbeing Board to reduce health inequalities.
Healthy Communities	Healthy living through sport and leisure services.

Domestic Violence	All council activity relating to domestic violence and developing a city-wide domestic violence strategy with partners including advice to the Cabinet Member for Housing and Homes on the provision of accommodation.
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**CABINET MEMBER FOR HOUSING AND HOMES**

The building of enough houses of the highest quality, and the strong neighbourhoods to go with them, to meet population growth, and so also enable strong economic growth, is the big challenge for the city over the next decade.

Dramatic changes in the local government environment have given greater prominence to questions about the role of communities and, potentially, a radical form of devolution in which the experience of residents is harnessed to understand and drive better services.

The Cabinet Member has accountability for:

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.  Bond and deposit scheme initiatives.
Housing Options	Assessing housing need, options for vulnerable adults, children and young people and offenders.  Temporary accommodation provision / homelessness.  Initiatives for rough sleepers.
Housing Supply	To review the supply of housing and tenure based on an analysis of housing need including responsibility for BMHT. The Cabinet member will advise the Deputy Leader in relation to housing supply and tenure.

Tenant engagement in social housing	Tenant engagement in the management and development of social housing and Housing Liaison Boards.
Neighbourhood Management	Wider council and public sector integration at the local level.

**CABINET MEMBER FOR JOBS AND SKILLS**

A successful city is one that has a highly skilled workforce, with access to quality skills and training, to ensure that the learning opportunities within Birmingham are providing for the present and future skills needs of the city, working with the Executive Members for Districts where appropriate.

The Cabinet Member has accountability for:

Skills, expansion for key growth sectors enterprise and innovation	Throughout the council and the city of Birmingham and with local, regional and national partners, develop the skills and employability of Birmingham's workforce, enabling each citizen to realise their potential.
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.
Employment Opportunities	Access to employment, local employment plans.
Skills and Entrepreneurship in Schools	Development of 14-19 career pathways, enterprise and entrepreneurship in Birmingham schools.

**CABINET MEMBER FOR TRANSPARENCY, OPENNESS AND EQUALITY**

The Cabinet Member will have accountability for ensuring that wherever possible (within the restrictions provided by Statute and Law) all actions taken and services provided by the council are fully transparent to the citizens of Birmingham.

A cohesive society is one which offers opportunities to all its members within a framework of accepted values, removing barriers to access and challenging inequalities. The challenge is to ensure that every Birmingham citizen has access to 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.

The Cabinet Member will also have responsibility for the following:

Smart City	<p>Provide strategic leadership and advising all Cabinet Members of initiatives that need to be taken in relation to the development of world class technological capability and connectivity in Birmingham.</p> <p>In particular extending use of intelligent transport systems and digital technologies for “open access” to support “green and smart” actions.</p>
The services provided to the citizens of Birmingham as the customer	To take a strategic lead in the provision of customer focused City services.
To take a lead on information law and data protection matters	Overall organisation for the Council including Corporate governance arrangement.
To challenge any lack of transparency in all work carried out by the Council.	To ensure transparency in all areas of Council work.
Social Cohesion and Inclusion	<p>Approaches to ensure that all Birmingham citizens have increasing access to opportunity across the social and economic life of the city.</p> <p>Holding to account other relevant Cabinet Members and officers for the delivery of those functions that impact on social cohesion and inclusion.</p>
Tackling Inequality	<p>Strategic approaches to reduce inequalities including around health, education and employment outcomes; ‘access to services’; and participation in civic life.</p> <p>Neighbourhood advice and information services.</p> <p>Holding to account other relevant Cabinet</p>

	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
External Challenge	Ensuring that partner agencies, private or third sector organisations are challenged on their contribution to improving social cohesion and inequalities.
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.
Third Sector Partnership and Engagement	Working with and coordination of third sector and partner agencies around equalities, cohesion and inclusivity.

## **B6 – District Committee and Ward Forum Functions**

1. THE ROLE AND PURPOSE OF DISTRICT COMMITTEES IS MORE PARTICULARLY SET OUT WITHIN THE “TERMS OF REFERENCE” BELOW. THE TERMS OF REFERENCE ARE SUBJECT TO AMENDMENT BY CABINET OR BY COUNCIL BUSINESS MANAGEMENT COMMITTEE, AS APPROPRIATE, TO REFLECT THE EMERGING SHAPE OF THE FUTURE COUNCIL.
2. The following functions are devolved to District Committees:
  - Enforcement of litter prevention.
  - Enforcement relating to fly-posting, placarding, graffiti and fly-tipping.
  - Local community safety (local CCTV and local neighbourhood tasking issues taken forward usually in partnership with the police).
  - Power to authorise the picking up of stray dogs, and relating to scavenging in alleyways and fouling of land.
  - Street Cleansing – local decisions on services and the specific role of working with local communities and social enterprises to encourage additional services such as community clean ups and anti-litter campaigns.
  - Grants to Neighbourhood Forums from the budget approved for this purpose.
  - The right to consider and respond to consultations on planning briefs and frameworks and major development proposals and for any such response to be given to the Planning Committee for consideration at the appropriate time.

### **TERMS OF REFERENCE FOR DISTRICTS AND WARDS**

#### **Background**

These terms of reference form part of a three pronged approach to defining the role and remit of the Council’s community governance structure at both district and ward level. This also includes a schedule of functions that are to be delegated to these committees or forums, amending section B6 from the 2014/15 City Council Constitution; an article recognizing the existence of district committees and ward committees or forums and granting authority and powers to both and the terms of reference set out in this document.

#### **Principles**

The City Council is committed to the retention and the on-going development of its devolved approach to community governance, given the scale, size and diversity of challenges, opportunities and needs across the city.

The operation of new arrangements at the district and ward level must be consistent with the new resource framework for local governance and services, with a dramatic reduction since the council introduced its devolved arrangements over ten years ago. This means that the

support and administration of the refined model needs to take account of this and focus on the key priority of protecting front line service delivery, whilst also helping to shape new approaches to service delivery at a local level through partnership working and co-production.

The new model demands a particular set of cultural, organisational and individual behaviours, values and technical competencies. A key priority for its future operation is to shape a systematic, whole organisation approach to getting this right. This will be incorporated within the wider Future Council programme.

### **Overall purpose of the districts**

Work at the district level will promote democratic accountability and support councillors in their community leadership role. It will also drive forward service improvement, community empowerment, active citizenship and local partnership working, and ensure maximum influence over the use of service budgets and resources, to ensure they are aligned with local needs, with the ultimate outcome of improving the economic, social and environmental wellbeing of the local area.

### **The roles of district committees**

In conjunction with the relevant Cabinet Members and the Cabinet Committee Local Leadership the role of district committees is to:

- Develop and support the community leadership role of councillors and others in the area. This includes roles in relation to governance, community planning, local dialogue, partnership, commissioning and accountability
- Promote and influence service improvement, service integration and a focus on prevention across the whole of the local public sector in the district
- Work in partnership with all local stakeholders to further the needs and priorities of local residents in the district
- 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
- Promote community empowerment and active citizenship and a diversity of local service provision, including community and voluntary organisations and social enterprises (e.g. through the Standing up for Birmingham campaign) and to develop positive working relationships with parish, neighbourhood or community councils
- Take local decisions on local issues as specified in the constitution and this Terms of Reference

### **Functions delegated to district committees**

Within each Committee's area:

(Council functions)

1. To adopt and review a Community Plan
2. To make Elected Member appointments to outside bodies; where such appointments relate solely to one Ward within the District, the appointment should be made by the relevant Ward Committee Members.
3. To advise or make representations to the Council, the Executive or an Overview and Scrutiny Committee on all matters affecting community interests, including the exercise of a "Neighbourhood Challenge" function, working in conjunction with Cabinet Members to provide improved accountability in council and other public services within the district
4. To consider and respond to consultations on planning briefs and frameworks and on major development proposals affecting the district, within appropriate planning timescales
5. To consider proposals referred to the committee by the Council, the Executive or an Overview and Scrutiny committee and to report back the committee's views to the referring body
6. To consider the performance, integration and co-ordination of public services in the district and make recommendations to the Executive and to the council's partners as appropriate

(Executive functions)

7. To promote and improve the economic, social and environmental well-being of the area
8. To exercise any executive functions that may be delegated in section B6 of the constitution - specifically to exercise the following duties and delegated functions in conjunction with designated officer responsibilities, relevant ward councillors and the relevant Cabinet Member:
  - a) A duty to ensure tenant engagement in the management and development of social housing, in conjunction with the relevant Cabinet Member
  - b) A duty to promote safer neighbourhoods, including local CCTV and neighbourhood tasking issues taken forward in partnership with the police and in conjunction with the relevant Cabinet Member
  - c) A duty to promote cleaner neighbourhoods, in conjunction with the relevant Cabinet Member, specifically:
    - Street cleansing – taking local decisions on service delivery in conjunction with appropriate officers and working with local communities and social enterprises to encourage additional services such as community clean ups and anti-litter campaigns
    - Enforcement of litter prevention
    - Enforcement relating to fly posting, placarding, graffiti, and fly-tipping

- Power to authorise the picking up of stray dogs, scavenging in alleyways, Dogs (Fouling of Land) Act
- d) A duty of “Neighbourhood Challenge” – to investigate, review and gather data on the performance of all local public services, working in a collaborative but challenging way with all service providers and seeking out and promoting new ways of improving services, in conjunction with relevant Cabinet Member(s) as appropriate, including:-
  - Approval of grants from the Local Innovation Fund (from April 2016)
  - Bidding for external funding to support neighbourhood and service improvement
- e) A duty to promote effective neighbourhood management
- f) A duty to promote and support active citizenship, community empowerment and a diverse and dynamic civil society, in conjunction with the relevant Cabinet Member
- g) A duty to ensure effective ward level governance arrangements, in Conjunction with the Leader of the Council
  - Approval of neighbourhood forum grants

### **The roles of ward forums**

Members will also provide community leadership at the ward level to take forward the functions of the district committees, in particular through engaging the local community and identifying very local issues and priorities (for example through Ward Litter Plans or Neighbourhood Tasking meetings). The ward forums will:

1. 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)
2. Make representations to the district committee, the Executive or to Council on matters affecting the ward and to support the work of Overview and Scrutiny committees as appropriate
3. 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
4. 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
5. Plan work with the other wards to engage with partners such as the police

## B7 – Code of Conduct for Members & General Guidance

### Introduction and interpretation

1. (1) This Code applies to Councillors of Birmingham City Council, and also to co-opted committee members.
- (2) It is the responsibility of Councillors and co-opted Members to comply with the provisions of this Code.

### Scope

2. (1) You must comply with this Code whenever you:-
  - (a) conduct the business of Birmingham City Council; or
  - (b) act, claim to act or give the impression you are acting as a representative of Birmingham City Council; or
  - (c) act as a representative of Birmingham City Council.and references to your official capacity are construed accordingly.
- (2) In addition to having effect in relation to conduct in your official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which you have been convicted or received a Police Caution.

### General obligations

3. (1) Councillors and Co-Optees are committed to behaving in a manner that is consistent with the following principles of Public Life:

**Selflessness** — members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** — members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** — members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** — members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** — members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal judgement** — members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** — members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** — members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them

**Stewardship** — members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

**Leadership** — members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

(2) Do:

- (a) Follow the Code of Conduct when you are representing your authority.
- (b) Be aware of what pecuniary and non-pecuniary interests are – refer to the Monitoring Officer if you are unsure.
- (c) Keep your register of interests up-to-date.
- (d) Treat others with respect.
- (e) Register gifts and hospitality, received in your role as a member, worth more than £25.

(3) Don't:

- (a) Bring your authority or office into disrepute.
- (b) Use the authority's resources which includes the Council's address and email address for any personal, party political or non-Council purposes.
- (c) Compromise the impartiality of people who work for your authority.
- (d) Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- (e) Bully, intimidate or attempt to intimidate others.

- (f) Use your position improperly for personal gain or to advantage your friends or close associates.
- (g) Participate in meetings or be involved in decision-making where you have a pecuniary interest – except when speaking when the general public are also allowed to do so.
- (h) Disclose confidential information, other than in exceptional circumstances – refer to the Monitoring Officer if you are unsure.
- (i) Prevent anyone getting information they are entitled to.

**Disclosure of Pecuniary and Non-Pecuniary Interests**

4. (1) Subject to the paragraph 5 below (Sensitive Interests), you must within 28 days of this Code being adopted, or of later election or appointment to office, and within 28 days of becoming aware of any new pecuniary or non-pecuniary interest or of any change to your registered interests, notify the Monitoring Officer on the form provided – or if only a 'change' in your interests then notification by email will suffice.
- (2) If a pecuniary or non-pecuniary interest arises from any business to be discussed at any committee or joint committee meeting of the Council then you must declare this interest either at the start of the meeting or immediately before the item is discussed.
- (3) If a non-pecuniary interest arises from any report to be determined by a Chief Officer in consultation with a Cabinet Member then the nature of that interest of the Cabinet Member (or the Chief Officer) must be written in the decision record. If a pecuniary interest arises then the Monitoring Officer must be notified and no further steps should be taken in the matter.
- (4) An interest to be disclosed at a meeting is either your interest or that of your husband, wife or civil partner or that of a person with whom you are living as husband or wife or as civil partners.
- (5) If you declare a pecuniary interest then you must not take part in any discussion of the matter at the meeting, and you must not vote on the matter. You need not withdraw from the meeting but any participation by yourself at the meeting in respect of the matter in which you have a pecuniary interest is a criminal offence for which you may be prosecuted as well as referred to the Standards Committee.
- (6) If you declare a non-pecuniary interest then you may remain in the meeting, you may take part in the discussion and you may vote on the matter.

**Sensitive Interests**

5. Where you consider that disclosure of the details of an interest could lead to you or a person connected to you being subject to violence, discrimination or intimidation, and the Monitoring Officer agrees, then the Register of Interest will disclose the interest but not the details which may accordingly be withheld from publication.

**Exemptions**

6. (1) Where you have a pecuniary interest in any business of the City Council you must declare that interest but you may speak at that meeting for the purpose of making representations, answering questions, or giving evidence relating to the business *providing* that the public are also allowed to attend the meeting for the same purpose.
- (2) Dispensations are available by application to the Standards Committee in the limited circumstances that apply by law; please see page 13 of this Code. If required please write to the Monitoring Officer with reasons for the application.

**Overview & Scrutiny Committees**

7. Where you have participated in the executive decision of any committee and that decision is subject to scrutiny, you may not attend the meeting(s) of the Overview & Scrutiny Committee except for the purpose of making representations, answering questions or giving evidence.

**Recording of Council Meetings**

8. (1) Where a meeting is to be streamed live on the internet, this should be announced by the Chair at the start of the meeting.
- (2) Recording or use of social media is not permitted during or concerning the private part of any council meeting.

**Additional voluntary provisions**

9. No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.



**REGISTER OF COUNCILLORS INTERESTS**

I, .....(name)

an Elected / Co-opted Member of Birmingham City Council do hereby give notice that I have set out below my interests which I am required to declare under Birmingham City Council's Code of Conduct for Members.

within 28 days of election to office, an Elected or Co-opted Member must register his/her pecuniary and non-pecuniary interests in a public register by providing written notification to the City Council's Monitoring Officer (City Solicitor)

You must declare your own interests on the form below and also those of your husband/wife/civil partner, which includes any person with whom you are living as husband/wife/civil partner. You do not need to name your husband/wife/civil partner.

Pecuniary Interests	Pecuniary Interests
<p><b>1. Employment, office, trade, profession or vocation:</b></p> <p>Your employment, office, trade, profession or vocation carried on for profit or gain, and that of your husband/wife/civil partner.</p> <p><b>Note:</b> "Office" includes position held as representative of the council on the management of an external organisation if an Allowance is paid which exceeds reasonable expenses.</p>	
<p><b>2. Sponsorship</b></p> <p>Any payment or provision of any other financial benefit in respect of any expenses incurred in carrying out duties or towards election expenses; this includes any payment or financial benefit from a trade union.</p>	

<b>Pecuniary Interests</b>	<b>Pecuniary Interests (continued)</b>
<p><b>3. Contracts</b></p> <p>Any contract which is made between you or your husband/wife/civil partner (or a body in which you or your husband/wife/ civil partner has a beneficial interest) and the City Council under which goods or services are to be provided or works are to be executed and which has not been fully discharged.</p>	
<p><b>4. Land</b></p> <p>Any beneficial interest in land held by you or your husband/wife/civil partner which is within the area of the City Council</p>	
<p><b>5. Licences</b></p> <p>Any licence (alone or jointly with others) to you or your husband/wife/civil partner to occupy land in Birmingham for a month or longer.</p>	
<p><b>6. Corporate tenancies</b></p> <p>Any tenancy where the landlord is the City Council and the tenant is a body in which you or your husband/wife/civil partner has a beneficial interest.</p>	

Pecuniary Interests	Pecuniary Interests (continued)
<p><b>7. Securities</b></p> <p>Any beneficial interest in which you or your husband/wife/civil partner has in securities of a body where:</p> <p>(a) that body has a place of business or land in the area of the City Council; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 you or a relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>	
<p><b>8. Personal Wellbeing</b></p> <p>you also have a pecuniary interest where you attend a meeting of the Council where the business concerns your personal wellbeing or financial position or that of your husband/wife/partner – to a greater extent than the majority of residents in your Ward affected by the decision.</p>	<p>You will only know this when you attend a meeting of the Council and an item on the agenda affects your wellbeing or that of your husband/wife/partner, to the extent described.</p> <p>You must then declare a pecuniary interest at the beginning of the meeting or before the relevant item is discussed and not take part in the meeting when that agenda item is discussed.</p>
<p><b>Non-Pecuniary Interests</b></p>	
<p>1. any organisation of which you are a member or in a position of general control or management and to which you are appointed or nominated by Birmingham City Council.</p> <p><b>Note:</b> If you receive an Allowance from the organisation which exceeds your reasonable expenses then you should declare your interest under Pecuniary Interest Number 1 above.</p>	

If there is insufficient space in any of the boxes provided, please use a supplementary sheet.

This is a public document to which members of the public will have free access to during normal office hours and copies will also be published on the City Council’s Website.

**Declaration**

**I recognise that I will be in breach of Birmingham City Council’s Code of Conduct for Members if I:**

- (a) omit information that ought to be given in this notice; or
- (b) provide information that is materially false or misleading; or
- (c) fail to give further notices within 28 days of any change to the information set out above in order to bring up to date the information given in this notice.

Signed .....

Dated .....

Please return the signed Declaration to the Monitoring Officer [City Solicitor].



**STATUTORY REGISTER OF GIFTS OR HOSPITALITY**

An Elected or Co-opted Member must, within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's Monitoring Officer [currently the City Solicitor] of the existence and nature of that gift or hospitality.

I, .....

being an Elected / Co-opted Member of Birmingham City Council do hereby give notice that I have received the gift or hospitality detailed overleaf.

Signed .....

Dated .....

Please return the signed Notice to the Monitoring Officer [City Solicitor].

**STATUTORY REGISTER OF GIFTS OR HOSPITALITY**

Date upon which the Gift or Hospitality was received	Person / Organisation offering or providing the Gift or Hospitality	Brief details of Gift or Hospitality received	Estimated or actual value of the Gift or Hospitality	Any reasons for accepting the Gift or Hospitality

Register of : ..... Elected / Co-opted Member

**Guidance :** If any hospitality is provided at an official function of the City Council, there will be no need to declare any such hospitality in this Register.

## **DISPENSATIONS AVAILABLE FROM BIRMINGHAM CITY COUNCIL'S STANDARDS COMMITTEE**

### **Circumstances in which dispensations may be granted**

The Standards Committee, or in urgent situations, the Independent Chairman of the Standards Committee, may grant a dispensation to a Member in the following circumstances:

- that so many Members of the decision making body have disclosable pecuniary interests in the matter that the meeting would be inquorate; or
- that the representation of different political groups on the decision making body would be so upset as to alter the likely vote on the matter; or
- that it is in the interests of persons living within Birmingham; or
- that it is otherwise considered appropriate to grant a dispensation.

### **Records of dispensations**

The Monitoring Officer will ensure that:

- the existence, duration and nature of any dispensation is recorded in writing; and
- that such record is kept with the register of interests.



# BIRMINGHAM CITY COUNCIL DECLARATION OF ACCEPTANCE OF OFFICE

I, «First\_Name» «Surname»

having been elected to the office of Councillor for the City of Birmingham, declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.

I affirm my commitment to Corporate Parenting in respect of the City Council's children in care and will encourage others to do so. Furthermore I pledge to take every opportunity presented to me by virtue of my role as a Councillor to promote the wellbeing of children in the care of the City Council.

I have received a copy of Birmingham City Council's Code of Conduct for Members, been encouraged to read the same and to obtain appropriate guidance from the Council's Monitoring Officer if I am unsure about any matter contained in it.

In performing any of my functions and duties as a Member of Birmingham City Council, I undertake to observe and abide by Birmingham City Council's Code of Conduct for Members or any amendments to it.

Dated this    day of

Signature: .....

This declaration was made and subscribed before me

.....  
CHIEF EXECUTIVE

## **CODE OF CONDUCT FOR COUNCILLORS (MEMBERS)**

### **COMPLAINTS PROCESS**

#### **1 Context**

This guidance sets out how you may make a complaint that an elected or co-opted Member has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

#### **2 The Code of Conduct**

The Council has adopted a Code of Conduct for Councillors, which is attached at Appendix One and available for inspection on the Council's website.

#### **3 Making a Complaint**

If you wish to make a complaint, please write or email to:-

The Monitoring Officer  
P O Box 15992  
Birmingham  
B2 2UQ  
David\_Tatlow@birmingham.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the complaints system of Councillor misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Council's website, or is available on request.

#### **4 Will your complaint be investigated?**

The Chairman of the Standards Committee will review complaints received and, after consultation with the Monitoring Officer, take a decision as to whether it merits formal investigation. You will be informed of the decision and the reasons for that decision, as also will be the Member against whom you have complained and his/her political group Leader.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, with or without the need for a formal investigation. Such resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where a complaint is resolved in this way a notice will be sent to you, the Member against whom you have complained and his/her political group Leader.

Where the Member or the Council makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Chairman of the Standards Committee will take account of this in deciding whether the complaint merits formal investigation, and/or a full Hearing.

The Chairman of the Standards Committee may decide to refer any complaint by one Councillor against another Councillor to the Political Group Secretaries for them to mediate between the parties. If the matter cannot be resolved or if mediation is not thought to be possible then the Group Secretaries will refer the matter back to the Standards Committee.

## **5 How is the investigation conducted?**

If the Chairman of the Standards Committee or the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer who will be the Deputy Monitoring Officer or other Senior Council Lawyer. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Standards Committee Chairman will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you, to the Member concerned and to his/her political group Leader notifying that the Committee is satisfied that no further action is required, and enclose a copy of the Investigation Officer's final report.

## **7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Standards Committee, or in appropriate circumstances the Chairman of the Committee, will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or seek local resolution.

## 7.1 Resolution before Hearing

The Standards Committee or Standards Committee Chairman may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Investigating Officer will consult with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee Chairman but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Chairman of the Standards Committee may refer the matter for a local hearing.

## 7.2 Local Hearing

The Monitoring Officer will copy the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct, and, if so, whether to take any action in respect of the Member.

The views of the Independent Persona are to be sought and taken into account before a final decision is made.

The procedure for local hearings is as follows.

- The Monitoring Officer may conduct a "pre-hearing process, requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.
- At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct.
- The Investigating Officer may ask you as the complainant to attend and to give evidence to the Hearings Panel.
- The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel concludes that the Member did not fail to comply with the Code of Conduct it will dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding. The Hearings Panel will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will then decide what action, if any, to take in respect of the matter.

As soon as reasonably practicable, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Member, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## 8 **What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel powers to take action in respect of individual Members to promote and maintain high standards of conduct. The Hearings Panel may:-

- Reprimand the Member;
- Request that the Member be required to make an apology at Council;
- Publish its findings in respect of the Member's conduct;
- Report its findings to Council for information;
- Recommend that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Member be removed from the Cabinet.
- Recommend to Council that the Member be replaced as Executive Leader;
- Instruct the Monitoring Officer to arrange training for the Member, which the Member is obliged to attend;
- Remove from all outside appointments to which he/she has been appointed or nominated by the Council;
- Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

## 9 **Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration.

## 10 Who is the Independent Person?

The Independent Person is a person who has applied for the post, and is appointed by the Council.

## 11 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## 12 Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Standards Committee, the Hearings Panel, or the Chairman of the Standards Committee

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## 13 Transparency

Decisions of the Standards Committee, the Standards Committee Chairman, and the Hearings Panel will be recorded and posted on the City Council's Website. These decisions are the following:-

- decision of no breach of the Code following formal investigation
- decision of local resolution following formal investigation
- decision of breach of the Code

**Raymond Tomkinson has been appointed by the Council as the "Independent Person" as required by law.**

**COUNCILLOR INTERESTS**

<b>POSITITON PRE AUGUST 2012</b>	<b>NEW POSITION</b>
<b>REGISTERABLE INTERESTS</b>	<p data-bbox="1245 437 1951 475"><b>REGISTERABLE PECUNIARY INTERESTS</b></p> <p data-bbox="1093 528 2107 691">These interests are the same or very similar to what was previously called "Registerable Interests". There are 8 in the revised Code. You will be asked to complete a new form for registration purposes.</p> <p data-bbox="1093 738 2107 858"><b>NB:</b> If you have a pecuniary interest in any item of Council business you must <i><b>not</b></i> take part in the meeting for this agenda item but need not leave the meeting unless you choose to leave.</p>
<b>PERSONAL INTERESTS</b>	<p data-bbox="1335 904 1861 943"><b>NON-PECUNIARY INTERESTS</b></p> <p data-bbox="1093 995 2107 1070">Note that there is only 1 non-pecuniary interest in the revised Code.</p>
<b>PERSONAL &amp; PREJUDICIAL INTERESTS</b>	<p data-bbox="1386 1133 1809 1171"><b>PECUNIARY INTERESTS</b></p> <p data-bbox="1093 1230 2107 1305">The complex definition of Personal &amp; Prejudicial Interests is abolished, but please note carefully Pecuniary Interest at No 8.</p>

## B8 – Independent Remuneration Panel

1. 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.
2. In Birmingham the Panel comprises:
  - 6 members selected from a public advertisement
  - 1 representative of the Trade Unions
  - 2 co-optees drawn from former Councillors of the City Council who are no longer Members of the CouncilPanel Members are appointed for a 3-year term of office.
3. The terms of reference for the Panel are:

“To consider and keep under review and, as and when appropriate, to submit reports [containing recommendations] to the Council on:

  - The amount of Basic Allowance payable to all members;
  - The responsibilities or duties in respect of which Special Responsibility, Travelling, Subsistence and Co-optees’ should be available and the amounts of such allowances;
  - Any arrangements for the withdrawal of Basic and/or Special Responsibility Allowance if a member is wholly or partially suspended;
  - Whether Dependants’ Carers’ Allowance should be payable and the amount of such an allowance;
  - Whether there is any backdating of allowances payable for the year in which an amendment is made;
  - 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];
  - Which members of an authority are entitled to pensions in accordance with a scheme made under Section 7 of the Superannuation Act 1972;
  - Whether Basic Allowance or Special Responsibility Allowance, or both, are treated as the amounts for which pensions are payable;
  - Any proposals for the introduction of an Allowances Scheme for members of a Parish Council;
  - The development of job specifications for roles and responsibilities and key accountabilities for the standard role of a Councillor and for those roles for which a Special Responsibility Allowance is or might be paid.”
4. The Member Allowances Scheme is approved by the City Council. This document can be found on the Council’s website.

## B9 MEMBER / OFFICER RELATIONS PROTOCOL

### ~~Article 11. GENERAL MEMBER / OFFICER ISSUES~~

The following are key points:-

- ~~(i). In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principle for Members and Officers is to treat everyone with respect;~~
- ~~(ii). Officers of the Council should act in the best interests of the Council, as a whole and not exclusively for any Political Group, combination of Groups, or any individual Members.~~
- ~~(iii). Officer support to Political Groups should not extend beyond providing information and advice in relation to Council business. It is good practice for Party political debates and decision making to take place in the absence of Officers, in order to avoid any suspicion of impropriety or misunderstanding. Officers must respect the confidentiality of any Political Group discussions at which they were present and any breach of this part of the Protocol by an Officer must be brought to the attention of the Head of Paid Service and / or the Monitoring Officer for consideration.~~
- ~~(iv). Members of the Council do not have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public, apart from qualified privilege in respect of defamation.~~
- ~~(v). 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.~~
- ~~(vi). The Council's Public Relations and Communications Team are responsible for dealing with the press and other media organisations on behalf of the Council. All official communication relating to the Council is dealt with by this team, so as to ensure the proactive, effective and efficient management of the Council's public image.~~
- ~~(vii). Members should guard against putting inappropriate pressure, in particular, on junior officers.~~
- ~~(viii). Members should have regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive. For this reason, Members should not give direct instructions to staff.~~
- ~~(ix). Members should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the Press, as Officers have no means of responding in public. If any Member feels that s/he has not been treated with~~

~~the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, s/he should raise the matter, in private, with the relevant Officer and, if necessary, the Chief Officer of the department concerned.~~

~~(x). Members and officers should not use Council resources for party political, personal or other non-council purposes.~~

## **1. Introduction**

1.1 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.

1.2 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.

1.3 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.

1.4 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.

1.5 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.

1.6 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 object 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.

1.7 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.

1.8 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.

## 2. Roles of members and officers

### 2.1 The elected members are responsible for:

- Initiation and direction of policy;
- Democratic accountability to the electorate for policies and for service delivery;
- Scrutiny of Council services;
- Community leadership;
- Promotion of partnership working; and
- Presentation of Council policy.

Members and Officers should overall treat each other as they would wish to be treated.

### 2.2 The officers are responsible for:

- Providing the professional advice that members must have before them when formulating policy and when taking decisions.
- Implementing members' decisions that have followed due process;
- Running the Council's services and day-to-day administration;
- Taking managerial and operational decisions in accordance with the Council's schemes of delegation;
- Providing information regarding Council services and approved Council policies

## 3. Working relationships

3.1 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.

3.2 An informal and collaborative working approach to working between Members and officers is encouraged.

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.

## 4. Constructive criticism and redress

4.1 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance is 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 Board except in relation to Council functions. 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.

4.2 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.

4.3 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.

4.4 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 Strategic Director or 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 Strategic Director 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.

4.5 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 confidentially. 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 Strategic Director. 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.

4.6 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.

4.7 Nothing in this protocol shall prevent a Member or Officer expressing a relevant concern under the Council's Whistle blowing Policy.

## **5. Officer reports and advice**

5.1 The Director/Head of Service in whose name a report to the Council (or any part of its formal decision-making structure) will always be fully responsible for the contents of it.

5.2 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.

## **6. Officer advice to party groups**

6.1 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.

6.2 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 and 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 so far as that is necessary to performing their duties.

6.0 This Protocol can be revised or amended at any time in accordance with Constitutional requirements.

## B10 – Monitoring Officer Protocol

The Monitoring Officer is a statutory appointment and provides advice to protect and safeguard the Council.

<u>SUMMARY OF MONITORING OFFICER FUNCTIONS</u>		
	<u>Description</u>	<u>Source</u>
<u>1</u>	<u>Report on contraventions or likely contraventions of any enactment or rule of law</u>	<u>Section 5 and Section 5A Local Government and Housing Act 1989</u>
<u>2</u>	<u>Report on any maladministration or injustice where Ombudsman has carried out an investigation</u>	<u>Section 5 and Section 5A Local Government and Housing Act 1989</u>
<u>3</u>	<u>Appointment of Deputy</u>	<u>Section 5 and Section 5A Local Government and Housing Act 1989</u>
<u>4</u>	<u>Report on resources</u>	<u>Section 5 and Section 5A Local Government and Housing Act 1989</u>
<u>5</u>	<u>Receive copies of whistleblowing allegations of misconduct</u>	<u>Public Interest Disclosure Act 1998 and Whistleblowing Code of Practice</u>
<u>6</u>	<u>Arrange investigations of complaints of any member misconduct</u>	<u>Section 28 Localism Act 2011</u>
<u>7</u>	<u>Establish and maintain registers of members' interests and gifts and hospitality</u>	<u>Section 29 Localism Act 2011 and Code of Conduct for Members</u>
<u>8</u>	<u>Advise on disclosable pecuniary interests</u>	<u>Section 30 Localism Act 2011</u>
<u>9</u>	<u>Advise on sensitive interests</u>	<u>Section 32 Localism Act 2011</u>
<u>10</u>	<u>Grant of dispensations re restrictions on members' participation in meetings</u>	<u>Section 33 Localism Act 2011</u>
<u>11</u>	<u>Advice to members on interpretation of Code</u>	<u>Section 28 Localism Act 2011 and Code of Conduct for Members</u>
<u>12</u>		
<u>13</u>	<u>New ethical framework functions in relation to Parish Councils</u>	<u>Section 27 Localism Act 2011</u>
<u>14</u>	<u>Compensation for maladministration</u>	<u>Section 92 LGA 2000</u>
<u>15</u>	<u>Advice on vires issues, maladministration, probity and policy framework to all members</u>	<u>DCLG guidance</u>
<u>16</u>		
<u>17</u>	<u>Advise on any indemnities and insurance issues for Members / Officers</u>	<u>Section 101 LGA 2000 and Local Authorities (Indemnities for Members and Officers) Order 2004 (SI 2004/3082)</u>
<u>18</u>		

<del>SUMMARY OF MONITORING OFFICER FUNCTIONS</del>		
	<del>Description</del>	<del>Source</del>
<del>1</del>	<del>Report on contraventions or likely contraventions of any enactment or rule of law</del>	<del>Section 5 Local Government and Housing Act 1989</del>
<del>2</del>	<del>Report on any maladministration or injustice where Ombudsman has carried out an investigation</del>	<del>Section 5 Local Government and Housing Act 1989</del>
<del>3</del>	<del>Appointment of Deputy</del>	<del>Section 5 Local Government and Housing Act 1989</del>
<del>4</del>	<del>Report on resources</del>	<del>Section 5 Local Government and Housing Act 1989</del>
<del>5</del>	<del>Receive copies of whistleblowing allegations of misconduct</del>	<del>Whistleblowing Code</del>
<del>6</del>	<del>Investigate and report on any misconduct in compliance with Regulations</del>	<del>LGA 2000 Section 66(1) and 66(6)</del>
<del>7</del>	<del>Establish and maintain registers of members interests and gifts and hospitality</del>	<del>Section 81 LGA 2000 and Code of Conduct for Members (and Employees, once introduced)</del>
<del>8</del>	<del>Advice to members on interpretation of Code</del>	<del>Code of Conduct for Members</del>
<del>9</del>	<del>Key role in promoting and maintaining high standards of conduct through support to the Standards Committee</del>	<del>Statutory Guidance paragraph 8.20</del>
<del>10</del>	<del>New ethical framework functions in relation to Parish Councils</del>	<del>Section 83(12) LGA 2000</del>
<del>11</del>	<del>Compensation for maladministration</del>	<del>Section 92 LGA 2000</del>
<del>12</del>	<del>Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members</del>	<del>DCLG guidance</del>
<del>13</del>	<del>Refer relevant matters to Standards Committee for initial assessment, review and hearing.</del>	<del>Regulations under LGA 2000</del>
<del>14</del>	<del>Advise on any indemnities and insurance issues for Members / Officers</del>	<del>Regulations under LGA 2000</del>
<del>15</del>	<del>Deal with any Local Assessment arrangements introduced by legislation.</del>	<del>Local Government Act 2007</del>

## **B11 - PLANNING CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS**

### **1. PURPOSE OF THIS CODE**

- 1.1 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.
- 1.2 The Planning 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 Planning 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.
- 1.3 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.
- 1.4 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 of Planning and Regeneration and/or the City Solicitor

### **2. CONTEXT**

- 2.1 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is often highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions). This is reinforced by the legal status of development plans and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making.
- 2.2 One of the key purposes of the planning system is to ensure development takes place through a framework whereby the public interest is well represented at every point from the preparation of Development Plans and policies, the determination of planning applications and in undertaking enforcement action. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings.

It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable planning reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.

- 2.3 This Planning Code applies to both Councillors and planning officers who become involved in operating the planning system – it is not therefore restricted to professional town planners and Planning Committee members. The successful operation of the planning 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.

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.

### 3. GENERAL PLANNING CONSIDERATIONS

- 3.1 The Council's Executive is responsible for preparing and adopting the Statutory Unitary Development Plan, Local Action Plans, Development Briefs and other forms of Supplementary Planning Guidance. Members of the Planning Committee, when determining planning applications, must have regard to the Council's policies contained in the Unitary Development Plan and Supplementary Planning Guidance adopted by the City Council together with Government Guidance contained in the National Planning Policy Framework and other material considerations. Where this is relevant, applications must be determined in accordance with the Plan unless material considerations indicate otherwise.
- 3.2 Birmingham City Council's Code of Conduct for Members (adopted June 2012) must be complied with throughout the decision making process, which includes mandatory requirements with regard to member interests.
- 3.3 The responsibility for declaring an interest rests with individual Members and Officers of the Council. This Planning Code outlines further rules applicable to the planning process in Birmingham.
- 3.4 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.
- 3.5 Both Councillors and Officers are guided by codes of conduct. Birmingham's Code of Conduct for Members, provides standards and guidance for Councillors. Employees are subject to the Employees' Code of Conduct. In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business.

- 3.6 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 planning process. Of particular relevance to Councillors serving on the Planning Committee or Executive, or who become involved in making a planning decision is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.
- 3.7 The basis of the planning 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.
- 3.8 From time to time applicants may submit confidential information for example a financial appraisal in support of an application. Such appraisals will be taken into account in relation to determination of the application but such information due to its confidential nature should not be disclosed to third parties and members of the public.

### 3.9 Public Speaking

During public speaking at Planning 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 planning-related questions; and
- late evidence should not be introduced by speakers at Committee.

### 3.10 Conflicts of Interest

Quite often, varied professions are represented at Planning Committee, which have a greater probity risk for planning, i.e. Estate Agents, Property Developers, or local landowners. It should be noted that these members in general are more likely than others to be uncomfortable in the role of planning committee member by the combined pressures of their local business interests, the ward member advocate role, and the constraints of the planning system. The potential property-related background may also give rise to a perception by the public that they are more likely to be in favour of the development, 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 Director of Planning and Regeneration and Monitoring Officer for the Council, to see whether it would be suitable for him/her to become a member of Planning Committee.

## 4. LOBBYING AND ATTENDANCE AT PUBLIC MEETINGS

### General

- 4.1 Given the requirement that Members of the Planning Committee should exercise an independent mind to planning applications in accordance with the relevant planning considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on planning applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of the report of the Director of Planning and Regeneration at Planning Committee. Members should be careful not to publicly commit themselves to a particular outcome on a planning application prior to its full consideration at the Council's Planning Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant planning considerations and/or other relevant considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Director of Planning and Regeneration 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 planning and decision making process. If the relevant Member wishes to speak at Planning Committee then they should declare their pre-determined position and withdraw once any public speaking opportunities have been completed. This is to ensure Members of the Planning 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.

- 4.2 Members of the Committee who may be involved in the determination of a planning application are, of course, free to listen to a point of view about a planning 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.
- 4.3 Whilst Members involved in making decisions on planning applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Planning 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 Director of Planning and Regeneration's report and any public speaking at the Planning Committee.
- 4.4 The Chairman of the Planning Committee should attend a briefing with Officers prior to a Committee, to help give an effective lead in the Committee.
- 4.5 Councillors involved in decision making on planning 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 development control decision making process) within that Committee Member's Ward, can make written representations to the Planning Committee.

- 4.6 A Member involved in determining planning applications may respond to lobbying by openly expressing an opinion prior to the full report of the Director of Planning and Regeneration 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 the report of the Director of Planning and Regeneration.
- 4.7 If a Member involved in determining planning 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 4.1.
- 4.8 Where Members involved in the determination of planning applications are in attendance at public meetings or Ward meetings they may listen to the debate on current planning applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in 4.6.
- 4.9 Members Predetermination of Planning Applications

Section 25 of the Localism Act 2011 states that prior indications of a view of a matter does not amount to predetermination in the following situations:

- (1) 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.

The advice provided by Senior Legal Officers is that this is the present position with Statute Law 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 Director of Planning and Regeneration and that the final decision in relation to the application can only be made by Planning Committee. This caveat is intended to safeguard so far as possible the decision made by Planning 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

- 4.10 Members of the Planning Committee and Executive often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of

Planning and Regeneration or inform him 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.

#### Pre-Application Discussions

- 4.11 Officers when involved in pre-application discussions should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, developers or Members. A written record of all such discussions must be retained on the planning file.
- 4.12 Members should be prepared to engage with officers in appropriate pre-application discussions. Where Members are involved in such discussions, they should be advised by the appropriate officers of the Council, which should always include a senior planning officer. The involvement of Members in such discussions will be recorded as a written file record of the meeting. Members and officers should take careful note of Section 4.16 of the Code.
- 4.13 Where Members have chosen to accept an invitation to attend pre-application discussions, any discussion will be on a without prejudice basis accompanied by an officer and a written note taken. The Members Code of Conduct deals with situations where a Member may receive any gifts and hospitality in excess of £25
- 4.14 In order to avoid giving any wrong perceptions, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken or an application is submitted to the City Council:
- it should always be made clear at the outset that the discussions will not bind a Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place;
  - advice should be consistent and based upon the development plan and material planning considerations including relevant national and local planning policies and guidance. There should be no significant difference of interpretation of planning policies amongst planning officers. It is the Officer's role to ensure consistency of advice and Officers should therefore be present with Members in pre-applications discussions. In addition, all officers taking part in such discussions should make clear whether or not they are the decision-maker. Members should avoid giving separate advice on planning policies or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into negotiations. They should ask their Officers to deal with any necessary negotiations to ensure that the Council's position is co-ordinated;
  - an Officer would best make the arrangements for such meetings and a written note should be made of all meetings. At least one officer should attend such meetings and a follow-up letter is advisable at least when documentary material has been left with the Council. A note should also be taken of potentially contentious telephone discussions.

Site Visits by Members with Officers

- 4.15 The deferral of an application for a site visit should not be on the basis of exposing members of the Planning Committee to local opinion, but should be on sound and proper planning reasons, which shall be recorded in the minutes of the meeting.
- 4.16 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be:
- (a) to brief Members on the planning 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 Planning Committee to form the basis of a further discussion at a subsequent meeting.
- 4.17 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.
- 4.18 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 within or adjoining the site.
- 4.19 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 planning application and which would not be apparent from the planning application to be considered by the Planning 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 Planning Committee who has an interest in a planning 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 Planning 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.
- 4.20 Whilst on site visits, Members of Planning Committee can express an opinion on the planning 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 Planning Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Member and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Planning 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).
- 4.21 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 development 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.
- 4.22 Where there is substantial public interest in a proposal, the Council may invite representatives of the local community to visit the site so that they may point out all the areas of contention to Members of the Planning Committee and give their views. A separate public meeting may then be convened at a nearby venue so that the views of local residents and others affected by the proposal can be aired. A note of proceedings will be taken at these meetings and minutes kept as part of the official record.
- 4.23 Results of the site visit will be reported to the next available meeting of the Planning Committee and should any new material considerations have been identified the application will be deferred for a further report.
- 4.24 Once the results of a site visit have been reported back to Planning Committee, Members of the Planning Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that planning application.

#### The Role of Ward Councillors and MPs on Site Visits

- 4.25 Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of planning applications rests solely with the Planning Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.
- 4.26 Prospective election candidates who are not already Members of the Council are welcome to attend a site visit on the same basis as members of the public.

### **5. MEETINGS OF THE PLANNING COMMITTEE**

- 5.1 A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Planning Committee.
- 5.2 No material revision to any planning application which might lead to a change in the recommendation of the Director of Planning and Regeneration shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the Director of Planning and Regeneration.
- 5.3 When a planning application has been deferred following a resolution of "minded to approve" or "minded to refuse", contrary to the officer's recommendation, the Chairman shall put to the meeting a proposed statement of why the Director of Planning and Regeneration's recommendation for refusal or approval not considered acceptable to the Committee, which, when agreed by the Committee, will be formally recorded in the Minutes.

- 5.4 When a planning application has been deferred following a resolution of "minded to approve" "or minded to refuse", contrary to the officer's recommendation, then at the subsequent meeting the Director of Planning and Regeneration shall have the opportunity to respond both in a further written report and orally to the 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 granting or refusing permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.
- 5.5 A Member shall 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.
- 5.6 Discussions between a potential applicant and a Planning Officer prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant.

It is important, therefore, that decisions in planning matters are seen to be taken in accordance with the provisions of the development plan and the Council's statutory duty under S54.A of the Town and Country Planning Act 1990. In that regard:-

- Reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted, as recommended by the Local Government Ombudsman;
  - Relevant information should include a clear exposition of the development plan, site or related history and any other material considerations;
  - Reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur;
  - Reports should contain technical appraisals which clearly justify a recommendation; and
  - If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.
- 5.7 Applications which are considered to be a material departure to the development plan must be identified as soon as possible. They must then be advertised as such, as required by the Town and Country Planning (Development Management Procedure) (England) Order 2010. Second, if it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan clearly demonstrated. The application may then have to be referred to the Secretary of State depending upon the type and scale of the development proposed. If the Director of Planning and

Regeneration's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

- 5.8 If the Planning Committee makes a decision contrary to the Director of Planning and Regeneration's recommendation, the officer should be given an opportunity to explain the implications of the contrary decision. The Courts have expressed the view that reasons for the contrary decision should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, the provision of a dwelling for an agricultural worker.
- 5.9 A senior legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes. Whilst authorities make extensive use of standard wordings for conditions, in the case of any conditions which Members may wish to add or amend, an officer should be asked to draft any such conditions and bring them back for approval at the subsequent meeting of the Planning Committee.

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.

#### Conflict : Ward Member v Planning Committee Roles, Chairmanship.

- 5.10 Councillors may be Members of both the Conservation and Heritage Panel (CHP) and the Planning Committee. Their considerations at CHP are confined strictly to conservation matters. When a matter is to be considered by both bodies, these Members may ask questions, offer opinions and participate in discussion at CHP but should not take part in any vote on the issues. Furthermore, these Members should expressly dissociate themselves from any conclusion reached by CHP as to whether to approve or refuse a planning application, even if reached without a formal vote. This statement should be minuted. This is because when the item reaches the Planning Committee, Members must be seen to consider impartially all the material considerations. If a Member does not comply with the requirements of this paragraph, the Member should respond as in paragraph 4.1.
- 5.11 Historically there have been tensions between the Ward Member/local representative and the Planning Committee role. However, as a result of Section 25 of the Localism Act 2011 Members can participate to a greater degree in applications affecting their local community before the matter reaches Planning Committee, but whilst Members of Committee are free to act in the manner as indicated in paragraph 4.2, clear evidence of predetermination of an application will still result in the Member responding as in 4.1 and 4.6.
- 5.12 Chairmanship – The chairman should ensure
- 5.12.1 Members' comments at Committee only relate to the planning merits of the application before them;

- 5.12.2 reference at Committee to non-planning issues by the public / Members are discouraged;
- 5.12.3 the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and
- 5.12.4 late evidence from public speakers – Members and the public should be made aware that the late submission of evidence will not be permitted at Committee as late submission can lead to allegations of unfairness.

## 6. TRAINING

- 6.1 Members dealing with planning issues will be required to attend a training session each year to receive guidance in relation to planning regulations and procedures and on declaration of personal or prejudicial 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 Planning Committee. This training should include a balance of the following :-
  - Organised visits to review permissions granted, with evaluation and lessons learned presented as a paper;
  - Short (half day) sessions on special topics of interest or where overturns have indicated problems with planning policy;
  - Special topic groups to consider thorny issues in depth;
  - Formal training by internal and external speakers;
  - Visits to other authorities who have received good inspection / audit feedback;
  - Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session;
  - Attendance at inquiries where officers have identified there is something specific to learn which will benefit members.
- 6.2 The report of the Audit Commission 'Building in Quality' recommend that Councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the planning system, and can help with reviews of planning policies.
- 6.3 Such reviews are best undertaken at least annually. They should include examples from a broad range of categories such as major and minor development; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices. The Director of Planning and Regeneration will take responsibility for organising the training and the reviews.

## **7. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND DEVELOPMENT PROPOSALS BY THE COUNCIL**

- 7.1 Serving Councillors or their relatives who act as agents for people pursuing a planning 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.
- 7.2 Proposals of this nature will be identified and reported to the Planning Committee as main items and not dealt with by officers under delegated powers. Proposals for the Council's own development will be determined by Planning Committee in exactly the same way as those by private developers.
- 7.3 Officers within the Planning and Regeneration Department should not submit applications on behalf of third parties except as part of their duties as Council employees. In cases where officers of this Department or members of their family submit applications for planning permission, they should inform the Director of Planning and Regeneration accordingly.

## **8. REGISTRATION AND DECLARATION OF INTERESTS**

- 8.1 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.

## **9. COMPLAINTS ABOUT THE DETERMINATION OF PLANNING APPLICATIONS**

- 9.1 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.
- 9.2 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.
- 9.3 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 planning 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 Director of Planning and Regeneration, where there is no report to a Committee. Such decisions should be well documented and form part of the case file.

It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.

**10. CONCLUDING REMARKS**

- 10.1 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 Planning Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serve an essential part in the local and corporate governance of Birmingham.
- 10.2 The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Planning Code. The Monitoring Officer has also kept the District Auditor aware of the development of this Planning Code and been given full opportunity to comment upon it.
- 10.3 If any person believes that a Member or Officer has breached any aspect of this Planning Code, s/he should refer the matter to the City Council's Monitoring Office

**Prepared by the City Solicitor and the Director of Planning and Regeneration**

Revised January 2016

**B12 – Executive Reports Process**

**BIRMINGHAM CITY COUNCIL**

**EXECUTIVE REPORTS PROCESS**

**(applies to Cabinet, Cabinet Committee, District Committee  
and Ward Forums, and  
Cabinet Member with Chief Officer Joint Reports)**

*July 2016*

## EXECUTIVE REPORTS PROCESS

### Context

- This process applies to all Executive Reports – Cabinet Reports, Cabinet Member/Chief Officer Joint Reports, Cabinet and Committee, District and Ward Forum Reports.

### Immediate Changes

1. The following process will apply to late reports:

- (a) Committee Services must be advised that a Report is likely to be submitted late before the usual dispatch date for agenda and reports so that these reports can at least be included in the Cabinet/Committee Agenda.
- (b) **ALL late reports MUST start at the beginning of the report with two separate headings:-**
  - (i) REASON FOR LATENESS; and
  - (ii) REASON FOR URGENCY

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/City Solicitor Cabinet/Committee may postpone consideration of the report as is required by law. Please specifically note that a Reason for Lateness suggesting that there simply has not been enough time to finalise the report for a particular Cabinet is NOT a special circumstance. The Chair of the meeting will decide if special circumstances for lateness do exist as outlined in the heading to the report and proceed if appropriate or otherwise postpone consideration of the report to the next meeting. All late reports must be agreed and authorised by either the Leader or the Deputy Leader of the Council or the Cabinet Member for Value for Money and Efficiency as advised by the Monitoring Officer / City Solicitor.

2. The Report Checklist (as amended) should be fully completed for all Cabinet, District and Ward Committee Reports. This also applies for Cabinet Member/Chief Officer Joint Reports recording Decisions by them (£200k to £500k (Revenue) or up to £1M (Capital).

**Please note that if the checklist is not submitted, fully completed with names and dates, the report will not go forward.**

3. Cabinet reports and Cabinet Member/Chief Officer Joint reports, need to be signed by the relevant Cabinet Member(s) and the Chief Officer. District Committee and Ward Forum Reports need to be signed by the relevant Executive Member or Ward Forum Chairman, Cabinet Committee Chairman and the relevant Chief Officer.

4. All reports are to be presented in Arial script and font size 12. Spacing between lines should be 1.5 and 3.0 between paragraphs. The report should preferably not exceed 4 pages for the main text.

5. ~~The assumption should be that reports are public and only private if expressly agreed by the Monitoring Officer / City Solicitor. If it is proposed to submit a Private Report, approval should be sought from the City Solicitor or Monitoring Officer or their representative at the earliest opportunity and a copy of the Private Report submitted to the Cabinet Member for Transparency openness and equality and copied to the Cabinet or the Cabinet Support Officer~~
6. There will be greater emphasis on compliance with deadlines. Colleagues are reminded of the importance of instilling good discipline amongst authors and avoiding late reports. Please send cleared reports with the completed Checklist to Committee Services.
7. Decisions over £200k are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.
8. Annexed to the Executive Report Process is the Decision Agenda Management Protocol which should be applied by all officers in the writing of Executive Reports.

**REVISED REPORT TEMPLATE for ALL EXECUTIVE REPORTS**

**BIRMINGHAM CITY COUNCIL**

**PUBLIC OR PRIVATE REPORT**  
(not for publication)

<b>Report to:</b>	<b>CABINET or DISTRICT COMMITTEE or WARD FORUMS or JOINT CABINET MEMBER AND CHIEF OFFICER or JOINT EXECUTIVE MEMBER AND CHIEF OFFICER</b>	<i>Exempt information paragraph number – if private report.</i>
<b>Report of:</b> <b>Date of Decision:</b>		
<b>SUBJECT:</b>		
<b>Key Decision: Yes / No</b>	<b>Relevant Forward Plan Ref:</b>	
<b>If not in the Forward Plan: (please "X" box)</b>	<b>Chief Executive approved</b> <input type="checkbox"/>	
	<b>O&amp;S Chairman approved</b> <input type="checkbox"/>	
<b>Relevant Cabinet Member(s) or Relevant Executive Member:</b>		
<b>Relevant O&amp;S Chairman:</b>		
<b>Wards affected:</b>		

*(for late reports insert reason for lateness and reason for urgency)*

<b>1. Purpose of report:</b>
1.1
1.2
1.3* This matter was not included in the Forward Plan because ... <i>[insert reasons]</i> * <i>To be completed where a key decision was not included in the Forward Plan</i>

<b>2. Decision(s) recommended:</b>
That the xxxxxxxx (insert decision maker):-
2.1
2.2
2.3
2.4

<b>Lead Contact Officer(s):</b>	
<b>Telephone No: E-mail address:</b>	
<b>3. Consultation</b>	
	Consultation should include those that have an interest in the decisions recommended
3.1	<u>Internal</u>
3.2	<u>External</u>
<b>4. Compliance Issues:</b>	
4.1	<u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u>
4.2	<u>Financial Implications</u> <u>(Will decisions be carried out within existing finances and Resources?)</u>
4.3	<u>Legal Implications</u>
4.4	<u>Public Sector Equality Duty (see separate guidance note)</u>

<b>5. Relevant background/chronology of key events:</b>
5.1
5.2

<b>6. Evaluation of alternative option(s):</b>
6.1
6.2

<b>7. Reasons for Decision(s):</b>
7.1
7.2

<b>Signatures</b>		<b><u>Date</u></b>
Cabinet Member or Executive Member or Ward Forum Chairman	.....	.....
Chief Officer:	.....	.....

<b>List of Background Documents used to compile this Report:</b>

<b>List of Appendices accompanying this Report (if any):</b>
1.
2.
3.
4.
5.

<b>Report Version</b>		<b>Dated</b>	
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## PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
  - (a) whether there is adverse impact upon persons within the protected categories
  - (b) what is the nature of this adverse impact
  - (c) whether the adverse impact can be avoided and at what cost – and if not –
  - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
  - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
  - the full equality impact assessment (as an appendix)
  - the equality duty – see page 9 (as an appendix).

**Equality Act 2010**

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;</li> <li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li> <li>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul>
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> <li>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li> <li>(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;</li> <li>(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</li> </ul>
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> <li>(a) tackle prejudice, and</li> <li>(b) promote understanding.</li> </ul>
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> <li>(a) age</li> <li>(b) disability</li> <li>(c) gender reassignment</li> <li>(d) pregnancy and maternity</li> <li>(e) race</li> <li>(f) religion or belief</li> <li>(g) sex</li> <li>(h) sexual orientation</li> </ul>

**PUBLIC OR PRIVATE REPORT**  
(not for publication)

<b>Report to:</b>		<b>Exempt information paragraph number – if private report:</b>
<b>Report of:</b> <b>Date of Decision:</b>		
<b>SUBJECT:</b>		
<b>Key Decision: Yes / No</b>	<b>Relevant Forward Plan Ref:</b>	
<b>If not in the Forward Plan: (please "X" box)</b>	<b>Chief Executive approved</b> <input type="checkbox"/>	<input type="checkbox"/>
	<b>O&amp;S Chairman approved</b> <input type="checkbox"/>	<input type="checkbox"/>
<b>Relevant Cabinet Member(s) or Relevant Executive Member:</b>		
<b>Relevant O&amp;S Chairman:</b>		
<b>Wards affected:</b>		

<b>LATE REPORT</b>
<b>* To be completed for all late reports, ie. which cannot be despatched with the agenda papers ie. 5 clear working days' notice before meeting.</b>
<p><b>Reasons for Lateness</b> [insert reasons]</p> <p><b>Reasons for Urgency</b> [insert reasons]</p>

**BIRMINGHAM CITY COUNCIL EXECUTIVE REPORTS CHECKLIST**Report Title:Report version:Cabinet/District/Ward/Joint Cabinet Member and Chief Officer/Joint Executive Member and Chief Officer Report:Report Author:

To be completed in respect of all Cabinet, District and Ward Forum Reports. This also applies for Joint Cabinet Member and Chief Officer Reports.

Committee Services have been instructed to return any Report which does not have a fully completed Checklist attached. The purpose is for the author to indicate who has been consulted in the preparation and clearance of the report and when.

<b>CONSULTATION</b>	<b>Names and dates to be inserted</b>
Has the report been discussed and cleared with:	
(a) Relevant Cabinet Member(s)	
<b>OR</b>	
(b) Relevant District Committee/Ward Forum Chairman	
<b>COMPLIANCE ISSUES</b>	
(c) Has the report been cleared with relevant Strategic Director?	Cleared by: Date:
(d) Has report been cleared with the relevant Finance Officer? <b>(see over page)</b>	Cleared by: Date:
(e) Has report been cleared with the relevant Directorate Legal Officer? <b>(see over page)</b>	Cleared by: Date:
(f) Has the report been cleared with the relevant Corporate Procurement Officer? <b>(see over page)</b>	Cleared by: Date:
<b>MEDIA CONSIDERATIONS</b>	
(f) Has relevant Media officer been made aware of report and agreed draft press release/statement?	
Any significant comments for the attention of the Leader / Chief Executive?	

**RELEVANT FINANCE OFFICERS**

<b>PEOPLE DIRECTORATE</b>	<b>David Moran (Interim Assistant Director for Finance and People)</b>
<b>PLACE DIRECTORATE</b>	<b>Sukvinder Kalsi</b>
<b>ECONOMY DIRECTORATE</b>	<b>Alison Jarrett</b>
<b>CORPORATE COUNCIL WIDE</b>	<b>Jon Warlow, Steve Powell, Sarah Dunlavey</b>

**RELEVANT DIRECTORATE LEGAL OFFICERS**

<b>People Directorate (Adults)</b>	<b>Charmaine Murray</b>
<b>People Directorate (Children)</b>	<b>Sukhwinder Singh</b>
<b>People Directorate (Education)</b>	<b>Ian Burgess</b>
<b>Place Directorate</b>	<b>Lisa Morgan</b>
<b>Economy Directorate (Regeneration)</b>	<b>Stuart Evans</b>
<b>Economy Directorate (Corporate Employment/Corporate HR)</b>	<b>Kate Charlton</b>
<b>Economy Directorate (Commissioning / Procurement)</b>	<b>Rob Barker</b>
<b>Corporate Council Wide (or if above unavailable)</b>	<b>Kate Charlton/Stuart Evans/Wendy Taylor</b>

**RELEVANT PROCUREMENT OFFICERS – any can clear reports**

<b>AD – Procurement</b>	<b>Nigel Kletz</b>
<b>Head of Procurement Team</b>	<b>Debbie Husler</b>
<b>Head of Strategy &amp; Development</b>	<b>Haydn Brown</b>
<b>Head of Contract Management</b>	<b>Richard Tibbatts</b>
<b>Head of Commissioning Team</b>	<b>Mike Smith</b>

**PROTOCOL – CABINET MEMBER/CHIEF OFFICER JOINT REPORTS**

These reports will cover more strategic matters and will be completed either at the request of, or in agreement with, the relevant Cabinet Member(s).

Consultation with the Cabinet Member should be continuous from the outset to completion of the final Report.

The process for completion of the Report will usually be as follows but a degree of flexibility is essential to ensure efficiency and effectiveness:

- no Report should be signed off without the Report checklist attached and fully completed (see Executive Reports Protocol)
- all Reports should be from a JNC officer to the Chief Officer and the lead Cabinet Member
- if other Cabinet Members are interested then they should be consulted and their names listed in the relevant 'consultation' section of the Report
- the relevant Overview & Scrutiny Chair should be briefed on the report.
- the lead Cabinet Member should usually sign the report first; no Report will proceed without the signature of the lead Cabinet Member and the Chief Officer
- no one needs to be present when the Cabinet Member / Chief Officer sign the Report but if signatures are such that the name is not clear then the name must be added clearly underneath the signature
- the signed Report with the completed Checklist should then be sent to Committee Services – see Executive Reports Protocol
- the Report will be placed on CMIS and is subject to the Call-in procedure *before* the decision(s) can be implemented

**If the Checklist is not fully and properly completed then the Report will proceed no further and will be returned to the lead contact officer for correction. This is the clear Governance arrangement to ensure probity and lawful decision-making and should protect the report writer, the Chief Officer, the Cabinet Member(s) and therefore the Council.**

Monitoring Officer of Birmingham City Council

**GUIDE TO CABINET REPORTS SEQUENCE****Time Required = 12 weeks (minimum 8 weeks)****Example (using a Cabinet meeting on Monday 31 October)**

	<u>Weeks</u>	
12 weeks before Cabinet	12	Need for decision identified and initial meeting with Strategic Director and then Cabinet Member or Executive Member for Local Services (District functions)
11 weeks before Cabinet	11	Initial meeting with Lead Officers in Finance and Legal Services
10 weeks before Cabinet	10	Onto Forward Plan and undertake Equality Assessment
9 weeks before Cabinet	9	Draft report to relevant Officers and Members for consultation; also to the Scrutiny Officer
7-8 weeks before Cabinet	7-8	Consultation
6 weeks before Cabinet	6	Collate comments from consultees and finalise draft report
5 weeks before Cabinet	5	Finalise Report including full sign off of Report Checklist
Wednesday 12 <sup>th</sup> October (1200 hours)	3	Deadline for Leader's Briefing/Chief Exec's run through
Monday 17 <sup>th</sup> October	2	Leader's Briefing/Chief Exec's run through and then copy to Scrutiny Officer
Thursday 20 <sup>th</sup> October (1200 hours)	2	Finalise reports and submit to meet deadline for Cabinet agenda send out
Friday 21 <sup>st</sup> October (1200 hours)	<b>5 clear working days</b>	<b>Committee Services send out papers and agenda is published on CMIS</b>
Monday 31 <sup>st</sup> October (before 1700 hours)	Cabinet	Cabinet Meeting
Tuesday 1 <sup>st</sup> November		Cabinet decisions published
Friday 4 <sup>th</sup> November (after 1600 hours)		Decisions implemented, if no request for call in

**B13 – List of Committees and Quorums**

<b>CABINET / COMMITTEE</b>	<b>No. of Members</b>	<b>Quorum</b>
CABINET	8	4
DISTRICT COMMITTEES	12	6
WARD FORUMS	3	2
EDUCATION & VULNERABLE CHILDREN OVERVIEW & SCRUTINY COMMITTEE (contains Governor and Parent representatives)	12 + 4	5
ALL OTHER OVERVIEW AND SCRUTINY COMMITTEES	12	3
PLANNING COMMITTEE	15	5
LICENSING & PUBLIC PROTECTION COMMITTEE (and Sub-Committees)	15 3	5 3
COUNCIL BUSINESS MANAGEMENT COMMITTEE (and Sub-Committees as determined by the Constitution and the Committee)	8	3
TRUSTS & CHARITIES COMMITTEE	8	3
STANDARDS COMMITTEE	11	3
AUDIT COMMITTEE	8	3

## **B14 – Local Authority Publicity**

### **SUMMARY BRIEFING NOTE**

#### **Principles**

1. Publicity by local authorities should:-
  - be lawful
  - be cost effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

#### **Lawfulness**

2. The Council should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.
3. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
4. Publicity is also restricted in the period immediately before referendums.

#### **Cost Effectiveness**

5. In relation to all publicity, the Council should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of Council owned facilities to host authority publicity.
6. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case the Council should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.

## Objectivity

7. The Council should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the Council's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
8. Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both.

## Even-handedness

9. If Council publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
10. Other than during the Pre-Election Period (Purdah), it is acceptable for the Council to publicise the work done by individual members of the Council and to present the views of those individuals on local issues. If views expressed by or attributed to individual Councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
11. It is acceptable for the Council to host publicity prepared by third parties – for example the Council may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by the Council of a website permitting the posting of material by third parties constitutes a continuing act of publication by the Council which must accordingly have a system for moderating and removing any unacceptable material.
12. It is generally acceptable for the Council to host publicity, such as a blog, which itself contains links to external sites over which the Council has no control where the content of those sites would not itself comply with this code. However, particular care must be taken by local authorities during the period before elections and referendums.

## Appropriate Use of Publicity

13. The Council should not incur any expenditure in retaining the service of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
14. The Council should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
15. The Council should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, news sheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, news sheets or similar communications, they should not issue them more frequently than quarterly. Such communications should

not include material other than information for the public about the business, services and amenities of the Council or other local service providers.

### **Equality and Diversity**

16. Publicity by the Council may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
17. The Council should consider how any publicity it issues can contribute to the promotion of any duties applicable in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

### **Care During Periods of Heightened Sensitivity**

18. The Council should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums (Purdah).
19. During the period between the notice of an election and the election itself, the Council should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.
20. In general, the Council should not issue any publicity which seeks to influence voters. However, this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum.

Monitoring Officer

July 2012

(Source: Code of Recommended Practice on Local Authority Publicity Department of Communities and Local Government)

## **B15 – Protocol for Media & Public Regarding the Recording of Council Meetings**

**(Recording includes webcasting, filming and photography)**

1. The City Council has led the way in the streaming of council meetings on the internet in order to enhance the involvement of local people in the work of their council, encourage and develop participation by members of the public and acknowledge the importance of the democratic mandate.
2. 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.

The rules that the Council will apply are:

- (a) Anyone wishing to record the whole or large parts of a council meeting must notify the council at least one working day before the start of the meeting if suitable arrangements for your equipment are necessary.
- (b) All recordings must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings.
- (c) 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.
- (d) We will ask for recording to stop if the meeting goes into private session where the public is excluded for confidentiality reasons. In such a case, the person filming should leave the room ensuring all recording equipment is switched off.
- (e) 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.
- (f) 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.

3. 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)

4. 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.
5. Please note that if at any time the number of places available for press and media representatives within the Council Chamber becomes insufficient then they may be asked to sit in the public gallery and may record from there provided that any such recording is not disruptive to the meeting.

Please contact Committee Services officers for further information or assistance:

- Phil Wright 0121 675 0216 or [phil.wright@birmingham.gov.uk](mailto:phil.wright@birmingham.gov.uk)
- David Smith 0121 303 4465 or [david.smith@birmingham.gov.uk](mailto:david.smith@birmingham.gov.uk)