



# Birmingham City Council

## Constitution

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

**September 2019**

**(Temporary Amendments made April 2020)**

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



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## B1. ROLES

### 1.1 Citizens and the Council

#### Citizens' Rights

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

#### Citizens' Responsibilities

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

## 1.2 Members of the Council (Councillors)

### Composition and Eligibility

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

### Election and Terms of Councillors

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

### Roles and Functions of all Councillors

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

### Conduct

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



#### **Allowances**

- vii. Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme. The [Members Allowances Scheme](#) is detailed in Section C10 of the Constitution and can also be found on the Council's website.<sup>1</sup>
- viii. Councillors receive allowances to support them in carrying out their work as elected representatives. The size of the allowance for the various Councillor roles is decided by the City Council. In taking this decision, the Council must consider a report from an Independent Remuneration Panel. The Terms of Reference for the Independent Remuneration Panel can be found in [Part B17 Independent Remuneration Panel](#).

### **1.3 The Lord Mayor and the Deputy Lord Mayor**

- i. The Royal Charter of 1896 conferred the right of the First Citizen in Birmingham to be "styled, entitled and called" Lord Mayor of Birmingham.
- ii. The Lord Mayor will be elected annually by the Council. Members who are nominated and elected to the Office of Lord Mayor do so on the understanding that they will serve a full term as Deputy Lord Mayor for the following Municipal Year.

#### **Responsibilities**

- iii. The Lord Mayor will have the following responsibilities:
  - a) To uphold and promote Birmingham, its Constitution, and to give rulings on the Constitution during Council Meetings;
  - b) To preside over meetings of the Council so that its business can be carried out in an effective, orderly and efficient manner and in the interests of the citizens of Birmingham;
  - c) To promote public awareness, knowledge and participation in the business of the Council.

#### **Ceremonial Role**

- iv. The Lord Mayor, as the "First Citizen of Birmingham", will uphold and preserve the dignity and honour of the office. In particular, the Lord Mayor will remain apolitical and attend civic and ceremonial functions.

#### **Chairing the Council Meeting**

- v. The Lord Mayor (and in his/her absence the Deputy Lord Mayor) will chair Full Council meetings, so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the Community.

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<sup>1</sup> [https://www.birmingham.gov.uk/downloads/file/4222/members\\_allowances\\_scheme](https://www.birmingham.gov.uk/downloads/file/4222/members_allowances_scheme)

#### **Appointment of the Deputy Lord Mayor**

- vi. Should a Member due to take up the Deputy Lord Mayoralty fail to be re-elected to the City Council, or an incumbent is unable to complete his or her term, owing to ill health or similar disposition, the Party Group of the outgoing Deputy Lord Mayor will be asked to make an alternative nomination. This will be the last Member of their Group to hold the position of Deputy Lord Mayor prior to the outgoing Deputy Lord Mayor. Should that Member be unwilling to take up the Office, previous Lord Mayors of that Party will be approached, in reverse chronological order, until a Member willing to take on the role can be found.
- vii. Should the Party Group be unable to put forward an alternative name by this process, the Office shall then be offered to the previous Deputy Lord Mayor, regardless of their Party affiliation. If that individual is unwilling to assume the role, the previous Lord Mayors will be approached, again in reverse chronological order, until a Member, regardless of Party affiliation, willing to take on the role can be found.

#### **Consorts to the Lord Mayor and the Deputy Lord Mayor**

- viii. Whilst accompanying the Lord Mayor (or the Deputy Lord Mayor), the consort must support the work of the Lord Mayor (or the Deputy Lord Mayor) during his / her term of Office and uphold and preserve the dignity and honour bestowed upon the Lord Mayor (or the Deputy Lord Mayor) and the political impartiality of the Office.

### **1.4 The Leader of the Council**

- i. The Leader of the Council must be appointed by the Council and is appointed for a four year term or for up to the end of his / her term of office as a Member, whichever is shorter.
- ii. The Leader of the Council will hold office until:
  - a) S/he resigns from Office; or
  - b) S/he is disqualified from being a Councillor (although he/she may resume office at the end of the period of disqualification); or
  - c) S/he is no longer a Councillor; or
  - d) S/he is removed from Office by a resolution of no confidence passed by a simple majority resolution of the Council.
- iii. The Leader of the Council is empowered to make necessary in-year changes to the Cabinet Member Portfolios and appoint members of the Cabinet.
- iv. In the event of the post of the Leader of the Council becoming vacant for any of the reasons stated above, the Council shall appoint another Member of the Council to complete the remainder of the four year term of Office or up to the end of the new Leader's term of Office as a Member, whichever is shorter.
- v. If for any reason the Leader is unable to act, the Deputy Leader will act in his/her place.

vi. If for any reason:

- o the Leader is unable to act; and
- o the Deputy Leader is unable to act or the office of Deputy Leader is vacant

the Cabinet must act in the Leader's place, or arrange for a Cabinet Member to act in his/her place.

## 1.5 Cabinet Members

i. Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Lord Mayor nor the Deputy Lord Mayor may be appointed to the Cabinet. Cabinet Members may not be Members of any Overview and Scrutiny arrangements although they are permitted to serve on the Regulatory Committees and Ward Forums.

ii. Up to nine Cabinet Members may be appointed by the Leader of the Council and one should be designated as Deputy Leader. If it becomes necessary to appoint replacement(s) the Leader of the Council shall report his/her decision(s) at the next meeting of the Council. Cabinet Members shall hold office until:

- a) They resign from Office or they are dismissed, either collectively or individually, by the Leader of the Council; or
- b) They are disqualified from being Councillors (although they may resume office at the end of the period of disqualification); or
- c) They otherwise leave or are required to leave office.

iii. The decision-making role of Cabinet Members is set out in [B6 Executive Roles, Functions and Procedures](#).

iv. The functions of individual Cabinet Members are set out in [B7 Cabinet Portfolios](#).

## 1.6 Cabinet Advisers

i. Cabinet Advisers may be appointed by the Leader to support Cabinet Members. The positions will not receive a Special Responsibility Allowance and will not have any delegated decision-making authority. Cabinet Advisers will be invited to attend Cabinet as required.

Deleted: if

## 1.7 Officers

- i. The title “Officers” refers to all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of “employees” to cover those engaged under short term, agency or other non-employed situations.
- ii. The Council’s “Officers” give advice to the Councillors, implement decisions and manage the day to day delivery of its services. All Officers must ensure that they act within the law when carrying out the Council’s work.
- iii. The Employee Code of Conduct for Officers can be found in Part C6 *Employee Code of Conduct*.
- iv. The Council is empowered to engage Officers to carry out its functions.

### Statutory Officers

- v. The Statutory Officers of the Council are as follows:
  - a) **Head of Paid Service (Chief Executive)** – This is the Chief Executive of the Council. The Council must approve the appointment of the Head of Paid Service before a final offer of appointment is made to him/her. The Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given to him/her (see Part C7 *Employee Procedure Rules – JNC Officers*).
  - b) **City Solicitor and Monitoring Officer**<sup>2</sup> – This role promotes the legality of decision making, high standards of conduct by Councillors and officers and supports the Standards Committee.
  - c) **Chief Finance Officer** – This role is responsible for ensuring the sound financial administration of the Council.
  - d) **Returning Officer and Electoral Registration Officer** – This will be the Assistant Director, Governance.
  - e) **Scrutiny Officer (Head of Scrutiny Services)** – This role promotes the Overview & Scrutiny functions of the Council.

### Council Leadership Team (CLT)

- vi. The full Council will engage persons for the following posts, who will be designated Chief Officer and will have the functions and responsibilities set out in Part E of this Constitution. The composition of CLT is a matter for the Chief Executive.
  - o Chief Executive (& Head of Paid Service<sup>3</sup>)
  - o Chief Finance Officer (& s151 officer<sup>4</sup>)

Deleted: Head of Electoral Services.

Deleted: Management

Deleted: M

Deleted: M

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

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

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

- Assistant Chief Executive
- Director, Adult Social Care (& Director of Adult Social Services<sup>5</sup>)
- Director, Digital & Customer Services
- Director, Inclusive Growth
- Director, Education & Skills (& Director of Children's Services<sup>6</sup>)
- Director, Neighbourhoods
- City Solicitor
- [Director, Human Resources](#)
- [Chief Executive, Children's Trust](#)
- [Programme Director, Commonwealth Games](#)

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

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

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

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

<sup>6</sup> Appointed under Section 18 Children Act 2004

## B2. RESPONSIBILITY FOR FUNCTIONS

### 2.1 Introduction

- i. Functions fall into the following categories:

#### 1. Local Choice Functions

- ii. These are functions which the authority may treat as the responsibility of the Executive (in part or whole) or as Council (non-executive) functions, at its discretion.
- iii. Section 2.2 sets out these functions and shows who is authorised to discharge them.

#### 2. Council (non-executive) Functions

- iv. These are functions which, under the law, cannot be the responsibility of the Executive. In some cases, such as adopting the Council's budget or the Policy Framework, only full Council may discharge the function. In other cases, the Council may delegate the responsibility for discharging a function to a committee or an officer.
- v. Section 2.3 sets out these functions and shows who is authorised to discharge them.

#### 3. Executive Functions

- vi. All other functions are executive functions. Decisions on these will be taken by the Executive, unless they are dealt with under joint arrangements or delegated to an officer.
- vii. Section B7: [Cabinet Portfolios](#) sets out how these functions are allocated and Section E sets out the *Scheme of Delegations* for officers.

### 2.2 Local Choice Functions

- i. Local Choice functions are those which the authority may treat as the responsibility of the Executive (in part or whole) or as Council (non-executive) functions, at its discretion. The table below sets out how these are treated in Birmingham.

Local Choice Functions <sup>7</sup>	Decision Making Body	Delegation of functions to Committees or officers
Functions under a local Act (other than one specified or referred to in Reg 2 or Schedule 1 of the Regulations 2000)	Cabinet	The relevant Director for the function concerned.
To determine appeals against any decision of the authority.	Council Business Management Committee	-
To appoint review boards under the Social Security Act 1998 <sup>8</sup>	Full Council	City Solicitor

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

<sup>8</sup> s34(4) Social Security Act 1998

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

<sup>9</sup> S94(1), (1A) and (4) School Standards and Framework Act 1998

<sup>10</sup> S95(2) School Standards and Framework Act 1998

<sup>11</sup> Part IIA Environmental Protection Act 1990 and subordinate legislation

<sup>12</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

<sup>13</sup> s80(l) Environmental Protection Act 1990

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

<sup>14</sup> s8 Noise and Statutory Nuisance Act 1993

<sup>15</sup> s79 Environmental Protection Act 1990

<sup>16</sup> s79 Environmental Protection Act 1990

<sup>17</sup> s330 Town and Country Planning Act 1990

<sup>18</sup> s16 Local Government (Miscellaneous Provisions) Act 1976

<sup>19</sup> Section 278 Highways Act 1980



Local Choice Functions <sup>7</sup>	Decision Making Body	Delegation of functions to Committees or officers

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

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

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

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

Function	Decision Making Body	Delegation of functions to officers <sup>21</sup>
Functions relating to Community Governance	Full Council / Council Business Management Committee	Chief Executive
Power to make, amend, revoke or re-enact byelaws	Full Council	-
Power to promote or oppose local or personal Bills	Full Council	-
Functions relating to pensions and power to make payments or provide other benefits in cases of maladministration etc	Council Business Management Committee	Chief Finance Officer
To make arrangements for proper administration of financial affairs etc <sup>22</sup>	Audit Committee	Chief Finance Officer
Budget and Policy framework <sup>23</sup> To amend, modify, revise, vary, withdraw or revoke any plan or strategy detailed in the policy framework. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	Full Council	Chief Finance Officer and Assistant Chief Executive
Constitution <ul style="list-style-type: none"> <li>To adopt / amend this Constitution</li> <li>Power to make standing orders</li> <li>Power to make standing orders as to contract</li> </ul>	Full Council	City Solicitor
Discharge of Functions To make arrangements for the appointment of Committees and discharge of Council's functions	Full Council	City Solicitor

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

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

Function	Decision Making Body	Delegation of functions to officers <sup>21</sup>
Appointment to Outside Bodies  To appoint representatives to outside bodies unless the appointment is an Executive function or has been specifically delegated by the Council	Full Council	-
Members Allowances Scheme  To make, amend, revoke or replace a Members' allowances scheme	Full Council	City Solicitor
Functions to be discharged by the authority, by virtue of other enactments <sup>24</sup>  To discharge any function which by virtue of any enactment passed or made before the making of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, may be discharged only by an authority.	Full Council	-
To appoint officers for particular purposes (appointment of proper officers) <sup>25</sup>	Full Council	Each Director is appointed as the Proper Officer for matters within his/her remit. The Chief Executive is appointed as the Proper Officer for the purpose of any other matter
To designate an officer as the head of the authority's paid service, and to provide staff etc <sup>26</sup>	Full Council	The Chief Executive is appointed as Head of Paid Service
To designate an officer as the Monitoring Officer, and to provide staff etc <sup>27</sup>	Full Council	The City Solicitor is appointed as the Monitoring Officer
To adopt, revise or replace a Members' Code of Conduct <sup>28</sup>	Full Council	City Solicitor
Exercise the administrative powers and duties of Full Council (as Trustee) in relation to all trusts for which the Council is sole trustee	Trusts & Charities Committee	City Solicitor

<sup>24</sup> Regulation 2(11) of the 2000 Regulations

<sup>25</sup> Item 40 of Para. I of Schedule 1 of the 2000 Regulations

<sup>26</sup> Item 43 of Para I of Schedule 1 of the 2000 Regulations

<sup>27</sup> Item 44 of Para I of Schedule 1 of the 2000 Regulations

<sup>28</sup> Section 28 Localism Act 2011

Function	Decision Making Body	Delegation of functions to officers <sup>21</sup>
<p>Miscellaneous functions:</p> <p>Power to create footpaths and bridleways.</p> <p>Power to stop up footpaths and bridleways.</p> <p>Power to divert footpaths and bridleways.</p> <p>Duty to assert and protect the rights of the public to use and enjoyment of highways.</p> <p>Powers relating to the removal of things so deposited on highways as to be a nuisance.</p> <p>Duty to keep a definitive map and statement under review.</p> <p>Duty to reclassify roads used as public paths.</p> <p>Powers relating to the preservation of trees.</p> <p>Powers relating to the protection of important hedgerows.</p> <p>Power to make limestone pavement order.</p>	-	Director, Inclusive Growth

## B3. DECISION MAKING

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

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

#### A) Council Decisions

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

#### B) Executive Decisions

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

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- viii. The following shall be exempt from the definition of a key decision<sup>29</sup>:
- a) Any decision where the expenditure, saving or income will result from:
- o A Treasury Management decision in relation to the making, payment or borrowing of a loan or investment in accordance with the treasury management strategy and policy (see [B4.2i b](#));<sup>30</sup> or
  - o A decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process;<sup>31</sup> or
  - o A decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989;<sup>32</sup> or
  - o The settlement of proceedings to which Birmingham City Council is a party<sup>33</sup>; or
  - o An urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time<sup>34</sup>;
- b) Any decision which is a direct consequence of implementing a previous Key Decision as set out in that report (including where specifically set out as a delegation in a Cabinet report).
- ix. Executive decisions at or above the Chief Officer limit of £200,000 and under £500,000 (revenue) or £1m (capital) are taken by **Cabinet Members** based on reports from Chief Officers as set out in B6.5 [Cabinet Member and Chief Officer Decision Making](#).
- x. Executive decisions may also be taken by a [Cabinet Committee](#).

#### C) Committees

- xi. Committees will exercise the functions set out in Sections B12-15 (regulatory), and section B11 (Overview & Scrutiny) of the Constitution.

#### D) Officers

- xii. Officers will exercise executive or non-executive functions as delegated by Cabinet or by City Council, or as set out in Part E (Scheme of Delegations) of the Constitution.

<sup>29</sup> Decisions falling within these exemptions shall be treated as officer delegated decisions following consultation with the relevant Cabinet Member. The Chief Officer must notify the Chief Finance Officer in writing, of the circumstances and financial impact and report formally to the relevant Cabinet Member.

<sup>30</sup> To be reported to Cabinet in the Quarterly Finance Monitoring reports

<sup>31</sup> To be reported to Cabinet in the Quarterly Finance Monitoring reports

<sup>32</sup> To be reported in the half yearly delegations reports (see [B6.8](#))

<sup>33</sup> See Part A: *Finance. Contract and Legal Matters – Legal Proceedings*; to be reported to the Deputy Leader as required

<sup>34</sup> To be reported to the Cabinet as required

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**E) Ward Forums**

- xiii. Ward Forums will exercise the functions set out in Section B10.

**F) Urgent Decisions**

- xiv. In an emergency an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups.

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**3.2 Principles of decision-making**

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

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

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

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

### **4.1 Role of the Full Council**

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

#### **Policy Framework**

- iv. The Policy Framework means the policies, plans or strategies to be approved or debated by the Full Council as set out below:
  - a) Annual Budget and Pay Policy
  - b) Those required by the Local Authorities (Functions and Responsibilities) (England) 2000 to be adopted by the Council<sup>35</sup>:
    - o Community Safety Strategy<sup>36</sup>
    - o Statement of Licensing Policy under the Licensing Act 2003
    - o Statement of Licensing Principles under the Gambling Act 2005<sup>37</sup>
    - o Plans and strategies which together comprise the Development Plan
    - o Youth Justice Plan<sup>38</sup>
  - c) Other plans and strategies adopted by the City Council:
    - o Birmingham City Council Plan
  - d) Housing Land Transfer: the approval or adoption of applications (whether in draft form or not) to the Secretary of State to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
  - e) Additional plans and strategies may be approved or adopted as part of the Policy Framework from time to time. These should include those plans or strategies that:
    - o Are significant in terms of the effect on communities living or working across all wards;
    - o Commit the Council to significant expenditure over and above that already in the budget or over a long period of time;

<sup>35</sup> Some elements of the 2000 Regulations have been repealed by subsequent legislation.

<sup>36</sup> This fulfils the requirement to produce a Crime and Disorder Reduction Strategy

<sup>37</sup> This is the policy statement under the Gambling Act 2005

<sup>38</sup> Section 40 Crime and Disorder Act 1998



- Are significant in terms of its effect on the council's priorities;
  - Have regional or national significance.
- v. A forward plan of policies, plans or strategies to be considered by City Council will be published at each Council Business Management Committee meeting.

## 4.2 Functions of the Full Council

- i. Only the full Council will exercise the following functions:
  - a) Adopting and approving changes to the Constitution ([as set out in Part A, Annex A](#));
  - b) Approving the overall revenue budget, the allocations of revenue resources to Directorates, the initial capital programme at the commencement of each year, the level of Council Tax and Council Tax support, the Prudential indicators, the Prudential borrowing limit, the treasury management strategy and policy;
  - c) Making decisions on matters which could have been (but were not) covered by the Policy Framework;
  - d) Electing the Leader of the Council every four years or as and when required;
  - e) Agreeing and/or amending the terms of reference for committees (other than Cabinet Committees), deciding on their membership and making appointments to them, including the Chair, subject to the legal rules regarding proportionality between the different political parties;
  - f) Appointing representatives to outside bodies unless the appointment is an Executive function or has been specifically delegated by the Council;
  - g) To make, amend, revoke or replace a Members' allowances scheme;
  - h) Changing the name of the district;
  - i) Conferring the title of Honorary Alderman or Freedom of the City;
  - j) Confirming the appointment of the Head of Paid Service/Chief Executive;
  - k) Approving the dismissal of the Head of Paid Service/Chief Executive, Chief Finance Officer and Monitoring Officer;
  - l) To appoint an electoral registration officer and returning officer for local government elections;
  - m) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;
  - n) Receiving and considering reports referred to it from Cabinet Members, Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and
  - o) All other non-executive matters which by law must be reserved to Council.

- ii. All other non-executive matters are delegated to Council Business Management Committee or any of its sub-committees, or delegated to regulatory committees.
- iii. **Recorded vote on the Council's budget and council tax:** In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council's budget and council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments relation to the budget and council tax.
- iv. Full Council sitting as "Council as Trustee" will be responsible for decisions concerning the use and/or disposal of charity property and assets, and will delegate the management of any City Trust to the [Trusts and Charities Committee](#) (section B15), with assistance from the Legal Services Team as and when required.

#### 4.3 Appointments Reserved to the Full Council

Committee	No. Appointed
Local Government Association (General Assembly)	4
West Midlands Fire & Rescue Authority	10
West Midlands Police and Crime Panel	3
West Midlands Shareholders Airport Committee	1 plus 2 observers
Departmental Consultative Committees	1 on each
National Association of Councillors	1
Joint Scrutiny Committee for Supervisory Board of the Greater Birmingham and Solihull Local Enterprise Partnership	1
West Midlands Combined Authority (WMCA) Board (and Boards as required)	1 (and to Boards as required)
WMCA Overview and Scrutiny Committee	3
Transport Delivery Committee	7
WMCA Audit, Risk & Assurance Committee	1
WM Growth Company – Board of Directors	1
Interim Standing Advisory Council on Religious Education	8
City Housing Liaison Board	3
Safety at Sports Grounds Advisory Groups	Up to 4 members per group <sup>39</sup>

- v. Information on appointments to other outside bodies can be found in Section B8 [Appointments to Outside Bodies](#).

<sup>39</sup> Appointments must be in line with agreed policy

## 4.4 Council Procedure Rules

### A. Annual Meeting

- i. In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.
- ii. The annual meeting will:
  - Receive the annual report of the Lord Mayor;
  - Elect the Lord Mayor;
  - Make a presentation to the retiring Lord Mayor and Consort;
  - Appoint the Deputy Lord Mayor;
  - Agree the allowances to be made to the Lord Mayor and the Deputy Lord Mayor in office;
  - Approve a programme of ordinary meetings of the Council for the year;
  - Receive a report from the Returning Officer of the persons elected Councillors of the City at the last election and the making of the declarations of acceptance of office (if applicable);
  - Receive the Lord Mayor's announcements and such communications as the Lord Mayor may wish to place before the Council.
  - Elect the Leader (every four years or as required) and receive an announcement of Cabinet Members and Cabinet Advisers (as required);
  - Receive and deal with petitions in accordance with this Constitution;
  - Consider any recommendations made by the Council Business Management Committee;
  - Make appointments to Committees and other bodies for the period of the municipal year; and
  - Consider any business set out in the notice convening the meeting.

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### B. Ordinary Council Meeting

- i. All ordinary meetings shall be held at the **Council House, Birmingham**, at **2.00pm**, unless Full Council or Council Business Management Committee decides otherwise.
- ii. The order of business and the indicative timescales at every ordinary meeting of the Full Council shall usually be:

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**\*\*As proposed in the Scrutiny Inquiry on Full Council \*\***

Standard Item	Time Limits	Indicative Timetable
Minutes, Lord Mayor's Announcements	10 minutes for Lord Mayor's Announcements - no presentations.	2.00 – 2.10 p.m.
Petitions	10 minutes	2.10 – 2.20 p.m.
<b>Holding to Account</b>		
Question time	70 minutes Questions from members of the public to any Cabinet Member or Ward Forum Chair <sup>40</sup> . Questions from any Councillor to a Committee Chair, Lead Member of a Joint Board or Ward Forum Chair. <sup>4</sup> Questions from Councillors other than Cabinet Members to a Cabinet Member. <sup>41</sup> Questions from Councillors other than Cabinet Members to the Leader or Deputy Leader. <sup>5</sup>	2.20 – 3.30 p.m. 20 minutes 1 minute for each question 2 minutes for each answer 10 minutes 1 minute for each question 2 minutes for each answer 20 minutes 1 minute for each question 3 minutes for each answer 20 minutes 1 minute for each question 3 minutes for each answer
Executive Business Report / Scrutiny Business Report / Lead Member Report*	45 minutes 7 minutes presentation 4 minutes per speaker 5 minutes to respond	3.30 – 4.15 p.m.
BREAK	(the Lord Mayor should have the flexibility to call this earlier or later as the meeting progresses)	4.15 – 4.45 p.m.
<b>Policy Development / Council Business</b>		
Policy Framework Plans; inquiry reports from Scrutiny; reports from CBM or the Executive; appointments; petition debates	60 minutes 7 minutes presentation 4 minutes per speaker 5 minutes to respond	4.45 – 5.45 p.m.
<b>Members' Debate</b>		
Motions submitted by individual Councillors rotated equally between the political groups as determined by CBM	Motions for debate – 7 minutes presentation 4 minutes per speaker 5 minutes to respond	5.45 – 7.15 p.m.

- iii. The business under any notice on the meeting agenda shall not proceed in the absence of the Member whose name it is proposed, unless they have given authority in writing for it to be taken up by some other Member or Members of the Council;

<sup>40</sup> Where the Chair is not a councillor, the question may be directed to the ward councillor to answer on behalf of the resident Chair.

<sup>41</sup> Each Councillor may ask one question and one supplementary question

- iv. The time allowed for speeches shall be up to 7 minutes for the mover of a Motion or Amendment to the Motion, with up to 4 minutes each for other Members wishing to participate in the debate and a right of reply for the mover of the Motion only of up to 5 minutes.
- v. The Lord Mayor shall have the discretion to allocate unused time to the next item, with the proviso that each item should start no later than the time indicated on the agenda.
- vi. The order of business and the time limit allocated to items on the Agenda may be varied by agreement of the three political groups at Council Business Management Committee or, in the absence of such agreement, by a resolution passed on a Motion which, after being moved and seconded, shall be put to the vote without discussion.
- vii. A motion to extend the time of the meeting may only be moved by the Leader or Deputy Leader (or their nominee) of one of the Party Groups and seconded by the Leader or Deputy Leader (or their nominee) of another Party Group.
- viii. If a meeting of the Council has not come to an end by 7:15p.m and there are items remaining on the agenda, the following procedure shall apply:
  - At the conclusion of the speech then being delivered, the Lord Mayor shall allow the mover of the motion then under debate to exercise his/her right of reply and shall then put the motion to the vote;
  - In respect of any remaining items of business, the Lord Mayor shall allow motions to be moved and seconded formally (without comment) and shall forthwith put the motions to the vote without discussion; and
  - The Lord Mayor shall then close the meeting.
- ix. Question time and motions for debate submitted by individual Councillors will be excluded from the agenda at the Annual Meeting and the Annual Budget Meeting of the Council.

#### **C. Extraordinary Meetings of the Council**

- i. Extraordinary meetings of the Council are meetings that take place in addition to an Ordinary Meeting or the Annual Meeting. These may be called by:
  - Resolution of the Council;
  - The Lord Mayor;
  - The Chief Executive and the City Solicitor acting together;
  - Petition of any five Councillors to the Lord Mayor.
- ii. The City Solicitor shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called. Such business should be relevant to any of the Council's Policy Framework Plans and/or the Budget Framework and urgent, so cannot be dealt with at the next scheduled meeting.

- iii. The City Solicitor in consultation with the Lord Mayor shall determine the time and day of any Extraordinary Meeting in accordance with the Constitution and following consultation with the group leaders, but shall endeavour to arrange any such meeting to be held, where reasonably practical, at 2:00 pm on a Tuesday, within 10 working days of the request being received, subject to any statutory requirements.

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#### D. Record of Attendance and Quorum

- i. The Monitoring Officer shall record the attendance of Councillors.
- ii. A Quorum is 30 Councillors.
- iii. If during any meeting of the Council, any Member draws to the attention of the Lord Mayor that there does not appear to be a quorum present, the Lord Mayor shall direct the Chief Executive to call over the names of the Members of the Council. If there are fewer than 30 members present, the Lord Mayor shall declare the meeting adjourned. The names of the Members present and those absent shall be recorded in the minutes of the Council.

#### E. Petitions

- i. Every petition to the Council meeting shall be in writing presented by a Councillor.
- ii. A Councillor presenting a petition, or the Lord Mayor (on behalf of Councillors who have submitted their petitions to the Monitoring Officer in advance of the meeting), may move without comment that the petition(s) be received and referred to the relevant Chief Officer(s) to examine and respond appropriately.
- iii. At each meeting of the City Council, the Monitoring Officer shall ensure that an "Update Report" is electronically available for Members providing relevant details on the progress, or otherwise, of any petitions received by the City Council since the last Annual General Meeting. Where a petition has been discharged, the Update Report does not need to mention the same.<sup>42</sup>

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

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

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<sup>42</sup> Petitions in response to licence applications are subject to a statutory process. They must be served upon the Licensing Service without delay in order to ensure statutory deadlines are complied with. They may still be presented to the meeting.

- Not require the disclosure of confidential or exempt information, or refer to legal proceedings being taken or being anticipated by or against the Council;
  - Not refer to individual planning or licensing matters, or any matter of a personal nature.
- ii. **Written Questions:** any Councillor may ask one written question (with no sub-questions) of any Cabinet Member, Committee Chair, Ward Forum Chair<sup>43</sup>, Lead Councillor for a West Midlands Joint Authority or Ward Forum Chair by submitting the question by email to the Monitoring Officer by no later than 1200 hours on the Tuesday prior to the day of the Council meeting (except at the Council's AGM). A copy of each such question and the written answer shall be supplied to every Councillor at the start of the Council meeting and shall also be annexed to the Minutes of the meeting.
- iii. **Oral Questions – Questions from Members of the Public:** Except at the AGM and the budget meeting, a member of the public may ask one oral question of any Cabinet Member by submitting the question in writing to the Monitoring Officer no later than 12 noon on the Friday before the Council meeting. No question will exceed 1 minute and no answer will exceed 2 minutes. Members of the public may ask questions as set out in the order of business and in accordance with these rules of procedure. The question must not be substantially the same as a question which has been put at a meeting of the Council in the past 6 months.
- iv. **Oral Questions – Questions from Councillors:** Except at the AGM and budget meeting, Councillors may ask questions as set out in the order of business above and in accordance with these rules of procedure.
- v. The Leader of the Opposition will be called first to put their question at oral questions with the leaders of other groups also called during the session.

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## G. Notices of Motions

- i. A motion to be submitted to the Council **must:**
- Be relevant to any of the Council's Policy Framework Plans and/or the Budget Framework.
  - Be relevant to some matter in relation to which the Council has powers or duties or which affects Birmingham or its residents;
  - Not seek to take a decision in respect of a matter which is the responsibility of the Executive (other than to make a recommendation);
  - Not require the disclosure of confidential or exempt information or refer to legal proceedings being taken or being anticipated by or against the Council.

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<sup>43</sup> Where the Chair is not a councillor, the question may be directed to the ward councillor to answer on behalf of the resident Chair.

- ii. The order of motions submitted for each ordinary meeting will be determined by the Council Business Management Committee at the start of each municipal year. This will be set out on the agenda for each meeting.
- iii. A motion must be in writing and signed by two members and must be delivered to the Monitoring Officer at any time between the end of the previous ordinary Council meeting and seven clear working days before the Council meeting at which it is to be debated.
- iv. These are then reviewed by the Monitoring Officer who will seek appropriate amendments from the proposer of the Motion, so as to ensure compliance with any legal and/or constitutional aspects. In the event that the proposer is unable to agree, the proposed Motion will not appear on the agenda for the Council meeting.
- v. If, at any time during the debate on any Motion before the Council, it appears to the Lord Mayor that the motion (in its original, modified or amended form) would, if carried:
- have the effect of materially increasing the expenditure, or materially decreasing the revenue, of the Council; or
  - involve capital expenditure not provided for in the Council's approved capital budget
- 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.
- vi. Two motions for debate will be accepted at each ordinary meeting. No motions for debate under this rule of procedure are permitted for the meeting of the City Council reserved for the Annual Budget debate and at the Annual Meeting.

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#### H. Amendments to Motions

- i. 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.
- ii. An amendment shall be relevant to the motion and shall be –
- To leave out specified words; or
  - To insert or add specified words; or
  - To refer a subject of debate to the Executive or to a committee for consideration or re-consideration.
- but any omission, insertion or addition of words shall not result in substance in a direct negation of the motion before the Council.
- iii. Every amendment shall, unless the Lord Mayor otherwise indicates, be put into writing, signed by the mover and delivered to the Monitoring Officer before it is moved.



- iv. At the Annual Budget meeting, the main opposition group's amendment should be taken first.
- v. Once voting on any motion or amendment has commenced, there shall be no further debate on the matter under consideration and no further amendments may be moved to the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion.
- vi. Not every debating possibility has been covered by these Rules of Procedure and, in the event of anything not being covered in Rules of Procedure, the Lord Mayor's ruling on the matter shall be final and binding on the Council.

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#### I. At the meeting

- i. A motion or amendment shall not be discussed unless it has been proposed and seconded and is in accordance with these Rules of Procedure.
- ii. Every motion and amendment, except when set out on the agenda or when copies have been supplied to each member at the commencement of the meeting (in which case the motion or amendment shall be taken as read), shall be read by the mover before being spoken upon and no other member shall speak on it until it has been seconded.
- iii. The Motion will be withdrawn from the Agenda if the proposer is not present at the time that it is due to be considered.
- iv. Any member who seconds a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later stage of the debate on that motion or amendment.
- v. A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
  - To speak once on an amendment moved by another member;
  - To exercise a right of reply (in the case of the member moving the motion);
  - On a point of order as defined in these Rules of Procedure;
  - By way of personal explanation as defined in these Rules of Procedure.

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#### J. Points of Order

- i. A member may rise on a point of order or in personal explanation and shall be entitled to be heard forthwith:
  - A point of order shall relate only to an alleged breach of a Rule of Procedure or statutory provision and the member shall specify the Rule of Procedure or statutory provision and the way in which he/she considers it has been broken.

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- A personal explanation shall be confined to some material part of a former speech by him/her in the Council Chamber or in relation to a matter outside of the Council Chamber, which may appear to have been misunderstood in the present debate.
- ii. The ruling of the Lord Mayor on a point of order or on the admissibility of an explanation shall not be open to discussion and shall be final. No points of information are permissible under these Rules of Procedure.
- iii. When a motion is under debate no other motion shall be moved except the following:
  - to amend the motion;
  - to proceed to the next business;
  - to adjourn;
  - that the question be now put;
  - that a member (named) under Section M below be not further heard or do leave the meeting;
  - to suspend the rules of procedure;
  - to exclude the public under S.100(A) of the Local Government Act 1972;
  - to re-admit the public.

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#### K. Voting

- i. Motions shall be determined (as the Lord Mayor may direct) by a show of hands.
- ii. A recorded vote will take place where a vote is required to be recorded by law, or if, after a vote has been taken by a show of hands, a “named vote” is requested by at least 10 members rising in their place. The following procedure shall then apply:
  - the division bell will be rung for one minute;
  - the doors of the Council Chamber will then be closed;
  - the names of those voting for or against or abstaining will then be ascertained by the use of the vote recorder and included in the Minutes.
- iii. Subject to the provisions of any enactment all voting will be decided by a majority of members present and voting.
- iv. The Chair shall, in case of an equal division of votes, have a second or casting vote.

#### L. Urgent business

- i. Urgent business may be moved or raised at the meeting with the prior agreement of the Lord Mayor.
- ii. Any amendments to urgent business to be moved at Council must be in writing and received by the Monitoring Officer at least 30 minutes prior to the start of the meeting.

#### **M. Conduct at meetings of the Council**

- i. Councillors are expected to treat each other with respect and abide by the Code of Conduct.
- ii. The Lord Mayor may, as she/he sees fit, direct a Councillor to discontinue his/her speech.
- iii. If there is more general disorder, the Lord Mayor may direct a Councillor causing such disorder to retire from the meeting.

#### **N. Disturbance by members of the public**

- i. If a member or members of the public present at a meeting of the Council interrupt(s) the proceedings, the Lord Mayor may warn them that on any further interruption they will be required to retire from the Chamber. If the member(s) of the public, after such warning, again interrupt(s) the proceedings the Lord Mayor may instruct them to retire from the Council Chamber and if they fail to comply the Lord Mayor may order their removal from the Chamber.

#### **O. Appointments of Committees**

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

#### **P. Conflict resolution between Full Council and the Executive**

- i. The Leader must have at least 5 working days to object to a full Council decision which is contrary to the Executive's proposals for either the budget or a plan or strategy before that decision takes effect.
- ii. If the Leader registers an objection, the full Council must meet to reconsider the issue in light of the objection; ultimately, full Council can insist on its decision.

#### **Q. Previous Decisions**

- i. Decisions of the Council made within the last six months may not be changed, unless these Rules of Procedure are suspended.
- ii. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved, unless this rule is suspended.

#### **R. Suspension of Council Rules of Procedure**

- i. Council rules of procedure (Part B, Section 4.4 of this Constitution) may be suspended by resolution of the Council, provided that a motion to extend the time of the meeting may only be moved by the Leader or Deputy Leader (or their nominee) of one of the Party Groups and seconded by the Leader or Deputy Leader (or their nominee) of another Party Group.

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#### **S. Urgency**

- i. An urgent decision which is contrary to the policy framework or which would be contrary or not wholly in accordance with the budget or the capital plan may be taken by the Executive if the chair of a relevant overview and scrutiny committee agrees that the decision may reasonably be regarded as urgent in the circumstances.<sup>44</sup> This should only happen if it is impractical to convene a quorate meeting of the full council in the time available before the decision must be made.

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<sup>44</sup> The regulations require the agreement of only one relevant overview and scrutiny committee chair.

## **B5. COUNCIL BUSINESS MANAGEMENT COMMITTEE ROLE AND PROCEDURE**

### **5.1 Role of Council Business Management Committee**

- i. The purpose of the Council Business Management Committee is to support the Council's non-executive functions as delegated by Full Council, and in particular:
- ii. Meetings of the full Council
  - o To be responsible for the planning and preparation of the agenda, papers and other arrangements for meetings of the Council.
  - o To submit recommendations to the Council concerning the appointment of committees and other bodies and their functions and membership. In cases of urgency to make appointments or nominations, or amendments to quoracy, subject to reporting the details to the next Council meeting for information.<sup>45</sup>
- iii. Council Appointments to Outside Bodies
  - o To submit recommendations to the Council as to the appointment or nomination of persons to serve on outside bodies. In cases of urgency to make appointments or nominations, subject to reporting the details to the next Council meeting for information.
- iv. Civic/Ceremonial
  - o To submit recommendations to the Council as to the conferment of rights and privileges (Honorary Alderman, Freedom of the City) and to consider and determine applications to use the City's Coat of Arms.
- v. Constitutional Matters
  - o To keep the Council's Constitutional arrangements under review and to approve any in year minor changes relating to the non-Executive arrangements of the Constitution, and to submit recommendations to the Council as to major changes to the Constitution and the adoption of new or amended Standing Orders/ Rules of Procedure.
- vi. Members' Services and Allowances
  - o To be accountable for all aspects of services to Members.
  - o To keep under review the Council's Allowances Scheme and all other matters relating to Members' allowances.
  - o To oversee the Council's relationship with the Independent Remuneration Panel and to submit recommendations to the Council as to both the operation and membership of the Panel.

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<sup>45</sup> Temporary Amendment Agreed by Full Council 28 April 2020, which will expire no later than 25 May 2021

- vii. Electoral Matters, Parish Councils & Boundary Changes
  - o To discharge the Council's various electoral duties under the Representation of the People Acts.
  - o To discharge the Council's functions in relation to parishes and parish councils;
  - o To discharge the Council's functions under Part IV of the Local Government Act 1972 and Part II of the Local Government Act 1992 (relating to boundary reviews and alterations) and related Local Government legislation.
- viii. Financial & Other Matters
  - o To consider any recommendations from the Audit Committee relating to the discharge of the Council's duty, under the Accounts & Audits Regulations 2015.
  - o To discharge the Council's functions, relating to pensions, under the Superannuation Acts.
  - o To authorise the making of payments, under Section 92 of the Local Government Act 2000, on account of maladministration.
  - o Foreign travel by Members and Officers of the Council will be reported on a quarterly basis.
- ix. Terms and Conditions of Employment
  - o Holding management to account for implementing agreed terms and conditions of employment of staff.
  - o Agreeing any changes to terms and conditions of employment (the Birmingham Contract).
  - o Holding management to account for the effective consultation and negotiation with employees and representatives of regional and national bodies in connection with terms and conditions of employment.

## 5.2 Membership

- i. Members are appointed by Full Council. Chairs are appointed by the Full Council. Membership shall include the Chair of the Co-ordinating O&S Committee.

## 5.3 Sub-Committees

- i. The following Sub-Committees of the Council Business Management Committee are approved for the current Municipal Year:
  - o Miscellaneous Appeals Sub-Committee – to determine non-personnel appeals and reviews
  - o Election Matters Members Forum
  - o Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions (Also known as JNC Panel)

Deleted: <#>Lord Mayor's Advisory Group¶

- Personnel Appeals
- Local Authority School Governor Nomination Committee

**Chief Officer and Deputy Chief Officer Appointments, Dismissals and Service Conditions Sub-Committee (JNC Panel)**

- ii. The Sub-Committee for Chief Officers (Officers reporting to the Chief Executive) and Deputy Chief Officers (Officers reporting to Chief Officers) shall comprise the Leaders of the three largest political parties (or their nominees), and two other members subject to the proportionality rules. The functions of this sub-committee are, in accordance with the provisions of Schedule 1 Local Authorities (Standing Orders) England Regulations 2001 (as amended), as follows:
- To consider and determine the form of the employment contracts and other Terms and Conditions (including related structural issues) for the Chief and Deputy Chief Officer Posts as defined in the Constitution of the City Council.
  - To be responsible for making appointments to all posts falling within 1 above and to recommend to the Council the appointment of the Chief Executive.
  - To deal with all termination and disciplinary arrangements relating to Chief Officer and Deputy Chief Officer posts (including early retirement and the award of added years)
  - The appointment, termination and disciplinary arrangements of Officers who are NOT Chief Officers or Deputy Chief Officers (other than assistants to political groups) is the responsibility of the Chief Executive as Head of the Paid Service or his/her nominee in line with the Council's normal recruitment, disciplinary and termination policies. Members are not permitted to be involved in these decisions, except insofar as there are arrangements for a members appeal committee for staff matters.
- iii. The responsibilities of the JNC Panel are set out in the Employment Procedure Rules which can be found in Part C7 of the Constitution.

## B6. EXECUTIVE ROLE, FUNCTIONS AND PROCEDURE

### 6.1 Who may make Executive Decisions

- i. As set out in this Constitution, Executive decisions may be taken by a range of people and bodies:
- The [Cabinet](#) (B6.2);
  - A [Cabinet Committee](#) (B6.3);
  - [Cabinet Member based on Chief Officer report](#) (B6.5);
  - [Jointly with another local authority](#) (B9); or
  - An [officer](#).

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### 6.2 Cabinet

#### Role of Cabinet

- i. The Cabinet acts jointly to carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### Functions of Cabinet

- ii. Cabinet, acting jointly, will exercise the following functions:
- Take "key decisions" in accordance with the provisions of this Constitution<sup>46</sup>. A [key decision](#) is defined in Section B3 above; further detail on how key decisions must be taken is set out below;
  - Consider the draft Budget and a draft of the Council's "policy framework" plans. The Cabinet's role in relation to these matters will be to consider a draft which will then be presented to the full Council for approval;
  - Consider the changes to the capital budget, subject to limitations and policies in the Council's Financial Plan and Financial Regulations;
  - Consider other decisions which are considered by the Leader of the Council to have significant cross-cutting or corporate implications;
  - Determine appointments to outside bodies and to other bodies (as set out in B8 [Appointments to Outside Bodies](#)) and
  - Re-consider any Cabinet, Cabinet Member, [or](#) Cabinet Committee decision(s) 'called-in' by any Overview & Scrutiny Committee.

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- iii. [Recorded vote on the Council's budget and council tax: In accordance with the Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council's budget and](#)

<sup>46</sup> A key decision may also be delegated specifically by Cabinet report to a Cabinet Member or officer (see section B3.1).



council tax. The names of Members who voted for or against such a decision or abstained shall be recorded and entered into the minutes of the relevant meeting. A recorded vote shall also be taken on any proposed amendments relation to the budget and council tax.

- iv. The Cabinet is empowered to establish, dissolve and determine the membership and terms of reference of Cabinet Committees (including whether the same should discharge "key decisions").
- v. The Cabinet has the power to make necessary minor changes to any Executive arrangements, through the year, for operational effectiveness and efficiency reasons.

#### **Rules of Procedure – Key Decisions**

- vi. Before taking a decision:
  - **Notification of Proposed Key Decisions:** Key Decisions must be included on the "Forward Plan" not less than 28 clear calendar days in advance of the date of the proposed decision. The Forward Plan will be prepared on a monthly basis (and updated weekly) to cover a period of four months. It will include the following information:
    - a) the matter in respect of which a decision is to be made;
    - a brief explanation of why it will be a "key decision";
    - the Cabinet meeting at which the "key decision" is due to be taken;
    - who will be consulted before the "key decision" is taken;
    - how, to whom and by when representations (about the "key decision") can be made;
    - what reports/papers are, or will be, available for public inspection;
    - whether the report will have a confidential or exempt appendix with reasons.

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

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

- Executive decisions shall only be taken by Cabinet based on **written report(s)** from Chief Officers and after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer. All reports are to be presented in the template prescribed by the City Solicitor.
  - Cabinet decisions are only effective and actionable provided they are taken in accordance with this Constitution, and when posted on the Council's website by Committee Services and following the call-in process.
  - No report to the Executive or any Executive decision shall be deliberately subdivided by any Member/Officer to circumvent the "key decisions" definition.
  - Members are reminded of their Corporate Parenting responsibility when considering Cabinet reports. Members should always consider what impact a particular decision may have on children in care, whether this is direct or indirect. If there are likely impacts, the Cabinet report should include this in the body of the report. "What does this mean for children in care?" should be considered at all times when carrying out council business.
- viii. **Decisions not on the Forward Plan:** if a matter which is likely to be a key decision has not been included on the [Forward Plan](#) (see above) but it is impracticable to defer the decision,<sup>47</sup> then the decision may still be taken if:
- a) the key decision must be taken because it is impracticable to defer the decision, in the opinion of the Chief Executive; and
  - b) the relevant Chief Officer (or his/her 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 agenda available to the public as soon as possible.
- ix. The report must be accompanied by a cover sheet stating the reasons for not being included on the Forward Plan, why the decision cannot reasonably be deferred, the date of the Scrutiny Chair's agreement and any comment they wish to add.
- x. The Leader of the Council will submit a report to Council on an annual basis detailing all reports not on the Forward Plan and urgent reports requiring approval as set out in this constitution and all reports authorised for [immediate implementation](#).
- xi. **Intention to hold part of the meeting in private not notified:** any report containing confidential or exempt information that is not included on the ["Notification of intention for Cabinet to consider matters in private"](#) requires agreement from the Chair of the relevant Overview and Scrutiny Committee that the report is urgent and cannot reasonably be deferred.

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<sup>47</sup> Regulation 10, The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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

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

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

#### **Rules of Procedure – Cabinet Meetings**

- xiv. Cabinet meetings will be called in accordance with Part C2 of the Constitution: Access to Information.
- xv. If the Leader is present, s/he will chair any meeting of the Cabinet. If the Leader is not present, s/he will appoint another person to do so. If no appointment has been made, the meeting will elect a Chair for that meeting.
- xvi. The quorum for a meeting of the Cabinet shall be four Cabinet Members (inclusive of the Leader of the Council if present).
- xvii. Only Cabinet Members are entitled to vote at meetings of the Cabinet.
- xviii. **Non-Cabinet Members attending 'Private Sessions' of Cabinet meetings:** A maximum of two of the major Opposition Group members and a maximum of one of the other Opposition Group members – to include their Group Leader(s) – may receive notice of Cabinet meetings, the relevant papers and remain and participate during the deliberations of the private sessions of the Cabinet, save that they do not have any entitlement to vote on any Cabinet matter.
- xix. The Chairs of any of the Council’s Overview & Scrutiny Committees (or their nominee from the relevant committee) shall be entitled to attend Cabinet meetings and to remain and participate during the deliberations of the Cabinet during any of its ‘Private Sessions’, save that they do not have any entitlement to vote on any Cabinet matter.

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

- xx. Individual Cabinet Members cannot take executive decisions except as part of Cabinet at a formal meeting, or where based on a written report from a Chief Officer (as set out in B3.1 and B6.5 Cabinet Member and Chief Officer Decision Making), Cabinet Member responsibilities are set out in their respective portfolio ([B7 Cabinet Portfolios](#)).
- xxi. The role of a Cabinet Member is to promote and co-ordinate the Council’s activities which contribute towards achieving the Council Plan objectives within their respective portfolio.

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- xxii. An appropriate Cabinet Member may direct an officer on a particular matter that his/her delegated authority under the Officer Delegation Scheme should not be exercised, and that it should be referred to Cabinet or to a Cabinet Member for consideration.
- xxiii. A Cabinet Member may be required to attend a hearing of an O&S Committee on matters within their portfolio.

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### 6.3 Cabinet Committee – Group Company Governance

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

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

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

- ii. The Committee's responsibilities include (subject to regulations imposed by the Charity Commission, regarding the independence of charitable entities):
- a) Holding entity Boards to account for their performance with the necessary powers to make and drive immediate change through the Boards;
  - b) Supporting the development of entities and making decisions on the disposal/dissolution of companies (below Cabinet limit on value) and matters such as varying Articles of Association, varying ownership and structure and varying share rights;<sup>48</sup>
  - c) Identification of entities' business support requirements;
  - d) Providing subsidiaries with clear direction and support in its role as sole shareholder/member, including guidance and training to board members where necessary;
  - e) Evaluation of effectiveness of entity board governance structure, processes and recommend changes as required;
  - f) Reviewing business plans and strategies of the entities where applicable (to ensure compliance with the Council's strategic direction) to, for example, communicate changing priorities;
  - g) Ensuring compliance of the entities with the Council's interests including the Birmingham Business Charter for Social Responsibility;

<sup>48</sup> Note: on 22 January 2018, Council Business Management Committee agreed to disapply sections B6.3ii a) and b) for the Birmingham Children's Trust Community Interest Company during the period of government intervention only

- h) Oversight of compliance to ensure that taxation, legal and financial interests of the Council together with the Council's Constitution are considered and protected;
- i) Oversight of compliance with procurement rules;
- j) Oversight of compliance to avoid conflict of interest;
- k) Receiving and reviewing entity performance, financial and risk reports;
- l) Advising Cabinet/City Council of issues as appropriate.

#### **Membership**

- iii. The Cabinet Committee – Group Company Governance has been established by Cabinet with the following membership:
  - The Deputy Leader;
  - Another Cabinet Member as deemed appropriate by the Deputy Leader;
  - One Councillor member from each of the Opposition Party Groups.
- iv. The membership of the Committee shall be based on cross party representation.
- v. The quorum for a meeting of a Cabinet Committee shall be two Cabinet Members and a member of the opposition.
- vi. A substitute member shall be entitled to attend in place of a regular Member provided:
  - That a Cabinet Member may only be substituted by another Cabinet Member;
  - That Committee Services has been notified of any substitution before the meeting begins.
- vii. Once an agenda item has begun with a substitute member attending, the regular Member in respect of whom notification has been received, shall not be entitled to vote on the agenda item as a Member of the Cabinet Committee.
- viii. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.

#### **Rules of Procedure – Cabinet Committee: Group Company Governance**

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

## 6.4 Health and Wellbeing Board

### Role of the Health and Wellbeing Board

- i. The Health and Wellbeing Board is constituted as a Committee under the Chair of the Cabinet Member for Health and Social Care in order to discharge the functions of a Health and Wellbeing Board as set out in the Health and Social Care Act 2012, including the appointment of Board Members as set out in the schedule of required Board Members in the Act.
- ii. The Health and Wellbeing Board will:
  - a) Promote the reduction in Health Inequalities across the City through the commissioning decisions of member organisations;
  - b) Report on progress with reducing health inequalities to the Cabinet and the various Clinical Commissioning Group Boards;
  - c) Be the responsible body for delivering the Joint Strategic Needs Assessment for Birmingham (including the Pharmaceutical Needs Assessment);
  - d) Deliver and implement the Joint Health and Wellbeing Strategy for Birmingham;
  - e) Participate in the annual assessment process to support Clinical Commissioning Group authorisation;
  - f) Identify opportunities for effective joint commissioning arrangements and pooled budget arrangements;
  - g) Provide a forum to promote greater service integration across health and social care.
- iii. Under the Health and Social Care Act 2012 the composition of the Board must include
  - o The Leader of the Council or their nominated representative to act as Chair of the Board;
  - o The Director for Adult Social Care Directorate (Director for Adult Services);
  - o The Director for Education & Skills (Director for Children's Services);
  - o Nominated Representatives of each Clinical Commissioning Group in Birmingham
  - o The Director of Public Health
  - o Nominated Representative of Healthwatch Birmingham
- iv. Each Local Authority may appoint additional Board Members as agreed by the Leader of the Council or their nominated representative. If additional appointments are made, these will be reported to Cabinet by the Chair of the Board.
- v. For the Board to be quorate at least one third of Board Members and at least one Elected Member must be present.
- vi. Members of the Board will be able to send substitutes with prior agreement of the Chair. Each member is to provide the name of an alternate/substitute member.

## 6.5 Cabinet Member Decision Making

- i. Except in relation to the financial limits applicable to the general delegation to the Leader and Cabinet Member, Finance and Resources in Part E3.2 of the Constitution, decisions with values at or above the Chief Officer limit of £200,000 and below the key decision threshold of £500,000 (revenue) or £1m (capital) are decisions by Cabinet Members based on written reports by Chief Officers. Such decisions shall only be taken after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- ii. Prior to any decision being taken by the Executive, the relevant Chief Officer shall ensure that the relevant Cabinet Member, Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are properly consulted, well in advance of any relevant report, for any advice that they may, collectively or individually, wish to give. The Chief Officer shall also ensure such advice is properly reflected in any report to the Executive. In appropriate circumstances, the Chief Officer shall also ensure the Assistant Director, Communications & Marketing is consulted before any Executive decision is taken. All reports are to be presented in the template prescribed by the City Solicitor.
- iii. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.
- iv. Where a decision is delegated to Cabinet Members, and is, in the opinion of the Leader, a Cabinet Member, a Director or Head of Service, of such significance that a public discussion of the proposed decision would ensure transparency and accountability in relation to decision making within the authority; then such decisions should be referred to Cabinet.

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## 6.6 Urgent Reports

- i. In an emergency an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups. See Part E: Scheme of Delegations for further details.

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## 6.7 Officers

- i. Decision making is also delegated to Officers in accordance with their job description and directorates budget.
- ii. The Schedule of Delegations is set out in Part E of this Constitution. A Chief Officer may make arrangements to sub-delegate their authority to another officer of suitable seniority and experience and any such arrangements are recorded in their sub delegation scheme. However, the officer remains responsible for any decisions made under such arrangements.
- iii. The fact that a function stands delegated to an officer under Part E does not preclude the Council or the Executive from exercising the function directly. Similarly, where a committee

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has resolved to delegate a function to an officer, it shall remain open to the committee to discharge the function itself.

- iv. Where a decision is delegated to officers, and is, in the opinion of the Leader/Cabinet Member, Director or Head of Service, of such significance that a published record of the proposed decision would ensure transparency and accountability in relation to decision making within the authority; then such decisions should be taken as Cabinet Member Decision.
- v. An officer may be required to respond in writing to a query from, or attend a meeting of, an O&S Committee on decisions they have taken or matters within their area of responsibility.

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## 6.8 Record of Executive Decisions

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

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

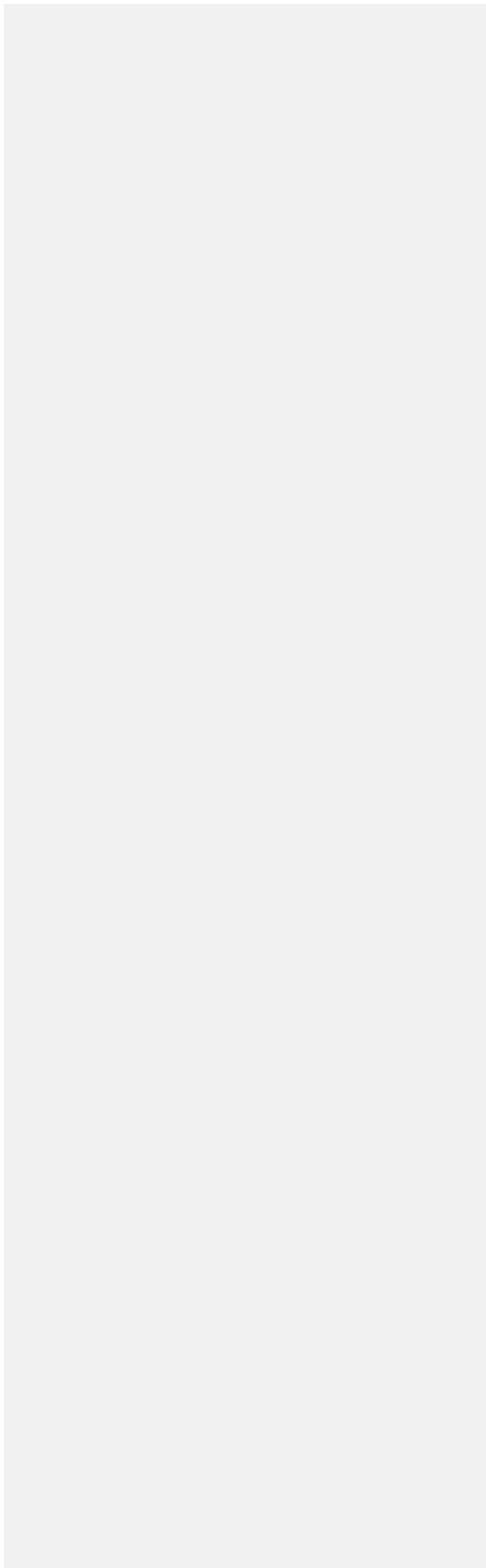
### Officer Delegated Decisions

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

## 6.9 Immediate Decision Implementation

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





## B7. CABINET PORTFOLIOS

### 7.1 Leader's Portfolio

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

Area	Further detail
Strategic policies	Development and implementation of the Council Business Plan and Medium Term Financial Strategy/Budget
Structure and Governance of the Council	Overall organisational design of the Council, including the Council's corporate governance arrangements.
Lord Mayor's office	Appropriate support to the Lord Mayor and other holders of civic office.
Communications	Internal and external stakeholder engagement and formal consultation on Council performance and use of resources.
Financial strategy	In conjunction with the Cabinet Member for Finance & Resources, the Council's strategic approach to the use of financial resources and budget, including alignment between other local authority bodies (e.g. Combined Authority), partners (e.g. Health, LEP etc), the BCC General Fund, Housing Revenue Account, capital spending and the use of reserves.
Council Wide Efficiency and Improvement	Jointly, with the Deputy Leader, to take a strategic lead in relation to efficiency and improvement across all Council services and to foster lean governance in all areas of Council work.
Policy and Partnerships	Promotion of collaborative working relationships with stakeholders and partners as part of the city's 'Civic Family', whilst positioning Birmingham as a leader in public policy development at city, regional, national, European and international levels. Representing the Council's policy agenda as appropriate through proactive engagement with Government, national policy networks and relations with the media.
West Midlands Combined Authority	Appropriate arrangements for the Council's response and review to changes in the Constitution, consultation and devolution deals. Representing the City Council on the West Midlands Combined Authority Board.
Major projects	Responsibility for major physical regeneration and infrastructure projects in the city and engagement with key economic growth partners, partnerships and investors.
Promotion of the city and Inward Investment	Promotion of Birmingham regionally, nationally and internationally. This includes work with partners such as the West Midlands Growth Company, the universities and cultural organisations of citywide, regional or national significance. Marketing strategies to encourage investment in Birmingham.
Commonwealth Games, Sports and Events Development	Development, delivery and promotion of sports, events and festivals. Delivery of Birmingham Commonwealth Games 2022 and its legacy.
Council land use and property assets including appropriation	Oversight of the Council's land use and property strategy and asset management plan including framework for reuse, disposal and requisition of land and property in the Council's priorities – including assets of heritage and community value. Including oversight of Council owned land and property facilities, amenities and services including markets.

Economic growth and jobs	Strategic approach to economic growth and regeneration programmes and strategic planning policy. Representing the City Council on the Local Enterprise Partnership Board.
Business Improvement Districts	Partnerships with the Business Improvement Districts, including city centre management opportunities.
Land Use Planning	Local Development Plan, Neighbourhood Plans, Development Briefs and Supplementary Guidance; including advice to Planning Committee.
Housing Development	To review the supply of housing and tenure based on an analysis of housing need.
Enforcement	To ensure enforcement policies and implementation are in place.

## 7.2 Deputy Leader's Portfolio

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

Area	Further detail
Business Change	All major business change programmes.
Efficiency and improvement for the Council – including governance and performance of third-parties	Jointly, with the Leader, to take a strategic lead in relation to efficiency and improvement across all Council services and to foster lean governance in all areas of Council work. Oversight of good governance in relation to Council representation on outside bodies; Trading Services; Council-owned companies; and strong 'client' governance for externalised services (when Executive decisions needed).
Risk Management	Strategic risk management, internal audit and holding senior officers to account on the management of risks.
Revenues and Benefits Service	To ensure effective management of the Revenues and Benefits service.
Customer Services	To take a strategic lead in the provision of the City Council's customer services functions.
External Scrutiny and Local Government Ombudsman	To take appropriate action in response to external scrutiny of the Council through inspectorate, peer or Government improvement and / or local government ombudsman reports.
Open data and Information systems	To 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.
Whistleblowing and Corporate Complaints Procedure	To take a corporate lead in relation to Whistleblowing and complaints.
Emergency Planning	Arrangements for the Council's response to emergencies including charring the Contest Board.
Impact and implications of Brexit	Assessment of the implications of Brexit for Birmingham and co-ordination of requisite strategies by way of response.
To take a lead on information law and data protection matters	Overall leadership and organisation of information law and data protection matters for the Council.

To challenge any lack of transparency in all work carried out by the Council	To ensure transparency in all areas of Council work.
ICT	Oversight of the Council's ICT strategy, Information Governance and General Data Protection Regulations (G.D.P.R.)
Legal	Oversight of the Council's legal services function including political engagement with the Council's Monitoring Officer.

### 7.3 Cabinet Member for Children's Wellbeing

The Cabinet Member has accountability for:

Area	Further detail
Lead Member for Children's Services (LMCS)	Political accountability for all the local authority children's services, including education and social care. This post is required by law to hold direct local accountability for the effectiveness, availability and value for money of the local authority's children's services (particularly education and children's social care.) This role will therefore require close joint working and formal reporting with the Cabinet Member for Education, Skills and Culture to ensure appropriate accountability for statutory education functions contained within the LMCS role – including fair access to schooling for all children, high quality early years provision and children's involvement in public decision making.
Safeguarding Children and Young People	With statutory partners, the safety and wellbeing of all children.
Children's Services	Leadership, strategy and effectiveness of children's services – responding to the needs of all children and young people, especially the most disadvantaged and vulnerable, and their families and carers.
Overseeing the Children's Trust	Oversight of the 'client side' role of the Children's Trust to ensure the delivery of agreed outcomes, KPIs and finances within the legal and contractual framework agreed
Overseeing Early Years	Ensuring a sufficiency of places and a citywide Early Years Health and Wellbeing offer.
Corporate Parenting	Political leadership on improving the lives of looked after children. Ensuring all Council members, officers and services understand and actively promote the Council's responsibilities to looked after children.
Lead Member for Special Educational Needs and Disability (SEND) and Inclusion	Lead Member for the SEND agenda across children's agencies and holding officers and partners to account for the delivery of the Birmingham SEND strategy.

### 7.4 Cabinet Member for Education, Skills and Culture

The Cabinet Member has accountability for:

Area	Further detail
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Education of Children and Young People	Political leadership on strategic and statutory duties, including school improvement, school places and travel to and from school. Oversight of Dedicated Schools Grant.
Arts and Culture and Tourism	Sustaining and promoting art, culture and tourism, including management of grants and associated economic opportunities.
The Library of Birmingham and Community Libraries	Oversight of the regional and city-wide role of the Library of Birmingham and the community library service; including the vital part libraries play in communities, learning and skills.
Museums	Oversight of the provision and activity of the Birmingham Museums Trust.
Skills, expansion for key growth sectors enterprise and innovation	Developing the skills and employability of Birmingham's workforce, thereby enabling each citizen to realise their potential. Engaging with the skills agenda throughout the Council and Birmingham in liaison with local, regional and national partners.
Youth Engagement and Youth Service, along with Lifelong Learning (post 14 skills and adult education)	Clear progression and vocational pathways from education into further and higher education and employment. Provision of all-age guidance, skills development, training and work experience to meet the economic needs of the city now and in the future.
Skills and Entrepreneurship in Schools	Development of 14-19 career pathways, enterprise and entrepreneurship in Birmingham schools.
Employment Opportunities	Enabling all residents to access employment through the development and delivery of local employment plans.

## 7.5 Cabinet Member for Finance and Resources

The Cabinet Member has accountability for:

Area	Further detail
Finances	Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures.
Human Resources	An effective organisational development function for shaping the future workforce of the Council. Development of effective change/transformational programmes deployed corporately. Member development programmes. Processes and procedures to support good staff performance development and equality objectives. Staffing structures at JNC level and personnel procedures that comply with good practice and natural justice (in consultation with the Leader). [The Council Business Management Committee deals with issues around the employment of staff and their terms and conditions of employment].
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.
Commercialisation	To take the strategic lead in the consideration of all commercial opportunities available to the Council

Procurement	Oversight of procurement management.
Contract Management	Strategic approach to and compliance with contract management policy to ensure best value.
<u>Oversight of Consultants</u>	<u>Oversight of the use of consultants"</u>
Internal Trading Operations	Effectiveness and holding to account the management of all internal trading operations in conjunction with Deputy Leader
Commissioning	Strategic approach to, and compliance with, the commissioning approach. Ensuring that council commissioning supports its wider social objectives such as employment provision, training, encouraging social enterprise and delivering social cohesion, internally and externally in line with the Council's objectives

## 7.6 Cabinet Member for Health and Social Care

The Cabinet Member has accountability for:

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

**Deleted:** Taking the lead on the health implications of domestic violence and advising the Cabinet Member for Social Inclusion, Community Safety and Equalities on these matters.

**Deleted:** Domestic Violence

## 7.7 Cabinet Member for Homes and Neighbourhoods

The Cabinet Member has accountability for:

Area	Further detail
Council housing management services	Oversight and direction of estate management services and best use of housing stock (across all housing providers). Repairs and maintenance programmes.
Registered Social Landlords	Liaison with the Birmingham Social Housing Partnership on neighbourhood management initiatives and the housing growth agenda.
Private Rented Sector	Licensing and regulation. Private Tenancy Unit activities. Bond and deposit scheme initiatives.

Housing Options	Assessing housing need, options for vulnerable adults, children and young people and offenders. Temporary accommodation provision. A coherent strategy to address homelessness, including short-term engagement, education and enforcement with rough sleeping.
Tenant engagement in social housing	Tenant engagement in the management and development of social housing and Housing Liaison Boards.
Neighbourhood Management	Development of the Council's neighbourhood engagement model and work with wider Council and partners to ensure integration at the local level.
Bereavement Services and Register Office	Strategic leadership for the development of Cemeteries, Crematoria and Mortuary and Coroners Court Services; and Register Office services.

## 7.8 Cabinet Member for Social Inclusion, Community Safety and Equalities

The Cabinet Member has accountability for the following:

Area	Further detail
Safer Communities	Strategic citywide leadership to community safety in Birmingham, including anti-social behaviour, fear of crime and public spaces and ensuring effective support for victims of crime. Effective relationships and clear shared priorities with the Police and Crime Commissioner and West Midlands Police. Leadership on youth offending issues. CCTV and liaison with Police. Strategic leadership in relation to Prevent.
Social Cohesion and Inclusion	Approaches to ensure that all Birmingham citizens have opportunity across the social and economic life of the city, within a safe city - including in education, employment, housing, health and social care, civil society and political participation – whether these are delivered by the City Council itself, partner agencies, or by private or third sector organisations. Holding to account other relevant Cabinet Members and officers for the delivery of those functions that impact on social cohesion and inclusion.
Tackling Inequality	Strategic approaches to reduce inequalities including around health, education and employment outcomes; 'access to services'; and participation in civic life. Neighbourhood advice and information services. Holding to account other relevant Cabinet Members and officers for the delivery of those functions that impact on inequalities and inclusion.
Equalities within the Community	Development and promotion of shared values and mutual respect across the diverse communities of Birmingham. Ensuring that community and cultural events promote social cohesion and inclusion
External Challenge	Ensuring that partner agencies, private or third sector organisations are challenged on their contribution to improving social cohesion and inequalities.
Third Sector Partnership and Engagement	Working with, and coordination of, third sector and partner agencies around equalities, cohesion and inclusivity.

Domestic Violence	All Council activity relating to domestic violence, its impact on families and children and implementing a city-wide domestic violence strategy with partners including advice to the Cabinet Member for Homes and Neighbourhoods on the provision of accommodation and taking advice from the Cabinet Member for Health and Social Care on the health implications of domestic violence.
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## 7.9 Cabinet Member for Street Scene and Parks

The Cabinet Member has accountability for:

Area	Further detail
Waste Strategy and Services	Development of a financially and environmentally sustainable waste strategy for the city and ensuring delivery. Collection and sustainable disposal of waste from residential and other properties within the city and street cleansing.
Pest Control	Provision of the Pest Control Service.
Cleaner Neighbourhoods	Street cleansing, litter prevention, fly tipping, graffiti, placarding, scrap yards and motor salvage operators.
Recycling	Development of a robust re-use and recycle strategy for the city and ensuring delivery.
Parks and Allotments	Provision and usage of facilities including grounds maintenance.

## 7.10 Cabinet Member for Transport and Environment

The Cabinet Member has accountability for:

Area	Further detail
Transport Strategies	Sustainable transportation policy and strategy, programmes, projects and initiatives to improve connectivity and road safety for the city across all modes of travel.
Highways	Strategic highways matters. Maintenance of roads and streets, traffic management and car parks and enforcing rights of way.
Advice to Planning Committee (Highways)	Providing advice, where appropriate, including the effect of proposed developments in relation to roads and transport and working in cooperation with the West Midlands Combined Authority and Mayor in relation to the key route network.
Air Quality	Leading the development and delivery of an Air Quality Strategy for Birmingham, to comply with national and pan-national regulations together with key partners.
Green City	Working with partners to develop a strategy for sustainability, liveability and environmental improvement for the city.
Climate Change	Engaging in proactive citywide and national policy development to tackle the causes and consequences of climate change.



## **B8. APPOINTMENTS TO OUTSIDE BODIES**

### **8.1 Appointments to Outside Bodies**

- i. Appointments that are reserved to the Full City Council to determine can be found in [B4.4](#) above and the proportionality rules shall apply.
- ii. All other appointments of members and officers to outside bodies shall be within the remit of Cabinet to determine, and the proportionality rules will not automatically apply.

## **B9. JOINT ARRANGEMENTS**

### **9.1 Joint Arrangements**

- i. The Council may establish joint arrangements with one or more local authorities or other public bodies and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee or board with these other local authorities or bodies.
- ii. The Cabinet may establish joint arrangements with one or more local authorities or public bodies to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees or boards with these other local authorities or bodies.
- iii. The Cabinet may only appoint Cabinet Members to a joint committee or board and those Members need not reflect the political composition of the local authority as a whole.
- iv. Where Cabinet appoints three or more members to a joint committee, the proportionality rules will apply.

### **9.2 Joint committees**

- i. The City Council has established the following Joint Arrangements for the current Municipal Year:  
  
**West Midlands Combined Authority (WMCA)**
- ii. The [West Midlands Combined Authority](#) comprises 18 local authorities, including Birmingham City Council and four Local Enterprise Partnerships (LEPs) including Greater Birmingham & Solihull LEP, working together to move powers from Whitehall to the West Midlands. Individual councils will still deliver services and retain their identity, but on the big decisions the WMCA will have the resources to work together.
- iii. More detailed information can be found on the [West Midlands Combined Authority \(WMCA\) website](#).

## B10. WARD FORUMS

### 10.1 Role

- i. Ward Forums will be constituted to encourage and facilitate dialogue between the Council and local people within their area.
- ii. The Council will establish (or dissolve) Ward Forums on the recommendation of the Council Business Management Committee.
- iii. Members will provide community leadership at the ward level, in particular through engaging the local community and identifying very local issues and priorities (for example through Neighbourhood Tasking meetings).

Deleted: Ward Litter Plans or

### 10.2 Functions

- i. In conjunction with the relevant Cabinet Members, the role of Ward Forums is to:
  - a) Adopt and approve a Ward Plan setting out locally determined priorities and issues.
  - b) Provide a forum for community engagement in decisions affecting the local area (through regular meetings including neighbourhood forums, residents associations, parish, community or neighbourhood councils and other local organisations).
  - c) To advise or make representations to the Council, the Executive or an Overview and Scrutiny Committee on all matters affecting community interests, working in conjunction with Cabinet Members to provide improved accountability in council and other public services within the area and to support the work of Overview and Scrutiny committees as appropriate.
  - d) Make comments on behalf of residents on significant planning applications within the ward or which have an impact on the ward, subject to the appropriate planning timescales.
  - e) Co-ordinate the work of councillors with neighbourhood forums, residents associations and neighbourhood, community or parish councils to enable local community engagement, debate and action in relation to local issues and priorities.
  - f) Plan work with the other wards or ward clusters to engage with partners such as the police and to work on matters that must be addressed over a larger geographical area.
  - g) Develop and support the community leadership role of councillors and others in the area. This includes in relation to governance, commuting planning, local dialogue, partnership, commissioning and accountability.
  - h) Work with appropriate ward contact officers to ensure that council services are responsive to local needs and priorities.
  - i) Promote and influence service improvement, service integration and a focus on prevention across the whole of the local public sector and to consider the performance,

integration and co-ordination of public services in the area and make recommendations to the Executive and to the council's partners as appropriate.

- j) Work in partnership with all local stakeholders to further the needs and priorities of local residents.
- k) Ensure that city wide and city regional levels of decision making have a good understanding of local needs and priorities in different parts of the city.
- l) Promote community empowerment and active citizenship and a diversity of local service provision, including community and voluntary organisations and social enterprises and to develop positive working relationships with parish, neighbourhood or community councils.
- m) To promote and improve the economic, social and environmental well-being of the area.
- n) Working to advance the council's policies on local leadership and with other Ward Forums to progress issues across a larger geographical area.

### **10.3 Membership**

- i. Membership of Ward Forums must include the local Councillor(s) and may include any local resident or stakeholder groups.
- ii. The Councillor(s) may appoint a councillor or another stakeholder as Chair of their Ward Forum.

## B11. OVERVIEW AND SCRUTINY COMMITTEES

### 11.1 Principles of Good Scrutiny

- i. Good Overview and Scrutiny adds value to Councils as it:
  - a) Provides “critical friend” challenge to executive policy-makers and decision-makers;
  - b) Enables the voice and concerns of the public and its communities to be heard;
  - c) Is carried out by ‘independent minded members’ who lead and own the scrutiny process;
  - d) Drives improvement in public services.

### 11.2 Role

- i. Overview and Scrutiny Committees will:
  - Make reports and/or recommendations to the full Council, the Executive and / or other organisations in connection with the discharge of the functions specified in their terms of reference;
  - Consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; and
    - is relevant to the Council’s strategic objectives; and/or
    - is relevant to major issues faced by officers in managing a function of the Council; and/or
    - is likely to make a contribution to moving the Council forward and achieving key performance targets.
  - Exercise the “request for call-in” and “call-in” any Cabinet, Cabinet Committee or Cabinet Member decisions made but not yet implemented by the Executive.
  - Overview and Scrutiny Chairs should maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the Council’s policy priorities in a timely way.

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### 11.3 Functions

- i. *Policy development and review:* Overview and Scrutiny Committees may:
  - Assist the Council and / or the Executive in the development of its budget and policy by appropriate analysis of policy and budget issues;
  - Conduct appropriate research, community and other consultation in the analysis of policy and budget issues and possible options;
  - Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - Question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and

- Liaise with other external organisations operating in the city, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- ii. *Scrutiny: Overview and Scrutiny Committees may:*
- Review and scrutinise the Executive decisions made by and performance of the Executive and/or Chief Officers in relation to decisions taken by them or in relation to their areas of responsibility / department;
  - Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas – including the areas of responsibility of the Regulatory and Non-Executive Committees, but not the actual decisions of the Regulatory and Non-Executive Committees;
  - Make recommendations to the Executive, Chairmen of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;
  - Review and scrutinise the performance of other relevant public bodies in Birmingham (including Health Authorities) and to invite reports from them by requesting them to attend and engage with the Overview and Scrutiny Committee about their activities and performance;
  - Question and gather evidence from any person (with their consent); and
  - Establish sub-committees to undertake aspects of that committee’s remit, or Task and Finish Committees to carry out specific time limited enquiries as agreed with the eight Overview and Scrutiny Committee Chairs and subject to available resources.
- iii. Any member of an overview and scrutiny committee (or sub-committee) may ensure that any matter relevant to the remit of the committee (or sub-committee) be placed on the agenda and discussed at a meeting of the committee (or sub-committee) (“Councillor Call for Action”).

#### **11.4 Membership**

- i. All Councillors, except Cabinet Members (and the Lord Mayor) can be members of an Overview and Scrutiny (O&S) Committee. Members are appointed by Full Council. Chairs of these committees are appointed by the Full Council and Deputy Chairs are elected by each committee at its first meeting, for the purpose of substitution for the Chair if absent.
- ii. Membership of each of the O&S Committees will be eight; with the exception of the Co-ordinating Overview and Scrutiny Committee, which will consist of 12 members: the chair of the committee and the seven other Overview and Scrutiny Committee chairs along with four places for opposition group members to ensure proportionality. Education and Children’s Social Care O&S Committee will have an additional four co-opted places, as set out below.
- iii. Quorum for the Co-ordinating O&S Committee and Education and Children’s Social Care O&S Committee shall be four; and three for the other O&S Committees.
- iv. No substitute members shall be entitled to vote at an Overview & Scrutiny meeting.

- v. Where a member stands down from a Cabinet role, that member should not be appointed to the O&S Committee scrutinising the portfolios to which that role related for a period of six months.
- vi. A member should not be appointed to serve on both the Resources O&S Committee and the Audit Committee.
- vii. A Chair of an Overview & Scrutiny Committee should not be appointed to serve as a Director on any of the City Council's wholly owned companies.

### 11.5 Terms of Reference of Overview and Scrutiny Committees

- i. There shall be eight Overview and Scrutiny Committees as set out in the terms of reference below.

#### **Co-ordinating Overview and Scrutiny Committee**

- ii. To plan and co-ordinate the work of all the Overview & Scrutiny Committees. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning governance (including transparency, regional working and partnerships); citizens (including communications and public engagement); performance; customer services and emergency planning.
- iii. These functions include:
  - a) giving such guidance to the Overview and Scrutiny Committees in any cases of uncertainty, as to work which they should or should not be undertaking, as may be necessary to achieve such co-ordination, including the allocation of "call-in" to the appropriate Committee;
  - b) determining, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;
  - c) ensuring (by means, for example, of issuing appropriate guidance and/or instructions) that the Overview & Scrutiny Committees pay proper attention in their work to the consideration of key cross cutting issues, in particular equalities, transparency and improvement;
  - d) publishing each year an Annual Programme of major scrutiny inquiries as suggested by individual Overview and Scrutiny Committees following consideration of the Council Plan and priorities;
  - e) agreeing the establishment of any task & finish groups; and
  - f) considering overview and scrutiny development, working practices and constitutional arrangements.
- iv. Membership of the Co-ordinating Overview and Scrutiny Committee will consist of 12 members: the chair of the committee and the seven other Overview and Scrutiny

Committee chairs along with four places for opposition group members to ensure proportionality.

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#### **Resources Overview and Scrutiny Committee**

- v. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning finance (including strategic finance, budget setting and financial monitoring); revenues and benefits; treasury management; human resources; contracting, commissioning and commercialisation.

#### **Education & Children's Social Care Overview and Scrutiny Committee**

- vi. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning schools and education, the Children's Trust, vulnerable children, corporate parenting and other child social care and safeguarding functions of the council.
- vii. 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).

#### **Economy and Skills Overview and Scrutiny Committee**

- viii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning strategic economy; skills and apprenticeships; land and property; inward investment; land use planning; business improvement districts and the Local Enterprise Partnership.

#### **Health and Social Care Committee**

- ix. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning adult 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 Neighbourhoods Overview and Scrutiny Committee**

- x. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning housing; social cohesion; waste management;



neighbourhood management; parks and allotments localisation; bereavement services and community safety.

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

**Commonwealth Games, Culture and Physical Activity Overview and Scrutiny Committee**

- xii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning Commonwealth Games; arts and culture; libraries and museums; sport; events.

**Sustainability and Transport Overview and Scrutiny Committee**

- xiii. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to sustainability; air pollution; transport strategy and highways.
- xiv. The Committee shall undertake the authority's statutory functions in relation to the scrutiny of flood risk management (Flood and Water Management Act 2010).

## 11.6 Rules of Procedure

- i. A Scrutiny meeting may be called by the Chair of the relevant Overview & Scrutiny Committee.
- ii. All meetings of an Overview & Scrutiny Committee shall be open to the public in accordance with Section C2 *Access to Information*. In addition to their rights as Councillors, Members on an Overview & Scrutiny Committee have additional rights to documents as set out in Section C2 *Access to Information*.
- iii. No Overview & Scrutiny Committee may undertake a review into:
- Any decision of the Planning Committee, the Licensing and Public Protection Committee or a Licensing sub-committee;<sup>49</sup>
  - Any decisions which may be appealed against under the terms of reference of the Licensing Sub-Committees;
  - Any decision taken by an officer under delegated authority which falls within the terms of reference of the Planning Committee, the Licensing and Public Protection Committee or a Licensing sub-committee;<sup>50</sup>
  - Except in exceptional circumstances, any decision in respect of which there are:
    - a) Ongoing judicial proceedings, Ombudsman or audit inquiry or complaint under the Council's formal complaints procedure; or
- Individual personnel issues.

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<sup>49</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>50</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

- iv. An Overview & Scrutiny Committee may require any Cabinet Member, or Member in relation to a matter where the Member has exercised functions, the Chief Executive and/or any senior officer to attend before it to answer questions and provide information about any matter within its terms of reference.<sup>51</sup>

### 11.7 Conflicts of interest

- i. If an Overview and Scrutiny Committee is scrutinising specific decisions in relation to the business of another committee or forum of the City Council of which an Overview and Scrutiny Committee Councillor is a Member, then that Councillor must withdraw from the meeting during the consideration of such matter.
- ii. Where, however, the Overview and Scrutiny Committee is reviewing policy matters, generally, as opposed to a specific decision of another committee or forum of the City Council, the Member must declare his/her interest before the relevant agenda item is reached but need not withdraw.
- iii. If a Cabinet Adviser (or former Cabinet Adviser) is scrutinising matters to which their role relates, then that Councillor must withdraw from the meeting during the consideration of such matter.
- iv. If an Overview and Scrutiny Committee is scrutinising the work of a relative, then that Councillor must withdraw from the meeting during the consideration of such matter.

### 11.8 Overview and Scrutiny Work and Non-Executive Committees

- i. Overview and Scrutiny Committees are only permitted by law to scrutinise the Executive decisions of the council – Cabinet, Cabinet Committees, Cabinet Members, and officers.
- ii. In terms of the Regulatory Committees, these carry out 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.

### 11.9 “Request for Call-In” and “Call-In”

- i. When an Executive decision is taken by the Cabinet, Cabinet Committees, or Cabinet Member(s), the decision shall be published on the website, and copies of it shall be available at the main offices of the Council, normally within three days of being made. All Members and Chief Officers will be sent a notification of all such decisions within the same timescale, by the Committee Services Officer responsible for publishing the decision.

**Deleted:** or Chief Officer jointly with Cabinet Members or Cabinet Committees...

**Deleted:** by electronic means

<sup>51</sup> A Member or officer is not obliged to answer any question which he would be entitled to answer in or for the purposes of proceedings in a Court Section 9FA of the 2000 Act.

- ii. The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a “Request for call-in” is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet). **The “Request for Call In” should state the reason for call-in.**
- iii. Once a “Request for Call In” has been received, the Chair of Co-ordinating O&S Committee will agree which Overview and Scrutiny Committee should hear the call-in. That Committee must meet to consider the request. The meeting should take place not later than 15 clear working days after the original publication of the decision.
- iv. It is for the Committee to decide whether to Call In a decision or not. The Council does not expect an Overview and Scrutiny Committee to Call In an Executive decision unless one or more of the following criteria applies.
- v. Where the Committee does decide to call in a decision, the “re-consideration” which is then required must take place at a meeting of the full Cabinet – irrespective of who made the original decision on behalf of the Executive.

#### Call-In Criteria

	(a) Is the Executive decision within existing policy?
1	the decision appears to be contrary to the Budget or one of the ‘policy framework’ plans or strategies;
2	the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;
3	the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);
	(b) Is the Executive Decision well-founded?
4	the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;
5	the Executive appears to have overlooked some relevant consideration in arriving at its decision;
6	the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;
7	the decision appears to be particularly “novel” and therefore likely to set an important precedent;
8	there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.
	(c) Has the Executive decision been properly taken?
9	the decision appears to give rise to significant legal, financial or propriety issues;
10	the notification of the decision does not appear to have been in accordance with council procedures;

## **B12. PLANNING COMMITTEE**

### **12.1 Role**

- i. To exercise the powers and duties of the Council with regard to development control and strategic planning matters, and, in particular, to:
  - exercise all the powers and duties of the Council as a local planning authority (apart from any Executive functions);
  - exercise the powers and duties of the Council with respect to building control;
  - be accountable for the Local Land Charges service.
- ii. The full Planning Code of Practice for Councillors and Officers can be found in Part C8 of the Constitution.

### **12.2 Membership**

- i. Members of the Planning Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.

## **B13. LICENSING AND PUBLIC PROTECTION COMMITTEE**

### **13.1 Role**

- i. To exercise the powers and duties of the Council with regard to regulatory, licensing and registration matters under all relevant legislation relating to the Licensing service, waste enforcement, Trading Standards service and Environmental Health Service;
- ii. Exercise and monitor the Council's powers; in respect of regulation and enforcement, monitoring performance of the Councils regulation and enforcement services as well as any hosted regional or national programmes;
- iii. Set fees, as applicable, in respect of trading standards, environmental health, licensing, highways skip permits, street trading, registration of births deaths and marriages (all services); private rented services.
- iv. Set conditions relating to Hackney carriage and private hire matters.
- v. Set conditions for any licensable activity allowed by legislation as appropriate
- vi. To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions.

### **13.2 Functions**

- i. The Licensing and Public Protection Committee is authorised to discharge the following functions:
  - Set fees and charges, grant, refuse Issue, renew, suspend, revoke, or otherwise control any licences, authorisations, permits, registrations as appropriate under the scheme of delegations or powers provided to the council through enactments, regulations or bylaws;
  - Where applicable approve any pre application tests and requirements, in relation to any licences, authorisations or registrations issued by the Licensing Service
- ii. Members of the Licensing Committee will sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out functions of and ancillary to those Acts, Members of the Licensing Committee will sit as a general Licensing Committee when dealing with any other licensing functions of the Council
- iii. The Committee is authorised to exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee except where
  - Any function of the licensing authority under the Licensing Act 2003 (the 2003 Act), the Gambling Act 2005 (the 2005 Act), or the Police Reform and Social Responsibility Act 2011 (the 2011 Act) has been reserved to full Council; or
  - Any licensing function where Council has referred a matter to another committee.
  - Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.

- The function of determining any matter where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
- iv. A Sub Committee is not authorised to discharge functions where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

### **13.3 Membership**

- i. Members of the Licensing and Public Protection Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.
- ii. Substitute Members: no substitute Members are appointed for the Licensing and Public Protection Committee. In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other suitably trained members of the Licensing and Public Protection Committee.
- iii. A substitute Member shall be entitled to attend in place of a regular Member provided that Committee Services has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.
- iv. A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.
- v. The Licensing Committee Code of Practice for Councillors and Officers can be found in Part C9 of the Constitution.

### **13.4 Procedure Rules**

- i. Committee meetings will be called in accordance with Part C2 of the Constitution: *Access to Information*.
- ii. The provisions of the Licensing Act 2003 (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the Relevant Regulations shall prevail.
- iii. The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information procedure rules in relation to the exercise of such functions the provisions of the Relevant Regulations shall prevail.

- iv. The Licensing functions of the Council shall be carried out by the following bodies:
- Licensing and Public Protection Committee (15 Members with a quorum of 5)
  - Sub-Committees to be established by the Licensing and Public Protection Committee, comprising three Members drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003 as assigned and matters in respect of hackney carriages, private hire, vehicles drivers and operators. *The Chairs of the Licensing and Public Protection (Licensing Sub)-Committee's role is to chair the licensing sub-committee meetings, deal with subsequent actions of appeals and assist in finding substitutes for members as required.*
- v. Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- vi. Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

## B14. AUDIT COMMITTEE

### 14.1 Purpose

- i. The purpose of the Audit Committee is to support the Council's Corporate Governance responsibilities and to provide independent assurance to the Council in relation to internal control, risk management and governance.

### 14.2 Functions

- a) To review the City Council's Annual Accounts and Annual Governance Statement (AGS). This will include advising on significant changes throughout the year to financial regulations and policies.
- b) To monitor progress in addressing control or governance issues identified in the AGS.
- c) To review and provide the executive with assurance on the embedding and maintenance of an effective system of corporate governance, including [the Council's Corporate Governance Code and Framework](#), risk management framework, and the associated control environment.
- d) [To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.](#)
- e) To review the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and treasury management practices.
- f) Responsibilities as set out in the terms of reference in relation to external audit including reviewing the planned programme of work, noting fees and terms of engagement of the external auditor, considering and advising the executive on responses to audit management letters, reports and investigations and reviewing whether agreed external audit or inspection recommendations have been implemented as timetabled.
- g) To review and make recommendations to the executive regarding the effectiveness of internal audit to include ensuring the internal audit function is adequately resourced, to review its strategy, receive, challenge and approve its annual plan and monitor its delivery and to review significant audit findings and monitor progress by managers in implementing agreed recommendations.
- h) To consider and make recommendations to the executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.
- i) To consider reports from the Ombudsman and monitor management response in relation to these.
- j) To consider, approve or make recommendations in respect of any other matters at the request of the Council.

Deleted: the

### 14.3 Membership

- i. Members of the Audit Committee, and its Chair, are appointed by Full Council. There are eight members of the committee, and the quorum is three.



- ii. The Chair of Audit Committee should not be appointed to serve as a Director on any of the City Council's wholly owned companies.

## **B15. TRUSTS AND CHARITIES COMMITTEE**

### **15.1 Role**

- i. The Trusts and Charities Committee will exercise the administrative powers and duties of Full Council as trustee ("Council as Trustee") in relation to all trusts for which the Council is sole corporate trustee (the "City Trusts").

### **15.2 Functions**

- i. The Trusts and Charities Committee is authorised to discharge the following functions:
  - To advise Council as Trustee in all matters relating to the Trusts and Charities under the control of the Council;
  - To receive and discuss all audit reports on Trusts and Charities and recommend actions to the Council as Trustee where required;
  - To review and approve the City Trusts annual accounts and final accounts; and recommend actions to the Council as Trustee where required;
  - To approve Charity Commission returns and all other regulatory documents;
  - To inquire of and respond to the Charity Commission and any other regulatory bodies;
  - To respond to enquiries from Auditors or Independent Examiners;
  - To be responsible for ensuring that legal responsibilities are met;
  - To ensure the objects and purposes of each individual City Trust are properly promoted in accordance with charity law;
  - To ensure (through the Finance Department and Accounting systems) that there is an appropriate system of control over income and expenditure, and that there are robust governance arrangements in place;
  - To have oversight of allocation of funds, donations and investment income, to ensure these are accounted for accordingly.
  - To be responsible for advising Council as trustee on all matters relating to the investments of the funds. This will include the appointment, and subsequent performance monitoring of the official Investment Advisers;
  - To take any other action deemed appropriate or necessary to ensure the proper management and administration of the City Trusts.
- ii. Full Council sitting as "Council as Trustee" will be responsible for decisions concerning the use and/or disposal of charity property and assets, and will delegate the management of any City Trust to the Trusts and Charities Committee, with assistance from the Legal, Finance and Property Services team as and when required.

### **15.3 Membership**

- i. Members of the Trusts and Charities Committee, and its Chair, are appointed by Full Council. There are eight members of the Committee, and the quorum is three members.

## B16. THE STANDARDS COMMITTEE

### 16.1 Role

- i. The Standards Committee's role is:
  - a) Advising the City Council on the adoption or revision of the Code of Conduct;
  - b) Monitoring the operation of the Code of Conduct and the arrangements for how the Council will deal with any complaints;
  - c) Advising, training or arranging to train members and co-opted members on matters relating to the City Council's Code of Conduct.
  - d) Determining complaints brought by members of the public alleging a breach of the Code of Conduct by Councillors.
  - e) Determining the penalty to be imposed in the event of a breach of the Code being upheld.
  - f) Hearing appeals as may be necessary.
  - g) Granting any dispensations and dealing with any other powers granted to Standards Committees by legislation.
  - h) To submit an Annual report on the work of the Standards Committee and, generally, promoting the standards of ethical conduct and behaviour expected of Councillors.
- ii. The Standards Committee shall also determine under Sections 1 and 2 of the Local Government and Housing Act 1989: -
  - a) any application received from any officer of the Council for exemption from political restriction; and
  - b) any application to consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

### 16.2 Membership

- i. The Standards Committee will be composed of 14 Members, as follows:
  - 6 Councillors, which will be made up of 2 Councillors from each of the 3 largest political parties represented on the City Council ;
  - 6 Independent lay members
  - 1 Member of New Frankley in Birmingham Parish Council
  - 1 Member of Sutton Coldfield Parish Council
- ii. **Independent Lay Members:** Independent Lay Members are not entitled to vote at meetings;
- iii. **Parish Members:** The Parish Member(s) must be present when matters relating to the parish council or their Members are being considered but shall have no voting rights;

- iv. **Chairing the Committee:** Standards Committee will appoint an Independent Lay Member as Chair and Deputy Chair of Standards Committee. In the absence of the appointed Chair/Deputy Chair the Committee will be chaired by another Independent Lay Member or if none available the Committee will be chaired as determined by the Committee.
- v. **Quorum:** The quorum for the Standards Committee shall be five, including at least one of the Independent Lay Member and the Parish Councillor if it relates to a Parish Council matter.
- vi. **Independent Person:** There will be at least 1 Independent who will have no voting rights although Standards Committee has the discretion to appoint an additional person if required.
- vii. **Delegation:** The Standards Committee may appoint one or more sub-committees for the purpose of discharging any of the Committee's functions as set out in 1.1 above. A sub-committee shall have a quorum of at least three voting members and one Independent Lay Member.
- viii. **Arrangements for Dealings with Standards Allegations under the Localism Act 2011:** The Monitoring Officer will set out the procedure for the arrangements as to how complaints under the Code of Conduct are dealt with. Any changes to those arrangements may only be made following consultation with the Standards Committee.

## **B17. INDEPENDENT REMUNERATION PANEL**

### **17.1 Panel Composition**

- i. In Birmingham the Panel comprises:
  - a) 4 members selected from a public advertisement;
  - b) 2 “invited” members (from August 2017, preference to be given to candidates representing trade unions or business);
  - c) 2 co-optees (non-voting members) drawn from former Councillors of the City Council who are no longer Members of the Council.
- ii. Panel Members are usually appointed for a 4-year term of office.

### **17.2 Terms of Reference**

- i. The terms of reference for the Panel are:
- ii. To consider and keep under review and, as and when appropriate, to submit reports (containing recommendations) to the Council on:
  - a) The amount of Basic Allowance payable to all members;
  - b) The responsibilities or duties in respect of which Special Responsibility, Travelling, Subsistence and Co-optees’ should be available and the amounts of such allowances;
  - c) Whether Dependants’ Carers’ Allowance should be payable and the amount of such an allowance;
  - d) Whether there is any backdating of allowances payable for the year in which an amendment is made;
  - e) Whether adjustments to the allowances are to be determined according to an index and if so, how long the index shall apply before review [maximum of four years];
  - f) Any proposals for the introduction of an Allowances Scheme for members of a Parish Council.

## B18. SUMMARY OF QUORACY

CABINET / COMMITTEE	No. of Members	Quorum
City Council	101	30
Council Business Management Committee (and Sub-Committees as Determined by the Constitution and the Committee)	8	3
Chief Officer And Deputy Chief Officer Appointments, Dismissals And Service Conditions Sub-Committee	5	5
<b>Cabinet</b>	10	4
Cabinet Committee – Group Company Governance	<u>4</u>	<u>3 (inc. 2 Cabinet Members)</u>
Health & Wellbeing Board * including one elected member	16	6*
<b>Overview &amp; Scrutiny</b>		
Co-ordinating Overview & Scrutiny Committee	12	4
<u>Education &amp; Children's Social Care</u> Overview & Scrutiny Committee (Contains Governor And Parent Representatives)	8 + 4	4
All Other Overview & Scrutiny Committees	8	3
<b>Regulatory and Non-Executive</b>		
Planning Committee	15	5
Licensing & Public Protection Committee (and Sub-Committees)	15 3	5 3
Trusts & Charities Committee	8	3
Audit Committee	8	3
Standards Committee	14	5

**Deleted:** Learning, Culture And Physical Activity