



# Walsall Council

## Audit Committee – 15 April 2013

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

**Service:** Legal and Democratic Services

**Wards:** Not applicable

#### 1. Summary

This reports sets out amendments to officer delegations which will be considered by Annual Council at its meeting to be held on 20 May 2013.

#### 2. Recommendations

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

#### 3. Report detail

- 3.1 A wholesale review of officer delegations was undertaken in the municipal year 2008/2009, and as was the case last year, the proposed amendments to officer delegations for the forthcoming municipal year (2013/2014) are not so far reaching, but reflect new legislation and minor operational amendments. The **Appendix** to this report shows in column 1 the current delegation and the amendment to that delegation is shown in column 2. It also sets out a revised scheme of delegations for the Executive Director, Children's Services and delegations for the Director of Public Health.

The complete list of existing delegations are set out in Part 3.5 of the Constitution and can found on CMIS (Committee Management and Information system) <http://cmis/CMISWebPublic/Binary.ashx?Document=11873>.

- 3.2 It is suggested that as was done last year this report be circulated to Group Leaders and independent member for information.

#### 4. Resource implications

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

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

**5. Citizen impact**

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

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

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

**8. Performance and risk management issues**

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

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

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

**10. Consultation**

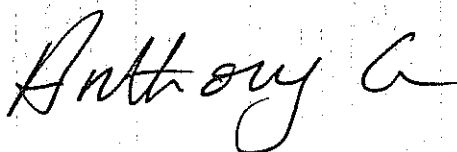
The revised delegations attached as an appendix to this report are as a result of extensive consultation with relevant Council directorates.

**Background papers**

None

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5 April 2013

## Appendix

1. Current delegation	2. Proposed changes
<p><b>12. Chief Executive</b></p> <p>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.</p>	<p>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.</p>
<p><b>13. Executive Director, Resources</b></p>	<p>New delegation:</p> <p>2. To purchase website domain names.</p>
<p><b>14. Chief Finance Officer</b></p>	<p>New delegation:</p> <p>14.26 Authority to manage and determine applications for business rate discount of 100% for properties designated within specified areas of the Black Country Enterprise Zone (Darlaston site).</p>
<p><b>15. Executive Director, Neighbourhood Services</b></p> <p>15.15 Powers, under and in accordance with the Localism Act 2011 and any related secondary legislation, to maintain and operate a list of assets of community value.</p>	<p>15.15 Powers under the Localism Act 2011 and any related secondary legislation to determine nominations and listing reviews for assets of community value and to maintain and operate a list of such assets.</p>
<p><b>16. Executive Director, Children's Services</b></p>	<p>Revised scheme of delegations to the Executive Director, Children's Services – see attached.</p>

<p><b>17. Executive Director, Social Care and Inclusion</b></p> <p>17.16 Establish and maintain a scheme for providing Individual Budgets including direct payments instead of services as set out in legislation and mandatory guidance.</p> <p>17.21 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 Service and Community Care Act, 1990).</p>	<p>17.16 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.</p> <p>17.21 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).</p>
<p><b>19. Head of Planning and Building Control</b></p>	<p>New delegation</p> <p>19.12 The power to determine whether a submitted Pre-Information Process application complies with any Local Development Order adopted by the Council.</p>
<p><b>23. Head of Legal and Democratic Services</b></p> <p>23.2 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.</p>	<p>23.2 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.</p>

**24. Regulatory Services Manager**

24.1 The Regulatory Services Manager may authorise the institution of legal proceedings in respect of the enforcement of, but not limited to, all legislation set out below, having due regard to any current national enforcement guidance and Council policy.

24.2 The Regulatory Services Manager may authorise officers from other authorities and public agencies working on regional projects to exercise statutory powers within the borough from time to time.

24.3 The Regulatory Services Manager may authorise action under the following legislation including:

- (a) The service of Notices;
- (b) Issuing of licences;
- (c) Issuing of permits;
- (d) Issuing of authorisations;
- (e) Approval of registrations;
- (f) Approval of prior consents and grants;
- (g) Authorisation of works in default;
- (h) The institution of legal proceedings;
- (i) Acceptance of statutory notifications;
- (j) To take any other action including the power to apply for warrants and to seize and detain goods and documents.; and
- (k) Such other matters as may require attention.

24.1 The Regulatory Services Manager may 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.

24.2 The Regulatory Services Manager may 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.

24.3 The Regulatory Services Manager 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 200, 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.

24.4 The Regulatory Services Manager may authorise officers from other authorities and public agencies working on regional projects to exercise statutory powers within the borough from time to time.

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

25.5 The Regulatory Services Manager may authorise members of staff employed in Regulatory Services, 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:

The institution of 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:

No proposed changes to legislation set out in delegation 24.3 Column 1

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  
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 (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 Offenders Act 1988  
Road Traffic Regulation Act 1984  
Safety of Sports Grounds Act 1975  
Scrap Metal Dealers Act 1964  
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 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

<p>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.</p>	
<p><b>25. Head of Service, Leisure and Community Health</b></p> <p>25.2 Acceptance of hand-over from developers of open space, or payments under agreements under Section 106 Town and Country Planning Act 1990.</p> <p>25.7 Approval of setting and variations in charges and core admission prices to Leisure and Community Health parks, open spaces, facilities, and events.</p> <p>25.8 Acceptance of bids for concessions at parks and open spaces.</p> <p>25.10 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:</p> <p>Allotment Acts 1922, 1925 and 1950  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</p>	<p>25.2 Acceptance of payments under agreement under Section 106 Town and Country Planning Act 1990.</p> <p>25.7 Approval of setting and variations in charges and core admission prices to leisure and community health facilities and events.</p> <p>25.8 Acceptance of bids for concessions within leisure centres and associated sites.</p> <p>Propose to delete following legislation from the list set out delegation 25.10 in column 1:</p> <p>Allotments Acts 1922, 1925 and 1950  Small Holdings and Allotments Act 1908</p>

<p>Land Settlement Facilities Act 1909  Local Government (Miscellaneous Provisions) Acts 1976 and 1982  Registration Service Act 1953  Regulation of Investigatory Powers Act 2000  Small Holdings and Allotments Act 1908  Town Police Clauses Act of 1847 and 1889</p>	
<p><b>26. Head of Property Services</b></p>	<p>New delegation</p> <p>26.14 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.</p>
<p><b>27. Head of Service, Engineering and Transportation Services</b></p> <p>27.3 The Head of Engineering and Transportation may authorise officers from other authorities and public agencies working on regional projects to exercise powers within the borough from time to time.</p> <p>27.4 The Head of Engineering and Transportation may authorise members of staff employed in Engineering and Transportation, 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.</p> <p>(a) The service of Notices;  (b) Issuing of licences;  (c) Issuing of permits;  (d) Issuing of authorisations;  (e) Approval of registrations;</p>	<p>27.3 The Head of Engineering and Transportation may authorise officers from other authorities and public agencies working on regional projects to exercise powers within the borough from time to time.</p> <p>Propose to add the following legislation to the list set out in delegation 27.4 in column 1:</p> <p>Criminal Procedure and Investigations Act 1996  Environmental Damage (Prevention and Remediation) Regulations 2009  Environmental Noise (England) Regulations 2006  Environmental Noise (England) (Amendment) Regulations 2009  Environmental Noise (England) (Amendment) Regulations 2010  Land Drainage Act 1991  Noise Insulation Regulations 1975  Noise Insulation (Amendment) Regulations 1988  Police and Criminal Evidence Act 1994</p>

- (f) Approval of prior consents and grants;
- (g) Authorisation of works in default;
- (h) The institution of legal proceedings;
- (i) Acceptance of statutory notifications;
- (j) To take any other action including the power to apply for warrants and to seize and detain goods and documents.; and
- (k) Such other matters as may require attention.

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  
Cycle Tracks Act 1981  
Dangerous Dogs Act 1989 and 1991  
Dangerous Wild Animals Act 1976  
Environment Act 1995  
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  
Nurseries Agencies Act 1957  
Offices, Shops and Railway Premises Act 1963  
Performing Animals (Regulation) Act 1925  
Pet Animals Act 1951  
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 Improvement Clauses Act 1847  
Town and Police Clauses Acts 1847 and 1889

<p>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</p> <p>27.33 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:</p> <p>(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.</p>	<p>27.33 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:</p> <p>(d) There are no more than 6 objectors to the proposed Order and their objections are based on the personal inconvenience which the proposed Order may cause to those individuals.</p>
<p>32. <b>Head of Greenspaces</b></p>	<p>32. <b>Head of Street Pride</b></p> <p>All references to Head of Greenspaces to be changed to Head of Street Pride.</p>
	<p>New delegations:</p> <p><b>Director of Public Health</b></p> <p>The Director of Public Health shall 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:</p> <p>1. 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.</p>

	<ol style="list-style-type: none"><li>2. Exercise the Council's functions by virtue of Section 6C(1) or (3) of the National Health Service Act 2006, as amended.</li><li>3. Exercise the Council's functions in pursuance of arrangements under Section 7A of the National Health Service Act 2006, as amended.</li><li>4. 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.</li><li>5. Exercise the functions of the authority under Section 325 of the Criminal Justice Act 2003.</li><li>6. 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.</li></ol>
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## **Delegations to Executive Director, Children's Services**

### **16. 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**

- 16.1 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.
- 16.2 Ensure that there are sufficient primary and secondary school places in the borough.
- 16.3 Exercise the Council's functions in relation to early years development and provision.
- 16.4 Exercise of the powers of the Education Authority in relation to admissions and exclusion procedures.
- 16.5 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.
- 16.6 Take necessary action to ensure measures are in place to promote good attendance.
- 16.7 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.
- 16.8 In consultation with the Head of Legal and Democratic Services to authorise proceedings in respect of irregular or non attendance at school.
- 16.9 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.
- 16.10 Service and enforcement of notices under the relevant Education Acts.



- 16.11 Service of notices requiring parents to satisfy the authority that their child is receiving sufficient full-time education.
- 16.12 Determination of the dates of school terms and holidays in the borough.
- 16.13 Acceptance of grants, loans, bursaries, discretionary awards in respect of students and pupil support which comply with statutory requirements and approved Council policies.
- 16.14 Exercise the power of the Education Authority under relevant byelaws regulating the employment of children and prohibiting street trading by young persons.
- 16.15 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 are unacceptable, the closure of school buildings for a temporary period.
- 16.16 Approval of grants and awards for Home to School transport which comply with statutory requirements and approved Council policies.

#### **School support services**

- 16.17 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.
- 16.18 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.
- 16.19 Arrange the secondment and transfer of staff with the approval of the governors of the schools concerned.
- 16.20 Determine applications for teachers and head teachers for early retirement in consultation with the Chief Finance Officer and Head of Human Resources.
- 16.21 Appoint and remove Education Authority representative school governors.
- 16.22 Implement a scheme for assessing the eligibility of applicants for free school meals.

#### **Special Educational Needs**

- 16.23 Arrangements for determining whether a child is in need of Special Education:
- 16.24 Preparation of Statements of Special Educational Needs.

- 16.25 Arrangements to implement special educational provisions specified in Statements of Special Educational Needs.
- 16.26 Determination of arrangements for the placement of pupils in schools, special schools, or for education other than at a school.
- 16.27 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.
- 16.28 Approval of grant aid for parental visits at appropriate times to children with special educational needs in residential schools and colleges.
- 16.29 Provision of education to individual pupils "otherwise than in school".
- 16.30 Making of payments by way of recoupment where mandatory.

#### **School improvement**

- 16.31 Arrangements for monitoring school improvement.
- 16.32 Arrangements for receiving Ofsted reports.

#### **School land and buildings**

- 16.33 Take all appropriate steps to achieve the effective use of school land and Buildings.
- 16.34 Seek planning permission in respect of future proposed development for education and community purposes.
- 16.35 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.
- 16.36 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).
- 16.37 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**

- 16.38 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.

- 16.39 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**

- 16.40 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**

- 16.41 Exercise functions under Local Authority Social Services Act 1970 so far as they relate to children;.
- 16.42 Exercise any health related functions exercised on behalf of any National Health Service body under section 75 of the National Health Service Act 2006.
- 16.43 Make arrangements to ensure local authority functions are discharged with regard to the needs to safeguard and promote the welfare of children as required by Section 11 of the Children Act 2004.
- 16.44 Establish and develop a Walsall Safeguarding Children's Board.
- 16.45 Ensure there are in place complaint procedures which meet the local and statutory requirements including publication of the said procedures.
- 16.46 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.
- 16.47 Provide an interpretation service where necessary.

16.48 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 and Child Protection**

16.49 Maintain an adoption service in accordance with legislation and national standards.

16.50 Maintain a fostering service in accordance with legislation and national standards.

16.51 Ensure there are available sufficient staff to meet the directorate duties under the Mental Health Act 1983 and Mental Health Act 2007

16.52 Ensure there are adequate 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.

16.53 Refer persons to the Secretary of State for possible inclusion on the Protection of Children Act list.

16.54 Ensure that the educational attainment and state of health of looked after children are monitored.

16.55 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

16.56 Ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.

16.57 Keep a register 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.

16.58 Appeal to the tribunal against Care Quality Commission decisions to cancel registration, vary or remove a condition of registration, or add a new condition of registration in respect of the directorate.

16.59 Exercise parental responsibility for all children in the care of the directorate.

16.60 Provide support for asylum seekers and their dependents who are destitute or who are likely to become destitute and for whom support is not available elsewhere.

- 16.61 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.
- 16.62 Discretion to vary charges in cases where there are special circumstances, hardship etc.
- 16.63 Authority to make ex-gratia payments in appropriate circumstances to non staff up to the value of £500 per instance.
- 16.64 Authority to determine applications or assistance under Section 17 (6) of the Children Acts 1989.
- 16.65 The day to day reception and placement in appropriate accommodation of any child brought to the attention of Social Services 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.
- 16.66 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.
- 16.67 Receive and find appropriate placements for children committed to the care of the local authority on interim or full care orders.
- 16.68 Authority to authorise a placement of children subject to care orders, with their parents or other persons with parental responsibility in accordance with the placements of children with parents etc, regulations, 1991.
- 16.69 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.
- 16.70 Authority to provide places for children and families in family centres and other day care provisions.
- 16.71 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.
- 16.72 Consider and authorise the payment of approved adoption allowances, residential allowances and special guardianship allowances in accordance with the scheme duly approved by the Department of Health and Social Security in cases where the adoption panel has recommended such allowances, and the agency decision maker has confirmed the recommendations as an agency decision.

- 16.73 Authority to apply to the courts for placement in secure accommodation of juveniles accommodated by, or in the care of the local authority in accordance with Section 25 of the Children Act, 1989 and the accompanying Secure Accommodation Regulations, 1991.
- 16.74 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.
- 16.75 Authority to appoint and pay the reasonable expenses of independent visitors, appointed under paragraph 17 of Schedule 2 of the Children Act, 1989, and as defined by the accompanying definition of independent visitors (children) regulations, 1991.
- 16.76 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.
- 16.77 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.
- 16.78 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).
- 16.79 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.
- 16.80 Authority to negotiate on the authority’s behalf inter-agency agreements, including inter-agency fees which fall within nationally and locally agreed guidelines.
- 16.81 Authority to agree the legal costs in relation to an application by a relative or foster carer for a Residents Order to promote the welfare of a child.

16.82 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**

16.83 Administration of services for the welfare of children and young people with disabilities and their carers in accordance with all relevant legislation.

16.84 Identify “children in need” in the borough and provide assessments of their needs.

16.85 Maintain a register of children and young people with disabilities.

16.86 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.

16.87 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.

16.88 Provision of a family information service.

16.89 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.

16.90 Publication of a statement of the Council’s short breaks services on their website.

### **Services for young people**

16.91 Encourage, enable or assist young people’s participation in education or training and make arrangements to ensure that 16 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.

16.92. To involve young people in the development of a locally agreed and sufficient ‘youth offer’.

16.93 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).

## **Childrens' Centres**

- 16.94 To make sufficient provision of children's centres to meet local need, so far as is reasonably practicable and ensure universal access to children's centres is achieved and all children and families can be reached effectively, especially the most deprived. To consult before establishing, significantly changing or closing a children's centre.
- 16.95 Ensure sufficient provision of childcare places and ensure implementation of statutory guidance for local authorities on the delivery of free Early Education for three and four year olds and securing sufficient childcare and extend provision to include 20% most vulnerable 2 year olds from September 2013.
- 16.96 Ensure the provision of sufficient childcare for working parents or parents in education or training.

## **Miscellaneous**

- 16.97 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:

- |                 |   |
|-----------------|---|
| <b>Children</b> | <ol style="list-style-type: none"><li>1. Children and Young Persons Act 1933</li><li>2. Children and Young Persons Act 1969</li><li>3. Local Authorities Social Services Act 1970</li><li>4. Children Act 1989</li><li>5. Protection of Children Act 1999</li><li>6. Children (Leaving Care) Act 2000</li><li>7. Adoption and Children Act 2002</li><li>8. Care Standards Act 2000</li><li>9. Child Trust Funds Act 2004</li><li>10. Children Act 2004</li><li>11. Children and Adoption Act 2006</li><li>12. Private Fostering Regulations 2005</li><li>13. Care Planning, Placement and Case Review (England) Regulations 2010</li><li>14. Special Guardianship Regulations 2005</li><li>15. Working together to safeguard children: a guide to inter-agency working to safeguard and promote the welfare of children (Statutory Guidance) 2010</li><li>16. Safeguarding Vulnerable Groups Act 2006</li><li>17. The Fostering Services Regulations 2011</li><li>18. Placement with Parents Regulations 2011</li></ol> |
| <b>Criminal</b> | <ol style="list-style-type: none"><li>19. Bail Act 1976</li><li>20. Police and Criminal Evidence Act 1984</li><li>21. Crime and Disorder Act 1989</li><li>22. Immigration and Asylum Act 1999, part 6</li><li>23. Powers of Criminal Court (sentencing) Act 2000</li></ol>  |



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. Sentencing Act 2000
30. Powers of Criminal Court (sentencing) Act 2000

**Mental health**

31. Mental Health Act 1983
32. Mental Health Act 2007
33. Mental Capacity Act 2005

**Disability**

34. Chronically sick and disabled persons Act 1970
35. Disabled Persons (Services Consultation and Representation) Act 1986
36. Carers and Disabled Children Act 2000
37. Disability Discrimination Act 1995 and 2005

**Health and wellbeing**

38. Public Health (Control of Disease) Act 1984
39. Health Act 1999
40. Child Poverty Act 2010
41. Childcare Act 2006
42. Equality Act 2010
43. Representation of the People Act 2000
44. National Health Service (NHS) Act 2006 (eg: Section 75)

**Education**

45. Education Act 1996
46. Education Act 2002
47. School Standards and Framework Act 1998
48. Apprenticeships Skills Children and Learning Act 2009
49. Education and Inspections Act 2006
50. Education and Skills Act 2008
51. Academies Act 2010
52. School Staffing (England) Regulations 2009
53. Teachers' Pensions Regulations 2010 Regulation 3
54. Teaching and Higher Education Act 1998
55. The Early Years Foundation Stage Order 2007
56. The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001
57. The Information as to Provision of Education (England) Regulation 2008 No.4
58. The Education (Induction Arrangements for School Teachers (England) Regulations 2008
59. The Education School Information (England) Regulations 2008
60. Education Act 2011
61. Learning and Skills Act 2000