Birmingham City Council

Birmingham City Council

Constitution

Part E – Scheme of Delegations

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MAKING A POSITIVE DIFFERENCE EVERYDAY TO PEOPLE'S LIVES

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E1. SUMMARY AND EXPLANATION

1. Each Chief Officer/Director has a number of delegations which are set out below. The following sections set out the delegations to officers:
    - Officer delegated decision making – setting out general notes on the parameters of the delegations and the process for taking officer delegated decisions;
    - Financial delegations to Chief Officers – setting out the financial and governance delegations to all Chief Officers (the Chief Executive, Assistant Chief Executive, Chief Finance Officer and Directors);
    - Functional Delegations to each of the Chief Officers.
2. Each of these may be supplemented by a Scheme of Sub-Delegations.

E2. OFFICER DELEGATED DECISION MAKING

2.1 General Notes

1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
2. The exercise of a delegated power, duty or function shall:
    (i) be subject to the City Council's Policy Framework and/or Budget;
    (ii) be subject to the requirements of the Constitution including the Council Procedure (B4), Executive Procedures (B6) Financial Procedure Rules (Part D), Contract Procedure Rules (Part D) Corporate Standards (C1) and any delegations contained therein.
3. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:
    (i) such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;
    (ii) such authorisations should only be given where there is significant administrative convenience in doing so;
    (iii) the officer authorised by the other should act in the name of the officer who received the original delegation;
    (iv) no authorisation may be given if the statute or the law prohibits it.

    Authorisations of this kind should not be considered to be the norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.

    Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.

4. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
5. Any reference to any Act of Parliament includes reference to Regulations or subordinate legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
6. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
7. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
8. Delegations to officers are subject to:
    (i) The right of the delegating body to decide any matter in a particular case;
    (ii) The officer may, in lieu of exercising his/her delegated power, refer to the delegating body for a decision; and
    (iii) Any restrictions, conditions or directions of the delegating body.
9. In exercising delegated powers, the officer shall:
    (i) Take account of the requirements of this Constitution and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
    (ii) Shall exercise the delegation so as to promote the efficient, effective and economic running of that Directorate and the Council, and in furtherance of the Council's visions and values; and
    (iii) Where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
10. Except where otherwise expressly provided either within the Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
11. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Director.
12. The Scheme of Delegations is maintained by the City Solicitor, and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Scheme before solely relying on this document.
13. The City Solicitor shall have the power to amend the Scheme of Delegations to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.
14. Any post specifically referred to in the Scheme of Delegations shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any

particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Scheme in anticipation of any reorganisation may be exercised in accordance with the preceding Scheme to the date of that reorganisation.

15. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
16. Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
17. All enquiries about the Scheme of Delegations should be made to the City Solicitor.
18. All matters of interpretation of this document will be determined by the City Solicitor.
19. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the delegating body.
20. Functions, matters, powers, authorisations, delegations, duties and responsibilities etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
21. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any function that is not therefore specified must be assumed to be executive.
22. Advice on procedures and matters to be taken into account in exercising officer delegated powers, is set out in the guidance on decision-making issued by the City Solicitor.
23. This Scheme of Delegations was approved as part of the Council's Constitution on 10th September 2019. Ad hoc additional revisions will be considered by the Council as appropriate.
24. For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees cost or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
25. Where there is doubt over the responsibility for the exercise of the delegated power, the Chief Executive or his or her nominee is authorised to act.

2.2 Process and Recording of Delegated Decisions

Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and also put appropriate systems in place for recording the exercise of delegated powers in the following manner and circumstances:

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

(ii) Additionally, all decisions taken by Cabinet Members (based on a written report by the Chief Officer) should be recorded using the prescribed template. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process..

E3. DELEGATIONS TO CHIEF OFFICERS[1]

3.1 Summary

The Council, its Committees and the Executive will make decisions on matters of significant policy. The Chief Executive, Assistant Chief Executive, Chief Finance Officer and Directors are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as set out below.

In relation to all delegated authorities conferred on Chief Officers, the Chief Executive may allocate or reallocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit.

Chief Officers may take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution.

Chief Officers may take all decisions necessary to give effect to implement the contents of any approved Policy Framework plan, in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.

3.2 General Delegations

The Chief Executive and Chief Officers have the following delegated powers in respect of all matters which are not "key decisions" and not reserved for decision by the Council or by a Committee of the Council:

(i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:

- The sum expended is within the approved budget for the Directorate and/or relevant portfolio, and
- The amount in relation to any single matter does not equal or exceed £200,000 or
- The amount in relation to any single matter that is at or above £200,000 and below £500,000 (revenue) or £1m (capital) is a Cabinet Member(s) decision (based on a written report from the Chief Officer).
- The requirements of the Financial Approvals Framework in this Constitution and other requirements in the Constitution are complied with.

(ii) Determine employment matters relating to staff including all changes to staffing structures below JNC level and the annual implementation of the contractual pay increment system. These powers will not include changes to terms and conditions of

[1] Chief Officers are those officers reporting to the Chief Executive (Chief Finance Officer, Assistant Chief Executive and all Directors).

employment (the Birmingham Contract) or additional payments to any individual member of staff above the general financial threshold delegated to officers (£200k).

(iii) To approve tender strategies and award contracts in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed are between the Procurement Threshold (£181,302 as at September 2019) and £10,000,000 in value, over the contract length.

(iv) Where no other viable alternative exists to approve contract extensions, where no extension option in the contract exists, in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed do not exceed £500,000.

(v) To write off any individual debts of income (including any associated court costs and bailiffs' fees) within their service directorate responsibility, and after consultation with the Chief Finance Officer, up to the sum of £25,000 per individual or organisation, which in the opinion of the Director, is considered to be uneconomical to collect or is irrecoverable. *All individual debts above this amount can only be written off by the Chief Finance Officer.*

(vi) The Chief Executive and Directors have delegated authority to approve and make payments in connection with the duties of the council where it holds monies in the capacity of an "Accountable Body". In all such cases where the Council is the Accountable Body, the Chief Executive or any Chief Officer has authority to make lawful payments in compliance with the terms under which the Council holds monies as the Accountable Body and in accordance with any requirements approved by the Council as Accountable Body, up to but not exceeding the total amount held under each agreement with the grant giver.

(vii) The Chief Executive has all the above delegated authority in respect of all executive and non-executive expenditure, and as may be necessary, determine which Directorate discharges any particular Council function if this is not clear.

Chief Executive and the Chief Finance Officer

(viii) The Chief Executive and the Chief Finance Officer may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

(ix) The Chief Executive and the Chief Finance Officer together (and no other Director) without financial limit have the following additional powers to make decisions in relation to:

- All future forms of indemnity on behalf of the Council including the signing of certificates under the Local Government (Contracts) Act 1997.
- The Council's loan and investment portfolios in accordance with the statutory borrowing limits determined by the Council and the Council's Treasury Policy Statement and Management Strategy as approved from time to time by the

Council and all such decisions are exempt from the reporting requirements set out here.

- Trust fund and accountable body investments;
- Banking arrangements including opening bank accounts and credit card facilities;
- Non land and building leases;
- The application for financial assistance to the City Council and the authorisation of any grant claims;
- The administration of the Housing Rents, Council Tax and Housing Benefit systems and the collection of Community Charge, Council Tax, Housing Rents and Non-Domestic Rates (including setting Non-Domestic rates and applications for relief or reduction in accordance with the criteria and policy guidance approved from time to time by the Cabinet);
- Matters relating to the transfer of pension rights.

Chief Executive and the Director, Inclusive Growth

(x) The Chief Executive and the Director, Inclusive Growth have the following additional powers to make decisions in relation to:

- The acquisition and disposal of leasehold interests for rent (including the granting and surrendering of any rights over such land and property) provided that any rental does not exceed £200,000 p.a.;
- The acquisition and disposal of freehold and leasehold interests at a premium, provided that the premium does not exceed £1,000,000;
- The management of all of the Council's land and properties, including the authorising and payment of discretionary contributions towards trade/loss and or removal expenses and all payments due under an approved Compulsory Purchase Order, provided that the cost does not exceed £200,000;
- Save that land and property held by the Council as Trustee shall be the responsibility of the Trusts and Charities Committee.

Director, Inclusive Growth, Chief Finance Officer and City Solicitor

(xi) The Leader and Cabinet Member, Finance and Resources, jointly with the Director, Inclusive Growth, Chief Finance Officer and the City Solicitor (or their delegates as set out in the Scheme of Sub-Delegations) have the following additional powers to make decisions in relation to the approval of acquisitions to, and disposals from, the Investment Property portfolio up to a limit of £25m in any one transaction.

(xii) These decisions will take the form of Cabinet Member decisions based on written reports from Chief Officers and as such are subject to the provisions in Part B6.5 of the Constitution.

City Solicitor

(xiii) The City Solicitor may exercise all proper Officer and any other functions of the Council which do not fall within the Directorate or budget responsibility of a Director and has the powers set out in the Legal Proceedings section of the Constitution.

Director, Education & Skills

(xiv) The Director, Education & Skills (and in their absence the Chief Finance Officer) has the authority to authorise and approve the completion of (but not limited to) the grant of long term leases, commercial transfer agreements and any other ancillary documentation relating to the changing status of schools pursuant to the Academies Act 2010 or any associated legislation relating to the changing status of schools, as well as requesting the making and varying of Instruments of Government for maintained schools, subject to the agreement of the City Solicitor.

3.3 Emergency Plan/Business Continuity

(i) Chief Officers and Statutory Officers (or deputising officers) are empowered to authorise all necessary actions in relation to disasters and emergencies as designated under the Council's Emergency Plan when activated; or under Business Continuity Plans in the event of a business continuity disruption.

(ii) In the event of the Emergency Plan being activated, and following action taken, the Chief Officer must notify the Chief Finance Officer in writing of the circumstances and estimated financial impact and report formally to the relevant Cabinet Member or, for non-executive matters, to the next available meeting of the relevant committee.

(iii) The principles of decision-making set out in Part B3.2 will apply.

E4. CHIEF EXECUTIVE

4.1 Overall Responsibility

The Chief Executive shall be the Head of Paid Service and be provided by the authority with such resources as s/he deems necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services.

4.2 Emergency Reports

Part B6.6 of the Constitution states that "In an emergency an executive report may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups."

The Chief Executive may decide that an emergency arises when:

(i) A decision **must** be made before the next scheduled meeting of the Cabinet; or

(ii) A recommendation to the Cabinet should be implemented prior to the next scheduled meeting of the Cabinet by which it could be approved.

In either case, if the Chief Executive is satisfied that it is not expedient, practicable or necessary in the circumstances to convene a special meeting of the Cabinet, then the following shall apply:

The Chief Executive shall have the power (or may designate the Chief Finance Officer, Assistant Chief Executive or a Director who will then have power) to determine the question or matter or to implement the recommendation (as the case may be) in the name of and without further reference to the Executive.

The exercise by the Chief Executive, Chief Finance Officer, Assistant Chief Executive and Director of any powers under this delegation shall be subject to the following conditions:

(i) that the determination of the question or other matter or implementation of the recommendation is capable of determination under law in this manner;

(ii) that the Chief Executive, Chief Finance Officer, Assistant Chief Executive or designated Director before making a decision shall consult with the Leader (or in his/her absence the Deputy Leader);

(iii) that the Chief Executive, Chief Finance Officer, Assistant Chief Executive or designated Director before making a decision shall consult with the City Solicitor and the Chief Finance Officer or their nominated deputies;

(iv) that a record of all decisions made or recommendations implemented, together with the consultations referred to in (ii) and (iii) above shall be published on the Council's website within 10 working days; and

(v) that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Cabinet (for noting).

The Assistant Chief Executive and each Director (in their service area) and City Solicitor (all areas) may each exercise the powers of the Chief Executive in the event of his/her incapacity, absence or unavailability.

4.3 Immediate Implementation

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

The exercise of such power shall be clearly noted on the record of the decision.

4.4 Extraordinary Meetings

The Chief Executive and the City Solicitor acting together may call an extraordinary meeting of the Council (see Part B4.4C). The City Solicitor shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called.

4.5 Executive Functions

In the event of the Emergency Plan being activated, the Chief Executive (or deputising officer) is empowered to authorise all necessary actions as the Local Authority Strategic Commander. All authorities relevant to the management of the incident are delegated to duty officers as set out in the plan.

4.6 Non-Executive Functions

The Chief Executive is authorised to discharge the following non-Executive functions:

- The appointment, termination and disciplinary arrangements of Officers who are not Chief Officers or Deputy Chief Officers (other than assistants to political groups) in line with the Council's normal recruitment, disciplinary and termination policies;
- Community Governance: proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval;
- Reorganisation orders implementing recommendations of a community governance review.

4.7 Local Choice Functions

The Chief Executive is authorised to discharge the following Local Choice Functions which have been assigned to full Council and Cabinet (see Part B2 of the Constitution):

- To appoint any individual to any office other than an office in which he is employed by the authority and to revoke any such appointment:
    - to the extent that appointments are to outside bodies in connection with functions which are the responsibility of the Executive (Cabinet)

- to the extent that appointments are not the responsibility of the Executive (Full Council).

- To make agreements with other local authorities for the placing of staff at the disposal of those other authorities (Cabinet).

E5. ASSISTANT CHIEF EXECUTIVE

5.1 Summary

The Assistant Chief Executive leads the Partnerships, Insight and Prevention Directorate.

5.2 Non-Executive Functions

The Assistant Chief Executive is authorised to discharge the following functions:

1. Joint coordination of the Council Plan (with the Chief Finance Officer).

5.3 Executive Functions

The Assistant Chief Executive is authorised to discharge the following functions:

2. Policy and partnerships, including:
   (i) Supporting the Council's policy agenda;
   (ii) Promotion of collaborative working partnerships with stakeholders and partners;
   (iii) Supporting arrangements in relation to the West Midlands Combined Authority and Core Cities;
   (iv) Third sector partnership and engagement.
3. Setting, supporting and monitoring the council's policies and procedures for managing:
   (i) Performance and service improvement;
   (ii) Projects and programmes.
4. Public Health (see also Director of Public Health below), including:
   (i) Ensure the council meets its duties to improve public health
   (ii) Ensure the delivery of public health protections and health improvement responsibilities
   (iii) Ensure the council plans and responds to emergencies that present a risk to public health
   (iv) Ensure the council meets other local government public health responsibilities
5. Setting, supporting and monitoring the council's policy on Community Safety[2] including:

[2] Neighbourhoods Directorate is responsible for operational matters in relation to community safety.

(i) Safer communities;

(ii) Domestic Violence;

(iii) Social Cohesion and inclusion;

6. Prevent and Counter-terrorism;
7. Tackling inequality and equalities within the community.
8. Corporate communications services, including:
   (i) the council's communications strategy and policy;
   (ii) internal and external communications; and
   (iii) Press and media relations.
9. The council's city-wide resilience and emergency planning functions.

5.4 Director of Public Health (DPH)

The Director of Public Health is a statutory appointment as a Chief Officer of the Council appointed jointly with the Secretary of State for Health and Social Care.

The DPH has to be a professionally registered Public Health Consultant.

The DPH is accountable for appropriate use of the ring-fenced public health grant and ensuring the Council delivers the mandated public health services.

The DPH leads the Public Health Division and the Community Cohesion and Equalities Division, which sit within the Partnerships, Insight and Prevention Directorate.

The DPH has specific statutory responsibilities; the DPH's specific responsibilities and duties arise directly from Acts of Parliament – mainly the NHS Act 2006 and the Health and Social Care Act 2012 – and related regulations including:

- Responsibility to protect and improve the health of the local population;
- Responsibility to ensure arrangements for planning for, and responding to, emergencies;
- Ensuring co-operation with police, probation and prison services in relation to violent and sexual offenders;
- Provide public health response as a responsible authority to Licensing applications;
- Responsibility for ensuring provision of Healthy Start vitamins where child health clinics and maternity services are commissioned by the local authority;
- Write an annual Director of Public Health report;
- Be an active member of the Health and Wellbeing Board.

E6. CHIEF FINANCE OFFICER

6.1 Summary

The Chief Finance Officer is the responsible officer for the proper administration of the Council's financial affairs under the Local Government Act 1972, Section 151. The Chief Finance Officer Protocol is set out in Part D of this Constitution.

6.2 Section 151 Officer Functions

The Chief Finance Officer is authorised to take all action as is necessary or expedient to fulfil the statutory obligations under Section 151 Local Government Act 1972.

1. Ensuring effective financial management and controls, including:
    - Reporting on the robustness of the Council's financial plans;
    - Managing the Council's borrowing and investment requirements;
    - Managing and monitoring the Council's revenue budget and capital programme;
    - Preparation and closure of the Council's financial accounts;
    - Managing the Council's tax affairs; and
    - Internal audit.
2. Setting, supporting and monitoring the council's policies and procedures for managing:
    - Budgets;
    - Procurement and purchasing;
    - Commissioning;
    - Contract management;
    - Internal trading operations;
    - Business Charter for Social Responsibility;
    - Risk management.
3. To make standing orders in relation to Finance and contracts.[3]

6.3 Non-Executive Functions

The Chief Finance Officer is authorised to discharge the following Council (non-executive) functions:

4. Joint coordination of the Council Plan (with the Assistant Chief Executive).

[3] Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972 and Section 135 of the Local Government Act 1972

E7. CITY SOLICITOR

7.1 Executive Functions

The City Solicitor is authorised to take any action intended to give effect to a decision of the Council (including decisions taken by a Council committee in accordance with its terms of reference or by a Director in accordance with this scheme of delegation).

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

7.2 Non-Executive Functions: Monitoring Officer

The City Solicitor is the Monitoring Officer for the Council. The Monitoring Officer is a statutory appointment and provides advice to protect and safeguard the Council. The functions are summarised below.

	Description	***Source***
a)	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 and Section 5A Local Government and Housing Act 1989
b)	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 and Section 5A Local Government and Housing Act 1989
c)	Appointment of Deputy	Section 5 and Section 5A Local Government and Housing Act 1989
d)	Report on resources	Section 5 and Section 5A Local Government and Housing Act 1989
e)	Receive copies of whistleblowing allegations of misconduct	Public Interest Disclosure Act 1998 and Whistleblowing Code of Practice
f)	Arrange investigations of complaints of any Member misconduct	Section 28 Localism Act 2011
g)	Establish and maintain registers of Members' interests and gifts and hospitality	Section 29 Localism Act 2011 and Code of Conduct for Members
h)	Advise on disclosable pecuniary interests	Section 30 Localism Act 2011
i)	Advise on sensitive interests	Section 32 Localism Act 2011
j)	Grant of dispensations re: restrictions on Members' participation in meetings	Section 33 Localism Act 2011
k)	Advice to Members on interpretation of Code of conduct for Members	Section 28 Localism Act 2011 and Code of Conduct for Members
l)	New ethical framework functions in relation to Parish Councils	Section 27 Localism Act 2011

m)	Compensation for maladministration	Section 92 LGA 2000
n)	Advice on vires issues, maladministration, probity and policy framework to all Members	DCLG guidance
o)	Advise on any indemnities and insurance issues for Members / Officers	Section 101 LGA 2000 and Local Authorities (Indemnities for Members and Officers) Order 2004 (SI 2004/3082)

7.3 Non-Executive Functions: Other

The City Solicitor is authorised to discharge the following Council (non-executive) functions:

1. Supporting the corporate governance of the council, particularly in respect of:
   - (i) Monitoring and reviewing the effectiveness and operation of the constitution;
   - (ii) The requirements of the Members' Code of Conduct;
   - (iii) Setting, supporting and monitoring the council's policies and procedures for managing and access to information including data protection laws;
   - (iv) The appointment of committees and discharge of Council functions;
   - (v) The appointments to outside bodies;
   - (vi) The Members' Allowance Scheme;
   - (vii) The power to make, amend or revoke byelaws.
2. Legal and Governance services including
   - (i) Legal advice and related support services;
   - (ii) Functions relating to the role of Solicitor to the Council including:
     - taking any action intended to give effect to a decision of the Executive;
     - the commencement, defence, withdrawal or settlement of proceedings;
     - the authorisation of Council officers to conduct legal matters in court[4]
   - (iii) Governance Services including support to elected members in their responsibilities, particularly in respect of:
     - The Leader and Deputy Leader of the Council and Cabinet Members;
     - The Lord Mayor;
     - Councillors via group support offices;

[4] "Court" to be construed widely including but not limited to tribunals, inquiries and other quasi-judicial hearings.

- The full Council meeting;
- Cabinet;
- Committees appointed by full Council;
- Overview & Scrutiny;
- Training and development of councillors.

Local Choice

The City Solicitor is authorised to discharge the following Local Choice Functions which have been assigned to full Council (see Part B2 of the Constitution):

- To appoint review boards under the Social Security Act 1998;[5]
- To amend this Constitution (as set out in Part A6 of this Constitution);
- To make arrangements for the appointment of Committees and discharge of Council's functions.

[5] s34(4) Social Security Act 1998

E8. DIRECTOR, ADULT SOCIAL CARE

8.1 Summary

The Director, Adult Social Care, is the responsible officer for the Adult Social Services.[6]

8.2 Executive Functions

The Director, Adult Social Care, is authorised to discharge the following functions:

1. Services to support adults including:
    - Integration and personalisation of health and social care services across the city for the benefit and health and well-being of Birmingham citizens;
    - Information, advice and advocacy;
    - Prevention and Recovery: to take steps to prevent, reduce or delay the need for care and support for all people including:
        - Preventative Services: Provision or arrangement of community and home based services to adults with less intensive needs; and
        - Re-ablement Services: Provision or arrangement of early intervention time-limited services to meet the immediate requirements of adults with short-term social care needs.
2. Safeguarding including:
    - Co-ordination of multiagency arrangements to ensure that resources are deployed in safeguarding vulnerable adults;
    - Delivery of safeguarding training; and
    - To promote and enable identification of and appropriate action for vulnerable adults at risk of abuse or neglect.
3. Assessment and eligibility
4. Charging and financial assessments including undertaking financial assessments and the provision of deferred payments.

[6] Appointed under Section 6 Local Authority Social Services Act 1970

E9. DIRECTOR, DIGITAL AND CUSTOMER SERVICES

9.1 Executive Functions

The Director, Digital & Customer Services is authorised to discharge the following functions in line with the provisions of this Constitution:

1. The Council's Information and Communications Technology Strategy and Citizen Access strategy;
2. Information and Communications Technology Service including:
    - Deliver a reliable, flexible, integrated, secure, accessible and well managed service;
    - Create the capability to turn information into insight;
    - Deliver 'Value for Money' services through the commissioning of excellent ICTD;
    - Be innovative; to make changes to what's established, by introducing new methods, ideas, and solutions.
3. The Council's corporate customer services and business support functions including:
    - The telephone contact centre;
    - Digital access including the council's website and e-services;
    - Business support functions supporting all Directorates
4. Revenues, Benefits and Rents services including:
    - Council tax processing and billing arrangements;
    - Local Council Tax Support and recoverability of excess Council Tax Support payments;
    - National non domestic rates;
    - Local hardship schemes;
    - Housing benefit, including recoverability of overpayments, and education benefit services;
    - Financial and social inclusion initiatives;
    - Collection of Housing Rents.

Deleted: Revenue and benefits services

E10. DIRECTOR, EDUCATION & SKILLS

10.1 Summary

The Director, Education & Skills, is the responsible officer for the Children's Services. [7]

10.2 Executive Functions

The Director, Education & Skills is authorised to discharge the following functions:

1. Education of Children and Young People including:
    - School improvement;
    - School places and travel to and from school;
    - Oversight of the Dedicated Schools Grant.
2. Special Educational Needs and Disability (SEND).
3. Early Years Provision
4. Children's Services and Safeguarding, including:
    - Overseeing the Children's Trust;
    - Safeguarding and Child Protection;
    - Youth Offending Services
5. Corporate Parenting.
6. Skills and employability
    - Skills and entrepreneurship in schools;
    - Youth engagement and youth services;
    - Employment Opportunities.
7. Library of Birmingham and community libraries.

10.3 Local Choice Functions

The Director of Children's Services is authorised to discharge the following Local Choice Functions which have been assigned to Cabinet (see Part B2 of the Constitution):

- To make arrangements for appeals against exclusion of pupils from maintained Schools;
- To make arrangements for appeals regarding school admissions;[8]

[7] Appointed under Section 18 Children Act 2004
[8] s94 (1), (1A) and (4) School Standards and Framework Act 1998

- To make arrangements for appeals by governing bodies.[9]

E11. DIRECTOR, INCLUSIVE GROWTH

11.1 Executive Functions

The Director, Inclusive Growth, is authorised to discharge the following functions in line with the provisions of this Constitution:

1. International and domestic inward economic investment including tourism and the visitor economy.
2. Economic growth, including:
    - Development programmes;
    - Land use planning;
    - Housing development.
3. Transport & Connectivity including:
    - Development of the Council's transport strategies and programmes;
    - The authority's strategic traffic management role;
    - Street naming and numbering;
    - Design of minor and major transport projects;
    - The making of agreements for the execution of highways works under S278 Highways Act 1980;
    - Air Quality via the Clean Air Zone.
4. Planning functions including:
    - Deal with any applications for planning permission or other consents (including demolitions);
    - Development of the Council's planning and transport policies;
    - Management of the planning service;
    - Building conservation and urban design; and
    - Obtaining of information as to interests in land.
5. Property Services including:
    - Council land use and property;

[9] s95 (2) School Standards and Framework Act 1998

- Operational Property Management
- Asset Management;
- Central Administration Building (CAB) Accommodation and Management;
- Valuations and Acquisitions;
- Property Sales;
- Property Strategy Delivery;
- Investment Estate & Property Management;
- Property Asset Management and Income;
- Strategic Investment Property Management;
- Property Development;
- Security Services.

6. Highways and Infrastructure including:
    - The authority's role as a highways, traffic and streetworks authorities;
    - Maintenance of highway assets of roads, bridges, retaining walls, street lighting and associated infrastructure;
    - Design and delivery of major and minor highway schemes;
    - The making of agreements for the execution of highways works under S278 Highways Act 1980;
    - Powers and duties relating to rights of way (including closures) under the Wildlife and Countryside Act, Highways Act, Town and Country Planning Act or Clean Neighbourhoods Act;
    - To act as the Authority's Representative on behalf of the Council in accordance with the terms of the Highway Maintenance and Management Service PFI Contract;
    - Discharging statutory duties with respect to the delivery of operational parking functions, including Civil Parking Enforcement
    - Flood and water management including:
        - Discharging duties as Lead Local Flood Authority and other duties and responsibilities associated with the Flood Water Management Act;
        - Land drainage activities;
        - The delivery and maintenance of flood alleviation schemes
        - Flood response.

11.2 Non-Executive functions

The Director, Inclusive Growth, is authorised to discharge the following functions in line with the provisions of this Constitution:

- Power to create footpaths and bridleways;
- Power to stop up footpaths and bridleways;
- Power to divert footpaths and bridleways;
- Duty to assert and protect the rights of the public to the use and enjoyment of highways;
- Powers relating to the removal of things so deposited on highways as to be a nuisance;
- Duty to keep a definitive map and statement under review;
- Duty to reclassify roads used as public paths;
- Powers relating to the preservation of trees;
- Powers relating to the protection of important hedgerows;
- Power to make limestone pavement order.

11.3 Local Choice Functions

The Director Inclusive Growth is authorised to discharge the following Local Choice Functions which have been assigned to full Council (see Part B3 of the Constitution):

- The control of pollution or the management of air quality;[10]
- To obtain information about interests in land;[11]
- To obtain particulars of persons interested in land;[12]
- To make agreements for the execution of highways works.[13]

[10] Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993
[11] s330 Town and Country Planning Act 1990
[12] s16 Local Government (Miscellaneous Provisions) Act 1976
[13] Section 278 Highways Act 1980

E12. DIRECTOR, NEIGHBOURHOODS

12.1 Executive Functions

1. Waste Strategy and Services including:
    - Waste collection;
    - Waste disposal;
    - Recycling.
2. Cleaner Neighbourhoods including:
    - Street cleansing;
    - Pest control;
    - Litter bin provision and maintenance;
    - Provision and cleaning of public conveniences;
    - Graffiti removal;
    - Dog control and dog warden service.
3. Housing Services including:
    - Council housing management services;
    - Liaison with Registered Social Landlords;
    - Housing Options;
    - Tenant engagement in social housing;
    - Neighbourhood Management.
4. Arts, Culture and Sports, including:
    - Museums and galleries;
    - Arts;
    - Sporting events;
    - Leisure centres and community sports facilities.
5. Parks and Allotments including:
    - Creation, management and enhancement of green spaces[14];

[14] Including parks & city centre beds, nature reserves & woodlands, playgrounds, allotments

- Creation, management and enhancement of related visitor attractions and facilities;
- Public rights of way and provision and maintenance of footpaths and bridleways;
- Woodland and tree management;
- Provision of educational events and programmes;
- Grass cutting and grounds maintenance;
- Management of designated conservation sites.

6. Bereavement Services including:
    - Cemeteries, crematoria, burial grounds and mortuaries including the authority's role as burial authority;
7. To discharge the Council's statutory obligations in relation to the operation of the Community Right to Bid for Assets of Community Value and the Community Right to Challenge.
8. To exempt the Illegal money lending team from provisions in Part D2 in relation to FinditinBirmingham (as per the footnotes in that section), if it is prudent to do so for operational, geographical and policy reasons. Value for money will also be a consideration in line with the ringfenced grant agreement

12.2 Non-Executive Functions

The Director, Neighbourhoods is authorised to discharge the following functions:

1. Regulation and Enforcement, including
    - Environmental Health Service, Trading Standards Service, England Illegal Money Lending Team, Regional Investigation team, the Licensing Service, the Waste Enforcement Unit (street scene) and the private rented sector (housing);
    - Enforcement activities, including the authorisation of proceedings and defending proceedings on behalf of the council in relation to civil and criminal matters in respect of these services.
2. Licensing functions including:
    - Functions of a licensing authority including (but not restricted to):
        - The administration of licenses for entertainment, gambling and the sale of alcohol;
        - Taxi and Private Hire;
        - Miscellaneous licensing functions;
        - Private Rented Sector licensing and regulation.
    - Adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)
    - Adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)

- Enforcement, including the authorisation of proceedings and defending proceedings on behalf of the council in relation to civil and criminal matters.

3. Environmental Health including :
    - Food hygiene and safety;
    - Health and safety at work[15];
    - Monitoring and control of infectious diseases;
    - Private water supply monitoring; and
    - Animal health and welfare enforcement[16].
4. Trading Standards including:
    - Tackling rogue traders
    - Product safety
    - Misleading claims, scams and illegal trading practices.
    - Underage sales
    - Illegal advertising
5. Registrars functions including:
    - Registration of births, deaths, marriages and civil partnerships; and
    - Provision of civic weddings, civil partnerships and citizenship ceremonies.
6. Public Health Protection and Control of Statutory Nuisance including:
    - Flytipping, commercial and household Duty of Care and rubbish accumulations;
    - Domestic, commercial and industrial noise, fumes and odours;
    - Air quality management; and
    - Other forms of pollution harmful to public health.
7. To authorise action on behalf of the Council in its role as a statutory partner to the Crime and Disorder Committee[17] including
    - To discharge local authority approvals for S30 Dispersal Orders, Crack House Closures and other statutory instruments relating to local community safety;

[15] other than in relation to Birmingham City Council staff or activities
[16] including livestock markets and animal breeding and boarding establishments
[17] Partnerships, Insight and Prevention Directorate is responsible for operational matters in relation to community safety

- To exercise powers in relation to the Anti-Social Behaviour, Crime & Policing Act 2014.

8. Local Land Charges functions including:
    - Maintenance of the Local Land Charges Register; and
    - Responsibility for processing local authority searches.

12.3 Local Choice Functions

The Director, Neighbourhoods is authorised to discharge the following Local Choice Functions which have been assigned to full Council:

- Any function relating to contaminated land;[18]
- To serve an abatement notice in respect of a statutory nuisance;[19]
- To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;[20]
- To inspect the authority's area to detect any statutory nuisance;[21]
- To investigate any complaint about the existence of a statutory nuisance.[22]

E13. DIRECTOR OF HUMAN RESOURCES

13.1 Executive

The Director of Human Resources is authorised to discharge the following functions:

1. Setting, supporting and monitoring the council's policies and procedures for managing human resources and effective organisational development (including health and safety);

13.2 Non-Executive

2. Employment of staff and terms and conditions.
3. Functions relating to local government pensions, including:
    - To make arrangements to consider and determine employee appeals in relation to grievances, grading and dismissal
    - To determine employee terms and conditions
    - To make standing orders in relation to Officer Employment

[18] Part IIA Environmental Protection Act 1990 and subordinate legislation
[19] s80(I) Environmental Protection Act 1990
[20] s8 Noise and Statutory Nuisance Act 1993
[21] S79 Environmental Protection Act 1990
[22] s79 Environmental Protection Act 1990

E14. HEAD OF ELECTORAL SERVICES

14.1 Non-Executive Functions: Returning Officer and Electoral Registration Officer

The Head of Electoral Services is the Returning Officer and Electoral Registration Officer and is authorised to discharge the following Council (non-executive) functions:

No	Function	Reference
a)	To assign officers in relation to requisitions of the registration officer	Section 52(4) of the Representation of the People Act 1983
b)	To provide assistance at European Parliamentary elections	Section 6(7) and (8) of the European Parliamentary Elections Act 2002
c)	To divide constituency into polling districts	Section 18A to 18E of and Schedule A1 to the Representation of the People Act 1983
d)	To divide electoral divisions into polling districts at local government elections	Section 31 of the Representation of the People Act 1983
e)	Powers in respect of holding of elections	Section 39(4) of the Representation of the People Act 1983
f)	To pay expenses properly incurred by electoral registration officer	Section 54 of the Representation of the People Act 1983
g)	To fill vacancies in the event of insufficient nominations	Section 21 of the Representation of the People Act 1985
h)	To declare vacancy in office in certain cases	Section 86 of the Local Government Act 1972
i)	To give public notice of a casual vacancy	Section 87 of the Local Government Act 1972
j)	To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Section 10 of the Representation of the People Act 2000