



## **Audit Committee – 15 April 2019**

### **Amendments to officer delegations under Part 3.5 of the Council's Constitution**

**Service:** Legal and Democratic Services

**Wards:** Not applicable

#### **1. Summary**

This reports sets out amendments to officer delegations which will be considered by Annual Council at its meeting to be held on 20 May, 2019.

#### **2. Recommendations**

- 2.1 That the Committee review and note the revisions to officer delegations as set out in the Appendix to this report.
- 2.2. That the report be circulated to Group Leaders and independent members for information.

#### **3. Report detail**

- 3.1 The proposed amendments to officer delegations for the forthcoming municipal year (2019/2020) reflect new legislation and operational changes across the Council during the last municipal year.
- 3.2 To assist with members deliberations, the proposed changes to delegations are shown as tracked changes in appendix 1 to this report.
- 3.4 It is suggested that as was done last year this report be circulated to Group Leaders and independent members for information.

#### **4. Resource implications**

- 4.1 **Financial:** None arising from this report.
- 4.2 **Legal:** There will be an ongoing requirement to keep the officer delegations under review to ensure that the Council acts within the law.

4.3 **Staffing:** None arising from this report.

**5. Citizen impact**

The proposed amendments will assist with the efficient and effective decision making which will be of benefit to citizens.

**6. Community safety** - None arising from this report.

**7. Environment impact** - None arising from this report.

**8. Performance and risk management issues**

8.1 **Risk:** Updating the current scheme of officer delegations will reduce the risk of officers acting in an unlawful manner and result in decision making being more transparent and accountable.

8.2 **Performance management:** An updated scheme of delegations will add to the efficient operation of the Council's services.

**9. Equality implications** - None arising from this report.

**10. Consultation**

The revised scheme of delegations attached as an appendix to this report are as a result of extensive consultation with relevant Council directorates.

**Background papers**

None

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22<sup>nd</sup> March, 2019

**Table 5**

**SCHEME OF DELEGATIONS OF FUNCTIONS TO OFFICERS**

**1. Arrangements within directorates**

Where under this scheme of delegations to officers, delegated powers are to be exercised by the holders of various posts within a directorate, the Chief Officer (namely the Chief Executive, Monitoring Officer, Section 151 Officer, Executive Directors as defined in Article 10.01 (b) of the Constitution) must ensure the same are exercised in accordance with relevant Council policies and procedures and:

- (a) Put appropriate systems and arrangements in place (if they do not already exist) for the proper management, discharge, control and effective monitoring and review of the exercise of such delegated powers (including, for example, maintaining an updated list of all staff, with job titles within the directorate who are authorised to act under this Scheme of Delegation to Officers, along with a record of the significant decisions taken by the same, during the municipal year);
- (b) Prior to the start of each municipal year, undertake a review of such systems and arrangements to ensure appropriateness for the forthcoming municipal year and, where appropriate, implement changes to such systems and arrangements to ensure that they comply with any internal audit recommendations, best practice requirements, or changes in legislation; and
- (c) At the start of each municipal year, report such systems and arrangements to the relevant Cabinet Member or to such other relevant Committee.

If any Chief Officer is unsure of the above requirements, she/he must obtain relevant advice from the Monitoring Officer and act upon the same. Any breach of the Scheme of Delegation to Officers, or a failure to comply with its requirements or limits contained within it, is a serious matter and the relevant Chief Officer may be disciplined by the Council under the Council's Code of Conduct

**2. Consultation**

- 2.1 In exercising delegated powers, officers shall consult other officers as appropriate and shall have regard to any advice given, professional or otherwise.

- 2.2 Where an issue which falls within an officer's delegated powers has significant policy, service or operational implications, or is politically sensitive, the Chief Officer shall consult and liaise closely with the appropriate Executive Member(s) or the Committee Chairman and Vice Chairman before exercising the said delegated power.
- 2.3 It will always be open to an officer to consult an Executive Member, a Committee, or its Chairman or Vice-Chairman before the exercise of the delegated power; or not to exercise delegated powers but to refer the matter to the Executive or a Committee for a decision in relation to the exercise of the said delegated power.
- 2.4 The normal requirements for consultation with local members on matters affecting their ward as set out in the Member/Officer Protocol shall also be adhered to.

### **3. Reports on the exercise of delegated powers**

- 3.1 Any member may request that decisions taken by officers under delegated powers be the subject of scrutiny by the appropriate Overview and Scrutiny Committee. Scrutiny in this manner should be in accordance with the provisions laid down in the Council's Constitution. Key decisions of officers shall follow the same procedure in respect of posting out and call in. In accordance with the Council's Constitution, Overview and Scrutiny Committee should not normally scrutinise non-key decisions made by officers under delegated powers. Where necessary, such scrutiny should be confined to overall reviews of service performance.
- 3.2 Any such scrutiny will not make any action taken as a result of the decision invalid. However, the Overview and Scrutiny Committee panel will have the same powers in relation to such decisions as stated within the Council's Constitution.

### **4. Taking decisions**

- 4.1 Subject to the general guidelines set out below, the Chief Executive, and Executive Directors are empowered to make decisions on behalf of the Council in accordance with these general principles as follows:
- (a) If a function, power or responsibility has not been specifically reserved to the Council, a Committee or the Executive, the Executive Director within whose remit the matter falls is authorised to act;
  - (b) The Council, its Committees and the Executive will make decisions on matters of significant policy. The Chief Executive and the Executive Directors have express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate;

- (c) The Chief Executive and the Executive Directors are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible;
  - (d) The Chief Executive and the Executive Directors are empowered to take all necessary decisions in cases of emergency
  - (e) In relation to all delegated authority conferred on the Executive Directors by this Constitution, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit;
  - (f) Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, or his or her nominee, is authorised to act;
  - (g) These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources and the efficient delivery of services.
- 4.2 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well being of an individual or that the interests of the Council or the Borough as a whole may be compromised.
- 4.3 Chief Officers referred to in 4.1 above, may authorise officers in their service areas to exercise on their behalf, powers delegated under this scheme. This nomination should be in writing and be formally recorded by the Chief Officer with a copy of such authorisation being sent to the Monitoring Officer.
- 4.4 Any decision taken under such authority shall remain the responsibility of the relevant officer as set out in 4.1 above, and must be taken in the name of that officer.
- 4.5 In exercising these delegated powers the officers concerned shall have broad discretion subject to complying with all relevant legislation, the Council's Constitutional arrangements and the Council's overall policies and procedures, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control, and the procurement of other resources as and when necessary, whether within or outside the Council.
- 4.6 Officers shall act so as to achieve for their service the policies and objectives of their service area always having regard to the overall corporate interests of the Council.

- 4.7 Where a Chief Officer, referred to in 4.1 above is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Officer. This nomination should be in writing and be formally recorded, with a copy of the same being forwarded to the Monitoring Officer.
- 4.8 Notwithstanding anything contained in this scheme of delegation, officers shall not have the power to make decisions upon any matter that has been reserved to a member body except in cases of emergency.
- 4.9 Anything delegated to an officer is also delegated to the Chief Executive and any officer with a delegation can in writing delegate the exercise of the function to an officer under their management.
- 4.10 Without prejudice to the generality of the foregoing the officers identified in 4.1 above shall have the power:-
- (a) To take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy within their area of responsibility, provided there is budget available if Council expenditure is required. This shall include invitation and acceptance of tenders, submission of bids for funding, write-off of irrecoverable debts (within agreed limits), settlement of claims (within agreed limits), virement (within agreed limits) and disposal and acquisition of assets;
  - (b) To put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility;
  - (c) In the case of any overspend to notify the Section 151 Officer in accordance with criteria published by that Officer;
  - (d) To determine staffing arrangements within approved budgets subject to agreement on grading with the Assistant Director – Human Resources ~~Head of Human Resources and Development~~ and in accordance with approved Council policy;
  - (e) To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and the law (including the operation of approved policies for voluntary severance, early retirement, redundancy and redeployment) and conditions of service in consultation with the Assistant Director – Human Resources ~~Head of Human Resources and Development~~ and Section 151 Officer ~~Chief Finance Officer~~ where applicable.

**Note:** For the avoidance of doubt the appointment and dismissal of the Chief Executive, Executive Directors, and Assistant Directors shall be made by a duly appointed member body and not through this scheme of delegation.

- 4.11 When duly authorised and certified by the Monitoring Officer, to sign relevant Regulation of Investigatory Powers Act 2000 forms in accordance with the relevant corporate policy and document relating to the same.

4.12 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:

- (a) a key decision should be taken in accordance with the relevant requirements;
- (b) the views of the relevant Executive Members(s) following the application of the consultation criteria set out in paragraph (c);
- (c) the implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision in other areas. In such cases, consultation with officers and relevant Executive Members(s) from any affected portfolio should take place;
- (d) the extent of prior consultation and the views/opinions emanating from that process, including Overview and Scrutiny Committee and Area Panel meetings;
- (e) the range of available options;
- (f) the staffing, financial and legal implications;
- (g) the involvement of appropriate statutory officers and/or other Executive Directors, and Assistant Directors as appropriate;
- (h) the views of ward Councillors where the issue relates to a specific ward(s);
- (i) the relevance of any regional or national policy or guidance from other bodies;
- (j) the Council's Financial and Contract Rules;
- (k) relevant guidance, legislation, and Codes of Practice.
- (l) the need to secure Best Value.

4.13 In order to assist with the above, arrangements should be made by Chief Officers to deal with times of absence in accordance with paragraph 4.7 above.

## **5. Limitation on delegations**

5.1 Chief Officers should only use general powers if:

- (a) the Council is empowered by law to take action in an appropriate matter;
  - (b) there will be no conflict with any power exercisable by a relevant Executive Member, the Cabinet or other relevant Committee of the Council;
  - (c) She/he acts at all times within any policies or guidelines issued from time to time by the Council, the Cabinet, relevant Executive Members or any relevant Committee (s).
- 5.2 Officers may not exercise any other function reserved by Part 3 of the Scheme of Delegations to the Council, the Executive or any Committee of the Council. Nor may officers:
- (a) change approved policies;
  - (b) create new policies;
  - (c) take decisions on the withdrawal or modification of public services;
  - (d) decide on significant new powers or duties arising from new legislation;
  - (e) declare land or property surplus to the requirements of the service; otherwise then in accordance with Council procedure rule 16;
  - (g) agree grant criteria, or approve fees or charges unless otherwise specifically authorised; or otherwise determined by legislation.
- 5.3 In the event of a dispute or disagreement with regard to the exercise of any general power or any other delegated power:
- (a) the Head of Paid Service (and, if necessary, in conjunction with the Monitoring Officer) shall determine the issue and, in such event, the decision of the Head of Paid Service shall be final and binding on the internal issue; or
  - (b) if the issue concerns the lawful exercise of any delegated power, the decision of the Monitoring Officer shall, as recognised by law, be final and binding on the internal issue.
- 5.4 By this scheme and subject to the limitations and reservations herein, the Council delegates the Chief Executive and Executive Directors and any officers acting in their place under paragraphs 4.3 and 4.4:
- (a) to exercise the powers specified;



- (b) to exercise any of the Council's functions in an emergency, in consultation with the Leader or in his/her absence, the Deputy Leader and/or the relevant portfolio holder; and
- (c) authorises any other officers identified under arrangements made by the Council or Executive or any Committee pursuant to Section 101(2) of the Local Government Act 1972 or Section 15 the Local Government Act 2000 to exercise the powers specified in relation to the appropriate officers in those arrangements;
- (d) For the avoidance of doubt:
  - (i) the above general delegations for Chief Officers may be expanded or restricted as the case may be by the specific delegation to Chief Officers appearing hereinafter;
  - (ii) where a specific delegation on an issue is available (or restricted), it should be used as opposed to any general delegation given all Chief Officers;
  - (iii) any regulatory or enforcement powers of the Council delegated to any Chief Officer (or his/her staff) must be exercised by those officers who have been properly and suitably trained in such matters;
  - (iv) the term 'Chief Officer' only includes the Chief Executive, Executive Directors, the Monitoring Officer and the [Section 151 Officer](#) ~~Chief Finance Officer~~;
  - (v) any onward delegation of these 'all Chief Officers' delegations must be suitably recorded in directorate records.

## **6. Financial powers**

- 6.1 Any decision taken under this Scheme must be made within the approved Revenue and Capital Budgets, subject to any discretion allowed by Financial or Contract Rules.
- 6.2 Acceptance of quotations and tenders must be in accordance with both Financial and Contract Rules.

## **7. Legal powers**

Officers are authorised to institute, appear in, prosecute and defend on behalf of the Council proceedings before a Magistrates Court or similar tribunal of first instance where the matters fall within the remit of their directorates. Officers are not so authorised in relation to any other legal proceedings (such powers are delegated to the Head of Legal and Democratic Services).

## **8. Personnel and staffing powers**

Without prejudice to the Officer Employment Procedure Rules, officers have the power to appoint, dismiss or transfer staff, or take any other action with regard to the employment of staff in accordance with the employment procedure rules and the Council's employment policies. The exercise of these powers should take account of the requirement to consult with the ~~Assistant Director - Head of Human Resources and Development~~ as specified in the delegations applicable to that post.

## **9. Land and property**

Chief Officers may authorise employees of the Council to enter any land for the purposes of any statutory power of the Council.

## **10. Contracts**

Officers are authorised to accept tenders and enter into contracts for goods and services including agreeing price variations subject to both Financial and Contact Rules and subject to any threshold set down in the rules at 4.7 of the Constitution.

## **11. General**

### **11.1 Chief Officers are authorised to:**

- (a) approve ex gratia payments to staff up to £250 per incident;
- (b) approve ex gratia payments for replacement of stolen tools subject to maximum provision in the conditions of service;
- (c) approve grants to community groups or individuals up to £1000 within budget.
- (d) write off any debt on approval of the ~~Section 151 Officer Chief Finance Officer~~ (including any associated court costs) up to the sum of £10,000 for single items per individual or organisation (or for multiple items totalling £10,000 on a single debtor), which in the opinion of the ~~Section 151 Officer Chief Finance Officer~~ is considered to be uneconomical to collect and/or is irrecoverable.

## **SPECIFIC POWERS DELEGATED TO OFFICERS**

For the avoidance of doubt and without prejudice to the generality of the preceding powers, the following powers are specifically delegated to officers as set out below:



## **12. Chief Executive**

12.1 The Chief Executive is designated as the Council's Head of the Paid Service for the purposes of Section 4 of the Local Government and Housing Act 1989. The responsibilities of the Head of the Paid Service relate to keeping under review, and (where necessary) reporting to the Council upon the co-ordination of the Council's functions and the adequacy (in number and grade), organisation and proper management of the Council's workforce. The Chief Executive is also (subject to review):

- (a) The Electoral Registration Officer;
- (b) Returning Officer for the Council.

12.2 To exercise the powers of the Council under Section 138 of the Local Government Act 1972 in the event of an emergency or disaster and subsequent regulations.

12.3 To make any necessary appointments to fill casual vacancies that may arise on Committees, boards and outside bodies carrying out or relating to non-executive functions, in accordance with the wishes of political groups.

12.4 To exercise the powers delegated to any other officer when that officer is unable or unwilling to act.

12.5 To discharge all the functions in relation to Birmingham Airports Holdings Limited as provided for at clause 5.4 of the Birmingham Airports District Side Agreement, in consultation with the designated member of Cabinet, and to sign and attest the fixing of the Common Seal of the Council to any documents in connection therewith.

12.6 To settle complaints prior to the involvement of the Local Government Ombudsman in accordance with the remedies guidance published by the Commission for Local Administration in England (LGO 307 (01/06)).

12.7 To make compensatory payments up to a limit of £20,000 on an individual claim basis arising from reports/recommendations from the Ombudsman.

12.8 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

## **13. Executive Director, Resources and Transformation (S151 Officer/Chief Finance Officer)**

13.1 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

13.2 To purchase website domain names.

- 13.3 Authority to make ex-gratia payments in appropriate circumstances to non-staff up to the value of £500 per instance.
- 13.4 Invite, accept and appoint in accordance with Financial and Contract Rules, consultants and contractors for a specified period for the development and execution of approved projects.\*
- 13.5 Exercise all routine housing functions that are not specifically delegated to any relevant Cabinet member, the Cabinet, or any Committee.
- 13.6 To authorise the Systems Leader (Money, Home, Job) and the Senior Housing Strategy Officer to agree requests from Registered Providers to dispose of surplus housing stock.
- ~~13.7 Make decisions under Part 6 and Part 7 of the Housing Act 1996, and to review decisions made under Part 7, Sections 175-218.~~
- 13.8 To serve notices of seeking possessions and taking other legal action in respect of tenants (including introductory tenants) who are in arrears of rent or in other breach of their tenancy conditions. \*
- 13.9 Issue notices under Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976 in respect of information as to ownership of land and properties in advance of action by the Council.
- 13.10 To instruct the Head of Legal and Democratic Services to take summary proceedings for the recovery of Council owned properties and land that are occupied by a person or persons who entered, or remain in occupation without the Council's licence or consent. \*
- 13.11 Approve, ~~in conjunction with the Chief Finance Officer,~~ submissions by registered social landlords for rehabilitation work, to approve mortgage terms and to make the relevant applications for grants. \*
- 13.12 To ~~authorise the System Leader (Money, Home, Job) and the Manager of Housing Standards and Improvement to~~ exercise all the statutory powers and duties of the Council relating to private sector housing including The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and subject to the limits set out in the Financial and Contract Rules, authority to:
  - (a) Purchase equipment, tools and materials and authorise the execution of works;
  - ~~(b) Approve the settlement of the third party claims including:~~
  - (be) Write off of recovery of debt relating to Statutory Notices or completion of work in default in consultation with the Head of Legal and Democratic Services;

- (cd) Issue house in multiple occupation (HMO) licences and related notices;
- (de) consider and determine applications for loans or grants for aids for purposes detailed within the Council's Housing Renewal Assistance policy including aids and adaptations to the homes of people with disabilities below £46,000.
- (ef) consider and determine applications for repair and improvements to private housing in line with the Council's Housing Renewal Assistance Policy.

- 13.13 (a) To grant authorisations (as the appropriate officer), to enforcement officers under the Housing Act 2004 Section 243 for the purposes of:
- (i) Section 131 (management orders: power of entry to carry out work)
  - (ii) Section 235 (power to require documents to be produced)
  - (iii) Section 239 (powers of entry)
  - (iv) Paragraph 3 (4) of Schedule 3 (improvement notices: power of entry to carry out work), and
  - (v) Paragraph 25 Schedule 7 (Empty Dwelling Management Orders: power of entry to carry out work)
- (b) To authorise the Systems Leaders (Money, Home, Job), the Manager of Housing Standards and Improvement and Manager for Supported Housing to grant such authorisations under 13.12 and those listed in 13.134 and 13.145.
- (c) To make decisions and to take action under the following legislation, including all orders and statutory instruments issued as a result. This will include where relevant, the service and enforcement of notices, licences, authorisation of works in default, implementation of charges, approval of grants, loans and other financial assistance institution of legal proceedings:
- (1) Housing Acts 1980;
  - (2) Housing Act 1985 (as amended);
  - (3) Housing Act 1988;
  - (4) Housing Act 1996;
  - (5) Housing Act 2004;
  - (6) Housing Association Act 1985;
  - (7) Housing and Building Control Act 1984;
  - (8) Housing Grants, Construction and Regeneration Act 1996;

- (9) Local Government Act 1972;
- (10) Local Government and Housing Act 1989;
- (11) Local Government (Miscellaneous Provisions) Act 1976;
- (12) Local Government (Miscellaneous Provisions) Act 1982;
- (13) Rent Act 1977;
- (14) Water Act 1989;
- (15) Protection from Eviction Act 1977;
- (16) Landlord and Tenant Act 1954;
- (17) Landlord and Tenant Act 1985;
- (18) Landlord and Tenant Act 1987;
- (19) Caravan Sites and Control of Development Act 1960;
- (20) Caravan Sites Act 1968, Part 1;
- (21) Mobile Homes Act 1973;
- (22) Mobile Homes Act 1983;
- (23) Land Compensation Act 1973;
- (24) Noise and Statutory Nuisance Act 1993;
- (25) Prevention of Damage by Pests Act 1949;
- (26) Public Health Act 1936;
- (27) Public Health Act 1961;
- (28) Public Health Act 1969;
- (29) Refuse Disposal (amenity) Act 1978;
- (30) Building Act 1984;
- (31) Environmental Protection Act, 1990;
- (32) Control of Pollution Act 1974;
- (33) Defective Premises Act 1972;
- (34) Clean Air Act 1993;
- (35) Home Energy Conservation Act 1995;
- (36) European Communities Act 1972;
- (37) Health and Safety at Work Act 1974.
- (38) Homeless Act 2002
- (39) Care Act 2014 (18.25)
- (40) Housing and Planning Act 2016

13.14 To take action under the following legislation (as may be amended), including where relevant, the determination of homelessness applications, the service of notices, issuing of licences, authorisation at works in default, implementation of charges, approval of grants, institution of legal proceedings etc:

- (1) Planning legislation (including the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008;
- (2) Housing Act 1996 (as amended by the Homelessness Act 2002;
- (3) Immigration and Asylum Act 1999;
- (4) Nationality Immigration and Asylum Act 2002;
- (5) Asylums and Immigration (Treatment of Claimants) Act 2004;
- (6) Protection from Eviction Act 1977;
- (7) Children Act 2002;
- (8) Localism Act 2011
- (9) Homeless Reduction Act 2017

- 13.15 Instruct the Head of Legal and Democratic Services to initiate proceedings for contraventions of any of the Acts (listed previously), which relate to the private sector. This includes issuing of a formal caution in lieu of prosecution in appropriate circumstances, e.g:
- (a) Where mitigating circumstances exist;
  - (b) Where sufficient evidence exists to prosecute;
  - (c) Where it is in the public interest to do so;
  - (d) Where the perpetrator admits the offence. \*
- 13.16 Without prejudice to any delegations, authorise the Monitoring Officer to institute appropriate legal proceedings including against unauthorised occupiers found on the Council's land or premises.
- 13.17 To exercise the functions of the Council's ~~Section 151 Officer~~ Chief Finance Officer, including the proper administration of the Council's financial affairs under Section 115 and 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations 2015.
- 13.18 To issue financial procedures within the principles of both Financial and Contract Rules.
- 13.19 To approve payments of gratuities to retiring employees in accordance with discretionary powers available through the Local Government Act 1972, and the Pension Regulations.
- 13.20 To approve reports on proposed capital expenditure (Capital Financing Reports) included within the approved Capital Programme, and subject to compliance with the Council's Financial and Contract Rules.
- (a) To approve capital expenditure and capital expenditure reports in line with the approved capital programme where the project is included within the approved capital programme; or funded by contingency in year.
  - (b) To approve capital expenditure which is subject to an identified and guaranteed external or internal funding stream where that funding stream has come on-stream in year (for example a new capital grant or through generation of additional income or expenditure savings) and only where this results in no additional call on Council resources;
  - (c) Any other proposed capital expenditure outside of (a) and (b) above, shall be considered by Cabinet and referred to Council;
- 13.21 To approve capital contingency requests within the limits set within the annually approved capital programme and revenue contingency requests as set out in the medium term financial strategy.



- 13.22 To take all necessary action for the collection of amounts due to the Council using any powers available to the Council.
- 13.23 Authority to write off irrecoverable amounts due to the Council up to and including £10,000 (including any associated court costs and bailiffs fees) for single items per individual or organisation (or for multiple items on a single debtor), which in the opinion of the ~~Section 151 Officer~~ ~~Chief Finance Officer~~ is considered to be uneconomical to collect and/or is irrecoverable and:
- (a) Without limit as regards local taxation on a single property.
  - (b) Without limit as regards housing benefit and or council tax discounts on a single property.
- 13.24 To take all necessary action to devise a scheme to process business rate retail relief and the business rates reoccupation relief for qualifying bodies together with authority to amend each scheme to reflect any changes required by legislation and or government guidance.
- 13.25 Authority to manage and determine awards of business rate relief and business rates reoccupation relief under each scheme.
- 13.26 Authority to manage and determine the scheme for business rate discount of 100% for properties designated within specified areas of the Black Country Enterprise Zone (including Darlaston site).
- 13.27 Approval to grant discretionary relief from national non-domestic rates in accordance with the Council's approved scheme, and under Sections 47 and 48 of the Local Government Finance Act 1988.
- 13.28 Authorising, on behalf of the Council as billing authority, valuation agreements in respect of the Non-Domestic Rating local list, as required by the Valuation Office Agency.
- 13.29 To arrange borrowing and rescheduling of borrowing as necessary from time to time for the Council's purposes. Services of funds will comprise temporary loans, loans from public works loan board or equivalent, other mortgages and bonds, money bills, bank overdraft and internal funds of the Council, subject to any restriction which may be made by Statute, Council or the Executive.
- 13.30 To arrange finance and operating leases as required in accordance with the Council's capital programme.

- 13.31 To invest Council funds temporarily not required in accordance with the statutory provisions defined in Part I (Section 12) of the Local Government Act 2003 which gives local authorities the power to invest for any purpose relevant to its functions or for the prudent management of its financial affairs, and subject to other relevant guidance and restrictions which may be made by Statute, by Council or the Executive. This includes but is not restricted to Council's approved Treasury Management and Investment Strategy, Treasury Management Policy statement and approved practices.
- 13.32 Produce and report to Council on the statutory determinations in setting the annual Council tax requirement, as required under Sections 30, 31A, 31B, 32, 36, and Chapter 4ZA (specifically Sections 52ZB, 52ZC) of the Local Government Finance Act 1992 and the robustness of the budget and adequacy of reserves as defined by Sections 25 26 and 27 of the Local Government Act 2003.
- 13.33 To fix incidental charges relating to local taxation, and central cashier functions.
- 13.34 To determine applications for rate relief from Non Domestic Rates under Section 44A of the Local Government Finance Act, 1988.
- 13.35 To determine the council tax base in accordance with the Local Government Finance Act 1992
- 13.36 To determine applications for hardship relief from Non Domestic Rates under Section 49 of the Local Government Finance Act 1988 and from Council tax under Section 13A of the Local Government Act, 1992.
- 13.37 To determine the completion date for a property notice in accordance with Section 46A and Schedule 4A of the Local Government Finance Act 1988 as well as Section 17 of the Local Government Finance Act 1992.
- 13.38 Approve applications for financial assistance and to authorise grant claims, including from the European Union.
- 13.39 Appoint, manage and dismiss external investment managers, leasing and treasury management consultant.
- 13.40 Engage in data matching exercises designed to assist in the detection of fraud.
- 13.41 Open credit card facilities in line with standard bank conditions if and when such facilities are deemed necessary.
- 13.42 Deal with all matters relating to the transfer of the pension rights of pensionable employees.

13.43 Administer the Council responsibilities under the provisions of the Social Security legislation and in accordance with the Council's approved policy relating to the Housing Benefit and Council Tax Reduction Scheme including the following:

- The administration of the Council's local schemes
- The administration of the Council's Prosecution and Sanctions Policy in relation to Housing Benefit and Council Tax Benefit reduction fraud.
- Including power to make any determinations under the relevant legislation.

~~13.44 To approve national non-domestic rate and council tax government returns.~~

Commented [NP1]: Duplicated at 13.1

13.45 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

13.46 Authorisation of applications for directed surveillance and covert human intelligence sources relating to:

- (a) applications for miscellaneous and any application in an urgent situation;
- (b) applications pertaining to a non-criminal investigation into the conduct of an employee (non RIPA) in accordance with the requirements of the Regulation of the Investigatory Powers Act 2000 and (Amendment) Order 2012, 51 2012/1500 and set out in the Corporate Policy Procedure.

13.47 Authority for the approval of in year expenditure in relation to the leasing programme.

~~13.48 Agree insurance policy arrangements to protect the Council's assets and liabilities, including determining sums insured and limits of indemnity, levels of excess policy cover terms and conditions.~~  
Agree insurance arrangements with external insurance companies to protect the Council's assets and liabilities, to include the determination of

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- i) Insurance policy sums insured;
- ii) Insurance policy limits of indemnity;
- iii) Levels of insurance policy excess and levels of self insurance;
- iv) Insurance policy cover including insured perils, insurance policy terms and conditions;
- v) Agreement of delegated claims handling authorities and arrangements.

~~13.49 Authority to agree contract renewals within long term agreements, including alterations to the Council's insurance arrangements, to include changes to indemnity limits, excess levels, delegated claims handling authorities, terms and conditions.~~  
Authority to agree insurance contract renewals within long

term agreements, including alterations to the Council's insurance arrangements, to include changes to insurance policy sums insured and insurance policy limits of indemnity, changes to excess levels, insurance terms and delegated claims handling authorities.

13.50 Authority to agree the settlement of claims that fall within insurance policy excess levels where claims handling authority has been agreed with the Insurer to be undertaken by the council.

13.51 ~~Authority to approve ex-gratia payments of up to £500.~~

Commented [NP2]: Duplicated at 13.3

13.52 Authority to make transfers to and from reserves in order to ensure that reserves are maintained as necessary and in particular, adjusted when reserves are no longer required, or need to be replenished, and in accordance with the approved medium term financial strategy.

13.53 Authority to determine how each source of capital finance is used to fund the overall capital programme, and to alter the overall mix of financing as necessary, to maximise the flexibility of resources used and minimise the ongoing costs of borrowing to the council, and in accordance with the approved medium term financial strategy.

13.54 Authority to agree the council's contribution to the West Midlands Combined Authority, in consultation with the Leader of the Council.

Commented [SW3]: New paragraph

13.55 With the Executive Director, Children's Services, acquire, dispose of and make all other decisions in relation to investments held in Trust on behalf of children in the Council's care.

**Note:** (a) Delegation 13.3 and 13.17.2 onwards may be exercised by the Head of Finance on

behalf of the Executive Director, Resources and Transformation. In the absence of the Executive Director, Resources and Transformation, the Head of Finance will act as the designated Section 151 Officer Chief Financial Officer and may exercise all of the delegations as set out above and specifically 13.17.

~~(b) Except where otherwise stated Systems Leader(s) (Money Home Job) may exercise the above powers and also duly delegate these powers to other officers:~~ (b) The Systems Leader(s) (Money Home Job) may exercise delegations 13.1, 13.5, 13.6, 13.7, 13.9, 13.11 to 13.14, 13.22, 13.26, 13.27, 13.33, 13.35, 13.36, 13.42, and 13.45 (a), and also duly delegate these powers to other officers, in consultation with the Executive Director, Resources and Transformation.

(c) After consultation with the Head of Paid Service and the Monitoring Officer, the Executive Director, Resources and Transformation is duly authorised to add to this list.

(d) \* The Executive Director, Economy and Environment also has these delegations

**14. Executive Director, Children's Services**

The holder of the post of Executive Director Children's Services is appointed as the Council's statutory Director of Children's Services under Section 18 of the Children Act 2004. Accordingly, he/she has the responsibility for all the relevant functions of the statutory Director under that Act and all other relevant legislation.

**A. EDUCATION SERVICES**

In accordance with constitutional arrangements, the financial rules, contract rules and within guidelines and policies determined by the Council and the Cabinet to have the power and to take the necessary and appropriate action in respect of the following:

**General**

- 14.1 Exercise the Council's functions in its capacity as Education Authority including further and higher education matters save for those excluded by Section 18 (3) of the Children Act 2004.

- 14.2 Ensure that there are sufficient primary and secondary school places in the borough.
- 14.3 Exercise the Council's functions in relation to early years development and provision.
- 14.4 Exercise of the powers of the Education Authority in relation to admissions and exclusion procedures.
- 14.5 Deal with administrative matters arising from the management of the Education Service which includes all matters relating to admission to maintained and controlled schools in the borough.
- 14.6 Take necessary action to ensure measures are in place to promote good attendance.
- 14.7 Exercise the power of the Education Authority in respect of School Attendance Orders and Education Supervision Orders including making arrangements to identify those children not receiving education.
- 14.8 In consultation with the Head of Legal and Democratic Services to authorise proceedings in respect of irregular or non attendance at school.
- 14.9 Power to secure the admission of a child who has been twice excluded to a particular school having first obtained an indication of parental preference for at least three schools and having taken into account any representations made by the Head Teachers of those schools.
- 14.10 Service and enforcement of notices under the relevant Education Acts.
- 14.11 Service of notices requiring parents to satisfy the authority that their child is receiving sufficient full-time education.
- 14.12 Provision of education to individual pupils "otherwise than in school".
- 14.13 Determination of the dates of school terms and holidays in the borough.
- 14.14 Acceptance of grants, loans, bursaries, discretionary awards in respect of students and pupil support which comply with statutory requirements and approved Council policies.
- 14.15 Exercise the power of the Education Authority under relevant byelaws regulating the employment of children and prohibiting street trading by young persons.
- 14.16 In exceptional circumstances and in consultation with the school, to take decisions to ensure the appropriate provision of education for pupils which may involve, where risks of disruption area unacceptable, the closure of school buildings for a temporary period.

- 14.17 Approval of grants and awards for Home to School transport which comply with statutory requirements and approved Council policies.

#### **School support services**

- 14.18 All the Council's functions in relation to the employment of teachers and other school staff based staff including appointment, termination of appointment and reimbursement of expenses properly incurred.
- 14.19 Subject to the rights of the governors of a school, the appointment of teachers and other school staff and determine applications for early retirement and decide on redundancies in consultation with the Assistant Director - Head of Human Resources and Section 151 Officer - Chief Finance Officer where applicable.
- 14.20 Arrange the secondment and transfer of staff with the approval of the governors of the schools concerned.
- 14.21 Determine applications for teachers and head teachers for early retirement in consultation with the Section 151 Officer - Chief Finance Officer and Head of Assistant Director - Human Resources.
- 14.22 Appoint and remove Education Authority representative school governors.
- 14.23 Implement a scheme for assessing the eligibility of applicants for free school meals.

#### **Special Educational Needs**

- 14.24 Arrangements for determining whether a child is in need of Special Education:
- 14.25 Assessing for and where required, completing an Education, Health and Care Plan.
- 14.26 Arrangements to implement special educational provisions specified in the Education, Health and Care Plan.
- 14.27 Determination of arrangements for the placement of pupils in schools, special schools, or for education other than at a school.
- 14.28 In respect of schools where the Council is the admission authority, the power (so far as is permissible) to determine applications outside agreed admission arrangements where those children have exceptional medical needs.
- 14.29 Making of payments by way of recoupment where mandatory.

### **School improvement**

14.30 Arrangements for monitoring school improvement.

14.31 Arrangements for receiving Ofsted reports.

### **School land and buildings**

14.32 Take all appropriate steps to achieve the effective use of school land and buildings.

14.33 Seek planning permission in respect of future proposed development for education and community purposes.

14.34 Agree the Council's liability in relation to capital works at voluntary aided schools where these cannot be accommodated within the Council's Capital Programme in consultation with the [Section 151 Officer](#) ~~Chief Finance Officer~~.

14.35 Deal with all matters relating to security in education premises including the power to exercise the powers contained in Section 547 of the Education Act 1996 (nuisance and disturbance on educational premises).

14.36 Approve the repair and maintenance of buildings under control of the directorate within approved budgetary limits, and where relevant in accordance with Financial and Contract Rules.

### **School's contracts**

14.37 Authorise the Head of Legal and Democratic Services to complete licences for educational material, goods and services, subject to compliance with the Financial and Contract Rules and the costs falling within existing budget provisions.

14.38 Authorise the Head of Legal and Democratic Services to complete tenancy agreements in respect of/and licences to occupy schools, and caretaker accommodation. The terms of such agreements and licences to be agreed by the Executive Director, Children's Services in consultation with the Head of Legal and Democratic Services.

### **Academies**

14.39 Authorise the Head of Legal and Democratic Services to complete Commercial Transfer Agreements, leases and other associated documents required to comply with an Academy Order made pursuant to the Academies Act 2010 in respect of schools maintained by the Council. The terms of such agreements, leases or other document to be agreed by the Executive Director, Children's Services in consultation with the Head of Legal and Democratic Services.



## **B. CHILDREN'S SERVICES**

In accordance with the constitutional arrangement, Financial Rules, Contract Rules and within guidelines and policies determined by the Council and the Cabinet together with statutory requirements, the relevant Codes of Practice, National Care Standards to exercise all relevant children social services functions as conferred by all relevant legislation, and in the interests of safeguarding and promoting the welfare of children and young people, to have the power and to take the necessary and appropriate action in respect of the following:

### **General**

- 14.40 Exercise functions under the Children Act 2004, Section 18(2).
- 14.41 Establish and develop a Walsall Safeguarding Children's Board.
- 14.42 Ensure there are in place complaint procedures which meet the local and statutory requirements including publication of the said procedures.
- 14.43 Ensure that all directorate establishments are conducted at all times in a manner considered consistent with their statements of purpose adding compliance with the relevant regulations and national standards.
- 14.44 Provide access to an interpretation service where necessary.
- 14.45 With the ~~Section 151 Officer Chief Finance Officer~~ to acquire, dispose of and make all other decisions in relation to investments held in Trust on behalf of children in the Council's care.

### **Adoption, Fostering, Protection**

- 14.46 Maintain an adoption service in accordance with legislation and national standards.
- 14.47 Maintain a fostering service in accordance with legislation and national standards.
- 14.48 Ensure there are available sufficient staff to meet the directorate duties under the Mental Health Act 1983 and Mental Health Act 2007
- 14.49 Ensure there is access to sufficient resources for the accommodation of young people who are subject of secure remands under the Children and Young Person's Act 1969 and Youth Detention Accommodation under the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- 14.50 Maintain safe recruitment and employment practices and ensure that reference is made to the Disclosure and Barring Service and the Health and Care Professions Council when necessary.

- 14.51 Ensure that the education and health of looked after children are monitored and responded to as necessary.
- 14.52 Ensure arrangements are in place with regard to Children with Child Protection plans so that:
- A record on a child who has a child protection plan is kept up to date
  - to allow agencies and professionals, when appropriate, to be aware that these children are the subject of a child protection plan and ensuring enquiries about children about whom there are concerns or who have child protection plans are recorded
- 14.53 Ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 14.54 Keep a record of all children placed by any local authority within the directorates area and of all children placed by the directorate outside of the local authority area.
- 14.55 Appeal against Ofsted decisions to cancel registration, vary or remove a condition of registration, or add a new condition of registration in respect of the directorate.
- 14.56 Exercise parental responsibility for all children in the care of the directorate.
- 14.57 Provide support for asylum seekers with children who are destitute or who are likely to become destitute and for whom support is not available elsewhere.
- 14.58 Authority to assess the contributions to be made by recipients of service or the parents of children and young people where appropriate in accordance with laid down scales or procedures.
- 14.59 Discretion to vary charges in cases where there are special circumstances, hardship etc.
- 14.60 Authority to make ex-gratia payments in appropriate circumstances to non staff up to the value of £500 per instance.
- 14.61 Authority to provide assistance under Section 17(6) of the Children Acts 1989.
- 14.62 The day to day reception and placement in appropriate accommodation of any child brought to the attention of the Council as being in need of accommodation or committed to the care of the Local Authority by the courts under the Children Act 1989 or the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

- 14.63 Authority to give support including financial assistance towards expense of maintenance, training or education of persons over 16 years of age in accordance with the Children (Leaving Care) Act, 2000.
- 14.64 Authority to authorise a placement of children subject to care orders, with their parents or other persons with parental responsibility in accordance with the Care Planning, Placement and Case Review Regulations 2010.
- 14.65 Authority to appoint supervising officers to children and young persons placed under the supervision of the local authority as a result of either criminal or care proceedings.
- 14.66 Authority to provide places for children and families in family centres and other day care provisions.
- 14.67 Authority to arrange regular visiting to ensure the welfare of any child, accommodated in a voluntary home by Social Services is adequately safeguarded and promoted in accordance with the duty under Section 62 of the Children Act 1989 or superceded legislation.
- 14.68 Consider and authorise the payment of approved adoption allowances, residential allowances and special guardianship allowances in accordance with the Adoption Allowance Regulations 1991 and any scheme approved by the Department of Work and Pensions in cases where the adoption panel has recommended such allowances, and the agency decision maker has confirmed the recommendations as an agency decision.
- 14.69 Authority to apply to the court for an order to place a child or young person in secure accommodation in accordance with Section 25 of the Children Act, 1989 and the accompanying Secure Accommodation Regulations, 1991.
- 14.70 Authority to appoint and pay the reasonable expenses of "independent" persons required to assist in the operation of the Authority's Representations Procedure established in accordance with the requirements of Section 26 (3) of The Children Act 1989 and the accompanying Representation Procedure (Children) Regulations, 1991.
- 14.71 Authority to appoint and pay the reasonable expenses of independent visitors, appointed under paragraph 17 of Schedule 2 of the Children Act, 1989, in accordance with Regulation 47, Care Planning, Placement and Case Review (England) Regulations 2010 and paragraphs 3.184 – 3.212, Children Act 1989 Regulations and Guidance Volume 2: Care Planning, Placement and Case Review 2010.

- 14.72 Authority to authorise a payment of legal costs and fees in connection with an adoption application and special guardianship application in respect of children in the care of the local authority where the Adoption Panel has recommended that the adoption is in the child's best interest, and the agency decision maker has confirmed this.
- 14.73 Authority to authorise the payments of the prospective adopters or applicants for special guardianship orders, legal costs and fees in connection with making an application for such orders, in those cases where either the natural parents oppose the applications, or where there are other circumstances which make it advisable for the applicants to be legally represented, where the adoption panel has recommended such payments and the agency decision maker has confirmed this as an agency decision.
- 14.74 Authority to authorise payment for any additional medical reports in connection with an adoption application or special guardianship application with the exception of the normal medical reports of the child to be adopted, (which are payable by the Council).
- 14.75 Authority to authorise the use of the adoption agencies to secure the appropriate placement for the adoption of individual children with special needs where a suitable prospective adopter is not currently on the Council's Adoption Agency List of approved adopters, and to approve the amount of the inter-agency fee which may be payable in the appropriate case, where the Agency Decision Maker has confirmed this as an agency decision.
- 14.76 Authority to negotiate on the authority's behalf inter-agency agreements including inter-agency fees which fall within nationally and locally agreed guidelines.
- 14.77 Authority to agree the legal costs in relation to an application by a relative or foster carer for a Special Guardianship or Child Arrangement Order to promote the welfare of a child.
- 14.78 Waive the Contract Rules on grounds of urgency in order to meet the assessed need of any child or young person and to enter into contracts with a provider where such placement of a child or young person is necessary and there is no available and/or suitable contracted provider.
- 14.79 In relation to the Regional Adoption Agency:
- (i) Authorising Regional Adoption Agency appointments as appointments to an external body; and
  - (ii) To act as the Councils representative taking any and all necessary (shareholder) decisions required.

### **Children with disabilities**

- 14.80 Administration of services for the welfare of children and young people with disabilities and their carers in accordance with all relevant legislation.
- 14.81 Identify “children in need” in the borough and provide assessments of their needs.
- 14.82 Maintain a register of children and young people with disabilities.
- 14.83 Provide services for children and young people with disabilities which minimise the effect of their disabilities and gives them the opportunity to lead lives as normal as possible.
- 14.84 Provision for children and young people with disabilities living with their families the following:
- (a) Advice, guidance and counselling;
  - (b) Occupational, social, cultural or recreational activities;
  - (c) Home help (which may include laundry facilities);
  - (d) Facilities for or assistance with travel to and from home, to take advantage of services;
  - (e) Assistance to enable child and family to have a holiday.
- 14.85 Provision of a family information service.
- 14.86 Provision of a range of short breaks services to give families with children and young people with disabilities the choice to access short breaks services using a direct payment.
- 14.87 Publication of a statement of the Council's short breaks services on their website.

### **Services for young people**

- 14.88 Encourage, enable or assist young people's participation in education or training and make arrangements to ensure that 15 and 17 year olds have received an offer of a suitable place in post-16 education or training and that they are assisted to take up the place.
- 14.89 To involve young people in the development of a locally agreed and sufficient ‘youth offer’.
- 14.90 Manage the various functions of the Council with regard to the Youth Justice Service and acting in co-operation with partner agencies (who are under a duty to co-operate with the local authority), establish for their area one or more youth offending teams (YOT).

### **Youth justice services**

- 14.91 Under the Crime and Disorder Act 1998 to establish a youth offending team (locally called the Youth Justice Service) in co-operation with statutory partner agencies.
- 14.92 To establish a management board for the Youth Justice Service in co-operation with statutory partners.
- 14.93 The provision of an annual youth justice plan.
- 14.94 Maintain a youth justice service in accordance with legislation and national standards.
- 14.95 Ensure there are available sufficient staff to meet the requirements under the Crime and Disorder Act 1998, Police and Criminal Evidence Act 1984, the Criminal Justice and Immigration Act 2008, the Powers of Criminal Courts (sentencing Act) 2003, the Bail Act 1976 and the Legal Aid and Sentencing Offenders Act 2012.
- 14.96 To co-operate with Multi-Agency Public Protection Arrangements under Section 325 Criminal Justice Act to assess and manage the risk posed by sexual and violent young offenders.
- 14.97 To prevent and reduce offending within Walsall by Children and Young People (Crime and Disorder) Act 1998.
- 14.98 A range of responsibilities in relation to the operational duties of the Youth Justice Service including assessing young offenders, preparation of pre sentence reports, being the “responsible officer” on a variety of Court imposed orders which involves monitoring of compliance and delivery of Court Order Interventions, instigating breach action and revocation (covered by a range of legislation).
- 14.99 A range of responsibilities in relation to the operational duties of the Youth Justice Service including assessing young people subject to our Court disposals including assessment and interventions to prevent and reduce offending.
- 14.100 A range of responsibilities in relation to the operational duties of the Youth Justice Service including ensuring young people have the right to bail and the provision and oversight of bail support services.
- 14.101 To advise the Court in imposing Parenting Orders and managing and supervising Parenting Orders imposed in line with expected national standards and procedures.

- 14.102 The provision of appropriate adult services and the transfer of young people to a place of safety under PACE.
- 14.103 To ensure the range of youth justice services listed are available in the local authority area and to communicate the same to the Courts, including bail support, local authority accommodation for remanded young people, provision of reports and other information to the courts. The placement and management of children and young people subject to a remands to local authority accommodation and remands secure accommodation. The provision of services to young people subject to a remand to youth detention accommodation.
- 14.104 A range of responsibilities for the Youth Justice Service to provide services to victims of young offenders under the Code of Practice for Victims of Crime (under the Domestic Violence, Crime and Victims Act 2004).
- 14.105 Compliance with the statutory guidance detailing roles and responsibilities under the Referrals Orders and Youth Offenders Panels Guidance, including the recruitment, training and management of volunteer panel member and the provision and management of panels to oversee Referral Orders.
- 14.106 The provision of requirements for the Youth Rehabilitation Order under the Criminal Justice and Immigration Act 2008.
- 14.107 A range of responsibilities for the Youth Justice Services to provide services to young people sentenced to custody (under a range of legislation), including liaison with the Secretary of State regarding early release of offenders, assessment for electronic monitoring upon release and assessment, management and breach of responsibilities once returned to the community.
- 14.108 Undertake assessments of dangerousness when required to do so (for Court or parole boards).

#### **Children's' Centres**

- 14.109 To make sufficient provision of children's centres, so far as reasonably practicable, to meet local need and ensure that a network of children's centres is accessible to all families with young children in their area.
- 14.110 To make sufficient provision of childcare and early education places for two, three and four year olds until the child reaches compulsory school age (the beginning of the term following their fifth birthday).
- 14.111 To provide sufficient child care to enable parents to undertake work, education or training, or continue with the same.

## **Miscellaneous**

14.112 To take action under the statutory provisions (as amended from time to time) as listed below, following the provision of relevant legal advice, and other relevant social care health legislation, in so far as they are relevant to children, young people and families:

### **Children**

1. Children and Young Persons Act 1933
2. Children and Young Persons Act 1969
3. Local Authorities Social Services Act 1970
4. Children Act 1989
5. Protection of Children Act 1999
6. Children (Leaving Care) Act 2000
7. Adoption and Children Act 2002
8. Care Standards Act 2000
9. Child Trust Funds Act 2004
10. Children Act 2004
11. Children and Adoption Act 2006
12. Private Fostering Regulations 2005
13. Care Planning, Placement and Case Review (England) Regulations 2010
14. Special Guardianship Regulations 2005
15. Working together to safeguard children: a guide to inter-agency working to safeguard and promote the welfare of children (Statutory Guidance) 2010
16. Safeguarding Vulnerable Groups Act 2006
17. The Fostering Services Regulations 2011
18. Placement with Parents Regulations 2011

### **Criminal**

19. Bail Act 1976
20. Police and Criminal Evidence Act 1984
21. Crime and Disorder Act 1989
22. Immigration and Asylum Act 1999, part 6
23. Powers of Criminal Court (sentencing) Act 2000
24. Nationality, Immigration and Asylum Act 2002
25. Criminal Justice Act 2003
26. Criminal Justice and Immigration Act 2008
27. Legal Aid, Sentencing and Punishment of Offenders Act 2012
28. Anti Social Behaviour Act 2003
29. Criminal Justice and Court Services Act 2000
30. Courts Act 2003
31. The Offender Management Act 2007
32. Road Traffic Act 1988
33. Firearms Act 1988
34. Sexual Offences Act 2003
35. Theft Act 1968
36. Crime Sentences Act 2000
37. Secure Accommodation Regulations 1991 and the Children (Secure Accommodation) (Amendment) Regulations 2012
38. Domestic Violence, Crime and Victims Act 2004



|                             |  |
|-----------------------------|--|
| <b>Mental health</b>        | 39. Mental Health Act 1983<br>40. Mental Health Act 2007<br>41. Mental Capacity Act 2005   |
| <b>Disability</b>           | 42. Chronically sick and disabled persons Act 1970<br>43. Disabled Persons (Services Consultation and Representation) Act 1986<br>44. Carers and Disabled Children Act 2000<br>45. Disability Discrimination Act 1995 and 2005   |
| <b>Health and wellbeing</b> | 46. Public Health (Control of Disease) Act 1984<br>47. Health Act 1999<br>48. Child Poverty Act 2010<br>49. Childcare Act 2006<br>50. Equality Act 2010<br>51. Representation of the People Act 2000<br>52. National Health Service (NHS) Act 2006 (eg: Section 75)  |
| <b>Education</b>            | 53. Education Act 1996<br>54. Education Act 2002<br>55. School Standards and Framework Act 1998<br>56. Apprenticeships Skills Children and Learning Act 2009<br>57. Education and Inspections Act 2006<br>58. Education and Skills Act 2008<br>59. Academies Act 2010<br>60. School Staffing (England) Regulations 2009<br>61. Teachers' Pensions Regulations 2010 Regulation 3<br>62. Teaching and Higher Education Act 1998<br>63. The Early Years Foundation Stage Order 2007<br>64. The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001<br>65. The Information as to Provision of Education (England) Regulation 2008 No.4<br>66. The Education (Induction Arrangements for School Teachers (England) Regulations 2008<br>67. The Education School Information (England) Regulations 2008<br>68. Education Act 2011<br>69. Learning and Skills Act 2000 |

14.113 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

## **15. Executive Director, Adult Social Care**

The holder of the post of Executive Director, Adult Social Care shall act as the Council's statutory Director of Adult Social Services in accordance with Section 6 of the Local Authority Social Services Act 1970. The Director shall be responsible for the overall strategic management and direction of Social Care and Inclusion across the Council, exercising the functions under Section 18 (3) of the Children Act 2004 in relation to adult education, and, without prejudice to the foregoing, shall have power, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's Financial and Contract Rules to:

- 15.1 Exercise the Council's functions in respect of all routine adult social services functions that are not specifically delegated to any relevant Cabinet member, the Cabinet or any Cabinet Committee, including assessing local needs and assuring availability of a full range of adult social services;
- Provide professional leadership including workforce planning
  - Leading the implementation of standards
  - Managing cultural change
  - Responding to formal and informal consultations
  - Promote local access and ownership
  - Partnership working across all agencies
  - Deliver an integrated whole systems approach to supporting communities
  - Promote social inclusion and wellbeing
  - Improving preventative services and delivering early intervention
  - Independent advice and advocacy
  - Any functions exercisable by the authority under Section 75 National Health Service Act 2006 on behalf of NHS body to include making arrangements for any services provided.
- 15.2 Prepare, in line with the approved strategy agreed by the Council, the Cabinet, relevant Cabinet member, the adult social care and health service delivery programme together with authority to incur expenditure with the said programme in accordance with the Council's Financial and Contract Rules.
- 15.3 Where a scheme, service plan or a defined programme has been approved by the Cabinet, relevant Cabinet member, appropriate committee, including any amendments following consultations, and the relevant budget has been secured, prepare relevant contract documents, serve any statutory notices, invite and accept tenders, appoint successful tenderers and deliver appropriate services to service users.

- 15.4 Ensure that information about the directorates services provided under legislation is available to the public and avoid lawful discrimination, promote equality of opportunity and good relations between persons of different racial groups.
- 15.5 Ensure that there are in place, complaints procedures which meet the legislative requirements including publicising the said procedures.
- 15.6 Ensure that there is in place an efficient process for assessment and care management for current and potential service users and carers based on local need.
- 15.7 Ensure that all directorate establishments are conducted at all times in the manner consistent with their statements of purpose and in compliance with the relevant regulations and national standards.
- 15.8 Ensure there are available sufficient staff to meet the directorates duties under the Mental Health Act 1983 and Mental Health Act 2007.
- 15.9 Ensure that we assess, plan and commission adult social care and wellbeing services to meet all needs within the borough and that these are reviewed in accordance with legislative requirements and mandatory guidance.
- 15.10 Provide an interpretation service where necessary.
- 15.11 Appeal to the Tribunal against Care Quality Commission inspection decisions to cancel registrations; or add a new condition of registration of a directorate establishment.
- 15.12 Ensure the carrying out of duties required by Court Orders.
- 15.13 Present reports to Courts and Tribunals where required. This to include the authority to take decisions, serve notices, requirements or orders, make applications, exercise power of entry, provide reports and institute or defend any proceedings before magistrate, court or other tribunal on behalf of the Council in discharge of the Council's adult social care functions arising under any law or act.
- 15.14 After consultation with the Head of Legal and Democratic Services, make any application to the courts as appropriate.
- 15.15 Provide support for asylum seekers and their dependents who are destitute or likely to become destitute and for them support not available elsewhere.
- 15.16 Establish and maintain a scheme for providing Individual Budgets including direct payments instead of services as set out in legislation and both mandatory and good practice guidance from the Department of Health and other government departments.

- 15.17 Authority to admit to residential accommodation and temporary accommodation, either provided by the Council, by other authorities, voluntary organisations, or privately registered homes, persons who are in need of care and attention.
- 15.18 Authority to admit persons with mental ill health, physical disabilities or learning difficulties to day centres or workshops provided for them.
- 15.19 Authority to arrange the burial or cremation of persons to whom Section 50 of the National Assistance Act 1948 applies, and make whatever recoveries that are possible towards the cost.
- 15.20 Authority to enter into contractual arrangements for residential and nursing homes for the provision of residential and nursing care within available resources (National Health Service and Community Care Act, 1990).
- 15.21 Authority to negotiate and agree fee levels with independent sector providers, having regard to the assessed needs of the clients, the services to be provided, and the availability of resources (National Health Services and Community Act 1990 and Health and Social Care Act 2012 and Care Act 2014).
- 15.22 Authority to waive Financial and Contract Rules in relation to seeking quotations and tenders for certain community care services.
- 15.23 Exercise any health related functions exercised on behalf of any National Health Service body under section 75 of the National Health Service Act 2006 or successor Acts.
- 15.24 Authority to enter into contractual arrangements with day care providers for the provision of day care within existing resources under the National Health Services and Community Care Acts, 1990 and the Health Act 1999.
- 15.25 Authority under the National Health Service and Community Care Act, 1990 and National Assistance Act 1948, to provide services for people in their own homes, eg domiciliary services.
- 15.26 Authority to approve applications for concessionary travel passes for people with learning disabilities and those who are mentally ill.
- 15.27 Authority to approve interest free loans not exceeding £30,000 in accordance with guidelines as approved by the Council's Executive.

- 15.28 To establish residential and non residential charging schemes following Care Act guidance, including discretion to vary charges in cases where there are special circumstances, hardship etc. The discretion to vary charges including the provision to write off debt where it is felt that an individual would be at risk if the debt was pursued or they chose to withdraw from care on financial grounds. A written record of all decisions should be made.
- 15.29 Authority to make ex-gratia payments in appropriate circumstances to non-staff up to the value of £500 per instance.
- 15.30 Authority to consider and determine applications for loans or grants for aids and adaptations to the homes of people with disabilities below £50,000 in value.
- 15.31 Making arrangements for ensuring that functions are discharged having regard to the need to safeguard and promote the needs of vulnerable adults including the requirement for a statutory Adults Safeguarding Board.
- 15.32 To manage peoples affairs as appointee and guardian for individuals who lack capacity.
- 15.33 Take action under the statutory provisions listed below, (as amended from time to time) and other relevant social care and health legislation, in so far as they are relevant to adult's and communities:-
- (1) National Assistance Act 1948, Part 3;
  - (2) Health Services and Public Health Act 1968;
  - (3) Local Authorities Social Services Act 1970 (Schedule 1);
  - (4) Chronically Sick and Disabled Persons Act 1970;
  - (5) National Health Service Act 1977;
  - (6) Mental Health Act 1983;
  - (7) Health and Social Services and Social Security Adjudications Act 1983;
  - (8) Police and Criminal Evidence Act 1984;
  - (9) Public Health (Control of Disease) Act 1984;
  - (10) Housing Act 1985;
  - (11) Disabled Persons (Services Consultation and Representation) Act 1986;
  - (12) National Health Service and Community Care Act 1990;
  - (13) Further and Higher Education Act 1992;
  - (14) Carers (Recognition and Services) Act 1995;
  - (15) Education Act 1996;
  - (16) Teaching and Higher Education Act 1998;
  - (17) Crime and Disorder Act 1998;
  - (18) Health Act 1999;
  - (19) Immigration and Asylum Act 1999, Part 6;
  - (20) Protection of Children Act 1999;
  - (21) Care Standards Act 2000;

- (22) Learning and Skills Act 2000;
- (23) Health and Social Care Act 2001;
- (24) Community Care (Delayed Discharges) Act 2003;
- (25) Nationality, Immigration and Asylum Act 2002;
- (26) Carers (Equal Opportunities) Act 2004;
- (27) Mental Capacity Act 2005 including deprivation of liberty safeguards;
- (28) Disabilities and Discrimination Act 2005;
- (29) Mental Health Act 2007;
- (30) Care Act 2014;
- (31) Children and Families Act 2014 (relevant adult sections).

15.34 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

15.35 Authority to waive the fee for Disabled Person's Parking Badge (Blue Badge) in exceptional circumstances.

## **16. Executive Director, Economy and Environment**

The Executive Director, Economy and Environment shall be responsible for the day to day management of Economy and Environment and, without prejudice, to the following, shall have power, subject to compliance with the constitutional arrangements, relevant Financial and Contract Rules relating to contracts and any relevant provisions of the Councils Financial and Contract Rules to:

- 16.1 Invite, accept and appoint in accordance with Financial and Contract Rules, consultants and contractors for a specified period for the development and execution of approved projects.\*
- 16.2 Power to act on behalf of the council to co-operate with and respond to other planning authorities and other bodies or persons in respect of strategic planning and/or cross-boundary matters, including the making of development plans and consultations on planning applications and proposals, including infrastructure proposals. This is in accordance with the Duty to Co-operate under the Localism Act 2011, and with the Town and Country Planning Act 1990 as amended, the Planning and Compulsory Purchase Act 2004 as amended, and the Planning Act 2008 as amended, and in accordance with any related secondary legislation. The exercise of the delegation is subject to the proviso that the consultation and/or response on behalf of the Council is in accordance with Walsall's adopted development plan, and that it does not require: costs (other than staff costs or other costs of under £500) being incurred by the Council; and/or the Council to participate in a planning inquiry or examination.

- 16.3 In connection with any plan, policy or programme subject to the environmental assessment of plans and programmes regulations 2004, to issue a screening opinion to determine whether a strategic environmental assessment is required and to undertake a scoping exercise.
- 16.4 In connection with any plan, policy, programme or proposal subject to the Conservation of Habitats and Species Regulations 2010, to determine whether or not an assessment is required and the appropriate level of that assessment.
- 16.5 Invite, accept and appoint term consultants and contractors, for a specified period for the development and execution of approved design and/or strategic projects/programmes (including major projects) for the Regeneration Transportation Capital Programme and for the analyses and advice to support the making of planning policy and planning decisions, including the representation of the Council at public inquiries and examinations.
- 16.6 Subject to there having been due compliance with relevant Financial and Contract Rules, performance criteria and the relevant client department being satisfied that value for money is likely to be obtained, allocate construction projects to contractors/consultants, who have been appointed within a strategic partnering agreement, to develop, design and/or target cost subject to any Cabinet approval of the final scheme, target cost and programme where required.
- 16.7 Negotiate target costs, tender variations, fees and settlement of final accounts to provide the economically most advantageous/settlement to the Council in accordance with Financial and Contract Rules subject to any Cabinet approval to the outcome where required.
- 16.8 (a) To make, facilitate and co-ordinate external grant/funding submissions and to accept offers of support for regeneration or similar schemes, delivering the associated implementation, and monitoring and reporting of expenditure performance and output;
- (b) To enter into required agreements/contracts with partners/organisations to facilitate/affect the delivery of grant/funding submission as detailed above, and where applicable in accordance with the Financial and Contract Rules.
- 16.9 To serve notices of seeking possessions and taking other legal action in respect of tenants (including introductory tenants) who are in arrears of rent or in other breach of their tenancy conditions. \*
- 16.10 To instruct the Head of Legal and Democratic Services to take summary proceedings for the recovery of Council owned properties that are occupied by a person or persons who entered, or remain in occupation without the Council's licence or consent. \*

16.11 Approve, in conjunction with the ~~Section 151 Officer Chief Finance Officer~~, submissions by

registered social landlords for rehabilitation work, to approve mortgage terms and to make the relevant applications for grants.\*

16.12 (a) To give effect to the requirements of the Planning and Compulsory Purchase Act 2004 as amended and any related secondary legislation to prepare and publish Monitoring Reports on the progress of development planning and the extent to which planning policies are being achieved.

(b) To operate the Community Infrastructure Levy, under the Planning Act 2008 as amended and in accordance with any related secondary legislation, as approved by Council, including in respect of any contracting out of functions and receipts or expenditure relating to areas or infrastructure within or outside the borough.

16.13 Instruct the Head of Legal and Democratic Services to initiate proceedings for contraventions of any of the Acts relevant to the delivery of the Economy and Environment.

16.14 Except where otherwise stated, the holders of the following posts within Economy and Environment may exercise the above powers as delegated by the Director of Economy and Environment, the Head of Paid Service or the Monitoring Officer.

Director of Public Health  
Head of Planning, Engineering and Transportation  
Head of Regeneration and Development  
Head of Leisure, Culture and Operations  
Head of Clean and Green  
Head of Programme Management

Note: (a) After consultation with the Head of Paid Service and the Monitoring Officer, the Executive Director, Economy and Environment is duly authorised to add to this list.

(b) \*The Executive Director, Resources and Transformation also has these delegations.

16.15 Authority to vary fees and charges within the area of responsibility not fixed by statute.

## **17. Director of Public Health**

To be responsible for the day to day management of the Public Health and Regulatory Services function and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant



provisions of the Council's financial and contract rules have authority to exercise the following powers and functions:

- 17.1 To exercise the Council's functions under Section 2B; 111; 249 or Schedule 1 of the National Health Service Act 2006, as amended and Section 73(A)(1) of the National Health Service Act 2006, where applicable.
- 17.2 To exercise the Council's functions by virtue of Section 6C (1) or (3) of the National Health Service Act 2006, as amended.
- 17.3 To exercise the Council's functions in pursuance of arrangements under Section 7A of the National Health Service Act 2006, as amended.
- 17.4 To exercise any of the functions of the authority that relate to planning for, or responding to emergencies, involving a risk to public health as may be prescribed.
- 17.5 To exercise the functions of the authority under Section 325 of the Criminal Justice Act 2003.
- 17.6 To be responsible for the local authority's health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.
- 17.7 To authorise the institution of legal proceedings in respect of the enforcement of all legislation set out below having due regard to any current national enforcement guidance and Council policy.
- 17.8 To authorise action: The institution of legal proceedings, the serving of notices, ~~using~~ issuing of licences, permits and authorisations, approval of registrations prior consents and grants, authorisation of works in default, acceptance of statutory notifications, and to take any other action including the power to apply for warrants, suspend licences and to seize and detain goods and documents.
- 17.9 To be authorised to enter into agreements or protocols with, or delegate functions of the Council/service to other local authorities pursuant to any enabling legislation (such as the Local Government (Discharge of Functions) Regulations 2000, Local Government Act 2000, Local Government Act 1972) and that the agreement, protocols or delegation can include the power to defend or institute proceedings by that local authority within the Walsall area for any matters.
- 17.10 To exercise all the powers and responsibilities of the Council including but not limited to the serving of notices, the issuing of licences, permits and authorisations, approval of registrations, prior consents and grants, authorisation of works in default, acceptance of statutory notifications, and to take any action including the power to apply for warrants, suspend and revoke licences and to seize and detain goods and documents under the following legislation

[Abandonment of Animals Act 1960](#)  
[Accessories and Abettors Act 1861](#)  
[Accommodation Agencies Act 1953](#)  
[Administration of Justice Act 1970, 1973, 1977, 1982, 1985](#)  
[Agriculture \(Miscellaneous Provisions\) Act 1968](#)  
[Agriculture Act 1970](#)  
~~[Agriculture \(Miscellaneous Provisions\) Act 1968](#)~~  
[Animal Boarding Establishment Act 1963](#)  
[Animal By Products \(Enforcement\)\(England\) Regulations 2013 as amended by the The Animal By-Products \(Enforcement\) \(England\) \(Amendment\) Regulations 2015](#)  
[Animal Health Act 1981](#)  
[Animal Health Act 2002](#)  
[Animal Health and Welfare Act 1984](#)  
[Animals Act 1971](#)  
[Animal Welfare Act 2006](#)  
[The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#)  
[Anti-social Behaviour Act 2003](#)  
[Antisocial Behaviour Crime and Policing Act 2014](#)  
[Biofuel Labelling Regulations 2004, 2005 & 2009](#)  
[Bovine & Bovine Products \(Trade\) Regulations 1999](#)  
[Business Protection from Misleading Marketing Regulations 2008 as amended 2013](#)  
[Brucellosis \(England\) Order 2015](#)  
[Breeding of Dogs Act 1973 and 1993](#)  
[Breeding and Sale of Dogs \(Welfare\) Act, 1999](#)  
[Building Act, 1984](#)  
~~[Business Names Act](#)~~  
[Cattle Identification Regulations 1998, as amended 2006, 2007, 2013, 2015 and 2017](#)  
[Cattle \(Identification of Older Animals\) Regulations 2000](#)  
[Cancer Act 1939](#)  
[Cat & Dog Fur \(Control of Import, Export and Placing on the Market\) Regulations 2008 as amended 2009](#)  
~~[Celluloid and Cinematograph Film Act 1972](#)~~  
[Charities Act 1992, 1993, 2006](#)  
[Children & Families Act 2014](#)  
[Children and Young Persons Act 1933, 1963, 1969, 2008](#)  
[Children and Young Persons \(Protection from Tobacco\) Act 1991](#)  
[Christmas Day \(Trading\) Act 2004](#)  
[Chronically Sick and Disabled Persons Act 1970 as amended 1976](#)  
~~[Cinemas Act 1985](#)~~  
[Civil Contingencies Act 2004](#)  
[Civil Partnership Act 2004](#)  
[Climate Change Act 2008](#)  
[Clean Air Act 1993](#)  
[Clean Neighbourhoods and Environment Act 2005](#)  
[Communications Act 2003](#)  
[Companies Act 1985 & 2006](#)  
[Competition Act 1980](#)  
[Consumer Credit Act 1974 & 2006](#)

**Commented [NP4]:** Repealed by **Deregulation Act 2015**

**Commented [e5]:** Repealed by **Companies Act 2006**

**Commented [e6]:** Repealed by **The Health and Safety (Miscellaneous Repeals, Revocations and Amendments) Regulations 2013**

**Commented [e7]:** Repealed by **Licensing Act 2003**

[Consumer Protection Act 1987](#)  
[Consumer Rights Act 2015](#)  
[Construction Products Regulations 2013](#)  
[Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)  
[Control of Pollution Act 1974](#)  
[Control of Pollution Amendment Act 1989](#)  
[Control of Horses Act 2015](#)  
[Consumer Protection from Unfair Trading Regulations 2008](#)  
[The Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)  
[Copyright Designs and Patents Act 1988](#)  
[Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Regulation 1223/2009](#)  
[Courts and Legal Services Act 1990](#)  
[Criminal Attempts Act 1981](#)  
[Criminal Damage Act 1971](#)  
[Criminal Justice Act 1988 & 2003](#)  
[Criminal Justice and Courts Act 2015](#)  
[Criminal Justice and Immigration Act 2008](#)  
[Criminal Justice and Public Order Act, 1994](#)  
[Criminal Law Act 1977](#)  
[Crossbows Act 1987](#)  
[Customs and Excise Management Act 1979](#)  
[Dangerous Dogs Acts 1989 and 1991 as amended 1997](#)  
[Dangerous Wild Animals Act 1976](#)  
~~Dairy Products (Hygiene) Regulations 1995~~  
[Defective Premises Act, 1972](#)  
[Detergents Regulations 2010](#)  
[Development of Tourism Act 1969](#)  
[Disability Discrimination Act 1995](#)  
[Dogs Act 1871](#)  
[Dogs \(Fouling of Land\) Act 1996](#)  
[EC Fertilisers \(England and Wales\) Regulations 2006](#)  
[Education Reform Act 1988](#)  
~~Egg products Regulations 1993~~  
[Employment Agencies Act 1973](#)  
[Energy Act 1976, 1983, 2004, 2008, 2010, 2011, 2013](#)  
[Energy Conservation Act 1981 & 1996](#)  
[Energy Information Regulations 2011](#)  
[Energy Performance of Buildings \(England and Wales\) Regulations 2012](#)  
[Enterprise Act 2002](#)  
[Enterprise and Regulatory Reform Act 2013](#)  
[Environment Act 1995](#)  
[Environmental Protection Act 1990](#)  
[Equality Act 2010](#)  
[The Equine Identification \(England\) Regulations 2018](#)  
[Estate Agents Act 1979](#)  
[European Communities Act 1972](#)  
[Explosives Act 1875 & 1923](#)  
[Explosives Regulations 2014](#)

**Commented [e8]:** Repealed by **The Food Hygiene (England) Regulations 2005**

**Commented [e9]:** Repealed by **The Food Hygiene (England) Regulations 2005**

[Factories Act 1961 and 1998](#)  
[Fair Trading Act 1973](#)  
~~[Farm and Garden Chemicals Act 1967](#)~~  
[Financial Services Act 2012](#)  
[Financial Services and Markets Act 2000](#)  
[Financial Services \(Distance Marketing\) Regulations 2004](#)  
[Firearms Act 1968](#)  
[Fireworks Act 2003](#)  
[Fire Safety and Safety of Places of Sport Act 1987](#)  
[Fluorinated Greenhouse Gases Regulations 2015](#)  
[Food Act 1984](#)  
~~[Food and Drugs Act 1955 as amended by Slaughterhouse Act 1958](#)~~  
[Food and Environment Protection Act 1985](#)  
[Food Safety Act 1990](#)  
[Food Safety and Hygiene \(England\) Regulations 2013](#)  
~~[Food Safety \(General Food Hygiene\) Regulations 1995](#)~~  
~~[Food Premises \(Registrations\) Regulations 1994](#)~~  
[Food Information Regulations 2014](#)  
[Forgery and Counterfeiting Act 1981](#)  
[Fraud Act 2006](#)  
[Gambling Act 2005](#)  
[Game Act 1831](#)  
~~[Game Licensing Act 1860](#)~~  
[General Product Safety Regulations 2005](#)  
[Guard Dogs Act 1975](#)  
[Hallmarking Act 1973](#)  
[Health Act 2006](#)  
[Health and Safety at Work etc. Act 1974](#)  
[Health Protection \(Local Authority Powers\) Regulations 2010](#)  
[Health Protection \(Part 2A Orders\) Regulations 2010](#)  
[Highways Act 1980](#)  
[Home Energy Conservation Act, 1995](#)  
~~[Horse Passport Regulations 2009](#)~~  
[House to House Collections Act 1939](#)  
[Housing Act 2004](#)  
[Housing and Regeneration Act 2008](#)  
[Hypnotism Act 1952](#)  
[Immigration Act 2016](#)  
~~[Intoxicating Substances \(Supply\) Act 1973](#)~~  
[Knives Act 1997](#)  
[Land Compensation Act 1973](#)  
[Legal Services Act 2007](#)  
[Licensing Act 2003](#)  
[Litter Act 1983](#)  
[Local Government Acts, 1972, 1988 and 2000 and 2003](#)  
[Local Government and Housing Act, 1989](#)  
[Local Government \(Miscellaneous Provisions\) Acts 1976 and 1982](#)  
[Marriages Act 1949](#)

**Commented [e10]:** Repealed by **Deregulation Act 2015**

**Commented [e11]:** No record of these on [legislation.gov.uk](http://legislation.gov.uk)

**Commented [e12]:** Repealed by **The Food Hygiene (England) Regulations 2005**

**Commented [e13]:** Repealed by **The Food Hygiene (England) Regulations 2005**

**Commented [e14]:** Repealed by **The Regulatory Reform (Game) Order 2007**

**Commented [e15]:** Repealed by **The Equine Identification (England) Regulations 2018**

**Commented [e16]:** Repealed by **Psychoactive Substances Act 2016**

[Measuring Instruments Regulations 2016](#)  
~~[Meat Products \(Hygiene\) Regulations 1994](#)~~  
[Medicines Act 1968](#)  
~~[Minced Meat and Meat Preparation \(Hygiene\) Regulations 1995](#)~~  
[Mines and Quarries Act 1954](#)  
~~[Mock Auctions Act 1964](#)~~  
[Money Laundering Regulations 2007](#)  
[Motor Cycle Noise Act 1987](#)  
[Motor Vehicles \(Safety Equipment for Children\) Act 1991](#)  
[National Lottery etc Act 1993](#)  
[Noise and Statutory Nuisances Act 1993](#)  
[Noise Act 1996](#)  
[Non Automatic Weighing Instruments Regulations 2016](#)  
[Offensive Weapons Act 1996](#)  
[Offices, Shops and Railway Premises Act 1963](#)  
[Official Feed and Food Controls \(England\) Regulations 2009](#)  
[Olympic Symbols etc \(Protection\) Act 1995](#)  
[Osteopaths Act 1993](#)  
[Ozone Depleting Substances Regulations 2015](#)  
~~[Package Travel, Package Holidays and Package Tours Regulations 1992](#)~~  
[The Package Travel and Linked Travel Arrangements Regulations 2018](#)  
[Passenger Car \(Fuel Consumption and CO2 Emissions Information\) Regulations 2001 as amended 2004 and 2013](#)  
[Performing Animals \(Regulation\) Act 1925](#)  
[Pet Animals Act 1951 as amended 1983](#)  
[Pigs \(Records, Identification and Movement\) Order 2011 as amended 2018](#)  
[Poisons Act 1972](#)  
[Police, Factories \(Miscellaneous Provisions\) Act 1916](#)  
[Police and Criminal Evidence Act 1984](#)  
[Pollution Prevention and Control Act 1999](#)  
[Powers of Criminal Courts Act 1973](#)  
[Prevention of Damage by Pests Act 1949](#)  
[Prices Acts 1974](#)  
~~[Private Hire Vehicles \(Carriage of Guide Dogs etc\) Act 2002](#)~~  
[Proceeds of Crime Act 2002](#)  
~~[Products of Animal Origin \(Third Country Imports\) \(England\) Regulations 2006](#)~~  
~~[Property Misdescriptions Act 1991](#)~~  
[Protection of Children \(Tobacco\) Act 1986](#)  
[Protection from Harassment Act 1997](#)  
[Protection of Animals Act 1911](#)  
[Protection of Animals \(Amendment\) Acts 1954, 1988](#)  
[Protection of Birds Acts 1954 and 1967](#)  
~~[Protection Against Cruel Tethering Act 1988](#)~~  
[Psychoactive Substances Act 2016](#)  
[Public Health Acts 1875, 1936, 1961 and 1969](#)  
[Public Health \(Control of Diseases\) Act 1984](#)  
[Pyrotechnic Articles \(Safety\) Regulations 2015](#)  
[Rabies Control Order 1974](#)

**Commented [e17]:** Repealed by **The Food Hygiene (England) Regulations 2005**

**Commented [e18]:** Repealed by **The Food Hygiene (England) Regulations 2005**

**Commented [e19]:** Repealed by **The Consumer Protection from Unfair Trading Regulations 2008**

**Commented [e20]:** Repealed by **The Package Travel and Linked Travel Arrangements Regulations 2018**

**Commented [e21]:** Repealed by Statute Law (Repeals) Act 2004

**Commented [LB22]:** Amends the DDA 1995 which in turn was repealed by the Equality Act 2010

**Commented [e23]:** Repealed by **The Trade in Animals and Related Products Regulations 2011**

**Commented [e24]:** Repealed by **The Property Misdescriptions Act 1991 (Repeal) Order 2013**

**Commented [e25]:** Repealed by the **Animal Welfare Act 2006**

### Radio Equipment

The Radio Equipment Regulations 2017  
REACH Enforcement Regulations 2008 as amended 2013 & 2014  
Redress Schemes for Letting Agencies Work and Property  
Management Work (Requirement to Belong to a Scheme etc)  
(England) Order 2014  
Registered Designs Act 1949  
Regulatory Enforcement and Sanctions Act 2008  
Regulation of Investigatory Powers Act, 2000  
Regulatory Reform Act 2001Regulatory Reform (Fire Safety) Order  
2005  
The Regulatory Reform (Trading Stamps) Order 2005  
The Regulatory Reform (Game) Order 2007Refuse Disposal  
(Amenity) Act 1978  
Riding Establishments Acts 1964 and 1970  
Road Traffic Acts 1988 and 1991  
Road Traffic (Consequential Provisions) Act 1988  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Regulation Act 1984  
Safety of Sports Grounds Act 1975

**Commented [e26]:** Revoked by **The Radio Equipment Regulations 2017**

### Scotch Whisky Act 1988

The Scotch Whisky Regulations 2009  
Scrap Metal Dealers Act 2013  
Sheep and Goats (Records, Identification and Movement)(England)  
Order 2009 as amended 2014 and 2016  
Single Use Carrier Bags Charges (England) Order 2015  
Slaughter of Poultry Act 1967  
Solicitors Act 1974  
Standardised Packaging of Tobacco Products Regulations 2016  
Sunbeds (Regulation) Act 2010  
Sunday Trading Act 1994  
Tattooing of Minors Act 1969  
Telecommunications Act 1984  
Theft Acts 1968 and 1978

**Commented [e27]:** Repealed by **The Scotch Whisky Regulations 2009**

### Timeshare Act 1992

Timeshare, Holiday Products, Resale and Exchange Contracts  
Regulations 2010  
Tobacco Advertising and Promotion Act 2002  
Tobacco and Related Products Regulations 2016  
Town and Country Planning 1990  
Town and Country Planning (Listed Buildings and Conservation  
Areas) Regulations 1987  
Town Police Clauses Acts 1847 and 1889  
Toy Safety Regulations 2011  
Trade in Animals and Related Products Regulations 2011  
Trade Descriptions Act 1968  
Trade Marks Act 1994

**Commented [e28]:** Repealed by **Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010**

### Trading Representations (Disabled Persons) Acts 1958 and 1972

Trading Stamps Act 1964  
Transmissible Spongiform Encephalopathies (England) Regulations  
2018

**Commented [e29]:** Repealed by **The Consumer Protection from Unfair Trading Regulations 2008**

**Commented [e30]:** Repealed by **The Regulatory Reform (Trading Stamps) Order 2005**

**Commented [e31]:** Repealed by **The Transmissible Spongiform Encephalopathies (England) Regulations 2018**

[The Transmissible Spongiform Encephalopathies \(England\) Regulations 2018](#)  
[Unsolicited Goods and Services Acts 1971 as amended 1975](#)  
[Vehicle \(Crime\) Act 2001](#)  
[Veterinary Medicines Regulations 2013 as amended 2014](#)  
[Video Recordings Act 1984, 1993, 2010](#)  
[Violent Crime Reduction Act 2006](#)  
[Waste Minimisation Act 1998](#)  
[Water Act, 1945, 1973, 1989](#)  
[Water Industry Act 1991](#)  
[Welfare of Animals at Time of Killing \(England\) Regulations 2015](#)  
~~[West Midlands County Council Act 1980](#)~~  
[Weights and Measures Acts 1976 and 1985](#)  
[Weights and Measures \(Packaged Goods\) Regulations 2006](#)  
[Welfare of Animals at Slaughter Act 1991](#)  
[West Midlands County Council Act 1980](#)  
[Wildlife and Countryside Act 1981](#)  
[Zoo Licensing Act 1981](#)  
[Zoonoses \(Monitoring\)\(England\) Regulations 2007.](#)

**Commented [LB32]:** 1950 Act not on Legislation.gov.uk  
 1959 Act gives power to Ministers only  
 1981 Act not on Legislation.gov.uk

- 17.11 May authorise officers from other authorities and public agencies working on investigations or regional projects to exercise statutory powers within the borough from time to time.
- 17.12 May authorise members of staff employed in Public Health and Regulatory Services which comprises Community Protection, Environmental Health, Trading Standards and Licensing, and members of staff employed in other services where applicable, to act on behalf of the Council and to take action on behalf of the Council in enforcing and administering the legislation listed in 17.10, and any subordinate legislation, including but not limited to the serving of notices, the issuing of licences, permits and authorisations, approval of registrations, prior consents and grants, authorisation of works in default, acceptance of statutory notifications, and to take any action including the power to apply for warrants, suspend and revoke licences and to seize and detain goods and documents.
- 17.13 In the following circumstances, the decision to institute legal proceedings may be referred for the consideration of the Executive Director for Economy and Environment in consultation with the Head of Legal and Democratic Services
- (i) where the prosecution relates to a contentious/complex area of legislation and/or is likely to be considered as a "test case";
  - (ii) where significant costs are likely to be incurred in bringing the prosecution before the courts;
  - (iii) where the prosecution has serious national implications;
  - (iv) where the prosecution relates to a significant and/or sensitive local issue;

- (v) any other matter which in the opinion of the Regulatory Services Manager is of such a serious or sensitive nature that it would be inappropriate for him/her to act under delegated powers.

17.14 The Director of Public Health is authorised to appoint or recommend for appointment:

- The Chief Inspector of Weights and Measures
- The Deputy Chief Inspector of Weights and Measures
- An Inspector to institute legal proceedings in respect of the Health and Safety at Work etc. Act 1974
- Public Analyst for the purpose of Section 27 of the Food Safety Act 1990
- Lead Officer for food hygiene, food standards and imported food.

17.15 Enforcement of the Customs and Excise Management Act 1979 and the Tobacco Products Duty Act 1979 relating to fiscal marking of tobacco products.

17.16 The administration of the Safety of Sports Grounds Act, 1975, in relation to the issue of Safety Certificates.

17.17 Authority to take action in respect of prohibition notices under Section 10 of the Safety of Sports Grounds Act, 1975;

17.18 Authorisation of Directed Surveillance, Covert Human Intelligence Sources and Communications Data Access in accordance with the requirements of the Regulation of Investigatory Powers Act, 2000.

17.19 Authority to vary fees and charges within the area of responsibility not fixed by Statute.

17.20 Authority to determine and otherwise deal with the following matters, provided that controversial matters may be submitted to the Licensing and Safety Committee in accordance with that Committee's Scheme of Delegations:

- (a) Premises Licences, Club Premises Certificates and Temporary Event Notices
- (b) Personal Licences
- ~~(c) Stage Play Notices~~
- ~~(cd)~~ Issue of Private Hire and Hackney Carriage Driver Licences;
- ~~(de)~~ Issue of Base Operator Licences
- ~~(ef)~~ Private Hire and Hackney Carriage Vehicle Licences
- ~~(fg)~~ Scrap Metal Dealers Site Licence and Scrap Metal Dealers Collectors Licence;
- ~~(gh)~~ Premises Licence, Temporary Use Notices, Occasional Use Notices,
- ~~(hi)~~ Lottery Registrations under the Gambling Act 2005
- ~~(ji)~~ Gambling Act 2005 Gaming and Gaming machine permits
- ~~(jk)~~ Street Collection Permits and House to House collection Licences;
- ~~(kl)~~ Street Trading Licences and Consents;
- ~~(lm)~~ Sporting Event Licences;
- ~~(mn)~~ Certificates of Consent for all public exhibitions, demonstrations or

**Commented [e33]:** Covered by Licensing Act 2003 (a) ABOVE



- (ne) performances of hypnotism;
- (ne) Licence or Approval to hold civil marriage and civil partnership ceremonies on approved premises;
- (op) Licensing of Sex Establishments (including Sex Cinemas, Sex Shops and Sexual Entertainment venues);
- (pe) Use of the highway pursuant to s115E Highways Act 1980 (commonly referred to as Pavement Café Licences)

17.21 Authority to identify additional preferred locations for street entertainment after consultation with the local community and businesses,

17.22 With the approval of the Section 151 Officer ~~Chief Finance Officer~~ and/or Head of Legal and Democratic Services authority to take action to remove unauthorised campers under the provisions of the Criminal Justice and Public Order Acts 1994.

~~17.23 Authority to vary fees and charges within the area of responsibility not fixed by statute.~~

**Commented [NP34]:** Duplication of 17.19

17.234 To make administrative and minor variations and amendments to the Regulatory Services Enforcement Policy that do not substantially change the policy itself.

**Commented [LB35]:** As per cabinet report May 2018

17.245 To authorise, in the absence of the Director of Public Health, Consultant(s) in Public Health, Regulatory Service Manager(s), to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.

## 18. Head of Planning Engineering and Transportation

18.1 To be responsible for the day to day management of the Planning Engineering and Transportation functions and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's financial and contract rules have authority to exercise the following powers and functions:

18.2 Determine all planning and related applications other than those which have been expressly reserved to the Planning Committee ('Committee') under the terms of reference of that Committee or have been called in by a Councillor for determination by that Committee.

Applications to be determined by Committee:-

- (a) Applications for 'major' Development. 'Major' applications are defined as:-
  - (i) Any application for residential development or change of use involving 10 or more dwellings;

- (ii) Other forms of development or change of use of 1000 sq. metres floor space or more;
- (iii) Applications for development or change of use of 0.5 ha or more of land and;
- (iv) Minerals and waste applications for new or extended mineral workings or waste disposal (excluding development for ancillary or small scale works).

18.3 Applications for time extensions, non-material amendments and variations under section 73 of the Town and Country Planning Act 1990 to existing permissions for major development do not come within the above definition and are delegated to the Head of Planning, Engineering and Transportation.

- (a) Applications where it is proposed to make a decision that is contrary To the development plan or other published Council standards/ guidelines;
- (b) Decisions that would need to be referred to the Secretary of State;
- (c) Applications that attract one or more written, valid (i.e. planning related) objections from statutory (as referred to by the Town and Country Planning (Development Management Procedure) (England) Order 2010 or other key consultees where it is proposed to make a decision that is contrary to the objection or applications that attract significant community interest from affected parties where it is proposed to make a decision that is contrary to the objection;
- (d) Applications submitted by or on behalf of the Council, or for the development of council-owned land over the value of £20,000 where there is significant community interest;
- (e) Any application that any member of the Council requests to be considered by Committee under the procedure set out in Part 3.2 Table 2.
- (f) Decisions where it is known that a claim for compensation from the Council would arise or which otherwise may involve a financial payment;
- (g) Applications that are known to be submitted by or on behalf of:
  - a Member of the Council; or
  - an organisation in which a Member has a known significant interest or involvement;
  - or an officer of Development Management;
  - or an officer of Regeneration and Development Services; or
  - other senior officer of the Council (defined for these purposes as any officer who holds a politically restricted post).
- (h) Any application that the Head of Planning, Engineering and Transportation considers raises matters that should be considered by Committee.

- 18.4 To determine applications (other than the approval of “majors”) which would not raise complex or delicate judgement and when the proposed development does not comply with national or local planning policy and there is no significant community interest which would be contrary to the officer’s recommendations.
- 18.5 Authority to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.
- 18.6 Authority to respond to various consultation documents received from government departments on planning related matters, except where the Head of Planning, Engineering and Transportation is of the opinion that the consultation involves matters which should be considered by Committee, Group Leaders or the relevant Portfolio Holder.
- 18.7 To determine the following applications and to take the following actions under Part VIII of the Town and Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012 and Section 192 of the Planning Act 2008:
- (a) authorise the making of Tree Preservation Orders where immediate action is necessary to protect a tree or trees under threat;
  - (b) determine applications to top, lop or prune trees protected by a Tree Preservation Order;
  - (c) determine applications to fell and remove trees protected by a Tree Preservation Order where there is no significant community interest;
  - (d) confirm or not confirm Tree Preservation Orders where there is no significant community interest;
  - (e) enforce legal requirement for replacement tree planting by the service of the appropriate notice;
  - (f) revoke or vary a TPO in circumstances when an order has been updated or a replacement order has been made; or where an order no longer protects any trees because the trees have been lawfully removed;
  - (g) undertake appropriate action in response to notifications of intention to lop, top, prune or fell trees in Conservation Areas.
- 18.8 Authority to prepare agreements and contracts in pursuance of the powers under Section 33 of the Local Government (Miscellaneous Provisions Act) 1982 and the Housing Grants and Regeneration Act 1982.
- 18.9 Authority to issue a Hedgerow Retention Notice in accordance with the provisions of the Hedgerows Regulations 1997.
- 18.10 The authority not to pursue enforcement action if it is considered that it is no longer expedient to do so.
- 18.11 Authorised to grant powers of entry to appropriate officers.

- 18.12 Authority to issue and serve notices under Section 330 of the Town and Country Planning Act , 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land.
- 18.13 To authorise the issue of Listed Building Enforcement Notices in circumstances where the delegated powers of officers to determine Listed Building Consents have resulted in the refusal of Listed Building Consent for retrospective development.
- 18.14 Authority to serve a breach of condition notice where planning conditions and Listed Building Consent conditions have not been complied with.
- 18.15 Preparation and service of an Urgent Works Notice where a building that is judged to be worthy of 'Listing' as of Special Architectural or Historic interest is considered to be at risk due to failure by the owner to carry out reasonable maintenance/upkeep.
- 18.16 To instigate action for the removal of dangerous trees under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, including the powers of entry for officers and contractors to undertake work to dangerous trees.
- 18.17 Authorised to grant powers of entry to appropriate officers.
- 18.18 Authority to issue and serve notices under Section 330 of the Town and Country Planning Act , 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land.
- 18.19 Authority to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.
- 18.20 The administration of the Safety of Sports Grounds Act, 1975, in relation to the issue of Safety Certificates.
- 18.21 Authority to take action in respect of prohibition notices under Section 10 of the Safety of Sports Grounds Act, 1975;
- 18.22 In respect of Development Management:
- (a) To respond to developers' notices of intention to carry out development under Part 22 of the Town and Country Planning (General Permitted Development) Order 1995 (mineral exploration only).

- (b) To determine whether Environmental Assessments are necessary under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- (c) To determine applications for lawful development certificates (existing and proposed).
- (d) With respect to demolition of houses, authority to determine whether prior approval is required.
- (e) With regard to Telecommunications Development - authority to determine whether prior approval is required for siting and appearance.
- (f) To sign decisions made by Committee.
- (g) Authority to determine applications for consent for the display of Advertisements.
- (h) Authority to approve Discharge of Condition Applications for planning applications and Listed Building Consents.
- (i) Authority to approve minor amendments and non-material amendments to previously approved planning permissions.
- (j) Authority to remove any planning applications that have not been determined or appealed from the Planning Register in accordance with Article 36 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.
- (k) The power to determine whether a submitted Pre-Information Process application complies with any Local Development Order adopted by the Council.
- (l) Authority to determine whether a formal application of details in respect of agricultural and forestry development should be submitted.

#### 18.23 Enforcement of Planning Control:

- (a) To remove or obliterate any placard or poster which is displayed in contravention of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 (as amended).
- (b) Power to authorise the issue of Enforcement Notices re unauthorised development by itinerants and travellers.
- (c) To authorise the issue of Enforcement Notices and Temporary Stop Notices where immediate action is necessary.
- (d) To authorise the issue of Enforcement Notices in circumstances where the delegated powers of officers to determine planning applications have resulted in the refusal of planning permission for retrospective development.
- (e) To authorise the issue of Listed Building Enforcement Notices in circumstances where the delegated powers of officers to determine Listed Building Consents have resulted in the refusal of Listed Building Consent for retrospective development.
- (f) Authority to serve a breach of condition notice where planning conditions and Listed Building Consent conditions have not been complied with.

- (g) Power to issue a planning contravention notice in appropriate circumstances and to hold discussions as a result of the "Time and Place" procedure in Section 171C of the Town and Country Planning Act 1990 (as amended).
- (h) Power to serve a planning contravention notice, breach of condition notice or stop notice, or planning enforcement notice, in accordance with sections 171, 171BA, 171BB, 187A and 183(1) of the Town and Country Planning Act 1990 (as amended).
- (i) Power to give written assurance as regards prosecution for person served with a planning enforcement notice, and power to withdraw such assurance as appropriate, in accordance with section 172A of the Town and Country Planning Act 1990 (as amended).
- (j) Power to remove and dispose of any unauthorised display structure and to exercise any other powers (including the power to recover reasonable expenses), in accordance with sections 225A and 225B of the Town and Country Planning Act 1990 (as amended).
- (k) Power to serve an action notice to resolve persistent problems with unauthorised advertisements and to exercise any other powers (including the power to recover reasonable expenses, in accordance with sections 225C, 225D and 225E of the Town and Country Planning Act 1990 (as amended).
- (l) Power to remedy defacement of premises and to exercise powers (including the power to recover reasonable expenses), in accordance with sections 225F and 225I of the Town and Country Planning Act 1990 (as amended).
- (m) Power to serve notices in respect of post boxes and to exercise any other powers, in accordance with section 225G of the Town and Country Planning Act 1990 (as amended).
- (n) Power to exercise powers in respect of bus shelters and other street furniture, in accordance with sections 225F and 225H of the Town and Country Planning Act 1990 (as amended).
- (o) Power to remedy defacement at owner or occupier's request and to exercise any other powers (including the power to recover reasonable expenses), in accordance with section 225J of the Town and Country Planning Act 1990 (as amended).
- (p) Power to remove display structures, prevent or reduce unauthorised advertisements and / or remove or obliterate signs, so far as they relate to the operational land and premises of statutory undertakers, in accordance with sections 225A, 225C, 225F, 225K and 324 of the Town and Country Planning Act 1990 (as amended).
- (q) (i) Where immediate action is necessary in respect of the issue of:
  - (a) an injunction under Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990; 187B of the Town and Country Planning Act 1990;
  - (b) a Stop Notice under Section 183 of the Town and Country Planning Act 1990;

The Head of Legal and Democratic Services in consultation with the Head of Planning, Engineering and Transportation shall discharge the function.

(ii) Before acting under part (i) any officer so acting:-

- (a) shall consult with such representatives of the political groups to which seats on the Committee have been allocated as the officer considers appropriate;
- (b) shall record the urgent circumstances which make it necessary for action to be taken before a meeting of the Committee can be arranged;
- (c) where action is taken, a report of that action, including a summary of the circumstances which made it necessary, shall be made to the earliest practical meeting of the Committee.

(r) Authority to issue a Section 215 Notice subject to a period of 10 days being given to ward members to call in the Notice to the next meeting of the Planning Committee.

(s) Authority to issue and serve notices under Section 330 of the Town and Country Planning Act, 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land.

(t) Authority:

- (i) not to pursue enforcement action, even when there are unresolved complaints;
- (ii) to revoke authorities given for enforcement action;
- (iii) to withdraw enforcement notices; if it is considered that it is not expedient to pursue enforcement action, or no longer relevant in the prevailing circumstances (compliance before the notice takes effect).

(u) to grant powers of entry to appropriate officers.

18.24 Authority to make applications for planning permission, listed building and advert consent.

18.25 Authorised to take action under the following legislation and may authorise officers from engineering and transportation, other authorities and public agencies working on regional projects to exercise powers within the borough from time to time:

Animal Boarding Establishment Act 1963  
Animal Health Act 1981

Animal Health and Welfare Act 1984  
 Breeding of Dogs Act 1973 and 1991  
 Building Act 1984  
 Cinemas Act 1985  
 Clean Air Act 1993  
 Clean Neighbourhoods and Environment Act 2005  
 Control of Pollution Act 1974  
 Control of Pollution Amendment Act 1989  
 Countryside Act 1968  
 Countryside and Rights of Way Act 2000  
 Criminal Procedure and Investigations Act 1996  
 Cycle Tracks Act 1981  
 Dangerous Dogs Act 1989 and 1991  
 Dangerous Wild Animals Act 1976  
 Environment Act 1995  
 Environmental Damage (Prevention and Remediation) Regulations 2009  
 Environmental Noise (England) Regulations 2006  
 Environmental Noise (England) (Amendment) Regulations 2009  
 Environmental Noise (England) (Amendment) Regulations 2010  
 Environmental Protection Act 1990  
 Equality Act 2010  
 European Communities Act 1972  
 Factories Act 1961 and 1998  
 Fire Safety and Safety at Places of Sport Act 1987  
 Flood Risk Regulations 2009  
 Food and Environment Protection Act 1985  
 Food Act 1984  
 Flood and Water Management Act 2010  
 Game Act 1831  
 Game Licences Act 1860  
 Guard Dogs Act 1975  
 Highways Act 1980  
 Land Compensation Act 1973  
 Land Drainage Act 1991  
 Licensing Act 2003  
 Litter Act 1983  
 Local Government Acts 1972, 1988, 2000 and 2003  
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
 Local Government and Housing Act 1989  
 National Parks and Access to the Countryside Act 1949  
 Natural Environment and Rural Communities Act 2007  
 New Roads and Street Works Act 1991  
 Noise Act 1996  
 Noise and Statutory Nuisance Act 1993  
 Noise Insulation Regulations 1975  
 Noise Insulation (Amendment) Regulations 1988  
 Offices, Shops and Railway Premises Act 1963



Performing Animals (Regulation) Act 1925  
 Pet Animals Act 1951  
 Police and Criminal Evidence Act 1994  
 Pollution Prevention Control Act 1999  
 Prevention of Damage by Pests Act 1949  
 Protection of Animals 1911  
 Public Health Acts 1875, 1925, 1936, 1961 and 1969  
 Public Health (Control of Diseases) Act 1984  
 Refuse Disposal (Amenity) Act 1978  
 Regulation of Investigatory Powers Act 2000  
 Riding Establishment Acts, 1964 and 1970  
 Road Traffic Acts 1988 and 1991  
 Road Traffic (Consequential Provisions) Act 1988  
 Road Traffic (Foreign Vehicles) Act 1972  
 Road Traffic Offenders Act 1988  
 Road Traffic Regulation Act 1984  
 Safety of Sports Grounds Act 1975  
 Scrap Metal Dealers Act 1964  
 Slaughter of Poultry Act 1967  
 Sunday Trading Act 1994  
 Theatres Act 1968  
 Town and Country Planning Act 1968  
 Town and Country Planning Act 1990  
 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990  
 Town Improvement Clauses Act 1847  
 Town and Police Clauses Acts 1847 and 1889  
 Transport Acts 1985 and 2000  
 Traffic Management Act 2004  
 Water Act 1989  
 West Midlands County Council Act 1980  
 Wildlife and Countryside Act 1981  
 Zoo Licensing Act 1981

Together with any related secondary legislation.

- 18.26 Authority to vary fees and charges within the area of responsibility (excluding car parking charges), not fixed by statute.
- 18.27 Authority to approve short lists of consultants to be invited to tender for or to submit proposals for specific investigations, analyses or designs, subject to compliance with Contract Rules.
- 18.28 Authority to approve short lists of contractors to be invited to tender for contracts for a specific scheme of works or for a schedule of rates contract for such works, subject to compliance with Contract Rules.

- 18.29 Authority to accept tenders for the supply of works, materials, equipment, plant, investigations, analyses or designs, subject to compliance with Contract Rules.
- 18.30 Authority to accept the tender which is next most economically advantageous to the Council in cases where the successful tenderer withdraws before entering into contract, subject to compliance with Contract rules.
- 18.31 Authority to utilise other contractors in the event of the successful tenderer being unable to meet the programme requirements. Additional or substitute contractors shall be chosen in order of their tenders' rank when assessed by officers, and appointed in compliance with Contract rules.
- 18.32 Authority to appoint consulting engineers after fee bidding, subject to compliance with Contract Rules.
- 18.33 Authority to appoint agency staff subject to compliance with Contract Rules.
- 18.34 Authority to exercise powers under all Sections of the Highways Act 1980 in respect of the maintenance, improvement and protection of highways, footpaths, bridleways, restricted byways, byways open to all traffic and associated land, including consulting on proposed alterations to highways, granting Licenses, serving notices and taking legal action to prevent abuse or obstruction of the highway where appropriate.
- 18.35 Authority to exercise powers under the Highways Act 1980 and the Town and Country Planning Act 1991 in relation to the stopping-up, creation, alteration and diversion of highways, footpaths, bridleways, restricted byways and byways open to all traffic where planning permission for a development requiring the stopping-up or diversion has previously been granted by the Council.
- 18.36 Authority to exercise powers under the New Roads and Street Works Act 1991 in respect of the protection of highways, footpaths, bridleways, restricted byways, byways open to all traffic and associated land from the activities of Statutory Undertakers including serving notices and taking proceedings where appropriate.
- 18.37 Authority to exercise powers under the Road Traffic Regulation Act 1984 in respect of the management and safety of traffic, pedestrians and other highway users and the placing of traffic signs on the highway.
- 18.38 Authority to exercise powers under the Transport Act 1968 in respect of objections to Operators' Licence applications on safety and environmental grounds.

- 18.39 Authority to exercise powers under the Transport Act 1985 in respect of applications for Traffic Regulation Conditions on bus services and objections to Traffic Regulation Conditions on bus services.
- 18.40 Authority to exercise powers under the Wildlife and Countryside Act 1981 in respect of alterations to the definitive map and statement:- in consequence of the occurrence of an event including the coming into operation of any enactment or instrument or any other event whereby a highway shown on the definitive map and statement has been authorised to be stopped up, diverted, widened or extended – where a claim is received for addition of a route.
- 18.41 Authority to exercise the serving of notices, implementation and review of Gating Orders in accordance with sections 129 (A) to (F) of the Highways Act 1980, as inserted by the Clean Neighbourhoods and Environment Act 2005 and the Highways Act 1980 (Gating Orders) (England) Regulations.
- 18.42 Authority to prepare agreements and contracts in pursuance of the powers of the Council under Section 33 of the Local Government - Miscellaneous Provisions Act 1982, Section 111 of the Local Government Act 1972, and Sections 38 and 278 of the Highways Act 1980.
- 18.43 Authority to take action to prosecute offences under the Highways Act 1980, the Road Traffic Regulation Act 1984 and the New Roads and Street Works Act 1991, in accordance with approved policy.
- 18.44 Authority to approve the design and location of new and replacement street furniture and other highway facilities, and their removal when required, including traffic signs, traffic signals, guard railing, safety fencing, bollards, dropped kerb crossings, facilities for the disabled, seating, statutory undertakers' equipment and street trees, in accordance with approved policy and DfT guidelines.
- 18.45 Authority to object to the location of new bus stops and bus shelters on road safety grounds.
- 18.46 Authority to install bollards in verges and footways in accordance with approved policy.
- 18.47 Authority to implement measures to ensure the safe operation of the highway network, including serving notices and carrying out minor works, within approved budgets.
- 18.48 Authority to approve the names to be given to new roads in accordance with approved policy and there is no objection to the name(s) from the postal service or emergency authorities.
- 18.49 Authority to approve the numbering of premises.

18.50 Authority to approve minor variations to and substitution of schemes in the Highways Capital Programme, in accordance with priorities and within the allocation in the capital programme.

18.51 Authority to approve the details of Minor Improvement Schemes already approved by the Council as part of its annual approval of the Capital Programme, including:

- (a) The design and location of measures to assist pedestrians and cyclists such as pelican, zebra, toucan and puffin crossings, pedestrian refuges and cycle lanes.
- (b) The design and implementation of measures provided as part of any Safer Routes to School projects.
- (c) The design and location of traffic calming features.
- (d) The design of traffic signal controlled junctions.
- (e) The design of minor junction improvements and alterations.
- (f) The design of bus priority measures and the location of bus stops and shelters.

Subject to the proposal being in accordance with approved policy and, where appropriate, following full consultation with local residents and businesses.

18.52 Authority to approve the details of Highways Maintenance and Bridge Strengthening Schemes already approved by the Council as part of its annual approval of the Capital Programme, including:

- (a) The design of the necessary works;
- (b) The method of procuring the works, subject to compliance with Finance and Contract Rules;
- (c) The use of innovative methods of treatment following an assessment of alternative methods;
- (d) The traffic management arrangements to enable works to be carried out safely in accordance with the requirements of the Health & Safety Executive;
- (e) Consultation with appropriate interested bodies, residents and businesses likely to be affected by the works, in accordance with approved policy.

18.53 Authority to approve the advertising of Traffic Regulation Orders where either:

- (a) The Order has been requested by residents, businesses and area managers to control parking or traffic movements in a local area;
- (b) The Order is required to improve the safety of the highway network;
- (c) The Order is required for safety reasons following the structural assessment of a bridge and structure;
- (d) The Order is required to allow the satisfactory implementation of a Minor Improvement Scheme;

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- (e) The Order is required to improve the efficient operation of the highway network;
- (f) The Order is required to assist with improving air quality.

18.54 Authority to authorise the sealing of Traffic Regulation Orders made under the Road Traffic Regulation Act 1984 where there have been no objections received during the period for objection.

18.55 Authority to approve the sealing of Traffic Regulation Orders made under the Road Traffic Regulation Act 1984 where objections have been received during the period for objection but where:

- (a) The concerns of the objectors can be accommodated by amending the Order without seriously prejudicing the original intention of the proposal;
- (b) The concerns of the objectors are not based on a proper understanding of the effects of the Order but the objectors do not withdraw the objections following a further explanation of the effects;
- (c) The number of objectors to the proposed Order is matched by an equal or greater number of supporters for the proposed Order;
- (d) There are no more than 2 objectors to the proposed Order and their objections are based on the personal inconvenience which the proposed Order may cause to those individuals.

Subject to the Order being in accordance with approved policy and only after discussion with Ward Councillors and, where appropriate, following full consultation with local residents and businesses. Where objections do not fall within 18.55(a) to (d) the matter will be referred to the relevant Executive Director.

18.56 Authority to approve details and locations of authorised items of street furniture, including traffic signs, road markings, lighting and associated equipment, statutory undertakers' equipment, safety barriers, bollards, bus stops, bus shelters, seats, litter bins and other street furniture in accordance with the approved policies of the Council.

18.57 Authority to approve displays and exhibitions in pedestrianised areas in accordance with approved policy.

18.58 Authority to provide advice and direction to statutory undertakers and contractors on safety matters while working in the highway, including signing requirements, restrictions of working arrangements to suit traffic conditions, and requirement to cease working where such directions and renditions are not met.

- 18.59 Authority to determine and otherwise deal with, use of the highway pursuant to s115E Highways Act 1980 (commonly referred to as Pavement Café Licences) provided that controversial matters maybe submitted to the Licencing and Safety Committee in accordance with that Committee's Scheme of Delegations.
- 18.60 In accordance with the requirements of the Public Lighting Contract authorise advertising on street lighting columns.
- 18.61 Authority to undertake administration of the Public Health Act, 1936, in relation to Part XI - Culverts, ditches and water courses.
- 18.62 Authority to administer sections 169 and 173 of the Highways Act 1980, with regard to scaffold licences and hoarding permits.
- 18.63 In consultation with the Director of Public Health and the Head of Clean and Green, authorise members of staff within Economy and Environment to act on behalf of the Council from time to time in enforcing the following legislation:
- Clean Neighbourhoods and Environmental Act 2005
  - Control of Pollution Act 1974
  - Environmental Protection Act 1990
  - Environmental Act 1995
  - Litter Act 1983
  - Refuse Disposal (Amenities) Act 1978
  - Waste Minimisation Act 1998
- Together with any related secondary legislation
- 18.64 Enforcement powers under all sections of the Traffic Management Act 2004.
- 18.65 Authority to assess and consider the appropriate stage to implement the termination of any further progression of penalty charge notices in accordance with civil parking enforcement.
- 18.66 With regard to the Regeneration Transportation Capital Programmes and other grant aided/externally funded regeneration programmes, to authorise the undertaking of any works necessary action for the implementation of programmes, including design works, invitation to and acceptance of (the most economically advantageous) tenders, quotation or estimates, subject to Financial and Contract Rules.
- 18.67 Authority to vary fees and charges within the area of responsibility not fixed by statute.

- 18.68 To authorise, in the absence of the Head of Planning, Engineering and Transportation, the Group Manager (Highways and Environment), the Group Manager (Road Traffic Network), the Group Manager (Development Management), Group Manager, (Emergency Planning), to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.

## **19. Head of Regeneration and Development**

### **19. Head of Regeneration and Development**

- 19.1 To be responsible for the day to day management of the Regeneration and Development functions and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's financial and contract rules have authority to exercise the following powers and functions:
- 19.2 Authority to respond to various consultation documents received from government departments on planning related matters, except where the Head of Regeneration and Development is of the opinion that the consultation involves matters which should be considered by Committee, Group Leaders or the relevant Portfolio Holder.
- 19.3 Maintain a schedule of Local Sites (Sites of Importance/Local Importance for Nature Conservation) with the authority to add or remove sites from the schedule in line with published criteria and endorsement by the Birmingham and Black Country Local Sites Partnership.
- 19.4 The authority not to pursue enforcement action if it is considered that it is no longer expedient to do so.
- 19.5 Authorised to grant powers of entry to appropriate officers.
- 19.6 Authority to issue and serve notices under Section 330 of the Town and Country Planning Act, 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land.
- 19.7 To authorise the issue of Listed Building Enforcement Notices in circumstances where the delegated powers of officers to determine Listed Building Consents have resulted in the refusal of Listed Building Consent for retrospective development.
- 19.8 Authority to serve a breach of condition notice where planning conditions and Listed Building Consent conditions have not been complied with.

- 19.9 Preparation and service of a Building preservation Notice where a building that is judged to be worthy of 'Listing' as of Special architectural or Historic interest is subject to a threat of demolition or material alteration.
- 19.10 Preparation and service of an Urgent Works Notice where a building that is judged to be worthy of 'Listing' as of Special Architectural or Historic interest is considered to be at risk due to failure by the owner to carry out reasonable maintenance/upkeep.
- 19.11 Maintain a schedule of Locally Listed Buildings with the authority to add or remove sites from the schedule in line with published criteria.
- 19.12 To determine and review Conservation Areas in accordance with Section 69 1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.
- 19.13 To undertake the day-to-day management of the land and premises including the authorisation of expenditure, subject to budgetary control.
- 19.14 To approve the grant take up or surrender of leases, agreements and licences not exceeding 21 years of land and/or premises, subject as necessary to receipt of satisfactory references and where appropriate planning consent and to approve the surrender of leases, agreements and licences.
- 19.15 To approve easements, wayleaves, licences and deeds of covenant, subject to consultation as appropriate with relevant service areas.
- 19.16 To approve rent reviews on behalf of the Council as either landlord or tenant where provided for in existing leases.
- 19.17 To approve assignments of the residue of leases and tenancy agreements and under leases thereof, subject to the receipt of satisfactory references.
- 19.18 To approve the modification or release of covenants contained in existing conveyances, leases, agreements and licences, subject to compliance with the Council's planning or other policies, and to approve the terms of any such modification or release.
- 19.19 To institute proceedings for the forfeiture of any lease, agreement or tenancy-at-will of any industrial or commercial premises, except where residential accommodation is included, following non-payment by the tenant of rent or any other violation which renders such forfeiture appropriate.
- 19.20 To take any action and/or institute proceedings to terminate unauthorised encroachment on land and property in the Council's ownership.



- 19.21 To complete the purchase of land or premises included in compulsory purchase orders made by the Council or its predecessor Councils, together with blight/purchase notices accepted by the Council, including the payment of compensation in accordance with relevant legislation, subject to committed identified provision and to terms to be agreed by the District Valuer or some other professionally qualified valuer.
- 19.22 To complete the acquisition, by way of dedication, of land within development schemes which is required to be provided by the developer for open space or for other community uses provided by the Council, subject to the Head of Leisure, Culture and Operations and or the Head of Clean and Green being satisfied as to the standard of the completed works and the availability of finance for future maintenance.
- 19.23 To approve the appointment of professional advisers and/or agents, in accordance with this Constitution/Contract Rules and to settle any fees or other costs arising there from.
- 19.24 To approve minor amendments to decisions of the Executive on sales, purchases, leases and contracts.
- 19.25 To submit applications for planning consent, listed building consent or consent for the display of advertisements in relation to the development or change of use of land or premises.
- 19.26 To determine claims for compensation and expenses payable as a consequence of land being listed as an asset of community value in accordance with the Land Compensation Act 1973, Localism Act 2011 and any related secondary legislation, subject to terms to be agreed by the District Valuer or any professionally qualified valuer.
- 19.27 With regard to the Regeneration and Transportation Capital Programmes and other grant aided/externally funded regeneration programmes, to authorise the undertaking of any works necessary action for the implementation of programmes, including major scheme development, design works, invitation to and acceptance of (the most economically advantageous) tenders, quotation or estimates, subject to Financial and Contract Rules.
- 19.28 Authority to vary fees and charges within the area of responsibility not fixed by statute.
- 19.29 To authorise, in the absence of the Head of Regeneration and Development, the Place Development Manager, Business, Employment and Skills Manager, Regeneration Manager Delivery and Transportation, Major Projects & Strategy Manager, to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.

## **20. Head of Programme Management**

- 20.1 To be responsible for the day to day management of the Programme Management functions and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's financial and contract rules have authority to exercise the following powers and functions:
- 20.2 With regard to the Regeneration and Transportation Capital Programmes and other grant aided/externally funded regeneration programmes, to authorise the undertaking of any works necessary action for the implementation of programmes, including major scheme development, design works, invitation to and acceptance of (the most economically advantageous) tenders, quotation or estimates, subject to Financial and Contract Rules.
- 20.3 Authorise staff to administer appropriate and proper record keeping compliant with Regulation of Investigatory Powers Act 2000
- 20.4 Authority to vary fees and charges within the area of responsibility not fixed by statute.
- 20.5 To authorise, in the absence of the Head of Programme Management the Internal Programme Manager, External Programme Manager, to act on behalf of the Council, on such matters as may require attention.

## **21. Head of Leisure, Culture and Operations**

- 21.1 To be responsible for the day to day management of the Leisure, Culture and Operations functions and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's financial and contract rules have authority to exercise the following powers including but not limited, to the following Acts:

Anti-Social Behaviour Act 2003

The Building Act 1984

- (i) Part I of the Building Regulations;
- (ii) Part III - Dangerous Structures, Demolitions, Drainage and Sanitary Conveniences;
- (iii) Part IV - Powers of Entry and Enforcement;
- (iv) The Party Wall Act 1996;
- (v) The Building (Local Authority Charges) Regulations 1988
- (vi) The Regulatory Reform (Fire Safety) Order 2005
- (vii) Safety of Sports Grounds Act 1975

Clean Neighbourhoods and Environment Act 2005

Coroners Act 1988

Dangerous Dogs Act 1989 and 1991

Dangerous Wild Animals Act 1976

Dogs Act 1871  
 Dogs (Fouling of Land) Act 1996  
 Environmental Protection Act 1990  
 Equality Act 2010  
 Fire Safety and Safety at Places of Sport Act 1987  
 Land Settlement Facilities Act 1909  
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
 Public Health Acts 1875, 1925, 1936, 1961 and 1969  
 Public Health (Control of Diseases) Act 1984  
 Public Health Act 1936 in relation to  
     (i) Part II – Sanitation and Buildings;  
     (ii) Part XI – Culverts, Ditches and Water Courses;  
 Public Libraries and Museums Act 1964  
 Registration Service Act 1953  
 Regulation of Investigatory Powers Act 2000  
 Town Police Clauses Act of 1847 and 1889

Together with any related secondary legislation

- 21.2 Preparation and service of Dangerous Structure Orders in respect of listed buildings under Section 77(1)(a) of the Building Act 1984, following consideration of Sections 47 (Compulsory purchase), 48 (Repairs notice) and 54 (Urgent works notice).
- 21.3 Acceptance of bids for concessions at events.
- 21.4 Acceptance of payments under agreement under Section 106 Town and Country Planning Act 1990.
- 21.5 Approval of routine lettings for events on Leisure and Community Health premises/land under control of Education and Economy and Environment.
- 21.6 Approval of free/concessionary use of Leisure, Culture and Operations facilities/equipment.
- 21.7 Approval of closure of Leisure, Culture and Operations facilities for essential maintenance.
- 21.8 Determining opening hours including during holiday periods for all Leisure and Culture facilities.
- 21.9 Approval of setting and variations in charges and core admission prices to leisure and community health facilities and events, to introduce, vary or remove fees and charges for any buildings, sites and/or activities within the leisure portfolio in consultation with the relevant portfolio holder.
- 21.10 Acceptance of bids for concessions within all associated Leisure and Culture facilities.

21.11 The authority to seek planning permission in respect of future proposed development for sport, leisure, recreation, education and community purposes.

21.12 The authority to appoint or recommend for appointment:

- The Registrar of Crematorium
- The Medical Referee (and deputies) for the Crematorium
- The Superintendent and Registrar of Births, Deaths and Marriages and Civil Partnerships

21.13 To authorise the Bereavement and Registration Services Manager to administer the following legislation in relation to the disposal of the dead and to exercise all the powers and duties of the Council as a local authority, Burial and Cremation Authority, under, and to delegate this authority to officers in Bereavement Services from time to time:

Burial Acts 1852, 1853, 1855, 1857, 1859, 1900 and 1906  
Burial Laws Amendment Act 1880  
Cemeteries Clauses Act 1847  
Cremation Acts 1902 and 1952  
Fees (Increase) Act 1923  
Libraries Act 1964  
Local Government Act 1972  
Marriages Act 1949  
Public Health (Control of Diseases) Act 1984  
Environmental Protection Act 1990  
Environment Act 1995

Together with any related secondary legislation

21.14 Authority to vary fees and charges within the area of responsibility not fixed by Statute.

21.15 To act as Proper Officer for the Registration Service (Births, Deaths and Marriages and Civil Partnerships).

21.16 To act as Proper Officer, in relation to Walsall, for the Black Country Coroner and to delegate this authority to officers under his control from time to time.

21.27 The administration of the Safety of Sports Grounds Act, 1975, in relation to the issue of Safety Certificates.

21.28 Authority to take action in respect of prohibition notices under Section 10 of the Safety of Sports Grounds Act, 1975.

21.29 To authorise, in the absence of the Head of Leisure, Culture and Operations, the Sport and Leisure Manager, Building Control Manager, Bereavement and Registration Services Manager, Service Manager – 21st Century Information and Skills, to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.

## 22. Head of Clean and Green Services

22.1 To be responsible for the day to day management of the Clean and Green functions and without prejudice to the foregoing shall, subject to compliance with the constitutional arrangements and any relevant provisions of the Council's financial and contract rules have authority to exercise the following powers and functions:

22.2 Power to institute legal proceedings, having due regard to any current national enforcement guidance and Council policy, in respect of the enforcement of the legislation set out below and any subordinate legislation. Power to take any other enforcement action of whatever description as may require attention, such as where relevant the giving of fixed penalty notices, or penalty notices and the seizure of vehicles etc.

Allotments Acts 1922, 1925 and 1950  
Animals Act 1971  
Anti-Social Behaviour Act 2003  
Clean Neighbourhoods and Environment Act 2005  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Countryside Act 1968  
Countryside and Rights of Way Act 2000  
Criminal Damage Act 1971  
Criminal Procedure and Investigations Act 1996  
Cycle Tracks Act 1981  
Dangerous Dogs Acts 1989 and 1991  
Dangerous Wild Animals Act 1976  
Dogs Act 1871  
Dogs (Fouling of Land) Act 1996  
Environmental Act 1995  
Environmental Damage (Prevention and Remediation)  
Environmental Offences (Fixed Penalties) (England) Regulations  
2017  
Regulations 2009  
Environmental Protection Act 1990  
Fire Safety and Safety at Places of Sport Act 1987  
Land Settlement Facilities Act 1909  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Litter Act 1983

National Parks and Access to the Countryside Act 1949  
Natural Environment and Rural Communities Act 2007  
Refuse Disposal (Amenity) Act 1978  
Regulation of Investigatory Powers Act 2000  
Regulatory Enforcement and Sanctions Act 2008  
Small Holdings and Allotments Act 1908  
Town and Country Planning Act 1990  
Town Police Clauses Act of 1847 and 1889  
Trade Descriptions Act 1968  
Waste Minimisation Act 1998

Together with any related secondary legislation

- 22.3 Power to take any action, excluding legal proceedings and enforcement in 22.2 above, on behalf of the Council in administering the above legislation and any other legislation in the furtherance of his or her duties, and any subordinate legislation, including but not limited to the:

- (a) Service of notices, including fixed penalty notices;
- (b) Issuing of licences;
- (c) Issuing permits;
- (d) Issuing of authorisations;
- (e) The institution of legal proceedings; and
- (f) any other matters as may require attention.

Together with any related secondary legislation

- 22.4 In the following circumstances, the decision to institute legal proceedings may be referred for the consideration of the Executive Director, Economy and Environment, in consultation with the Head of Legal and Democratic Services:

- (a) where the prosecution relates to a contentious/complex area of legislation and/or is likely to be considered as a “test case”;
- (b) where significant costs are likely to be incurred in bringing the prosecution before the Courts;
- (c) where the prosecution has serious national implications;
- (d) where the prosecution relates to a significant and/or sensitive local issue;
- (e) any other matter which in the opinion of the Head of Clean and Green Services is of such a serious or sensitive nature that it would be inappropriate for him/her to act under delegated powers.

- 22.5 In consultation with the Executive Director, authorise members of staff within Economy and Environment to act on behalf of the Council from time to time in enforcing the following legislation:

Clean Neighbourhoods and Environmental Act 2005  
Control of Pollution Act 1974

Environmental Protection Act 1990  
Environmental Act 1995  
Litter Act 1983  
Refuse Disposal (Amenities) Act 1978  
Waste Minimisation Act 1998

Together with any related secondary legislation

- 22.6 Authorise members of staff employed in other service areas, including other local authorities where applicable, to act on behalf of the Council in relation to institute legal proceedings and any other enforcement matters in respect of the above legislation and any subordinate legislation and to take any action on behalf of the council in administering legislation.
- 22.7 Power to invite, accept and appoint in accordance with Financial and Contract Rules contractors to have the function of giving fixed penalty or penalty notices and any other function or power in pursuance of such arrangements for a specified period.
- 22.8 To authorise any person and any employee of such a person, who in pursuance of arrangements with the authority, has the function of giving any fixed penalty notice or penalty notice, written warning, notice of intent, final notices and making requirement to pay fixed penalties and any other function or power in pursuance of such arrangements.
- 22.9 In consultation with the Executive Director, authorise contractors to act on behalf of the Council from time to time in enforcing the following legislation:

Clean Neighbourhoods and Environmental Act 2005  
Control of Pollution Act 1974  
Environmental Protection Act 1990  
Environmental Act 1995  
Litter Act 1983  
Refuse Disposal (Amenities) Act 1978  
Waste Minimisation Act 1998

Together with any related secondary legislation

- 22.10 The determination of appeals relating to fixed penalty notices or penalty notices issued under the above legislation.
- 22.11 Acceptance of bids for concessions within parks and open spaces.
- 22.12 Acceptance of hand-over from developers of open space.
- 22.13 Approval of routine hiring arrangements for events on Green Spaces premises/land.
- .
- 22.14 Approval of free/concessionary use of Green Spaces facilities/equipment.

- 22.15 Approval of closure of parks and open spaces and associated facilities for essential maintenance.
- 22.16 Determining opening hours including during holiday periods for parks and open spaces.
- 22.17 Approval of setting and variations in charges and core admission prices to events in parks and open spaces.
- 22.18 The authority to seek planning permission in respect of future proposed development for leisure, recreation, education and community purposes.
- 22.19 Authority to determine and otherwise deal with the following matters, in accordance with council policies.
- (a) Issue of Private Hire and Hackney Carriage Driver Licences;
  - (b) Issue of Base Operator Licences
  - (c) Private Hire and Hackney Carriage Vehicle Licences
- Together with any related secondary legislation
- 22.20 Authority to vary fees and charges within the area of responsibility not fixed by statute.
- 22.21 Exercise the powers and duties of the Council as waste collection authority, including the collection of domestic, trade, garden, bulky household, clinical and hazardous waste.
- 22.22 Exercise the functions of the Council as a waste disposal authority including associated recycling activities.
- 22.23 Deal with all matters relating to fly posting, placarding, graffiti, fly tipping and abandoned vehicles.
- 22.24 Provide and be responsible for the vehicle fleet and the maintenance of vehicles owned and operated by the Council.
- 22.25 Authority to purchase nearly new vehicles from auction and second hand ex-demonstration vehicles, subject to compliance with the overall Vehicle Procurement Framework.
- 22.26 Deliver the Vehicle Replacement Policy of replacing vehicles over 5 years old, subject to budget availability.
- 22.27 The management of the Council's markets including the granting, suspension, variation or revocation of individual licenses, permits, consents or letting and in consultation with the relevant Portfolio holder changes to rental level, policies and procedures.



22.28 Approval of applications for temporary markets in accordance with policies approved by the Executive, other than for the purposes of the Town and Country Planning Act 1990.

22.29 Authority to approve charity market stalls.

22.30 Authority to approve the transfer of market stall licences to another family member or employee upon application, providing the officer considering the application is satisfied that the licence holder had traded on the market concerned for at least 5 years; and that during the 2 years immediately preceding the application:

- (a) The family member has personally assisted the licence holder in trading on the stall to which the application relates;
- (b) The applicant has been employed (other than on a self employed basis) by the licence holder for the purpose of trading on the stall to which the application relates;
- (c) the licence holder has not been subject to any disciplinary actions.

22.31 Approval to permit the addition/cancellation of trading days in respect of holiday periods for Walsall markets as deemed appropriate and in conjunction with the wishes of the various market traders representatives.

22.32 Write off irrecoverable market charges for former stallholders.

22.33 To take any action and/or institute proceedings, including if necessary proceedings in the High Court, to restrain any rival market including any unauthorised temporary market, indoor market or car boot sale; in consultation with the Head of Legal and Democratic Services.

22.34 To authorise, in the absence of the Head of Clean and Green Services, the Service Manager Operations and Service Manager Strategy to act on behalf of the Council including the serving of Notices, prosecutions, and such matters as may require attention.

## 23. **Head of Housing**

23.1 To carry out relevant duties specified in the Housing Act 1996 particularly under Part 6 and Part 7, as amended by Homelessness (Priority Need for Accommodation) (England) Order 2002.

23.2 Make arrangements to ensure local authority functions are implemented with regards to the needs to safeguard and promote the welfare of vulnerable adults.

- 23.3 Provide an interpretation service where necessary.
- 23.4 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.
- 23.5 To authorise the Head of Legal and Democratic Services to complete tenancy agreements in respect of/and licences to occupy Supported and Temporary Accommodation.
- 23.6 To ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 23.7 Ensure that information about the directorates services provided under legislation is available to the public and avoid lawful discrimination, promote equality of opportunity and good relations between persons of different racial groups.
- 23.8 Authority to admit to temporary accommodation, either provided by the Council, by other authorities, voluntary organisations, or privately registered homes, persons who are vulnerable and homeless.
- 23.9 Authority to approve interest free loans or grants not exceeding £5,000 to individual homeless households to prevent homelessness or up to £50,000 to other bodies to assist in tackling homelessness in accordance with guidelines as approved by the Council's Executive.
- 23.10 Authority to grant interest free loans for dwellings where assistance is up to £30,000 in line with the Housing Renewal Assistance Policy (those under 13.25 (e) and (f).
- 23.11 Authority to approve applications for concessionary travel passes for vulnerable clients fleeing violence or homelessness.
- 23.12 Agree the termination of licences to occupy rooms or temporary accommodation units in respect of homeless households where necessary and write off debts for former tenants.
- 23.13 To increase charges payable for the occupation of council owned supported housing and temporary accommodation in line with councils calculated rate of inflation

#### **24. Head of Legal and Democratic Services**

The holder of the post of Head of Legal and Democratic Services shall be responsible for the day to day management of Legal and Democratic Services and without prejudice to the foregoing, shall have power, subject to compliance with the Constitutional arrangements and any relevant provisions to the Council's Financial and Contract Rules, to:

- 24.1 To exercise the functions of the Council's chief legal officer.
- 24.2 To institute or defend on behalf of the Council any legal proceedings, categorised as criminal or civil or otherwise, or to appear on behalf of the Council in proceedings before the appropriate Court or Tribunal. In doing so, the Head of Legal and Democratic Services is authorised to take all necessary action in connection with such proceedings, including the power to offer no evidence or withdraw proceedings or to settle or terminate such proceedings, including disputes that may lead to such proceedings.
- 24.3 To authorise and certify officers for the purposes of the regulation of Investigatory Powers Act 2000.
- 24.4 Bring prosecutions for offences under Regulation 29 of the Representation of the People Regulations 1986 in cases where the Monitoring Officer and the Chief Executive as Electoral Registration Officer, are satisfied that such action is warranted.
- 24.5 Settle conveyancing and other legal costs in connection with conveyancing matters.
- 24.6 To authorise the sealing or signature of any Order, Deed or any other document necessary to give effect to the substance of a decision of the Council, Executive, Committee, or officer acting under the Delegated Powers, in compliance with Rule 19 of the Council's Contract Rules.

- Note:** (a) The Head of Legal and Democratic Services has been designated as the Council's Monitoring Officer for the purpose of Section 5, Local Government and Housing Act 1989. The Heads of Law in Legal Services have, been designated by the Chief Legal Officer, as his Deputy Monitoring Officers. A Monitoring Officer Protocol has been approved by the Council and is set out in Part 5.12 of this document;
- (b) The responsibilities of the Monitoring Officer include, reporting to the Council, where necessary, proposals, decisions or admissions by the Council, which appear to be contrary to law or to involve mal administration. He also has an enhanced role related to the Council Standards Committee under the Local Government Act 2000 and regulations made under that Act relating to, for example, establishing and maintaining a register of member's interests and codes of conduct for members and officers.
- (c) Except or otherwise stated, the powers listed above for the Monitoring Officer may be exercised by the holders of Heads of Law reporting to him/her;
- (d) After consultation with the Head of Paid Service, the Monitoring Officer is duly authorised to add to this list;

(e) Authority to sign/seal documents, authority is given:

- (i) for the Head of Legal and Democratic Services and any Service Manager in the employ of the Council to sign any document for the purposes of the Council's Contract Rule 19, and;
- (ii) for the Common Seal to be affixed to any document in order to give effect to a decision of the Council, Cabinet, Committee, Sub-Committee or of an officer acting under delegated powers.

In the event of there being a need to replace or add to the above list, the Head of Legal and Democratic Services is duly authorised to appoint a replacement or additional senior lawyers from the Legal Services office to such lists.

24.7 The provision of all items of equipment, etc, required in connection with Mayoral function to include the provision of appropriate catering when required subject always to the provisions of the Council's Financial and Contract Rules.

24.8 The disbursement of the sum placed to the credit of the Mayor's hospitality account for expenses of the Mayoral Office other than expenses of a personal nature for which purposes a sum is provided for the Mayor and Deputy Mayor, subject always to the provisions of the Council's Financial and Contract Rules.

24.9 The power to grant members dispensation under Section 33, Localism Act 2011.

## **25. Head of Business Change**

Authorisation of directed surveillance and covert human intelligence sources in accordance with the requirements of the Regulation of the Investigatory Powers Act, 2000.

## **26. Assistant Director - Head of Human Resources and Development**

26.1 To exercise the functions of the Council's Chief Personnel Officer, including guidance on the dismissal or disciplinary process.

26.2 To act as "proper officer" in relation to appointment and dismissal of the Head of the Paid Service and Statutory Chief Officers.

- 26.3 To authorise, in consultation with Executive Directors, Assistant Directors and Heads of Service:
- (a) the determination of grades and organisation structures;
  - (b) the payment of honoraria;
  - (c) the implementation of grievance, disciplinary performance management, anti-harassment, and sickness policies; and all other personnel policies approved by the Council;
- 26.4 To approve payment of gratuities to retiring employees in accordance with discretionary powers available through the Local Government Act, 1972, and the Superannuation Regulations.
- 26.5 To approve early retirement applications in respect of employees in the Local Government Pension Scheme and non-school based staff in the Teachers' Pension Scheme.
- 26.6 Increase Members' Allowances in accordance with the bottom of the National Joint Council Local Government pay spine.
- 26.7 To determine hardship advances to employees.
- 26.8 To authorise directed surveillance, for investigatory purposes, in accordance with the Regulation of Investigatory Powers Act, 2000.
- 26.9 To determine appeals against the designation of a post as being politically restricted.
27. **Head of Law**
- Authorisation of directed surveillance and covert human intelligence sources in accordance with the requirements of the regulation of the Investigatory Powers Act, 2000.
28. **Systems Leader(s) (Money Home Job)**
- 28.1 To carry out relevant duties specified in the Housing Act 1996 particularly under Part 6 and Part 7, as amended by Homelessness (Priority Need for Accommodation) (England) Order 2002 and the Homelessness Act 2002.
- 28.2 Make arrangements to ensure local authority functions are implemented with regards to the needs to safeguard and promote the welfare of vulnerable adults.
- 28.3 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.

- 28.4 To authorise the Head of Legal and Democratic Services to complete tenancy agreements in respect of/and licences to occupy Supported and Temporary Accommodation and plots on the Council's Willenhall Lane Travellers site.
- 28.5 Authority to admit to temporary accommodation, either provided by the Council, by other authorities, voluntary organisations, or privately registered homes (including bed and breakfast / hotels), persons who are vulnerable and homeless.
- 28.6 Authority to approve interest free loans or grants not exceeding £5,000 to individual homeless households to prevent homelessness or up to £50,000 to other bodies to assist in tackling homelessness in accordance with guidelines as approved by the Council's Executive.
- 28.7 Authority to grant interest free loans for dwellings where assistance is up to £30,000 in line with the Housing Renewal Assistance Policy.
- 28.8 Authority to approve applications for concessionary travel passes for homeless clients and those vulnerable clients fleeing violence.
- 28.9 Agree the termination of licences to occupy rooms or temporary accommodation units in respect of homeless households where necessary and write off debts for former tenants.
- 28.10 To increase charges payable for the occupation of Council owned supported housing and temporary accommodation and Willenhall Lane Travellers site to recover costs associated with the services and as a minimum in line with councils calculated rate of inflation
- 28.11 Authorisation of directed surveillance and covert human intelligence sources in accordance with the requirements of the Regulation of the Investigatory Powers Act, 2000.
- 28.12 Taking all necessary action for the collection of amounts due to the Council using any powers available to the Council.\*
- 28.13 With the approval of the Section 151 Officer ~~Chief Finance Officer~~ authority to write off irrecoverable amounts due to the Council:
- (a) Without limit as regards local taxation on a single property.
  - (b) Without limit as regards housing benefit and or Council tax discounts on a single property.
- 28.14 Authority to manage and determine awards of business rate relief and business rates reoccupation relief under each scheme.\*

- 28.15 Approval to grant discretionary relief from national non-domestic rates in accordance with the Council's approved scheme, and under Sections 47 and 48 of the Local Government Finance Act 1988.\*
- 28.16 Authorising, on behalf of the Council as billing authority, valuation agreements in respect of the Non-Domestic Rating local list, as required by the Valuation Office Agency.\*
- 28.17 To fix incidental charges relating to local taxation, and central cashier functions.\*
- 28.18 To determine applications for rate relief from Non Domestic Rates under Section 44A of the Local Government Finance Act, 1988.\*
- 28.19 To determine applications for hardship relief from Non Domestic Rates under Section 49 of the Local Government Finance Act 1988 and from Council tax under Section 13A of the Local Government Act, 1992.\*
- 28.20 To determine the completion date for a property notice in accordance with Section 46A and Schedule 4A of the Local Government Finance Act 1988 as well as Section 17 of the Local Government Finance Act 1992.\*
- 28.21 Engage in data matching exercises designed to assist in the detection of fraud.\*
- 28.22 Administer the Council responsibilities under the provisions of the Social Security legislation and in accordance with the Council's approved policy relating to the Housing Benefit and Council Tax Reduction Scheme including the following:
- The administration of the Council's local schemes
  - The administration of the Council's Prosecution and Sanctions Policy in relation to Housing Benefit and Council Tax Benefit reduction fraud.
  - Including power to make any determinations under the relevant legislation.\*
- 28.23 Authority to manage and determine awards of business rate retail relief and business rates reoccupation relief under each scheme.\*

Note: \* The Section 151 Officer ~~Chief Finance Officer~~ also has these delegations.

**Table 6**

**West Midlands Joint Committee Constitution**

1. (i) The District Councils of the County of West Midlands established on 24 July 1985 a Joint Committee known as the West Midlands Joint Committee ("the Committee") for the purpose of discharging the functions mentioned in the Annex. The Committee was a joint committee for the purposes of Part VI of the Local Government Act 1972 and the provisions of that part applicable to joint committees shall apply to the Committee.
- (ii) This Revised Constitution has been updated to reflect changes as set out in the Localism Act 2011 in relation to strategic planning and cross boundary infrastructure matters which must now be dealt with via the Duty to Cooperate ("the duty").
2. (i) The Committee shall comprise seven voting members, each District Council being entitled to appoint one voting member who shall be a member of the District Council making the appointment. In the event of any voting member of the Committee ceasing to be a member of the District Council which appointed him/her, the District Council shall forthwith appoint another voting member in his/her place. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
- (ii) Each District Council may appoint two of its members to attend the meeting of the Committee as observer members in addition to the voting member appointed under (i) above. Such observer members may speak at meetings of the Committee but not vote.
- (iii) Each District Council may appoint members of its Council as substitute for the voting members or observer members appointed under (i) or (ii) above to attend meetings of the Committee and its sub-committees in the absence for any reason of the voting members or observer members appointed under (i) or (ii) above and in attending meetings of the Committee and its sub-committees the substitute voting members or observer members shall be treated in all respects as if they were appointed under (i) or (ii) above as the case may be. The Secretary for the Committee shall be informed prior to the commencement of the meeting of the names of substitute members.
- (iv) The Chairman of each Joint Authority appointed in the West Midlands shall be an ex officio member of the Committee. Such ex officio members may speak at meetings of the Committee but not vote.

Amended 3.6.15



- (v) The Committee shall, at its Annual Meeting, elect a Chair and Vice-Chair from amongst its voting members. In the event of both being absent from the meeting, the Chair and the Vice-Chair for whatever reason, the Committee shall elect a Chair from amongst the voting members present for that meeting.
  - (vi) Four voting members of the Committee shall constitute a quorum. Except as otherwise provided by statute, all questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a Member of the Committee.
  - (vii) The Committee will meet as agreed at AGM but in any event at least quarterly. However, a meeting of the Committee may be convened at any time by the Secretary in consultation with the Chair. A meeting of the Committee must also be convened by the Chair within 28 days of the receipt of a requisition of any two voting members of the Committee addressed to the Secretary to the Committee. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting.
  - (viii) The Committee shall from time to time make such standing orders for the carrying on of the business of the Committee as the Committee shall deem necessary or desirable.
  - (ix) For the avoidance of doubt and subject to there being no changes to the law on this issue, where a District Council is operating executive arrangements pursuant to the Local Government Act 2000 (and any regulations made under it), it will be a matter for the Executive of the District Council to appoint any voting member, observer member or substitute member to the Committee.
3. The Committee shall from time to time appoint such sub-committees to consider and deal with any of the functions of the Committee as may be thought desirable.
4. The Committee shall employ a Secretary and such other officers as may be deemed necessary for the due conduct of the business of the Committee at such remuneration (if any) and upon such terms as the Committee shall decide. The appointment of Secretary shall be for a term of three years and shall be made at the annual meeting of the Committee in the appropriate year.
5. (i) The Secretary shall keep proper accounts of the money received and expended by the Committee.
- (ii) The Secretary shall apportion the expenses of the Committee between the District Councils in proportion to the population of each district in the County.

Amended 3.6.15

6. This Revised Constitution and, subject as hereinafter mentioned, the functions of the Committee may be amended at any time by the unanimous agreement of the District Councils.
7. That the relevant Standing Orders for West Midlands Joint Committee are those of Birmingham City Council.
8. Decision making between meetings is delegated to the Chair, but those decisions are only to be implemented if supported in writing by the signatures of all of the Chief Executives of each of the 7 Districts.

Amended 3.6.15

Approved by Council 18 June 2014

## **Annex - Functions of the Joint Committee**

1. To make nominations or appointments as the case may be:
  - (i) to the 5 balancing places of the West Midlands Police and Crime Panel
  - (ii) to the 5 balancing places of the West Midlands Integrated Transport Authority Joint Overview and Scrutiny Committee.
2. In relation to Birmingham Airport, to:
  - 2.1 (i) determine the exercise of the Districts' powers and rights as shareholders of the Company including the manner in which the Districts' block shareholder vote is to be exercised;
  - (ii) determine the manner in which the block vote is to be cast by any of the Districts' Directors.
  - (iii) determine the exercise of rights and performance of obligations, warranties, indemnities and covenants contained in the Investment Agreement and Taxation Deed relating to the restructuring of the Airport;
  - (iv) appoint and remove the Districts' Directors on the Board and appoint appropriate officers as Districts' Observers to attend Board meetings and support the District Directors.
  - 2.2 The delegation of powers by the Districts to the Joint Committee in clause 2.1 shall be subject to a condition that all resolutions of the Joint Committee or any Sub-Committee appointed by the Joint Committee shall be passed by a majority of the members present who between them represent Districts who hold at least 51% of the Districts' total shareholding.
  - 2.3 The Joint Committee may arrange for the discharge of their functions by a Sub-Committee subject to the same condition set out in clause 2.2.
  - 2.4 The Joint Committee may arrange for the discharge of their functions subject to the condition set out in clause 2.2 by each of the Districts' Chief Executives or anyone authorized by any District to act in the Chief Executive's absence acting in consultation with the Chair or Vice Chair of the Joint Committee.
- 3.. To co-ordinate actions on important issues affecting the Districts and to provide a vehicle for communicating these actions, and the needs of Districts, to Government and other influential bodies.
4. To consult and co-operate as respects matters affecting the District Councils (including the Duty to Cooperate and as appropriate with each District Council and the Joint Authorities.

Amended 3.6.15

5. To consider, in consultation with and, if appropriate, in partnership with the Joint Authorities, whether they could make better value arrangements for the provision of any services, supplies or works required in connection with the discharge of the functions of the District Councils.
6. To co-ordinate the exercise by the District Councils of the enforcement functions conferred on them by the Weights and Measures Act 1985 (as amended) with a view to securing uniformity in the exercise of those functions throughout the West Midlands and the employment provision or use by those Councils for the purposes of those functions of staff, property and facilities.
7. To oversee the work of and payment of the Joint Data Team contract with Mott Macdonald Ltd dated 27 March 2008.
8. To receive reports from any partnership
9. To exercise the functions delegated to it by the Agreement between the District Council relating to landfill brokerage dated 9 September 1994.

Amended 3.6.15

## Black Country Joint Committee Constitution

1. Dudley MBC, Sandwell MBC, Walsall MBC and Wolverhampton City Council established an Executive Joint Committee known as the Black Country Joint Committee ("the Committee") for the purpose of discharging the functions mentioned in Annex A. The Committee is a joint committee of the Executive for the purposes of Part VI of the Local Government Act 1972 and Part I Chapter 2 of the Local Government Act 2000 and the provisions of thereof that are applicable to Joint Committees of the Executive shall apply to the Committee.
2.
  - (i) The Committee shall comprise four members, each Council being entitled to appoint one voting member who shall be a member of the Councils Cabinet making the appointment. In the event of a voting member of the Committee ceasing to be a member of the Council which appointed him/her, the Council shall forthwith appoint another voting member in his/her place. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
  - (ii) Each Council may appoint members of its Executive as substitute for the voting members appointed under (i) above to attend meetings of the Committee and its sub-committees in the absence for any reason of the voting members or observer members appointed under (i) above and in attended meetings of the Committee and its sub-committees the substitute voting members or observer members shall be treated in all respects if they were appointed under (i) above as the case may be. The Secretary for the Committee shall be informed prior to the commencement of the meeting of the names of the substitute members.
  - (iii) The Chairman of the Black Country Local Enterprise Partnership shall be an ex officio member of the Committee on matters relating to City Deal and Growth Deal. Ex officio members may speak at meetings of the committee but not vote. The Chairman of the Black Country Local Enterprise Partnership shall present reports to the Joint Committee from the City Deal and Growth Deal Advisory Board.
  - (iv) The Black Country Consortium Ltd will be responsible for writing reports to the Joint Committee from the City Deal and Growth Deal Advisory Board in the format provided for at Annex B. A representative of the Black Country Consortium Ltd can be in attendance at meetings of the Joint Committee on matters relating to City Deal and Growth Deal in an advisory role.

- (v) The Committee shall at its Annual Meeting, elect a Chair and Vice-Chair from among its voting members or chose to adopt for that year to have a rolling Chair and Vice Chair being upon rotation. In the event of both being absent from the meeting, the Chair and Vice-Chair for whatever reason, the Committee shall elect a chair from amongst the voting members present for that meeting but shall not count for purposes of rotation.
  - (vi) Three voting members of the Committee shall constitute a quorum. Except as otherwise provided by statute, all questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a member of the Committee.
  - (vii) The Committee shall meet as agreed at its AGM. However a meeting of the Committee may be convened at any time by the Secretary in consultation with the Chair for the meeting that would be convened. A meeting of the Committee must also be convened by the Chair within 28 days of the receipt of a requisition of any two voting members of the Committee addressed to the Secretary of the Committee. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting.
  - (viii) The Committee shall from time to time to make such standing orders for the carrying on of the business of the Committee as the Committee shall deem necessary and or desirable.
  - (viii) For the avoidance of doubt and subject to there being no changes to the law on this issue, where a Council is operating executive arrangements pursuant to the Local Government Act 2000 (and any regulations made under it), it will be a matter for the Executive of the Council to appoint any voting member, or substitute member of the Committee as long as that member is a member of the appointing Councils Cabinet.
3. The Committee shall from time to time appoint such sub-committees and Advisory Boards to consider and deal with any of the functions of the Committee as may be thought desirable.
  4. The Committee Secretary and such other officers as may be deemed necessary for the due conduct of the business of the Committee shall be Walsall Metropolitan Borough Council.
  5. Meetings of the Joint Committee shall be held at Walsall Metropolitan Borough Council unless otherwise directed by the Joint Committee.
  6. The Secretary shall:

- (i) Be responsible for preparing the agenda and submitting reports prepared by either of the Councils or other bodies to the Joint Committee and minutes of the Joint Committee.
  - (ii) Be responsible for making arrangements for the publishing in accordance with Access to Information requirements all meetings, agenda, agenda items and minutes as appropriate.
7. That the relevant Standing Orders for Black Country Joint Committee are those of Walsall Metropolitan Borough Council.

## **Terms of Reference**

### **Functions of the Committee**

1. To receive reports from any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee.
2. At any time review and agree proposed changes to the Functions of the Committee, and seek approval of the same from the four Council Executives of the Black Country authorities.
3. To agree and approve any proposed governance and or reporting structure that the committee sees fit.
4. In relation to the City Deal and Growth Deal:
  - 4.1 To act as a strategic body; setting and reviewing objectives for strategic investment across the Black Country, including;
    - (a) Providing a coherent single position on the major strategic City Deal and Growth Deal issues;
    - (b) Agreeing allocation of spending;
    - (c) Agreeing major priorities;
    - (d) Consider and agree recommendations made by any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee;
    - (e) Refer recommendations received back to any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee for further consideration as and when minded in the first instance to not follow recommendations at all or to materially change the substance of the decision except in the case of genuine urgency requiring a decision to be made at that time;
  - 4.2 Agreeing Lead and or Accountable Body status for a body or organisation;
  - 4.3 Agree, review and amend options at any time for City Deal and Growth Deal governance which is fit for purpose;
  - 4.4 Influence and align government investment in order to boost economic growth;



- 4.5 Have regard to the duty to cooperate and Joint Committee's overall function as set out above;
- 4.6 To ensure alignment between decision making on City Deal and Growth Deal and decisions on other areas of policy such as land use, transportation, economic development and wider regeneration;
- 4.7 Co-ordinate and align decision making on transport with the LEPs ensuring that business views are taken on board and that LEP growth plans are reflected in strategic priorities;
- 4.8 Deciding on capital expenditure programmes and ensuring policy and programmes are delivered effectively through partners.