

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	COUNCIL BUSINESS MANAGEMENT COMMITTEE
Report of: Date of Decision:	City Solicitor of Legal Services
SUBJECT:	PROPOSED CHANGES TO THE CONSTITUTION
Wards Affected:	ALL

1. Purpose of report:
1.1 To advise Committee of proposed changes to the City Council's Constitution

2. Recommendations :
2.1 That the Committee notes the proposed changes to the City Council's Constitution set out in paragraph 3 and in the appendix to this report.
2.2 That the Committee notes and approves inclusion of this report and appendix in the full agenda for the full Council meeting on 16 th July 2016.

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Signature:
Chief Officer(s):
Dated:

List of Appendices accompanying this Report (if any):	
1.	Minor in year changes to the Constitution

3. New Standards Requirements:	
3.1	At Appendix 1 I have annexed hereto minor track changes to the Constitution.
3.2	The track changes relate to minor changes to the Executive Report Process B12; changes to Article 7 Terms of Reference Overview & Scrutiny Committees to clarify the terms of reference; a change to the terms of reference for the Cabinet Member for Housing and Homes and the Cabinet Member for Clean Streets Recycling and Environment.

List of Background Documents used to compile this Report:	
NONE	



VOLUME A **THE CONSTITUTION**

**Website
Updated May 2016**

VOLUME A THE CONSTITUTION

TABLE OF CONTENTS

	Page No.
Summary and Explanation	3
Article 1 – The Constitution	6
Article 2 – Members of the Council (Councillors)	7
Article 3 – Citizens and the Council	9
Article 4 – The Full Council	10
Article 5 – The Lord Mayor	12
Article 6 – The Executive	14
Article 7 – Overview and Scrutiny Committees	17
Article 8 – Regulatory and Non-Executive Committees	23
Article 9 – The Standards Committee	28
Article 10 – District and Ward Committees/Forums	30
Article 11 – External Appointments, Joint Committees	32
Article 12 – Officers	33
Article 13 – Decision Making and 'key decisions'	37
Article 14 – Finance, Contracts and Legal Matters	39
Article 15 – Review, Revision and Suspension of the Constitution	40

Article 7 – Overview and Scrutiny Committees

This Article sets out details with regard to the Overview and Scrutiny arrangements. These Committees will, normally, meet in public to discuss and make recommendations on the development of policies and on improving service performance, and to hold the Executive to account for their actions.

All Councillors, except Cabinet Members (and the Lord Mayor) can be members of an Overview and Scrutiny Committee. Chairs of these committees are appointed by the Full Council and Deputy Chairs are elected by each committee at its first meeting, for the purpose of substitution for the Chair if absent.

Good Overview and Scrutiny adds value to councils in many ways, for example it:

- Provides “critical friend” challenge to executive policy-makers and decision-makers;
- Enables the voice and concerns of the public and its communities to be heard;
- Is carried out by ‘independent minded members’ who lead and own the scrutiny process;
- Drives improvement in public services.

7.1 General role

Overview and Scrutiny Committees will:

- (a) make reports and/or recommendations to the full Council, the Executive and / or other organisations in connection with the discharge of the functions specified in their terms of reference;
- (b) consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; and
 - i. is relevant to the Council’s strategic objectives; and/or
 - ii. is relevant to major issues faced by officers in managing a function of the Council; and
 - iii. is likely to make a contribution to moving the Council forward and achieving key performance targets.
- (c) exercise the “request for call-in” and “call-in” any Executive decisions made but not yet implemented by the Executive.

Overview and Scrutiny Chairs should maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the council's policy priorities in a timely way.

7.2 **Specific functions**

(a) **Policy development and review**

Overview and Scrutiny Committees may:

- (i) assist the Council and / or the Executive in the development of its budget and Policy Framework by appropriate analysis of policy and budget issues;
- (ii) conduct appropriate research, community and other consultation in the analysis of policy and budget issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and
- (v) liaise with other external organisations operating in the city, whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

Overview and Scrutiny Committees may:

- (i) review and scrutinise the Executive decisions made by and performance of the Executive and/or Chief Officers in relation to decisions taken by them or in relation to their areas of responsibility / department;
- (ii) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and / or particular service areas – including the areas of responsibility of the Regulatory and Non-Executive Committees, but not the actual decisions of the Regulatory and Non-Executive Committees;
- (iii) make recommendations to the Executive, Chairmen of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;

- (iv) review and scrutinise the performance of other relevant public bodies in Birmingham (including Health Authorities) and to invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
- (v) question and gather evidence from any person (with their consent)
- (vi) establish short life working groups to carry out specific time limited enquiries as agreed with the five Overview and Scrutiny Committee Chairs and subject to available resources.

7.3 **Terms of Reference of Overview and Scrutiny Committees**

There shall be five Overview and Scrutiny Committees as set out in the terms of reference below, each to have a Chair (appointed by full Council) and Deputy Chair (to be elected by each committee at its first meeting).

CORPORATE RESOURCES AND GOVERNANCE COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to governance, resources, performance (including customer services), finance, human resources, partnerships, transparency, regional working (including Combined Authority), inequality, public engagement, council wide efficiency, commissioning and procurement.

ECONOMY, SKILLS AND TRANSPORT COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating principally economic, growth and jobs, inward investment, promotion of the city, ~~land use planning~~, transport strategy and highways, skills, libraries, arts, culture, sports and museums.

SCHOOLS, CHILDREN AND FAMILIES COMMITTEE

The Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (one);
- (b) Roman Catholic diocese representative (one); and
- (c) Parent Governor representatives (two).

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning the schools, vulnerable children and child safeguarding functions of the council.

HEALTH AND WELLBEING AND THE ENVIRONMENT COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to ~~cleaner neighbourhoods~~, waste management, environment, safeguarding, social care and public health and to discharge the relevant overview and scrutiny role set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, including:

- The appointment of Joint Overview and Scrutiny Committees with neighbouring authorities; and
- The exercise of the power to make referrals of contested service reconfigurations to the Secretary of State as previously delegated to the Health and Social Care Overview and Scrutiny Committee by the Council.

HOUSING AND HOMES COMMITTEE

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to to housing, homes, land use planning, cleaner neighbourhoods, social cohesion and community safety (including domestic violence).

This Committee shall be the Crime and Disorder Committee (Police and Justice Act 2006).

This Committee shall also undertake the authority's statutory functions in relation to the scrutiny of flood risk management (Flood and Water Management Act 2010).

7.4 Conflicts of interest – Membership of Overview and Scrutiny Committees and District and Ward Forums

- (a) If an Overview and Scrutiny Committee is scrutinising specific decisions in relation to the business of the District Committee and / or Ward Forum of which an Overview and Scrutiny Committee Councillor is a Member, then that Councillor must withdraw from the meeting during the consideration of such matter.
- (b) Where, however, the Overview and Scrutiny Committee is reviewing policy matters, generally, as opposed to a specific decision of the District and/or Ward Forum, the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

7.5 Overview and Scrutiny Work and Non-Executive Committees

- (a) Overview and Scrutiny Committees are only permitted by law to scrutinise the Executive decisions of the council – Cabinet, Cabinet Committees, Cabinet Members, District and Ward Committees, and officers.
- (b) In terms of the Regulatory Committees, these carry out quasi-judicial functions and, as such, appropriate appeal rights and procedures apply to the same, which do not involve the Overview and Scrutiny Committees arrangements.

7.6 Subject to the proportionality principles, relating to overall membership of the committee being complied with, the appointment of Chairmen and Deputy Chairmen of the Overview and Scrutiny Committees shall be on such principles as are agreed by the Full Council.

7.7 Chairs of the Overview and Scrutiny Committees

The five Overview and Scrutiny Chairs shall monitor the work of the Overview and Scrutiny Committees so as to ensure that such work is properly planned, co-ordinated and progressed. In this connection, they shall have the power to:

- (a) give such guidance to the Overview and Scrutiny Committees in any cases of uncertainty, as to work which they should or should not be undertaking, as may be necessary to achieve such co-ordination, including the allocation of “call-in” to the appropriate Committee;
- (b) determine, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;
- (c) publish each year an Annual Programme of major Scrutiny Reviews as suggested by individual Overview and Scrutiny Committees following consideration of the annual Leader’s Policy Statement to the council; and
- (d) agree the establishment of any task & finish groups;
- (e) consider overview and scrutiny development, working practices and constitutional arrangements.

An observer from the Principal Opposition Group may attend meetings of the five committee Chairs when considering the above matters.

7.8 “Request for Call-In” and “Call-In”

- (a) When an Executive decision is taken by the Cabinet, Cabinet Member(s) or Chief Officer jointly with Cabinet Members, Cabinet Committee Local

Leadership, District Committees or Ward Forums, the decision shall be published by electronic means, and copies of it shall be available at the main offices of the Council, normally within three days of being made. All Members and Chief Officers will be sent a notification of all such decisions within the same timescale, by the Committee Services Officer responsible for publishing the decision.

- (b) The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a "Request for call-in" is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet) or by any two elected Members from a District Committee (who are not members of the Cabinet) where there is a specific local interest in the issues concerned. The "Request for Call In" should state the reason for call-in.
- (c) Once a "Request for Call In" has been received, the five Overview and Scrutiny Chairs will agree which Overview and Scrutiny Committee should hear the call-in. That Committee must meet to consider the request. The meeting should take place not later than 15 clear working days after the original publication of the decision.
- (d) It is for the Committee to decide whether to Call In a decision or not. The council does not expect an Overview and Scrutiny Committee to Call In an Executive decision unless one or more of the following criteria applies.

Call-In Criteria

	<i>(a) Is the Executive decision within existing policy?</i>
1	<i>the decision appears to be contrary to the Budget or one of the 'policy framework' plans or strategies;</i>
2	<i>the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;</i>
3	<i>the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);</i>
	<i>(b) Is the Executive Decision well-founded?</i>
4	<i>the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;</i>
5	<i>the Executive appears to have overlooked some relevant consideration in arriving at its decision;</i>

6	<i>the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;</i>
7	<i>the decision appears to be particularly "novel" and therefore likely to set an important precedent;</i>
8	<i>there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.</i>
	<i>(c) Has the Executive decision been properly taken?</i>
9	<i>the decision appears to give rise to significant legal, financial or propriety issues;</i>
10	<i>the notification of the decision does not appear to have been in accordance with council procedures;</i>
	<i>(d) Does the Executive decision particularly affect a district?</i>
11	<i>the decision appears to give rise to significant issues in relation to a particular District.</i>