



# Birmingham City Council Constitution

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

**July 2024**



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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 (see Part C2 for rules on accessing meetings and C3 for rules on filming at meetings);
    - 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 may ask questions at Full Council Meetings having given notice. 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 Section C10 of the Constitution and can 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 Remunerational 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.

### **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

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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)

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.

## 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** – This role promotes the Overview & Scrutiny functions of the Council. This will be the Head of Scrutiny and Committee Services.
  - f) **Strategic Director, Adult Social Care** (& Director of Adult Social Services) – This role is the responsible officer for adult social care.
  - g) **Strategic Director, Children and Families** (& Director of Children’s Services) – This role is the responsible officer for the provision of children’s services.
  - h) **Director of Public Health** – This role is accountable for appropriate use of the ring-fenced public health grant and ensuring the Council delivers the mandated public health services. This is a statutory appointment made jointly by the Council and the Secretary of State for Health and Social Care.
  - i) **Data Protection Officer** - This role is to **ensure that the organisation processes the personal data** of its staff, customers, providers or any other individuals (also referred to as data subjects) in compliance with the applicable data protection rules.

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

### Senior Officers

- vi. The following will be designated Senior Officers and will have the functions and responsibilities set out in Part E of this Constitution.
- Chief Executive (& Head of Paid Service<sup>3</sup>)
  - Strategic Director, Adult Social Care (& Director of Adult Social Services<sup>4</sup>)
  - Strategic Director, Place, Prosperity and Sustainability
  - Strategic Director, Children and Families (& Director of Children's Services<sup>5</sup>)
  - Strategic Director, City Operations
  - Strategic Director, City Housing
  - Director of Strategy, Equality and Partnerships
  - Director, Digital & Customer Services
  - Director, Public Health
  - Director, People Services
  - Director, Finance (s151 officer<sup>6</sup>)
  - City Solicitor (Monitoring Officer)
  - Chief Operating Officer
  - Director, Intervention Delivery
- vii. The composition of the Council Leadership Team is a matter for the Chief Executive. Further information regarding the Council Leadership Team can be found [here](#)

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

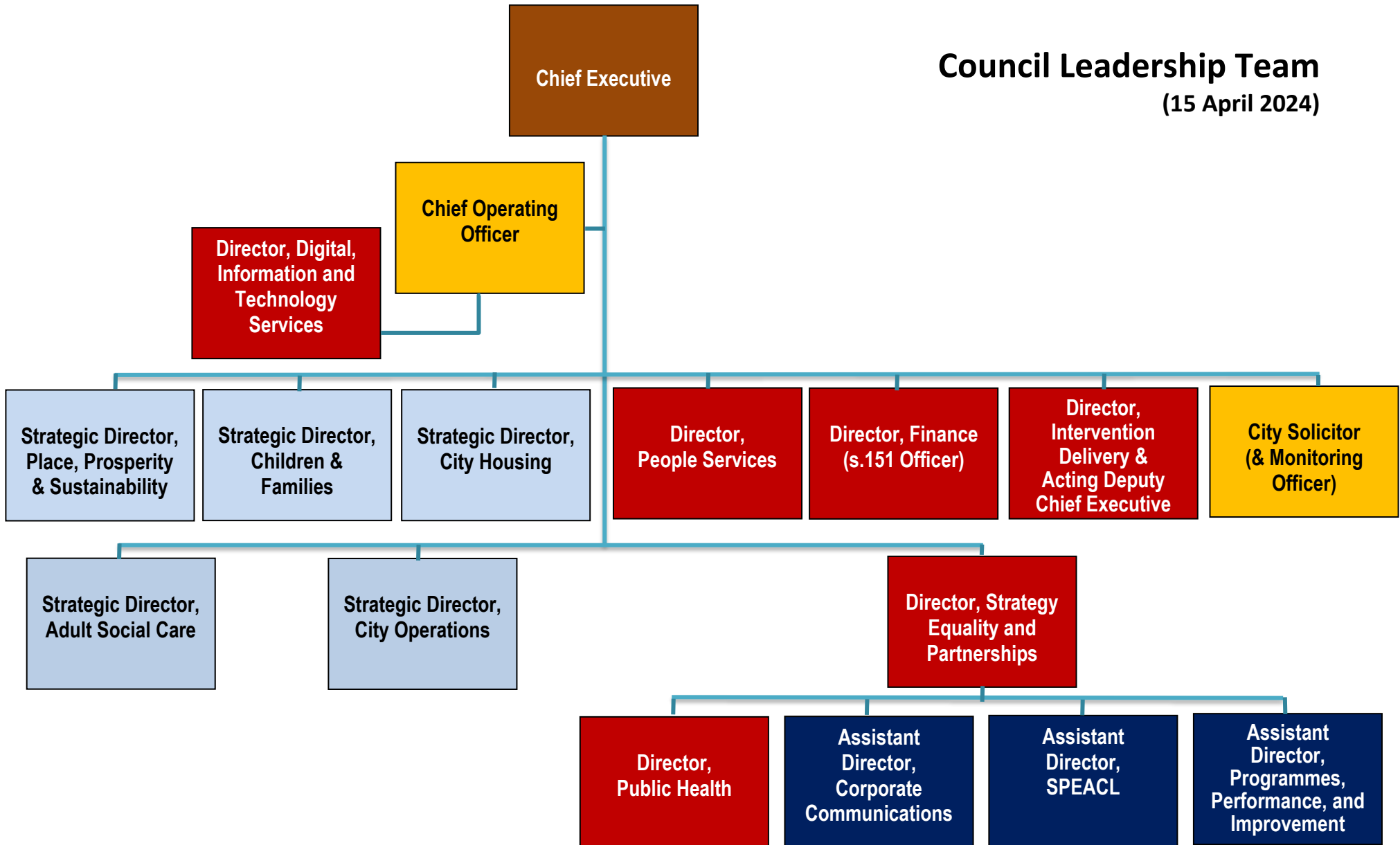
<sup>4</sup> Appointed under Section 6 Local Authority Social Services Act 1970

<sup>5</sup> Appointed under Section 18 Children Act 2004

<sup>6</sup> Appointed in accordance with Section 151 Local Government Act 1972

# Council Leadership Team

(15 April 2024)



**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*.

## 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 Non-Executive functions, at its discretion.  
iii. Section 2.2 sets out these functions and shows who is authorised to discharge them.

#### 2. 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 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 where there is a right of appeal to a council committee (this excludes matters where statutory arrangements exist)	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



<b>Local Choice Functions<sup>7</sup></b>	<b>Decision Making Body</b>	<b>Delegation of functions to Committees or officers</b>
To make arrangements for appeals against exclusion of pupils from maintained schools	Cabinet	Strategic Director, Children and Families OR the City Solicitor
To make arrangements for appeals regarding school admissions <sup>9</sup>	Cabinet	Strategic Director, Children and Families 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	Strategic Director, Children and Families OR the City Solicitor
To make arrangements for appeals by governing bodies	Cabinet	Strategic Director, Children and Families
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	Strategic Director, City Operations
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	Strategic Director, Place, Prosperity and Sustainability and Strategic Director, City Operations
To serve an abatement notice in respect of a statutory nuisance. <sup>13</sup>	Council	Licensing and Public Protection Committee Strategic Director, City Operations

<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	Strategic Director, City Operations
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	Strategic Director, City Operations
To investigate any complaint about the existence of a statutory nuisance. <sup>16</sup>	Council	Strategic Director, City Operations
To obtain information about interests in land. <sup>17</sup>	Cabinet	Strategic Director, Place, Prosperity and Sustainability
To obtain particulars of persons interested in land. <sup>18</sup>	Cabinet	Strategic Director, Place, Prosperity and Sustainability
To make agreements for the execution of highways works. <sup>19</sup>	Cabinet	Strategic Director, Place, Prosperity and Sustainability and Strategic Director, City Operations
To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	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
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

### 2.3 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	Strategic Director, Place, Prosperity and Sustainability
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	Strategic Director, City Operations
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, People Services
Functions relating to Electoral Registration and the holding of elections	Council Business Management Committee	Returning Officer Electoral Registration Officer

<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

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
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	Strategic Director, Council Management and Director, Strategy, Equality and Partnerships
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

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

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

Discharge of Functions To make arrangements for the appointment of Committees and discharge of Council's functions	Full Council	City Solicitor
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 Chief Officer 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

<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

<p>Exercise the administrative powers and duties of Full Council (as Trustee) in relation to all trusts for which the Council is sole trustee</p>	<p>Trusts &amp; Charities Committee</p>	<p>City Solicitor</p>
<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>	<p>-</p>	<p>Strategic Director, Place, Prosperity and Sustainability</p>

## 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” taken by **Cabinet** must be done so by acting jointly and in accordance with the provisions of this Constitution as set out in B6.2 [Cabinet](#).

- 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 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>30</sup> or
  - 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).
  - c) Any decision covered by the specific delegations set out in Part D (Procurement and Contract Governance Rules) or Part E3.2 of the Constitution (Chief Officer Delegations), providing those decisions do not fall within the definition of a key decision at B3.1 vi) above.
- 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 [B6.6 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.

### **E) Ward Forums**

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

### **F) Urgent Decisions**

- xiv. In an urgent situation, an executive decision may be agreed by the Chief Executive following consultation with the Leaders of the Political Groups.
- xv. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Cabinet or Committee meeting, and which needs to be considered before the next meeting of the Cabinet/Committee. Decisions made under this provision will be reported to the next meeting of the Cabinet/Committee.
- xvi. Where an urgent and or late report is required to be considered, following notification of the relevant meeting having already been given, the report will only be accepted for

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<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 in the half yearly delegations reports (see [B6.9](#))



consideration with the consent of the relevant committee Chair. In all cases, the reasons for urgency and lateness will be specified in the report.

### **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 (including giving reasons for the decision); 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 also holds 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>31</sup>:
    - Community Safety Strategy<sup>32</sup>
    - Statement of Licensing Policy under the Licensing Act 2003
    - Statement of Licensing Principles under the Gambling Act 2005<sup>33</sup>
    - Plans and strategies which together comprise the Development Plan
    - Youth Justice Plan<sup>34</sup>
  - c) Other plans and strategies adopted by the City Council:
    - 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:
    - Are significant in terms of the effect on communities living or working across all wards;

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<sup>31</sup> Some elements of the 2000 Regulations have been repealed by subsequent legislation.

<sup>32</sup> This fulfils the requirement to produce a Crime and Disorder Reduction Strategy

<sup>33</sup> This is the policy statement under the Gambling Act 2005

<sup>34</sup> Section 40 Crime and Disorder Act 1998

- Commit the Council to significant expenditure over and above that already in the budget or over a long period of time;
  - 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 Full 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) Adopting and revising a Member Code of Conduct;
  - h) To make, amend, revoke or replace a Members' allowances scheme;
  - i) Changing the name of the district;
  - j) Conferring the title of Honorary Alderman or [Freedom of the City](#);
  - k) Confirming the appointment of the Head of Paid Service/Chief Executive;
  - l) Approving the dismissal of the Head of Paid Service/Chief Executive, Chief Finance Officer and Monitoring Officer;
  - m) To appoint an electoral registration officer and returning officer for local government elections;
  - n) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;

- o) Receiving statutory officer reports of the Monitoring Officer, Section 151 officer and Head of Paid Service and other external auditor public interest reports;
    - p) Receiving and considering reports referred to it from Cabinet Members, Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and
    - q) All other non-executive matters which by law must be reserved to Council.
  - ii. Other non-executive matters are delegated to Council Business Management Committee or any of its sub-committees or to other 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 in 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>35</sup>

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

### 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 outgoing Lord Mayor;
  - Elect the Lord Mayor;
  - Make a presentation to the retiring Lord Mayor and Consort;
  - Appoint the Deputy Lord Mayor;

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<sup>35</sup> Appointments must be in line with agreed policy

- 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.

#### **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:

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>36</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>37</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 under 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>36</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>37</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 (including questions from the public) 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.

#### **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>38</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;
  - 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>38</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 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>39</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 Annual Meeting 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 Annual Meeting 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.

## 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 information or refer to legal proceedings being taken or being anticipated by or against the Council.

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<sup>39</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 budgetthe 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.

#### **H. Amendments to Motions**

- i. The Lord Mayor may permit 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.

#### **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.

#### **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.

- 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.

#### **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 Lord Mayor, as Chair of Council, or any Member presiding over the meeting of Council in the Lord Mayor’s absence shall, in the case of an equal division of votes, have a second or casting vote. The ability of a Chair of a committee to exercise a casting vote where there is an equal division of votes, applies to all of Birmingham City Council’s formal committee meetings, with the exception of any committee chaired by a non-elected member.

#### **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.
- iii. Urgent business is defined as business which could not reasonably have been foreseen or anticipated prior to the deadline for the publication of the agenda and which needs to be considered before the next meeting of the Council.

#### **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, with the exception of the provisions set out in Part B, Section 4.4, paragraphs B vii, D, K, M and N.

### **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>40</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.
- ii. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Council meeting, and which needs to be considered before the next meeting of the Council. Decisions made under this provision will be reported to the next meeting of the Council.

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<sup>40</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
  - To be responsible for the planning and preparation of the agenda, papers and other arrangements for meetings of the Council.
  - To submit recommendations to the Council concerning the appointment of committees and other bodies and their functions and membership.
- iii. Council Appointments to Outside Bodies
  - 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
  - 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
  - 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
  - To be accountable for all aspects of services to Members.
  - To keep under review the Council's Allowances Scheme and all other matters relating to Members' allowances.
  - 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.
- vii. Electoral Matters, Parish Councils & Boundary Changes
  - To discharge the Council's various electoral duties under the Representation of the People Acts.
  - To discharge the Council's functions in relation to parishes and parish councils;



- To discharge the Council's functions under the Local Democracy, Economic Development and Construction Act 2009 (relating to boundary reviews and alterations) and related Local Government legislation.

viii. Financial & Other Matters

- To consider any recommendations from the Audit Committee relating to the discharge of the Council's duty, under the Accounts & Audits Regulations 2015.
- To discharge the Council's functions, relating to local government pensions, under the Public Service Pensions Act 2013, Local Government Pension Scheme Regulations 2013 and other relevant statutory requirements, regulations or other directions. (NB. The Council is currently part of the West Midlands Pension Fund, the administering authority is Wolverhampton City Council under the Local Government Pension Scheme Regulations 2013 and the scheme manager under the Public Service Pensions Act 2013. The Council appoints a representative to the Local Pensions Board, convened by Wolverhampton City Council, which meets on a quarterly basis).
- To authorise the making of payments, under Section 92 of the Local Government Act 2000, on account of maladministration.
- Foreign travel by Members and Officers of the Council will be reported on a quarterly basis.

## 5.2 Membership

- i. Members are appointed by Full Council. Chairs are appointed by the Full Council. Membership shall include the Chair of the Corporate and Finance 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:
  - Miscellaneous Appeals Sub-Committee:
    - To consider any appeal under the Rules and Regulations for the Operation of the Retail Markets;
    - To consider any other appeal(s) that are not covered by any of the other Committees or Sub-Committees of the City Council.
  - Election Matters Members Forum:
    - To recommend further improvements to the Elections Office and/or the Elections processes;
    - To be consulted over relevant consultation papers relating to the Elections process;
    - To discuss issues that the Returning Officer may wish to raise with the Members Forum.

## 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](#) (B6.6);
  - [Jointly with another local authority](#) (B9); or
  - An [officer](#).

### 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>41</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 (other than those appointed by Full Council) 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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<sup>41</sup> A key decision may also be delegated specifically by Cabinet report to a Cabinet Member or officer (see section B3.1). Where such delegations are made without a clear timescale for implementation, and implementation has not commenced within six months, these should be reviewed by the Cabinet Member to ensure the decision is still in line with Council policy

- 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. 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;
    - b. a brief explanation of why it will be a "key decision";
    - c. where the decision maker is an individual, that individuals name and title and, where the decision maker is a decision-making body, its name, and a list of members;
    - d. the date on which, or period within which, the decision is to be made;
    - e. a list of the documents that will be submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
    - f. that other documents relevant to those matters, may be submitted to the decision maker; and
    - g. if other documents are submitted, the procedure for requesting the details of those documents (if any) should they become available;
    - h. the address from which, subject to any prohibition or restriction on their disclosure, copies of, extracts from, any document listed is available;
    - i. who will be consulted before the "key decision" is taken;
    - j. how, to whom and by when representations (about the "key decision") can be made;

k. whether the report will have a confidential or exempt appendix with reasons.

The [Forward Plan](#) is published (at least) 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, Corporate Communications 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>42</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 relevant officer; and

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<sup>42</sup> Regulation 10, The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- b) the relevant Officer (or his/her nominee) has informed, and received permission in writing from, the Chair of a relevant Overview and Scrutiny Committee or, if they are unable to act, the Lord Mayor (in their absence the Deputy Lord Mayor): and
- c) As soon as is reasonably practicable after the proper officer has complied with viii) a-b) above they must:
  - (1) Make available at the Council offices a notice setting out the reasons why giving 28 days notice was impracticable; and
  - (2) Publish that notice on the Council's website.
- ix. The report of the decision 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 a quarterly 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.
- xii. **Late Reports:** Reports listed on the agenda but 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.
- 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.

### **6.3 Cabinet Committee – Group Company Governance**

- i. Cabinet has delegated to the Chief Executive and Director of Finance (and s.151 Officer) the authority to exercise voting rights at general meetings or by written resolutions for companies in which the Council is a member. The authority permits these senior officers to take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

The Cabinet Committee – Group Company Governance has been established by Cabinet to provide a formal reporting structure for overseeing and influencing the shareholder relationship with Council owned companies and to provide a route for engagement in relation to appropriate governance and accountability in line with Local Authority Company Review Guidance.

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

### **Definitions:**

**Subsidiary Companies:** means entities where the Council has a controlling or significant influence by way of a majority shareholding, investment or ownership;

**Associate Companies:** means entities where the Council has a minority shareholding/ownership or has minority influence through other arrangements such as a collaboration agreement;

**Related Parties:** means entities whereby the Council may appoint a member or officer to the board of that entity however has no day-to-day ownership or influence. These are outside the scope of this Committee in terms of accountability and influence, however remain important in terms of relationship with the Council

- ii. The role of the Committee is to provide oversight and ensure accountability of the Subsidiary Companies and, where appropriate, the Associate Companies and to support the development of these entities in line with the Council's regulations and ambitions.

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

- iii. The Committee's responsibilities include (subject to regulations imposed by the Charity Commission, regarding the independence of charitable entities):
  - a) Holding Boards of Subsidiary Companies to account for their performance, highlighting and facilitating the need for immediate change through the Boards where necessary. Providing a clear line of communication between the Company and the Council as shareholder/member;
  - b) Supporting the development of Subsidiary Companies and where necessary of Associate Companies, making recommendations to the Council's shareholder representatives on matters reserved to the shareholder such as varying Articles of Association, varying ownership and structure, varying share rights, the disposal/dissolution of entities and their assets/land (below Cabinet limit on value), entering into or varying leases or material financial commitments;
  - c) Consideration of companies business support requirements;
  - d) Providing the Council with support in its role as shareholder/member, including guidance and training to board members and other Council representatives where necessary;
  - e) Evaluating the effectiveness of company board governance structure, processes and to recommend changes as required;
  - f) Reviewing and ensuring performance against annual business plans and strategies of the Subsidiary Companies (and where required, to ensure compliance with the Council's strategic direction and interests and to communicate changing priorities);
  - g) Provide a clearance role for the creation of any new company in line with Council financial regulations with particular regard to the goals and objectives for the new

company within the scope of the proposed memorandum and articles of association. To consider performance against these goals and objectives as part of paragraph (f) above;

- h) Ensuring compliance of the entities with the Council's interests including where necessary compliance with the Council's commercial approach, procurement rules and managing conflicts of interest;
- i) Oversight of compliance to ensure that taxation, legal and financial interests of the Council together with the Council's Constitution are considered and protected;
- j) Receiving regular updates for each of the Subsidiary Companies along with a shareholder consideration of the matters arising, which will allow the Committee to review performance management, strategic development, financial performance (both short and long term) and a holistic view of risk and risk management for each of the Subsidiary Companies;
- k) Advising Cabinet/City Council/Shareholder representatives of issues as appropriate, including on appointments to outside bodies, creation of new companies, shareholder agreements, shareholder decisions (including appointment of auditors) and any matters reserved to the Council.

#### **Membership**

- iv. The Cabinet Committee – Group Company Governance has been established by Cabinet with the following membership:
  - The portfolio holder covering governance of Council-owned companies who will chair the meeting;
  - Another 2 Cabinet Members as deemed appropriate by the Leader;
- v. Cabinet Committee Members (and any nominated substitute) shall not be permitted to be appointed as a Director or alternate Directors on the board of any of the Subsidiary Companies.
- vi. The quorum for a meeting of a Cabinet Committee shall be two Cabinet Members
- vii. 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.
- viii. 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.
- ix. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.



- x. Every member of the Cabinet Committee and any nominated substitute must consider in advance any potential conflict of interest that may occur with any of the Subsidiary Companies and where necessary the Associate Companies which are to be reported on at each meeting. Should there be a potential conflict of interest, that member must immediately alert the other Members of the Committee and remove themselves from the discussion relating to that item.

#### **Attendance by Members of the Opposition**

- xi. One Councillor from each of the two main Opposition Groups may attend meetings of the Group Company Governance Committee.
- xii. Members of the two main Opposition Groups will attend as observers only. They will be entitled to a copy of the agenda (for the sake of clarity this is both the public and private sections) and will be able to participate in the debate but are not allowed to vote on any item. Members of the Opposition sitting as observers will also be subject to the requirements relating to potential conflict of interests as mentioned above.

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

- xiii. Cabinet Committee meetings shall be held no less than 4 times per annum.
- xiv. 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, City Solicitor and Monitoring Officer And the Council’s Director of Finance (and s.151 officer) or their delegates. Additional advisors or client officers may be invited to attend a Committee meeting as required All reports are to be presented in the template prescribed by the City Solicitor and Monitoring Officer.
- xv. 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 Cabinet Committee – Property**

#### **Role of Cabinet Committee – Property**

- i. The role of the Committee is to approve proposed sales of council property and assets as part of the Council wide Asset Strategy.
- ii. Birmingham City Council is the single largest owner of property in Birmingham and holds the largest land estate of any UK local authority, extending to 26,000 acres. The portfolio, excluding residential homes, infrastructure and schools has an asset value of over £2.4 billion. Income generating assets attract on average £34 million revenue per annum. There are more than 6,500 property assets (land and buildings) in the portfolio and over 300 of these have historic interest.

- iii. As part of the Council's Medium term Financial Plan a programme of rationalisation and re-gearing of its investment property portfolio has been agreed. The portfolio in scope for the Strategy is comprised of development sites and strategic assets, industrial premises, retail premises and miscellaneous assets located across the city.
- iv. At present (January 2024) the portfolio in scope also includes rental incomes aggregating to approximately £6.7 million per annum and approximately 570 properties.
- v. The council's existing Scheme of Delegation to Officers in relation to Property Transactions will remain in place.

#### **Functions of Cabinet Committee – Property**

- vi. The Committee's responsibilities include to exercise full delegated executive powers to consider and make decisions on:
  - a) All land and property transactions including the Investment Property portfolio where the City Council has an interest.
  - b) The acquisition and disposal of leasehold interests for rent (including the granting and surrendering of any rights over such land and property).
  - c) The acquisition and disposal of freehold and leasehold interests at a premium.
  - d) The management of all of the Council's land and properties, including the authoring and payment of discretionary contributions towards trade/loss and/or removal expenses and all payments due under an approved Compulsory Purchase Order.
  - e) To report to Cabinet setting out progress on delivery of the receipts target.

#### **Membership**

- vii. The Cabinet Committee – Property has been established by Cabinet with the following membership: The Leader; Cabinet Member for Finance and Resources; plus another 2 Cabinet Members as deemed appropriate by the Leader.
- viii. The quorum of a Cabinet Committee shall be two Cabinet Members.
- ix. 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 be notified of any substitution before the meeting begins.
- x. 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.
- xi. A substitute member will be able to vote during the meeting only when s/he is acting as a substitute for a regular Member.

#### **Attendance by Members of the Opposition**

- xii. One Councillor from each of the two main Opposition Groups may attend meetings of the Cabinet Committee – Property.

- xiii. Members of the two main Opposition Groups will attend as observers only. They will be entitled to a copy of the agenda (for the sake of clarity this is both the public and private sections) and will be able to participate in the debate but are not allowed to vote on any item.

#### **Rules of Procedure – Cabinet Committee – Property**

- xiv. 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.
- xv. Cabinet Committee decisions are only effective and actionable provided they are taken in accordance with the Constitution, and when posted on the Council’s website by Committee Services and following the call-in process.

### **6.5 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 against reducing health inequalities to the Cabinet and the Integrated Care 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 Local Health and Wellbeing Strategy for Birmingham;
  - e) Participate in the annual assessment process to support the Integrated Care Board;
  - 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
- The Leader of the Council or their nominated representative to act as Chair of the Board;
  - The Strategic Director for Adult Social Care (Director for Adult Services);

- The Strategic Director for Children and Families (Director for Children’s Services);
  - Nominated representatives of the Integrated Care Board;
  - The Director of Public Health
  - 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.

## **6.6 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.

## **6.7 Emergency or Urgent Decisions (Special Urgency Decisions)**

- i. In an emergency an executive decision may be agreed by the Chief Executive following consultation with the Leader of the Council and subject to the consent of the Chair of the relevant Overview and Scrutiny Committee, or in the absence of the relevant Chair the Lord Mayor, for key decisions. See Part E: Scheme of Delegations for further details and the call-in procedure rules in paragraph B 11.9. An emergency decision is defined as one which has to be taken immediately. An emergency decision may still be a key decision pursuant to B3.1 vi) above.
- ii. An urgent decision is defined as one which could not reasonably have been foreseen or anticipated prior to the most recent Cabinet meeting, and which needs to be considered before the next meeting of the Cabinet. Decisions made under this provision will be reported to the next meeting of the Cabinet. An urgent decision may still be a key decision pursuant to B3.1 vi) above.

## **6.8 Officers**

- i. Decision making is also delegated to Officers in accordance with their job description and directorate 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 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.

## **6.9 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" (please refer to the call-in procedure rules in paragraph B 11.9) 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.

## **6.10 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) and subject to the consent of the Chair of the relevant Overview and Scrutiny Committee for key decisions, or in the absence of the relevant Chair, the Lord Mayor, may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period. The Leaders of the two main Opposition Groups will be notified.
- ii. The exercise of such power shall be clearly noted on the record of the decision.

## B7. CABINET PORTFOLIOS

### 7.1 Leader's Portfolio

Leader	Detail
Leadership of the Council and Cabinet, and strategic liaison with Corporate Leadership Team	Ultimate political responsibility of the Council. Strategic liaison with the Corporate Leadership Team.
Best Value Commissioners	Lead on engagement with the government appointed Best Value Commissioners.
Lord Mayor's Parlour	Appropriate support to the Lord Mayor and the other holders of civic office
Communications	Internal and external stakeholder engagement and formal consultation on Council performance and use of resources
Policy and Partnerships	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.
Financial Strategy	The Council's strategic approach to the use of financial resources and budget, including alignment between other local authority bodies (e.g. West Midlands Combined Authority), partners (e.g. Health), the BCC General Fund, Housing Revenue Account, capital spending and the use of reserves.
West Midlands Combined Authority	Representing the City Council on the West Midlands Combined Authority Board.
Strategic Policies	Development and implementation of the Council Business Plan and Medium-Term Financial Strategy/Budget
Strategic Partnerships and External Affairs	Promotion of collaborative working relationships with stakeholders and partners as part of the city's 'Civic Family'.
Localisation including Shaping Birmingham's Future Together	Neighbourhood Management – Development of the Council's neighbourhood engagement model and work with wider Council and partners to ensure integration at the local level. Shaping Birmingham's Future Together.

## 7.2 Deputy Leader and Cabinet Member for Economy and Skills Portfolio

<b>Deputy Leader and Cabinet Member for Economy and Skills</b>	<b>Detail</b>
Deputising for the Leader	The Deputy Leader will act as Council Leader where the Leader is not available.
Economic growth and jobs	Strategic approach to economic growth and regeneration programmes and strategic planning policy.
Employment & Skills	Skills, expansion for key growth sectors enterprise and innovation along with Lifelong Learning (post-14 skills and adult education). Provision of all-age guidance, skills development, training and work experience to meet the economic needs of the city now and in the future.
Employment Opportunities	Enabling all residents to access employment through the development and delivery of local employment plans.
Skills and Entrepreneurship in Schools	From the portfolio of the Cabinet Member for Children, Young People & Families
Business Improvement Districts	Partnerships with the Business Improvement Districts, including city centre management opportunities.
Major Sporting Events and Events Development	Advised by the Cabinet Member for Digital, Culture, Heritage & Tourism
Promotion of the city and inward investment	Working in conjunction with the Cabinet Member for Digital, Culture, Heritage and Tourism for the promotion of the city. Promotion of Birmingham regionally, nationally and internationally. This includes work with partners such as West Midlands Growth Company, the universities, and cultural organisations of citywide, regional, or national significance. Marketing strategies to encourage investment in Birmingham.
Major Projects	Responsibility for major physical regeneration and infrastructure projects in the city and engagement with key economic growth partners, partnerships, and investors.



<b>Deputy Leader and Cabinet Member for Economy and Skills</b>	<b>Detail</b>
Levelling-Up & Devolution	This will include making appropriate arrangements for the Council’s response and review to changes in the WMCA constitution, consultation and devolution deals.
Cost-of-Living	Cost-of-Living.
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.
Land Use Planning	Local Development Plan, Neighbourhood Plans, Development Briefs and Supplementary Guidance; including advice to Planning Committee.

### 7.3 Cabinet Member for Children, Young People and Families

<b>Cabinet Member for Children, Young People and Families</b>	<b>Detail</b>
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.
Lead Member for Children’s Services	Political accountability for all the local authority children’s services, including education and children’s 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).
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.
Safeguarding Children & Young People	With statutory partners, the safety and wellbeing of all children.
Corporate Parenting	Political leadership on improving the lives of looked after children. Ensuring all Council members, officers and services understand and actively promote the Council’s responsibilities to looked after children.
Overseeing Early Years	Ensuring a sufficiency of places and a citywide Early Years Health and Wellbeing offer.
Education of Children & Young People	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 School’s Grant.
Lead Member for SEND and Inclusion	Lead Member for Special Educational Needs and Disability (SEND) and Inclusion – Lead Member on the SEND agenda across children’s agencies and holding officers and partners to account for the delivery of the Birmingham SEND Strategy.
Youth Engagement and Youth Service	Youth Engagement and Youth Service.

## 7.4 Cabinet Member for Digital, Culture, Heritage and Tourism

<b>Cabinet Member for Digital, Culture, Heritage and Tourism</b>	<b>Detail</b>
Customer Services	To take a strategic lead in the provision of the City Council’s customer services functions
Oracle Recovery Board Chair	Chairing the Oracle Member Board
Open data and information systems	To provide strategic leadership for open data promoting transparency, building trust and data sharing in everything we do
Digital Inclusion	To provide strategic leadership to our digital inclusion strategy to deliver a fully inclusive digital city, where everyone has the confidence, skills and capacity to access the services and information they need to thrive and live their lives to their full potential in an increasing digital world.
Oversight of Council's ICT Strategy, information governance, and GDPR	To provide strategic leadership for information governance, data protection and cyber security protecting our citizens information To provide strategic leadership for our Digital Birmingham ambition acting as the Councils Ambassador for Digital & innovation so that we make the best use of data, digital and technology so that we can ensure that our services respond even better to the changing needs and expectations of our citizens and businesses.
To take a lead on information law and data protection matters	
Promoting the City's rich heritage	Promoting our cultural heritage with the public, community and academic partners, ensuring that Birmingham’s cultural and civic history is accessible by our children and young people. Maximising our historic architecture and ensuring the stories of Birmingham’s history are told.
Arts, culture and tourism	Sustaining and promoting art, culture and tourism, including management of grants and associated economic opportunities. Delivery of the Birmingham Visitor Destination Plan.
Museums	Oversight of the provision and activity of the Birmingham Museums Trust.

<b>Cabinet Member for Digital, Culture, Heritage and Tourism</b>	<b>Detail</b>
Commonwealth Games Legacy	Providing strategic leadership to maximise the benefits of hosting the Commonwealth Games through delivery of a Legacy Plan.
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.
Major Sporting Events and Events Development	Advice to the Deputy Leader Lead for Cultural/Heritage Events

## 7.5 Cabinet Member for Environment and Transport

<b>Cabinet Member for Environment and Transport</b>	<b>Detail</b>
Enforcement	In relation to licensing policy and enforcement.
Pest Control	Provision of the Pest Control Service.
Cleaner Neighbourhoods	Street cleansing, litter prevention, fly tipping, graffiti, placarding, scrap yards and motor salvage operators.
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.
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.
Climate Change	Engaging in proactive citywide and national policy development to tackle the causes and consequences of climate change.
Green City	Working with partners to develop a strategy for sustainability, liveability, and environmental improvement for the city.
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.
Flood risk planning	

## 7.6 Cabinet Member for Finance

Cabinet Member for Finance	Detail
Contract Management	Strategic approach to and compliance with contract management policy to ensure best value.
Commercialisation	To take the strategic lead in the consideration of all commercial opportunities available to the Council.
Finance	Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures.
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 Birmingham’s Living Wage policy.
Rent Service	The Rent Service’s primary function is to maximise the collection of rent from Local Authority tenants and the recovery of current/former tenants and Housing Benefit Overpayments for Local Authority tenants.
Revenues and Benefits Service	To ensure effective management of the Revenues and Benefits service.
Procurement	Oversight of procurement management.
Internal Trading Operations	Effectiveness and holding to account the management of all internal trading operations.
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.
Oversight of consultants (and interims)	Oversight of the use of consultants and interims with particular focus on their duration, renewal and cost.

**7.7 Cabinet Member for Health and Social Care (currently on Maternity Leave until 31 December 2024, please see below for interim cover\*)**

Cabinet Member for Health & Social Care	Detail
<p>Adult Health &amp; Social Care</p> <p><i>*Interim cover being provided by <a href="#">Cabinet Member for Transformation, Governance and HR</a></i></p>	<p>Development of the Health and Wellbeing Board and relationships with the NHS and private providers.</p> <p>Strategic leadership of social care services and safeguarding for adults.</p> <p>Development of an integrated health and social care economy in Birmingham and neighbouring local authorities around the relevant Sustainability and Transformation Plan.</p>
<p>Public Health</p> <p><i>*Interim cover being provided by <a href="#">Cabinet Member for Social Justice, Community Safety and Equalities</a></i></p>	<p>Leadership on public health services, working with the Health and Wellbeing Board to reduce health inequalities.</p>
<p>Integrated Care System</p> <p><i>*Interim cover being provided by <a href="#">Cabinet Member for Transformation, Governance and HR</a></i></p>	<p>Providing place leadership for Birmingham within the statutory partnership to meet health and care needs across Birmingham and Solihull.</p>
<p>Healthy Communities</p> <p><i>*Interim cover being provided by <a href="#">Cabinet Member for Digital, Culture, Heritage and Tourism</a></i></p>	<p>Championing healthy living through sport and leisure services and influencing resident choices through proactive behaviour change initiatives.</p>

## 7.8 Cabinet Member for Housing and Homelessness

<b>Cabinet Member for Housing &amp; Homelessness</b>	<b>Detail</b>
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.
Housing Development	To review the supply of housing and tenure based on an analysis of housing need.
Housing Options	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.
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.
Strategic Leadership of the response to Exempt Accommodation	Strategic Leadership of the response to Exempt Accommodation.



## 7.9 Cabinet Member for Social Justice, Community Safety and Equalities

<b>Cabinet Member for Social Justice, Community Safety and Equalities</b>	<b>Detail</b>
City of Sanctuary, Asylum and Refugees, Modern Slavery and Trafficking	
Emergency Planning	Arrangements for the Council’s response to emergencies.
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.
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.
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.

<b>Cabinet Member for Social Justice, Community Safety and Equalities</b>	<b>Detail</b>
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.
Bereavement Services and Registry Office	Strategic leadership for the development of Cemeteries, Crematoria and Mortuary and Coroners Court Services; and Register Office services.
Domestic Abuse	All Council activity relating to domestic abuse, its impact on families and children and implementing a city-wide domestic abuse strategy with partners including advice to the Cabinet Member for Housing and Homelessness on the provision of accommodation and taking advice from the Cabinet Member for Health and Social Care on the health implications of domestic violence.
Third Sector Partnership and Engagement	Working with, and coordination of, third sector and partner agencies around equalities, cohesion and inclusivity.
External Challenge	Ensuring that partner agencies, private or third sector organisations are challenged on their contribution to improving social cohesion and inequalities.
Chair of Contest Board	
Chair of Prevent Board	

## 7.10 Cabinet Member for Transformation, Governance and HR

<b>Cabinet Member for Transformation, Governance and HR</b>	<b>Detail</b>
Improvement and Recovery Plan oversight and delivery	Oversight of the Council’s improvement journey.
Structure and Governance of the Council	Overall organisational design of the Council, including the Council’s corporate governance arrangements.
Member/Officer Protocol	Oversight of the Member/Officer Protocol.
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.
Strategic risk management, internal audit and holding senior officers to account on the management of risks	Strategic risk management, internal audit and holding senior officers to account on the management of risks.
Whistleblowing and Corporate Complaints	To take a corporate lead in relation to Whistleblowing and complaints.
Legal Services	Oversight of the Council’s legal services function including political engagement with the Council’s Monitoring Officer.
Human Resources (Including Member Development Programmes)	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 Employment Committee deals with issues around the employment of staff and their terms and conditions of employment].
Early Intervention and Prevention	To take a strategic lead in the development and implementation of the City Council’s Early Intervention and Prevention services.
Business Change	All major business change programmes

<b>Cabinet Member for Transformation, Governance and HR</b>	<b>Detail</b>
Efficiency, value for money and improvement for the Council – performance	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).
Council wide Efficiency and Improvement	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

## **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 [B4.3](#) above and the proportionality rules shall apply where three or more members are appointed.
- 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 established under (ii) above and those Members need not reflect the political composition of the local authority as a whole.
- iv. If a joint committee exercises an executive function, then a Cabinet Member must be appointed. If a joint committee *includes* executive functions and Cabinet appoints three or more members, the proportionality rules will apply and a at least one Cabinet Member must be appointed.

### **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. The WMCA Board is the legal and accountable body for funding devolved to the WMCA. It is responsible for a range of functions including transport, housing, skills, economic development, and regeneration functions including post 18 education and training across the West Midlands region. The WMCA Board exercises all its powers and duties in accordance with the law and the Constitution and agrees policies and delegated responsibilities to conduct its business.
- iv. Members of the WMCA Board are appointed by the Constituent and Non-Constituent Authorities designated by the Orders establishing the WMCA. Members must be elected Members of their appointing Authority and must be replaced if they are no longer elected

Members. Members of other Committees of WMCA are nominated by their Authority and appointed to Committees by the WMCA Board.

### **West Midlands Police and Crime Panel**

- i. The Police Reform and Social Responsibility Act 2011 introduced significant changes in police governance and accountability, in particular replacing the Police Authorities with directly elected Police and Crime Commissioners (Commissioners) and Police and Crime panels in each force area.
- ii. The Act also requires the local authorities in each police force area to establish a police and crime panel (panel), as a non-executive joint scrutiny body, primarily to scrutinise the commissioner. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business.
- iii. The West Midlands Police and Crime Panel, is made up of 12 elected (councillor) members from the seven West Midlands councils and three independent (non-political) members.

#### Terms of Reference:

- a) To review and make a report or recommendation on the draft police and crime plan.
- b) To review and make recommendations on the level of Council Tax the Commissioner intends to collect to support policing. The Panel has the power to veto the proposal and demand the level is made higher or lower.
- c) To review, put questions to the Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report.
- d) To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments (Chief Executive, Chief Financial Officer and Deputy Police and Crime Commissioner) made by the Commissioner.
- e) To review and make a report on the proposed appointment of the Chief Constable.
- f) To appoint an Acting Police and Crime Commissioner if necessary.
- g) To handle complaints against the Commissioner (and Deputy Commissioner if appointed), working to resolve non-criminal complaints, conducting in-depth scrutiny inquiries into police and community safety topics to make recommendations and suggestions for the Commissioner to consider.

## **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).

### **10.2 Functions**

- i. In conjunction with the relevant Cabinet Members, the role of Ward Forums is to:
  - a) Develop through local engagement and discussion and then adopt and approve a “Ward Plan and Priorities” 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.
- ii. Members should hold at least four ward forum meetings per year.

### **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.
- iii. Key Officers and/or other advisors may be invited to support the Ward Forum as and when necessary.

### **10.4 Ward Forum Meetings and Allocation of Localised Budgets**

- i. NDSU Officers (Community Governance Managers) will support 4 Ward Forum meetings each year and will hold responsibility for agenda setting, publicising and setting up meetings and taking and maintaining key action notes;
- ii. A Ward Forum must have a Ward Action Plan and Priorities before it can make any recommendations on the allocation of localised budgets;
- iii. Once in place, a Ward Forum will make recommendations for the allocation of funding from localised budgets in accordance with the Ward Action Plan and Priorities;
- iv. All agreed recommendations for the allocation of localised budgets will be submitted to the Strategic Director of City Operations, who is the nominated decision maker, who will review each recommendation to ensure that it:

- Supports the delivery and aspiration of the Ward Action Plan and Priorities;
  - Is legally, financially and technically able to be delivered;
  - Does not breach human rights principles and the Council's public sector equality duties.
- v. All decisions made by the Strategic Director of City Operations will be published on the Council's website and Ward Forum web page (where available).

## **B11. OVERVIEW AND SCRUTINY COMMITTEES**

### **11.1 Principles of Good Scrutiny**

- i. Good Overview and Scrutiny adds value to Councils as it:
  - a) Amplifies public voice and concerns;
  - b) Drives improvement in public services;
  - c) Provides constructive “critical friend” challenge;
  - d) Is led by ‘independent minded people’ who take responsibility for their role.

### **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.

### **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, Chair 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 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 Corporate and Finance Overview and Scrutiny Committee, which will consist of 11 members: the chair of the committee and the six other Overview and Scrutiny Committee chairs along with four places for opposition group members to ensure proportionality. Education, Children and Young People Overview & Scrutiny Committee will have an additional four co-opted places, as set out below.

- iii. Quorum for the Corporate and Finance Overview & Scrutiny Committee and Education, Children and Young People Overview & Scrutiny Committee shall be four; and three for the other Overview & Scrutiny Committees.
- iv. No substitute members shall be appointed to 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 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 where the activities of that company overlap with the remit of that Overview & Scrutiny Committee.

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

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

### **Corporate and Finance Overview & Scrutiny Committee**

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, finance, corporate and legal services, human resources, transformation and efficiency, contract management policy and procurement management, early intervention and prevention, risk, customer services, relationship with stakeholders and WMCA, support to Mayor, member development, use of data, refugees and City of Sanctuary, emergency planning. This includes:

- Council Business Plan and Medium-Term Financial Plan/Budget
- Support to the Lord Mayor and other holders of civic office
- Communications, internal and external stakeholder engagement
- Council's strategic approach to the use of financial resources and budget
- Public policy development at local to international levels
- Representation of the Council on WMCA Board
- Relationships with stakeholders
- Levelling-up, devolution and WMCA
- Cost-of-living
- Oversight of Council's IT strategy, information and governance & GDPR
- Open data
- Data protection, cyber security, digital inclusion
- Customer services

- Overall financial direction within the Financial Strategy developed by the Leader, including Best Value and appropriate financial, accounting and audit controls and procedures.
- Business Charter for Social Responsibility
- Commercial opportunities available to the Council
- Revenues and Benefits service
- Procurement management
- Contract management policy
- Management of all internal trading operations
- Commissioning approach that supports the Council's wider social objectives
- Oversight of consultants and interims
- Emergency planning
- Refugees, modern slavery and trafficking, City of Sanctuary
- Structure and governance of the Council
- Efficiency and improvement of Council services
- 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.
- Member-Officer protocol
- Business change programmes
- Development and implementation of early intervention and prevention service
- Good governance on outside bodies, Council-owned companies and externalised services
- Risk management, internal audit
- External scrutiny of the Council and Local Government Ombudsman
- Whistleblowing and complaints
- Legal services
- Improvement and Recovery Plan (IRP) oversight and delivery

These also functions include:

- 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
- Determining, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees

- 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
- Overseeing the development and delivery of a balanced work programme of Scrutiny Committees using a range of scrutiny methodologies and reporting regularly to City Council
- Considering Overview & Scrutiny development, working practices and constitutional arrangements.

### **Economy, Skills and Culture Overview & Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning regeneration and infrastructure projects, Council assets, economic growth, employment, skills, arts, culture, heritage, tourism, partnership with Business Improvement Districts (BIDS), major sporting events and events development. This includes:

- Major physical regeneration and infrastructure projects in the city
- Oversight of Council-owned land and property strategy and facilities, assets, amenities and services including markets
- Promotion of the city and inward investment
- Economic growth and jobs
- Partnership with Business Improvement Districts (BIDS)
- Major sporting events and events development
- Skills expansion for key growth sectors along with lifelong learning for post-14 skills and lifelong learning
- Access to employment and delivery of local employment plans
- Arts, culture and tourism
- Museums
- Promotion of the city's heritage and investment in the city

### **Education, Children and Young People Overview & Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning education and school improvement, children's social care, looked after children, children's wellbeing and safeguarding, early years, Special Educational Needs and Disability, youth services, entrepreneurship and youth offending. This includes:

- Enterprise and entrepreneurship in Birmingham schools
- Education and children's social care
- The safety and wellbeing of children, including safeguarding with statutory partners

- The needs of all children and young people, families and carers (children's services)
- Oversight of the Children's Trust
- Early years health and wellbeing
- Looked after children, corporate parenting
- Special Education Needs and Disability
- School improvement, school places and travel to and from school
- Youth engagement and youth services
- Youth offending

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

- Church of England diocese representative (one)
- Roman Catholic diocese representative (one)
- Parent Governor representatives (two).

### **Health and Adult Social Care Overview and Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning adult social care, public health and leisure services and the Council's health scrutiny function. This includes:

- Development of Health & Well Being Board and relationship with NHS and private providers
- Social care services and safeguarding for adults
- Public health services
- Healthy communities through sport and leisure services
- Discharge of 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 and the Health and Care Act 2022, including the appointment of Joint Overview and Scrutiny Committees with neighbouring authorities. The primary aim of health scrutiny is to act as a lever to improve the health of local communities and so that people can live healthy lives, by ensuring their needs are considered as an integral part of the commissioning, delivery and development of health services.



### **Homes Overview & Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning housing development and supply, Council Housing management, private rented sector licencing and regulation, tenant engagement, Housing Option, temporary accommodation, homelessness and rough sleeping, This includes:

- Collection of rent/recovery of rents from Council tenants/former tenants and overpayments of Housing Benefit from Council tenants
- Housing development
- Council Housing management services, repairs and maintenance programmes
- Best use of housing stock across all housing providers
- Neighbourhood management initiatives and the housing growth agenda (Birmingham Social Housing Partnership)
- Private rented sector, licensing and regulation
- Tenancy engagement in the management and development of social housing and Housing Liaison Boards
- Exempt accommodation
- Housing Options for vulnerable adults, children, young people and offenders
- Temporary accommodation provision
- Homelessness and rough sleeping

### **Neighbourhoods Overview and Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning localisation and local neighbourhood plans, library services, community safety, social cohesion and equalities, street scene and waste, recycling, licencing policy and enforcement, parks and allotments. This includes:

- Local Development Plans, Neighbourhood Plans, Development Briefs, localisation
- Library of Birmingham and community library services
- Commonwealth Games Legacy
- Community safety, anti-social behaviour, fear of crime, support for victims of crime
- Relationships with Police & Crime Commissioner and West Midlands Police
- CCTV and liaison with Police
- Prevent
- Social cohesion and inclusion, equalities and working with third sector and partner agencies
- Tackling Inequality, neighbourhood advice and information services
- Equalities within the community
- Domestic violence

- Cemeteries and crematoria, mortuary, Register Office services and BCC policies that relate to its collaboration with the Coroners Court service
- Delivering improvement and change through the Street Scene Transformation Programme (including waste)
- Collection and removal of waste from residential and other properties within the city
- Pest control
- Street cleansing, litter prevention, fly tipping/placarding removal and enforcement, graffiti removal, scrap yard and motor salvage operator enforcement
- A robust re-use and recycle strategy and ensuring delivery
- Parks and allotments
- Local events held in parks
- Licensing policy and enforcement

This Committee shall be the Crime and Disorder Committee (Police and Justice Act 2006). Birmingham City Council Constitution Part B Roles, Functions and Rules of Procedure May 2022 B11 Overview and Scrutiny Committees.

### **Sustainability and Transport Overview and Scrutiny Committee**

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to sustainability, climate change and transport. This includes:

- Providing oversight and assurance on council and city environmental sustainability, climate change, nature and net zero responsibilities and commitments, and supporting activities to accelerate delivery
- City-wide and national policy development to tackle the causes and consequences of climate change
- Road harm reduction
- Sustainable transportation policy and programmes, projects and initiatives
- Strategic highways matters
- Maintenance of roads and streets, traffic management and car parks and enforcing rights of way
- Cooperation with the WMCA and Mayor in relation to the key route network
- An Air Quality Strategy for Birmingham
- Flood risk management.

## **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>43</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>44</sup>
  - Any code of conduct matter or employment appeals;
  - 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
    - b) Individual personnel issues.
- 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>45</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.

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<sup>43</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>44</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>45</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.

- iii. If a Cabinet Adviser (or former Cabinet Adviser) is a member of an Overview & Scrutiny Committee and 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 of a member of the Committee, 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 administrative 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.
- 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 and is subject to the approval of the Monitoring Officer in consultation with the Chair of Corporate and Finance Overview & Scrutiny Committee, in accordance with the call-in criteria
- iii. Once a “Request for Call In” has been received, the Chair of Corporate and Finance Overview & Scrutiny 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.
- vi. Where a decision is urgent and an exception to the call-in procedures is required, please refer to the arrangements outlined in paragraphs 6.7 6.9 and 6.10.

**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	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?
8	the decision appears to give rise to significant governance, legal, financial or propriety issues;
9	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 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 Licensing Sub-Committees 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 and is not required to observe political balance. Members of the Licensing & Public Protection Committee will sit as a general Licensing Committee when dealing with any other licensing functions of the Council and appointments must be politically proportionate.
- 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. Licensing Act 2003 matters fall outside of the remit of the Local Government Act 1972.

- 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**

The committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk management and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control provides greater confidence to all those charged with governance that those arrangements are effective.

The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.

### **14.2 Governance, risk and control**

- i. To review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- ii. To review the ethics and culture of the Council to ensure appropriate behaviours and values operate and enable openness and transparency.
- iii. To monitor the effective development and operation of risk management in the council.
- iv. To monitor progress in addressing risk-related issues reported to the committee.
- v. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- vi. To consider reports on the effectiveness of financial management arrangements, including compliance with Chartered Institute of Public Finance and Accountancy's (CIPFA) Financial Management Code.
- vii. To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements, including review of the external audit, internal audit and other assurance providers' work relating to value for money.
- viii. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- ix. To monitor the counter fraud strategy, actions and resources including the use of benchmarking and other analytics to inform this review.
- x. To review the governance and assurance arrangements for significant partnerships or collaborations.

### **14.3 Financial and governance reporting**

Governance reporting:

- i. To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.
- ii. To consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

- iii. That the Corporate Governance Group supports the Audit Committee in the review of the AGS to help ensure the effectiveness review of the Local Code of Corporate Governance remains a living and continually developing activity.
- iv. That a schedule of works for the Audit Committee includes a clear timeline for the production, consideration and monitoring of the AGS.

Financial reporting:

- i. To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- ii. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- iii. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### **14.4 Arrangements for audit and assurance:**

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

External Audit:

- i. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) or the authority's auditor panel as appropriate.
- ii. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- iii. To consider specific reports as agreed with the external auditor.
- iv. To comment on the scope and depth of external audit work and to ensure it gives value for money.
- v. To consider additional commissions of work from external audit.
- vi. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- vii. To provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee.

Internal Audit

- i. To approve the internal audit charter.
- ii. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- iii. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- iv. To approve significant interim changes to the risk-based internal audit plan and resource requirements.

- v. To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- vi. To consider any impairments to the independence or objectivity of the head of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.
- vii. To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - a. updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work
  - b. regular reports on the results of the Quality Assurance and Improvement Programme (QAIP)
  - c. reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
- viii. To consider the head of internal audit's annual report, including:
  - d. the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement (these will indicate the reliability of the conclusions of internal audit)
  - e. the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS).
- ix. To consider summaries of specific internal audit reports as requested.
- x. To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- xi. To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- xii. To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the accounts and audit regulations.
- xiii. To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

#### **14.5 Accountability arrangements**

- i. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- ii. The Chair of the Audit Committee to have the ability to place an item, attend and speak to it if there are significant issues arising that needs Cabinet and City Council to give specific attention to the issue.

- iii. To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- iv. To publish an annual report on the work of the committee, including a conclusion on the compliance with the CIPFA Position Statement 2022 (See below).

#### **14.6 Membership**

- i. Members of the Audit Committee, and its Independent Chair, are appointed by Full Council. There are eight elected members of the committee, and the quorum is three elected members.
- ii. The Chair of Audit Committee who shall be an Independent Person appointed specifically for this role, should not be appointed to serve as a director on any of the City Council's wholly owned companies.
- iii. An Independent Technical Advisor (ITA) should be appointed to support the Committee. The ITA would be appointed via a skills-based route and having identified where any skills gaps in Audit Committee were identified.
- iv. An Independent Person to act as Chair to the Audit Committee should be appointed on an annual basis and approved by Council.
- v. The Independent Person appointed to act as the Chair of the committee is not a voting member thus the Chair's casting vote does not apply to this role.

#### **14.7 Conflicts of interest**

- i. If a Cabinet Member or Cabinet Adviser (or former Cabinet Member or Cabinet Adviser) is a member of the Audit Committee when it is considering matters to which their role relates, then that Councillor must withdraw from the meeting during the consideration of such matter.
- ii. If the Audit Committee is considering items relating to the work of a relative of a member of the Committee, then that Councillor must withdraw from the meeting during the consideration of such matter.

#### **14.8 Review of these Terms of Reference**

These Terms of Reference are to be reviewed annually to ensure they remain appropriate, reflect best practice and align to relevant standards and regulations.

*CIPFA Audit Committee Position Statement 2022 available from:*

<https://www.cipfa.org/-/media/Files/Services/Support-for-audit-committees/CIPFA-Audit-Committee-Position-Statement-2022.pdf>

## **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 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 three Birmingham Councillors, 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.

### 16.3 Standards (Hearings) Sub-Committee

- i. Purpose
  - a) In consultation with the Monitoring Officer to consider any commissioned reports to determine whether the matter should be referred to a formal hearing.
  - b) In the event that a hearing of the Standards Committee is required, to hear and determine any allegation that a member or co-opted member of the council has failed, or may have failed to comply with the Council's code of conduct, and apply appropriate sanctions.
- ii. Membership
  - a) Any Sub-Committee must consist of at least 3 Councillors, with at least 1 from each of the 3 largest political groups represented on the Council.
  - b) If appropriate, a political party may appoint a substitute from another Group who is also a member of the Standards Committee.
  - c) Any Sub-Committee must also consist of at least two non-voting lay members.



## **16.4 Dispensations**

- i. The Monitoring Officer is authorised to grant dispensations to enable members to participate and vote in matters where a member may have a disclosable interest. In such instances, the Monitoring Officer will consult with the Chair or Deputy Chair of Standards where at all possible.

## **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. EMPLOYMENT COMMITTEE**

### **18.1 Role**

- i. The Employment Committee will discharge various responsibilities in relation to the Head of Paid Service, the Chief Finance Officer (s.151 Officer) the City Solicitor and Monitoring Officer, Strategic Directors (JNC Band 3) and Service Directors (JNC Band 2) (“the Senior Officers”) in line with the detailed provisions set out below. It will also determine the terms and conditions of employment for all Officers and monitor the operation of the Code of Conduct and Register of Interests for Senior Officers.

### **18.2 Functions**

- i. The Employment Committee is authorised to discharge the following functions:
  - To make recommendations to Full Council on the appointment of the Head of Paid Service.
  - To make recommendations to Full Council on the dismissal of the Head of Paid Service, the Chief Finance Officer (s.151 Officer) and the City Solicitor and Monitoring Officer.
  - To suspend and, where appropriate, take any disciplinary action short of dismissal in relation to the Head of Paid Service, the Chief Finance Officer (s.151 Officer) and the City Solicitor and Monitoring Officer.
  - To appoint and dismiss the other Senior Officers.
  - To discharge all necessary functions required by the JNC Conditions of Service including the exercise of any discretions or determining any issue regarding the Conditions of Service for Senior Officers.
  - To agree the Council’s pay and grading structure.
  - To agree Council-wide pay awards.
  - To agree the contractual terms and conditions of employment for all Officers as contained in the Birmingham Contract.
  - Recommend to Full Council for approval an Annual Pay Policy Statement as required by section 38 of the Localism Act 2011 for each financial year having regard to any guidance issued or approved by the Secretary of State.
  - Monitor the operation of the Employee Code of Conduct and the Register of Interests for Senior Officers.

## B19. SUMMARY OF QUORACY

CABINET / COMMITTEE	No. of Members	Quorum
<a href="#">City Council</a>	101	30
<a href="#">Council Business Management Committee</a> (and Sub-Committees as Determined by the Constitution and the Committee)	9	3
<a href="#">Employment Committee</a>	7	3 including member of main opposition party
<b><a href="#">Cabinet</a></b>	10	4
<a href="#">Cabinet Committee – Group Company Governance</a>	3	2 Cabinet Members
<a href="#">Cabinet Committee – Property</a>	4	2 Cabinet Members
<a href="#">Health &amp; Wellbeing Board</a> * including one elected member	16	6*
<b><a href="#">Overview &amp; Scrutiny</a></b>		
Corporate and Finance Overview & Scrutiny Committee	11	4
Education, Children and Young People Overview & Scrutiny Committee (Contains Governor and Parent Representatives)	8 + 4	4
All Other Overview & Scrutiny Committees	8	3
<b><i>Regulatory and Non-Executive</i></b>		
<a href="#">Planning Committee</a>	15	5
<a href="#">Licensing &amp; Public Protection Committee</a> (and Sub-Committees)	15 3	5 3
<a href="#">Audit Committee</a>	8	3
<a href="#">Trusts &amp; Charities Committee</a>	8	3
<a href="#">Standards Committee</a>	14	5