

## **Annual Council – 23rd May 2016**

### **Constitution and timetable of meetings 2016/2017**

#### **1. Summary of report**

- 1.1 This report sets out proposed amendments to the Constitution and is produced in accordance with the requirements of Article 14 of the Constitution and the Council's duty to monitor and review the Constitution. The scheme of delegations to officers was revised by the Audit Committee on 18th April 2016.
- 1.2 The report also sets out the timetable of meetings to be adopted for the municipal year 2016/2017.

#### **2. Recommendations**

- 2.1 That the amendments to the following parts of the Constitution as set out in the report be approved:
  - (a) Part 2 – Articles
    - Article 4 – The Council
    - Article 7 – The Executive
  - (b) Part 3 – Responsibility for functions
    - 3.5 – Scheme of delegations to officers
  - (c) Part 4 – Rules of procedure
    - 4.5 – Overview and Scrutiny procedure rules
- 2.2 That the Members' Allowances Scheme be approved for a further 12 months subject to any changes to structures or responsibilities.
- 2.3 That the timetable of meetings for the municipal year 2016/2017 as set out in Appendix 2 of the report be approved.

#### **3. Background information**

##### **3.1 Part 2 – Articles of the Constitution**

###### **(a) Article 4 – The Council**

The Local Government Act 2000 gave the Council collective responsibility for approving the policy framework and budget details of which are set out in paragraph 4.01 of this Article

- (i) Paragraph 4.01(a) is the policy framework which includes those plans and strategies which the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Regulations proposed under Section 32 of the Local Government Act 2000 and subsequent legislation and must be adopted by the Council. The Children and Young People's Plan is no longer a statutory requirement and therefore it is proposed that it be included within the list of other plans and strategies which the Council considers should be adopted as part of the policy framework at 4.01(a)(ii).
- (ii) The Council's Section 151 Officer has included under part 4.01(a)(ii) the following additional strategy:

#### Treasury Management and Investment Strategy

- (iii) It is also proposed to amend Part (b) Budget to read as follows for greater clarification:

"The budget includes statutory determinations (gross expenditure, gross income and Council tax requirement), setting the Council tax valuation bands for each category of dwelling and the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits."

### (b) **Article 7 – The Executive**

This article explains the operation of the Executive (Leader and Cabinet) and the basic components for the Executive. In order for clarity it is proposed to amend paragraph 7.05(2) to read:

"The Executive Leader has appointed Executive Members with responsibility for the following portfolios:"

### 3.2 **Part 3 – Responsibility for functions**

#### **Part 3.5 – Scheme of delegations to officers**

The delegations to officers under the Constitution are reviewed on a regular basis to reflect changes in legislation, structural and organisational changes within the Council. At its meeting on 18th April 2016 the Audit Committee reviewed the proposed amendments to the scheme of delegations to officers and a copy the report setting out the proposed changes is reproduced as **Appendix 1**.

### 3.3 **Part 4 – Rules of procedure**

#### **Part 4.5 – Overview and Scrutiny procedure rules**

This part of the Constitution sets out the terms of reference for Overview and Scrutiny Committees, their membership and their remit. For clarification it is proposed to amend paragraph 1(b)(vii):

“(vii) In the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business, the Executive will make decisions about the priority of referrals made.”

#### 4. **Members Allowances Scheme**

The Council adopted a new scheme on 17th November 2014 to be operational from 17th November 2014 as required by the Local Authorities (Members Allowances) (England) Regulations 2003. In respect of the present scheme, the Council adopted the recommendation made by the Independent Review Panel to rely on an index for 4 years instead of reviewing the scheme annually, this index being the annual updating in line with the NJC pay award for officers.

#### 5. **Timetable 2016/2017**

The draft timetable which is recommended for approval is attached as **Appendix 2**.

In order for business to be administered in the most effective way possible, it is important that once the timetable is agreed by the Council, only in the most exceptional circumstances should meeting dates be re-arranged.

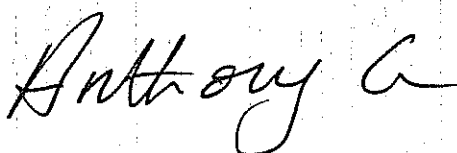
**Background papers - Nil**

#### **Author**

John Garner, Head of Democratic Services

☎ 01922 654366

✉ [john.garner@walsall.gov.uk](mailto:john.garner@walsall.gov.uk)



Signed:

Head of Legal and Democratic Services

13th May 2016

**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 Executive Director is also delegated to the Chief Executive.
- 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 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 Head of Human Resources and Development and 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 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 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 Contract 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 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 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, Change & Governance**

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 waive the fee for Disabled Person's Parking Badge (Blue Badge) in exceptional circumstances.
- 13.4 Authority to make ex-gratia payments in appropriate circumstances to non-staff up to the value of £500 per instance.
- 13.5 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.\*
- 13.6 Exercise all routine housing functions that are not specifically delegated to any relevant Cabinet member, the Cabinet, or any Committee.
- 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 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:
  - (c) 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;

Amended 3.6.15

- (d) Issue house in multiple occupation (HMO) licences and related notices;
  - (e) 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 £50,000.
  - (f) 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 in his absence the Systems Leaders (Money, Home, Job) to grant such authorisations and those listed in 13.14 and 13.15.
- (c) To authorise the System Leaders (Money, Home, Job), the Manager of Housing Standards and Improvement and the Service Manager for Supported Housing to make decisions and to take action under the following legislation, including 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)

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

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.

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

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

#### **14. Chief Finance Officer**

14.1 To exercise the functions of the Council's chief financial officer, including 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 2011.

14.2 To issue financial procedures within the principles of both Financial and Contract Rules.

14.3 To approve payments of gratuities to retiring employees in accordance with discretionary powers available through the Local Government Act 1972, and the Pension Regulations.

14.4 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;
- 14.5 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.
- 14.6 Taking all necessary action for the collection of amounts due to the Council using any powers available to the Council.
- 14.7 Authority to write off irrecoverable amounts due to the Council up to and including £10,000 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.
- 14.8 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.
- 14.9 Authority to manage and determine awards of business rate relief and business rates reoccupation relief under each scheme.
- 14.10 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.
- 14.11 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.
- 14.12 To arrange 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.
- 14.13 To arrange finance and operating leases as required in accordance with the Council's capital programme.
- 14.14 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.

- 14.15 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.
- 14.16 To fix incidental charges relating to local taxation, and central cashier functions.
- 14.17 To determine applications for rate relief from Non Domestic Rates under Section 44A of the Local Government Finance Act, 1988.
- 14.18 To determine the Council tax base in accordance with the Local Government Finance Act 1992
- 14.19 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.
- 14.20 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.
- 14.21 Approve applications for financial assistance and to authorise grant claims from the European Union.
- 14.22 Appoint, manage and dismiss external investment managers, leasing and treasury management consultant.
- 14.23 Engage in data matching exercises designed to assist in the detection of fraud.
- 14.24 Open credit card facilities in line with standard bank conditions if and when such facilities are deemed necessary.
- 14.25 Deal with all matters relating to the transfer of the pension rights of pensionable employees.
- 14.26 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.

- 14.27 Deal with internal audit issues under the Accounts and Audit Regulations 2011 as amended.
- 14.28 The authority to write off any debt (including any associated court costs and bailiffs fees) up to the sum of £10,000 for single items per individual or organisation (or for multiple items on a single debtor), which in the opinion of the Chief Finance Officer is considered to be uneconomical to collect and/or is irrecoverable.
- 14.29 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 (Darlaston site).
- 14.30 To approve national non domestic rate and Council tax government returns.
- 14.31 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.
- 14.32 To undertake an annual review (jointly with the Executive Director of Adult Social Care) of the values of adult social care support packages based upon a resource allocation system.
- 14.33 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.
- 14.34 Authority to manage and determine awards of business rate retail relief and business rates reoccupation relief under each scheme.

**Note:** The following powers may be exercised by the: Head of Finance:  
2, 4, 5, 6, 7, 12, 13, 14, 17, 22, 23, 24, 25, 30, 31 (In the absence of the Chief Finance Officer (Assistant Director of Finance) the Head of Finance will act as the designated Chief Financial Officer and may exercise all of the delegations as set out above and specifically 14.1)

- 14.35 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.

## 15. **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**

- 15.1 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.
- 15.2 Ensure that there are sufficient primary and secondary school places in the borough.
- 15.3 Exercise the Council's functions in relation to early years development and provision.
- 15.4 Exercise of the powers of the Education Authority in relation to admissions and exclusion procedures.
- 15.5 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.
- 15.6 Take necessary action to ensure measures are in place to promote good attendance.
- 15.7 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.
- 15.8 In consultation with the Head of Legal and Democratic Services to authorise proceedings in respect of irregular or non attendance at school.
- 15.9 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.
- 15.10 Service and enforcement of notices under the relevant Education Acts.

- 15.11 Service of notices requiring parents to satisfy the authority that their child is receiving sufficient full-time education.
- 15.12 Provision of education to individual pupils “otherwise than in school”.
- 15.13 Determination of the dates of school terms and holidays in the borough.
- 15.14 Acceptance of grants, loans, bursaries, discretionary awards in respect of students and pupil support which comply with statutory requirements and approved Council policies.
- 15.15 Exercise the power of the Education Authority under relevant byelaws regulating the employment of children and prohibiting street trading by young persons.
- 15.16 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.
- 15.17 Approval of grants and awards for Home to School transport which comply with statutory requirements and approved Council policies.

#### **School support services**

- 15.18 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.
- 15.19 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 Head of Human Resources and Chief Finance Officer where applicable.
- 15.20 Arrange the secondment and transfer of staff with the approval of the governors of the schools concerned.
- 15.21 Determine applications for teachers and head teachers for early retirement in consultation with the Chief Finance Officer and Head of Human Resources.
- 15.22 Appoint and remove Education Authority representative school governors.
- 15.23 Implement a scheme for assessing the eligibility of applicants for free school meals.

#### **Special Educational Needs**

- 15.24 Arrangements for determining whether a child is in need of Special Education:

- 15.25 Assessing for and where required, completing an Education, Health and Care Plan.
- 15.26 Arrangements to implement special educational provisions specified in the Education, Health and Care Plan.
- 15.27 Determination of arrangements for the placement of pupils in schools, special schools, or for education other than at a school.
- 15.28 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.
- 15.29 Making of payments by way of recoupment where mandatory.

### **School improvement**

- 15.30 Arrangements for monitoring school improvement.
- 15.31 Arrangements for receiving Ofsted reports.

### **School land and buildings**

- 15.32 Take all appropriate steps to achieve the effective use of school land and buildings.
- 15.33 Seek planning permission in respect of future proposed development for education and community purposes.
- 15.34 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 Chief Finance Officer.
- 15.35 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).
- 15.36 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**

- 15.37 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.
- 15.38 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**

- 15.39 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**

- 15.40 Exercise functions under the Children Act 2004, Section 18(2).
- 15.41 Establish and develop a Walsall Safeguarding Children's Board.
- 15.42 Ensure there are in place complaint procedures which meet the local and statutory requirements including publication of the said procedures.
- 15.43 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.
- 15.44 Provide access to an interpretation service where necessary.
- 15.45 With the 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**

- 15.46 Maintain an adoption service in accordance with legislation and national standards.
- 15.47 Maintain a fostering service in accordance with legislation and national standards.
- 15.48 Ensure there are available sufficient staff to meet the directorate duties under the Mental Health Act 1983 and Mental Health Act 2007

- 15.49 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.
- 15.50 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.
- 15.51 Ensure that the education and health of looked after children are monitored and responded to as necessary.
- 15.52 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
- 15.53 Ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 15.54 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.
- 15.55 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.
- 15.56 Exercise parental responsibility for all children in the care of the directorate.
- 15.57 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.
- 15.58 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.
- 15.59 Discretion to vary charges in cases where there are special circumstances, hardship etc.
- 15.60 Authority to make ex-gratia payments in appropriate circumstances to non staff up to the value of £500 per instance.
- 15.61 Authority to provide assistance under Section 17(6) of the Children Acts 1989.



- 15.62 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.
- 15.63 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.
- 15.64 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.
- 15.65 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.
- 15.66 Authority to provide places for children and families in family centres and other day care provisions.
- 15.67 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.
- 15.68 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.
- 15.69 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.
- 15.70 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.
- 15.71 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.

- 15.72 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.
- 15.73 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.
- 15.74 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).
- 15.75 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.
- 15.76 Authority to negotiate on the authority's behalf inter-agency agreements including inter-agency fees which fall within nationally and locally agreed guidelines.
- 15.77 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.
- 15.78 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.

### **Children with disabilities**

- 15.79 Administration of services for the welfare of children and young people with disabilities and their carers in accordance with all relevant legislation.
- 15.80 Identify "children in need" in the borough and provide assessments of their needs.
- 15.81 Maintain a register of children and young people with disabilities.

- 15.82 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.
- 15.83 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.
- 15.84 Provision of a family information service.
- 15.85 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.
- 15.86 Publication of a statement of the Council's short breaks services on their website.

### **Services for young people**

- 15.87 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.
- 15.88 To involve young people in the development of a locally agreed and sufficient 'youth offer'.
- 15.89 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**

- 15.90 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.
- 15.91 To establish a management board for the Youth Justice Service in co-operation with statutory partners.
- 15.92 The provision of an annual youth justice plan.
- 15.93 Maintain a youth justice service in accordance with legislation and national standards.

- 15.94 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.
- 15.95 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.
- 15.96 To prevent and reduce offending within Walsall by Children and Young People (Crime and Disorder) Act 1998.
- 15.97 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).
- 15.98 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.
- 15.99 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.
- 15.100 To advise the Court in imposing Parenting Orders and managing and supervising Parenting Orders imposed in line with expected national standards and procedures.
- 15.101 The provision of appropriate adult services and the transfer of young people to a place of safety under PACE.
- 15.102 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.
- 15.103 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).
- 15.104 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.

15.105 The provision of requirements for the Youth Rehabilitation Order under the Criminal Justice and Immigration Act 2008.

15.106 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.

15.107 Undertake assessments of dangerousness when required to do so (for Court or parole boards).

### **Children's Centres**

15.108 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.

15.109 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).

15.110 To provide sufficient child care to enable parents to undertake work, education or training, or continue with the same.

### **Miscellaneous**

15.111 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

## **Mental health**

39. Mental Health Act 1983
40. Mental Health Act 2007
41. Mental Capacity Act 2005

## **Disability**

42. Chronically sick and disabled persons Act 1970
43. Disabled Persons (Services Consultation and Representation) Act 1986
44. Carers and Disabled Children Act 2000
45. Disability Discrimination Act 1995 and 2005

## **Health and wellbeing**

46. Public Health (Control of Disease) Act 1984
47. Health Act 1999
48. Child Poverty Act 2010
49. Childcare Act 2006
50. Equality Act 2010
51. Representation of the People Act 2000
52. National Health Service (NHS) Act 2006 (eg: Section 75)

## **Education**

53. Education Act 1996
54. Education Act 2002
55. School Standards and Framework Act 1998
56. Apprenticeships Skills Children and Learning Act 2009
57. Education and Inspections Act 2006
58. Education and Skills Act 2008

- 59. Academies Act 2010
- 60. School Staffing (England) Regulations 2009
- 61. Teachers' Pensions Regulations 2010 Regulation 3
- 62. Teaching and Higher Education Act 1998
- 63. The Early Years Foundation Stage Order 2007
  
- 64. The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001
- 65. The Information as to Provision of Education (England) Regulation 2008 No.4
- 66. The Education (Induction Arrangements for School Teachers (England) Regulations 2008
- 67. The Education School Information (England) Regulations 2008
- 68. Education Act 2011
- 69. Learning and Skills Act 2000

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

## **16. Executive Director, Social Care and Inclusion**

The holder of the post of Executive Director, Social Care and Inclusion 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:

- 16.1 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.
- 16.2 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.
  - 16.3 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.
  - 16.4 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.
  - 16.5 Ensure that there are in place, complaints procedures which meet the legislative requirements including publicising the said procedures.
  - 16.6 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.
  - 16.7 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.
  - 16.8 Ensure there are available sufficient staff to meet the directorates duties under the Mental Health Act 1983 and Mental Health Act 2007.
  - 16.9 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.
  - 16.10 Provide an interpretation service where necessary.
  - 16.11 Appeal to the Tribunal against Care Quality Commission inspection decisions to cancel registrations; or add a new condition of registration of a directorate establishment.
  - 16.12 Ensure the carrying out of duties required by Court Orders.
  - 16.13 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.

- 16.14 After consultation with the Head of Legal and Democratic Services, make any application to the courts as appropriate.
- 16.15 Provide support for asylum seekers and their dependents who are destitute or likely to become destitute and for them support not available elsewhere.
- 16.16 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.
- 16.17 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.
- 16.18 Authority to admit persons with mental ill health, physical disabilities or learning difficulties to day centres or workshops provided for them.
- 16.19 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.
- 16.20 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).
- 16.21 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).
- 16.22 Authority to waive Financial and Contract Rules in relation to seeking quotations and tenders for certain community care services.
- 16.23 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.
- 16.24 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.
- 16.25 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.

- 16.26 Authority to approve applications for concessionary travel passes for people with learning disabilities and those who are mentally ill.
- 16.27 Authority to approve interest free loans not exceeding £30,000 in accordance with guidelines as approved by the Council's Executive.
- 16.28 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.
- 16.29 Authority to make ex-gratia payments in appropriate circumstances to non-staff up to the value of £500 per instance.
- 16.30 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.
- 16.31 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.
- 16.32 To manage peoples affairs as appointee and guardian for individuals who lack capacity.
- 16.33 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).

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

## **17. 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:

- 17.1 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. \*
- 17.2 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.
- 17.3 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.

- 17.4 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.
- 17.5 Make applications for planning permissions, listed building and advert consents.
- 17.6 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 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.
- 17.7 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.
- 17.8. 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.
- 17.9 (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.
- 17.10 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 Portfolio holder changes to rental level, policies and procedures.
- 17.11 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.
- 17.12 Authority to approve charity market stalls.
- 17.13 Authority to approve the transfer or 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 license 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.

17.14 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.

17.15 Write off irrecoverable market charges for former stall holders.

17.16 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.

17.17 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. \*

17.18 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. \*

17.19 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.\*

17.20(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.

17.21 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, eg:

- (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. \*

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

**Note:** (a) Except where otherwise stated, the holders of the following posts within Regeneration Services may exercise the above powers:

Head of Development and Delivery  
 Head of Strategic Regeneration  
 Head of Planning and Building Control

- (b) 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.
- (c) \* The Executive Director, Resources also has these delegations.

## **18. Director of Public Health**

To be responsible for the day to day management of the public health 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:

- 18.1 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.
- 18.2 To exercise the Council's functions by virtue of Section 6C(1) or (3) of the National Health Service Act 2006, as amended.
- 18.3 To exercise the Council's functions in pursuance of arrangements under Section 7A of the National Health Service Act 2006, as amended.
- 18.4 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.
- 18.5 To exercise the functions of the authority under Section 325 of the Criminal Justice Act 2003.
- 18.6 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.

- 18.7 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.
- 18.8 To authorise action: The institution of legal proceedings, the serving of notices, using 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.
- 18.9 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.
- 18.10 May authorise officers from other authorities and public agencies working on regional projects to exercise statutory powers within the borough from time to time.
- 18.11 May authorise members of staff employed in communities and public protection, and members of staff employed in other services where applicable, to act on behalf of the Council in relation to these delegations and to take action on behalf of the Council in enforcing and administering the following legislation, and any subordinate legislation, including where relevant:

May institute legal proceedings, 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 licences and to seize and detain goods and documents under the following legislation:

Accommodation Agencies Act 1953  
 Administration of Justice Act 1970  
 Agriculture Act 1970  
 Agriculture Produce (Grading and Marking) Acts 1928 and 1931  
 Animal Boarding Establishment Act 1963  
 Animal Health Act 1981  
 Animal Health and Welfare Act 1984  
 Animals Act 1971  
 Animal Welfare Act 2006  
 Anti-social Behaviour Act 2003  
 Breeding of Dogs Act 1973 and 1993  
 Breeding and Sale of Dogs (Welfare) Act, 1999  
 Building Act, 1984  
 Business Names Act 1985  
 Cattle Identification Regulations 1998

Celluloid and Cinematograph Film Act 1972  
Charities Act 2006  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Chronically Sick and Disabled Persons Act, 1970  
Civil Contingencies Act 2004  
Civil Partnership Act 2004  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Companies Act 1985  
Companies Act 2006  
Competition Act 1980  
Consumer Credit Act 1974  
Consumer Credit Act 2006  
Consumer Protection Act 1987  
Control of Pollution Act 1974  
Control of Pollution Amendment Act 1989  
Copyright Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Criminal Attempts Act 1981  
Criminal Damage Act 1971  
Criminal Justice and Public Order Act, 1994  
Criminal Law Act 1977  
Dangerous Dogs Acts 1989 and 1991  
Dangerous Wild Animals Act 1976  
Dairy Products (Hygiene) Regulations 1995  
Defective Premises Act, 1972  
Development of Tourism Act 1969  
Disability Discrimination Act 1995  
Dogs Act 1871  
Dogs (Fouling of Land) Act 1996  
Education Reform Act 1988  
Egg Products regulations 1993  
Employment Agencies Act 1973  
Energy Act 1976  
Energy Conservation Act 1981  
Enterprise Act 2002  
Environment Act 1995  
Environmental Protection Act 1990  
Equality Act 2010  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Act 1875  
Factories Act 1961 and 1998  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Fire Safety and Safety of Places of Sport Act 1987  
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 Regulations 2013



Food Safety (General Food Hygiene) Regulations 1995  
Food Premises (Registrations) Regulations 1991  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006  
Gambling Act 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  
House to House Collections Act 1939  
Housing Act 2004  
Intoxicating Substances (Supply) Act 1985  
Land Compensation Act 1973  
Licensing Act 2003  
Litter Act 1983  
Local Government Act, 1972  
Local Government Acts, 1988 and 2000 and 2003  
Local Government and Housing Act, 1989  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Marriages Act 1949  
Meat Products (Hygiene) Regulations 1994  
Medicines Act 1968  
Minced Meat and Meat Preparation (Hygiene) Regulations 1995  
Mock Auctions Act 1961  
Motor Cycle Noise Act 1987  
Noise and Statutory Nuisances Act 1993  
Noise Act 1996  
Nurses Agencies Act 1957  
Offices, Shops and Railway Premises Act 1963  
Performing Animals (Regulation) Act, 1925  
Pet Animals Act 1951  
Pigs (Records, Identification and Movement) Order 1995  
Poisons Act 1972  
Police, Factories (Miscellaneous Provisions) Act 1916  
Pollution Prevention Control Act, 1999  
Powers of Criminal Courts Act 1973  
Prevention of Damage by Pests Act 1949  
Prices Acts 1974 and 1975  
Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2002  
Products of Animal Origin (Third Country Imports) (England)  
Regulations 2006  
Property Misdescriptions Act 1991  
Protection from Harassment Act 1997  
Protection of Animals Act 1911  
Protection of Birds Acts 1954 to 1976  
Public Health Acts 1875, 1936, 1961 and 1969  
Public Health (Control of Diseases) Act 1984  
Regulation of Investigatory Powers Act, 2000

Regulatory Reform (Fire Safety) Order 2005  
 Refuse 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  
 Scrap Metal Dealers Act 1964  
 Scrap Metal Dealers Act 2013  
 Slaughterhouse Act 1974  
 Slaughter of Poultry Act 1967  
 Sunbeds (Regulation) Act 2010  
 Sunday Trading Act 1994  
 Tattooing of Minors Act, 1969  
 Telecommunications Act 1984  
 Theft Acts 1968 and 1978  
 Timeshare Act 1992  
 Town and Country Planning 1990  
 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990  
 Town Police Clauses Acts 1847 and 1889  
 Trade Descriptions Act 1968  
 Trade Marks Act 1994  
 Trading Representations (Disabled Persons) Acts 1958 and 1972  
 Trading Stamps Act 1964  
 Unsolicited Goods and Services Acts 1971 and 1975  
 Vehicle (Crime) Act 2001  
 Video Recordings Act 1984  
 Waste Minimisation Act 1998  
 Water Act, 1989  
 Water Industry Act 1991  
 Weeds Act 1950, 1959, 1981  
 Weights and Measures Acts 1976 and 1985  
 West Midlands County Council Act 1980  
 Wildlife and Countryside Act 1981  
 Zoo Licensing Act 1981.

18.12 In the following circumstances, the decision to institute legal proceedings may be referred for the consideration of the Executive Director for Neighbourhood Services 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.

- 18.13 The Head of Communities and Public Protection 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
- 18.14 Enforcement of the Customs and Excise Management Act 1979 and the Tobacco Products Act 1979 relating to fiscal marking of tobacco products.
- 18.15 The administration of the Safety of Sports Grounds Act, 1975, in relation to the issue of Safety Certificates.
- 18.16 Authority to take action in respect of prohibition notices under Section 10 of the Safety of Sports Grounds Act, 1975;
- 18.17 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.
- 18.18 Authority to vary fees and charges not fixed by Statute.
- 18.19 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) Stage Plays Licences;
  - (b) Issue of Taxi Licences;
  - (c) Scrap Metal Dealers Registration;
  - (d) Motor salvage operators' registration;
  - (e) Lottery registration and Prize Bingo permits;
  - (f) Track Betting Licences;
  - (g) Amusements with Prizes permits with and without machines;
  - (h) Street Collection Licences and House to House collection permits;
  - (i) Street Trading Licences and permits;
  - (j) Sporting Event Licences;
  - (k) Cinema Licences (including video juke box licences and video karaoke machine licences);
  - (l) Certificates of Consent for all public exhibitions, demonstrations or performances of hypnotism;
  - (m) Licences to hold civil marriage and civil partnership ceremonies on approved premises;
  - (n) Approval of premises to hold civil marriage and civil partnership Ceremonies

- (o) Licensing of Sex Establishments (including Sex Cinemas, Sex Shops and Sexual Entertainment venues);
- (p) Issue of permits under the Charities Act 2006

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

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

19.1 The Head of Development and Delivery has authority 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 Tree Preservation Order in circumstances when an old order has been updated or a replacement order has been made or an old order no longer protects any trees or where there is no significant community interest;
- (g) undertake appropriate action in response to notifications of intention to trees in Conservation Areas.

19.2 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.

19.3. 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).

19.4 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.

- 19.5 With regard to the Regeneration (Development and Delivery) Capital Programmes and other grant aided or revenue funded regeneration programmes, to authorise the undertaking of any works and/or necessary action for the implementation of programmes including design works, invitation to and acceptance of best value tender, quotation or estimate, subject to Financial and Contract Rules.
- 19.6 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.
- 19.7 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.
- 19.8 Authority to issue a Hedgerow Retention Notice in accordance with the provisions of the Hedgerows Regulations 1997.
- 19.9 The authority not to pursue enforcement action if it is considered that it is no longer expedient to do so.
- 19.10 The Head of Development and Delivery be authorised 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.
- 19.11 The Head of Development and Delivery be authorised to grant powers of entry to appropriate officers.
- 19.12 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.
- 19.13 Maintain a schedule of Locally Listed Buildings with the authority to add or remove sites from the schedule in line with published criteria.
- 19.14 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.
- 19.15 Authority to make applications for planning permission, listed building and advert consent.

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

- 20.1 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.

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

(a) Except where otherwise stated, the holders of the following posts within Regeneration Services may exercise the above powers:

Head of Regeneration and Development  
Head of Leisure, Culture and Operations

(b) 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.

(c) \* The Executive Director, Change & Governance also has these delegations.

## **21. Head of Housing**

21.1 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.

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

21.3 Provide an interpretation service where necessary.

21.4 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.

21.5 To authorise the Head of Legal and Democratic Services to complete tenancy agreements in respect of/and licences to occupy Supported and Temporary Accommodation.

21.6 To ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.

21.7 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.

21.8 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.

- 21.9 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.
- 21.10 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 18.25 (e) and (f)).
- 21.11 Authority to approve applications for concessionary travel passes for vulnerable clients fleeing violence or homelessness.
- 21.12 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.
- 21.13 To increase charges payable for the occupation of council owned supported housing and temporary accommodation in line with councils calculated rate of inflation

## **22. 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:

- 22.1 To exercise the functions of the Council's chief legal officer.
- 22.2 To institute or defend on behalf of the Council any legal proceedings, 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 settle or terminate such proceedings, including disputes that may lead to such proceedings.
- 22.3 To authorise and certify officers for the purposes of the regulation of Investigatory Powers Act 2000.
- 22.4 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.
- 22.5 Settle conveyancing and other legal costs in connection with conveyancing matters.

22.6 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 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.

22.7 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.

22.8 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.

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

Delegations relating to the Council's planning function are the responsibility of the Head of Service, Planning, Engineering and Transportation Services.

- 23.1 Acceptance of bids for concessions at events.
- 23.2 Acceptance of payments under agreement under Section 106 Town and Country Planning Act 1990.
- 23.3 Approval of routine lettings for events on Leisure and Community Health premises/land under control of Education and Neighbourhood Services.
- 23.4 Approval of free/concessionary use of Leisure and Community Health facilities/equipment.
- 23.5 Approval of closure of Leisure and Community Health facilities for essential maintenance.
- 23.6 Determining opening hours during holiday periods for Leisure and Community Health facilities.
- 23.7 Approval of setting and variations in charges and core admission prices to leisure and community health facilities and events.
- 23.8 Acceptance of bids for concessions within leisure centres and associated sites.
- 23.9 The authority to seek planning permission in respect of future proposed development for sport, leisure, recreation, education and community purposes.
- 23.10 The authority to exercise all the powers and duties of the Council as a local authority to administer legislation in the furtherance of his duties, including but not limited, to the following Acts:
  - Animals Act 1971
  - Anti-Social Behaviour Act 2003
  - Clean Neighbourhoods and Environment Act 2005
  - Coroners Act 1988
  - Dangerous Dogs Acts 1989 and 1991
  - Dangerous Wild Animals Act 1976
  - Dogs Act 1871
  - Dogs (Fouling of Land) Act 1996
  - 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

Registration Service Act 1953  
Regulation of Investigatory Powers Act 2000  
Town Police Clauses Act of 1847 and 1889

23.11 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

23.12 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  
Local Government Act 1972  
Public Health (Control of Diseases) Act 1984  
Environmental Protection Act 1990  
Environment Act 1995

23.13 Authority to vary fees and charges not fixed by Statute.

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

23.15 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.

23.16 The Head of Planning and Building Control has authority to 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).

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 and Building Control.

- (b) Applications where it is proposed to make a decision that is contrary to the development plan or other published Council standards/guidelines;
- (c) Decisions that would need to be referred to the Secretary of State;
- (d) Applications that attract one or more written, valid (ie 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;
- (e) 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;
- (f) Any application that any member of the Council requests to be considered by Committee under the procedure set out in Part 6 paragraph 12;
- (g) Decisions where it is known that a claim for compensation from the Council would arise or which otherwise may involve a financial payment;
- (h) 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 Planning and Building Control;
  - or an officer of Property or Development and Delivery Services; or
  - other senior officer of the Council (defined for these purposes as any officer who holds a politically restricted post).
- (i) Any application that the Head of Planning and Building Control considers raises matters that should be considered by Committee.

Except that authority shall be delegated to the Head of Planning and Building Control 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.

23.17 Authority to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.

23.18 Authority to respond to various consultation documents received from government departments on planning related matters, except where the Head of Planning and Building Control is of the opinion that the consultation involves matters which should be considered by Committee, Group Leaders or the relevant Portfolio Holder.

23.19 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.

#### 23.20 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 and Building Control 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.

#### 23.21 Authority to administer and take action under:

- (a) The Building Act 1984 in relation to:
  - (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;
- (b) The Public Health Act 1936 in relation to:
  - (i) Part II - Sanitation and Buildings;
  - (ii) Part XI - Culverts, Ditches and Water Courses;
- (c) The Party Wall etc Act 1996;

- (d) The Building (Local Authority Charges) Regulations 1988
- (e) the Regulatory Reform (Fire Safety) Order 2005.

## **24. Head of Property Services**

Authority to exercise the following powers and functions:

- 24.1 To undertake the day-to-day management of the land and premises including the authorisation of expenditure, subject to budgetary control.
- 24.2 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.
- 24.3 To approve easements, wayleaves and licences, subject to consultation as appropriate with relevant service areas.
- 24.4 To approve rent reviews on behalf of the Council as either landlord or tenant where provided for in existing leases.
- 24.5 To approve assignments of the residue of leases and tenancy agreements and underleases thereof, subject to the receipt of satisfactory references.
- 24.6 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.
- 24.7 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.
- 24.8 To take any action and/or institute proceedings to terminate unauthorised encroachment on land in the Council's ownership.
- 24.9 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.
- 24.10 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 and Community Services or Head of Development and



Delivery as relevant being satisfied as to the standard of the completed works and the availability of finance for future maintenance.

- 24.11 To approve the appointment of professional advisers and/or agents, in accordance with this Constitution and to settle any fees or other costs arising therefrom.
- 24.12 To approve minor amendments to decisions of the Executive on sales, purchases, leases and contracts.
- 24.13 To submit planning applications in relation to the development or change of use of land or premises.
- 24.14 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 Localism Act 2011 and any related secondary legislation, subject to terms to be agreed by the District Valuer or any professionally qualified valuer.

## **25. Head of Service, Planning, Engineering and Transportation Services**

Delegations relating to the Council's Building Control function are the responsibility of the Head of Leisure, Culture and Operations.

- 25.1 The Head of Engineering and Transportation Services is authorised on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.
- 25.2 The following delegations will be undertaken in accordance with Council policy and, as necessary, with the approval of the Chief Finance Officer and/or the Head of Legal and Democratic Services.
- 25.3 To authorise, in the absence of the Head of Engineering and Transportation, the Group Manager (Highways and Environment) and the Group Manager (Road Traffic Network) to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.
- 25.4 The Head of Engineering and Transportation is 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 1993
- 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  
European Communities Act 1972  
Factories Act 1961 and 1998  
Fire Safety and Safety at Places of Sport Act 1987  
Flood and Water Management Act 2010  
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  
Nurseries Agencies Act 1957  
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

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

and any related secondary legislation.

- 25.5 Authority to vary fees and charges (excluding car parking charges), not fixed by statute.
- 25.6 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.
- 25.7 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.
- 25.8 Authority to accept tenders for the supply of works, materials, equipment, plant, investigations, analyses or designs, subject to compliance with Contract Rules.
- 25.9 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.
- 25.10 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.

- 25.11 Authority to appoint consulting engineers after fee bidding, subject to compliance with Contract Rules.
- 25.12 Authority to appoint agency staff subject to compliance with Contract Rules.
- 25.13 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.
- 25.14 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.
- 25.15 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.
- 25.16 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.
- 25.17 Authority to exercise powers under the Transport Act 1968 in respect of objections to Operators' Licence applications on safety and environmental grounds.
- 25.18 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.
- 25.19 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.
- 25.20 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.

- 25.21 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.
- 25.22 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.
- 25.23 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.
- 25.24 Authority to object to the location of new bus stops and bus shelters on road safety grounds.
- 25.25 Authority to install bollards in verges and footways in accordance with approved policy.
- 25.26 Authority to implement measures to ensure the safe operation of the highway network, including serving notices and carrying out minor works, within approved budgets.
- 25.27 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 post or emergency authorities.
- 25.28 Authority to approve the numbering of houses.
- 25.29 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.
- 25.30 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.

25.31 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 to 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.

25.32 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;
- (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.

25.33 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.

25.34 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 28.34(a) to (d) the matter will be referred to the relevant Executive Director.

25.35 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.

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

25.37 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.

25.38 In accordance with the requirements of the Public Lighting Contract authorise advertising on street lighting columns.

25.39 Authority to undertake administration of the Public Health Act, 1936, in relation to Part XI - Culverts, ditches and water courses.

25.40 Authority to administer sections 169 and 173 of the Highways Act 1980, with regard to scaffold licences and hoarding permits.

25.41 Authorise members of staff (in consultation with the Head of Communities and Public Protection) employed in Clean and Green Services 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

25.42 Enforcement powers under all sections of the Traffic Management Act 2004.

25.43 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.

25.44 The Head of Planning and Building Control has authority to 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).

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 and Building Control.

- (b) Applications where it is proposed to make a decision that is contrary to the development plan or other published Council standards/guidelines;
- (c) Decisions that would need to be referred to the Secretary of State;
- (d) Applications that attract one or more written, valid (ie 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;

- (e) 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;
- (f) Any application that any member of the Council requests to be considered by Committee under the procedure set out in Part 6 paragraph 12;
- (g) Decisions where it is known that a claim for compensation from the Council would arise or which otherwise may involve a financial payment;
- (h) 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 Planning and Building Control;
  - or an officer of Property or Development and Delivery Services; or
  - other senior officer of the Council (defined for these purposes as any officer who holds a politically restricted post).
- (i) Any application that the Head of Planning and Building Control considers raises matters that should be considered by Committee.

Except that authority shall be delegated to the Head of Planning and Building Control 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.

25.45 Authority to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.

25.46 Authority to respond to various consultation documents received from government departments on planning related matters, except where the Head of Planning and Building Control is of the opinion that the consultation involves matters which should be considered by Committee, Group Leaders or the relevant Portfolio Holder.

25.47 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.

#### 25.48 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 and Building Control 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.

25.49 Authority to administer and take action under:

- (a) The Building Act 1984 in relation to:
  - (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;
- (b) The Public Health Act 1936 in relation to:
  - (i) Part II - Sanitation and Buildings;
  - (ii) Part XI - Culverts, Ditches and Water Courses;
- (c) The Party Wall etc Act 1996;
- (d) The Building (Local Authority Charges) Regulations 1988
- (e) the Regulatory Reform (Fire Safety) Order 2005.

## **26. 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.

## **27. Head of Human Resources and Development**

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

- 27.2 To act as “proper officer” in relation to appointment and dismissal of the Head of the Paid Service and Statutory Chief Officers.
- 27.3 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;
- 27.4 To approve payment of gratuities to retiring employees in accordance with discretionary powers available through the Local Government Act, 1972, and the Superannuation Regulations.
- 27.5 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.
- 27.6 Increase Members’ Allowances in accordance with the bottom of the National Joint Council Local Government pay spine.
- 27.7 To determine hardship advances to employees.
- 27.8 To authorise directed surveillance, for investigatory purposes, in accordance with the Regulation of Investigatory Powers Act, 2000.
- 27.9 To determine appeals against the designation of a post as being politically restricted.

29. **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.

30. **Head of Clean and Green Services**

- 30.1 Institution of 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 including where relevant the giving of fixed penalty notices and such other matters as may require attention:

Environment Protection 1990  
Anti-Social Behaviour Act 2003  
Criminal Damage Act 1971

## The Dogs (Fouling of Land) Act 1996

- 30.2 In the following circumstances, the decision to institute legal proceedings may be referred for the consideration of the Executive Director, Neighbourhood Services, 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.
- 30.3 The Head of Clean and Green Services may authorise members of staff employed in clean and green services, and members of staff employed in other service areas, where applicable, to act on behalf of the Council in relation to these delegations and to take action on behalf of the Council in enforcing and administering the above legislation, and any subordinate legislation, including where relevant:
- (a) The 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) Such other matters as may require attention.
- 30.4 The determination of appeals relating to fixed penalty notices issued under the above legislation.
- 30.5 Acceptance of bids for concessions within parks and open spaces.
- 30.6 Acceptance of hand-over from developers of open space.
- 30.7 Approval of routine lettings for events on greenspaces premises/land.
- 30.8 Approval of free/concessionary use of greenspaces facilities/equipment.
- 30.9 Approval of closure of parks and open spaces and associated facilities for essential maintenance.
- 30.10 Determining opening hours during holiday periods for parks and open spaces.

- 30.11 Approval of setting and variations in charges and core admission prices to events in parks and open spaces.
- 30.12 The authority to seek planning permission in respect of future proposed development for leisure, recreation, education and community purposes.
- 30.13 The authority to exercise all the powers and duties of the Council as a local authority to administer legislation in the furtherance of his duties, including but not limited to, the following Acts:
- Allotments Acts 1922, 1925 and 1950
  - Animals Act 1971
  - Anti-Social Behaviour Act 2003
  - Clean Neighbourhoods and Environment Act 2005
  - Dangerous Dogs Acts 1989 and 1991
  - Dangerous Wild Animals Act 1976
  - Dogs Act 1871
  - Dogs (Fouling of Land) Act 1996
  - 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
  - Regulation of Investigatory Powers Act 2000
  - Small Holdings and Allotments Act 1908
  - Town Police Clauses Act of 1847 and 1889
- 30.14 Authority to vary fees and charges not fixed by statute.
- 30.15 To authorise, in the absence of the Head of Clean and Green Services, the Service Managers for Operations and Strategy to act on behalf of the Council including the serving of Notices, prosecutions, and such matters as may require attention.
- 30.16 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;
- 30.17 Exercise the functions of the Council as a waste disposal authority including associated recycling activities;
- 30.18 Deal with all matters relating to fly posting, placarding, graffiti, fly tipping and abandoned vehicles;
- 30.19 Provide and be responsible for the vehicle fleet and the maintenance of vehicles owned and operated by the Council
- 30.20 Authority to purchase nearly new vehicles from auction and second hand ex-demonstration vehicles, subject to compliance with the overall Vehicle Procurement Framework.



30.21 Deliver the Vehicle Replacement Policy of replacing vehicles over 5 years old, subject to budget availability.

30.22 To make arrangements for the management of public conveniences.

**31. Systems Leader(s) (Money Home Job)**

31.1 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.

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

31.3 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.

31.4 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.

31.5 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.

31.6 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.

31.7 Authority to grant interest free loans for dwellings where assistance is up to £30,000 in line with the Housing Renewal Assistance Policy.

31.8 Authority to approve applications for concessionary travel passes for homeless clients and those vulnerable clients fleeing violence.

31.9 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.

31.10 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

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

- 31.12 Taking all necessary action for the collection of amounts due to the Council using any powers available to the Council.\*
- 31.13 With the approval of the 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.
- 31.14 Authority to manage and determine awards of business rate relief and business rates reoccupation relief under each scheme.\*
- 31.15 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.\*
- 31.16 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.\*
- 31.17 To fix incidental charges relating to local taxation, and central cashier functions.\*
- 31.18 To determine applications for rate relief from Non Domestic Rates under Section 44A of the Local Government Finance Act, 1988.\*
- 31.19 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.\*
- 31.20 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.\*
- 31.21 Engage in data matching exercises designed to assist in the detection of fraud.\*
- 31.22 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.\*

31.23 Authority to manage and determine awards of business rate retail relief and business rates reoccupation relief under each scheme.\*

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

	May 2016	June	July	August	September	October	November	December	January	February	March	April	May 2017
<b>Mon.</b>													
<b>Tue.</b>													
<b>Wed.</b>													
<b>Thur.</b>													
<b>Fri.</b>			1										
<b>Mon.</b>	2 Bank hol.		4 Brownhills AP	1		3 Standards			2 Bank hol			3 Aldridge AP	1 Bank hol.
<b>Tue.</b>	3		5 N Walsall AP Employ B	2		4 Aldridge SP Employ B	1 Employ B		3 Employ B Corporate OS			4 Employ B Education OS	2
<b>Wed.</b>	4	1 Licensing	6	3		5	2		4	1	1 Appts Board	5 Licensing	3
<b>Thur.</b>	5 Elections	2	7 Employ A Planning	4 Planning	1 Planning	6 Employ A Planning	3 Employ A Planning	1 Employ A Planning	5 Employ A Planning	2 Employ A Planning	2 Employ A Planning	6 Employ A Corporate OS	
<b>Fri.</b>	6	3	8	5	2	7	4	2	6	3	3	7	5
<b>Mon.</b>	9	6	11 Council	8	5 Audit	10 Walsall S AP	7	5 Health WB	9 Council	6 Aldridge AP	6 Health WB	10 Council	8
<b>Tue.</b>	10	7	12 Aldridge AP Employ B	9	6 Employ B Education OS	11 Employ B Education OS	8 Employ B	6 Aldridge AP Employ B	10 Employ A Education OS	7 Employ B	7 Employ B	11 Employ B Walsall S AP	9
<b>Wed.</b>	11	8	13 Darlaston AP	10	7 Cabinet	12 Licensing	9	7 Appts Board	11 Licensing	8 Cabinet	8	12	10
<b>Thur</b>	12	9 Planning	14 Scrutiny O Employ A	11	8 Employ A Corporate OS	13 Employ A Scrutiny O	10 Employ A Willenhall AP	8 Employ A Walsall SAP	12 Employ B Willenhall AP	9 Employ A Walsall S AP	9 Employ A	13 Employ A Social Care SP	11
<b>Fri</b>	13	10	15	12	9	14	11	9	13	10	10	14 Bank hol	12
<b>Mon</b>	16	13 Appts Board	18 Standards	15	12 Health WB	17 Health WB	14 Council	12	16 Audit	13	13	17 Bank hol	15
<b>Tue</b>	17	14 Employ B	19 Employ B Walsall S AP	16	13 Employ B N Walsall AP	18 Employ B Corporate OS	15 Employ B Darlaston AP	13 Employ B Scrutiny O	17 Employ B Darlaston AP	14 Employ B	14 Employ B Scrutiny O	18 Employ B	16
<b>Wed</b>	18	15 Cabinet	20 Licensing	17	14 Appts Board	19 Cabinet	16	14 Cabinet	18 Appts Board	15	15 Cabinet	19 Appts Board	17
<b>Thur</b>	19	16 Employ A Corporate OS	21 Employ A	18	15 Employ A Social Care OS	20 Employ A	17 Employ A N Walsall AP	15 Employ A	19 Employ A Social Care OS	16 Employ A Education OS	16 Employ A	20 Employ A	18
<b>Fri</b>	20	17	22	19	16	21	18	16	20	17	17	21	19
<b>Mon</b>	23. Annual Council	20 Health WB	25	22	19 Council	24	21 Audit	19	23 Health WB	20	20 Darlaston AP	24 Health WB Audit	22 Annual Council
<b>Tue</b>	24	21 Education OS	26	23	20 Employ B	25 Employ B	22 Employ B Education OS	20	24 Employ B Brownhills AP	21 Employ B Corporate OS	21 Employ B	25 Employ B Standards	23
<b>Wed</b>	25 Adjourned Council	22	27 Cabinet	24	21 Darlaston AP	26 Appts Board	23 Licensing	21	25	22 Licensing	22	26 Cabinet	24 Adjourned Council
<b>Thur</b>	26	23 EU Referendum	28	25	22 Employ A	27 Employ A Social Care OS	24 Employ A Corporate OS	22	26Employ A	23 Employ A Council	23 Employ A Willenhall AP	27 Employ A Planning	25
<b>Fri</b>	27	24	29	26	23	28	25	23	27	24	24	28	26
<b>Mon</b>	30 Bank hol	27 Audit		29 Bank hol.	26 Audit	31	28 Brownhills AP	26 Bank hol.	30 Standards	27 Audit	27 Brownhills AP		29 Bank hol.
<b>Tues</b>	31	28Willenhall AP Employ B		30	27 Employ B Willenhall AP		29 Employ B Social Care OS	27 Bank hol	31Employ B N Walsall AP	28 Employ B Social Care OS	28 Employ B N Walsall AP		30
<b>Wed</b>		29		31 Licensing	28		30	28 Bank hol			29		31
<b>Thur</b>		30 Employ A Social Care OS			29 Employ A Brownhills AP			29			30 Employ A Planning		
<b>Fri</b>					30			30			31		

## **Timetable abbreviations**

### **Regulatory Committees**

Audit	Audit Committee
Appts Board	Appointments Board
Employ A	Employment Appeals Panel A
Employ B	Employment Appeals Panel B
Health WB	Health and Wellbeing Board
Licensing	Licensing and Safety Committee
Planning	Planning Committee
Standards	Standards Committee

### **Overview and Scrutiny Committees**

Scrutiny O	Scrutiny Overview Committee
Education OS	Education and Children's Services
Corporate OS	Corporate and Public Services
Social Care OS	Social Care and Health

### **Area Panels**

N. Walsall AP	North Walsall – Bloxwich East/Bloxwich West/Blakenall/Birchills-Leamore
Brownhills AP	Brownhills/Pelsall/Rushall-Shelfield
Darlaston AP	Darlaston North/Bentley/Darlaston South
Walsall S AP	Walsall South - St. Matthews/Paddock/Palfrey/Pleck
Aldridge AP	Aldridge and Beacon – Streetly/Pheasey/Aldridge/Walsall Wood
Willenhall AP	Willenhall North/Willenhall South/Short Heath