

Annual Council – 21st May 2012

Constitution and timetable of meetings 2012/2013

1. Summary of report

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 report also sets out the timetable of meetings to be adopted for the municipal year 2012/2013.

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 of the Constitution:

- Article 4 – The Council
- Article 9 – Standards Committee

(b) Part 3 – Responsibility for Functions :

- Scheme of delegations to Committees
- Advisory bodies, statutory Committees and other bodies
- Scheme of delegations to officers

(c) Part 4 – Rules of procedure:

- Budget and policy framework rules
- Financial rules
- Contract rules

(d) Part 5 – Codes and protocols :

- Budget setting protocol
- New protocol 16 – Use of resources by Councillors

2.2 That the timetable of meetings for the municipal year 2012/2013 as set out in Appendix 8 of the report be approved.

3. Background information

3.1 Article 4 – The Council - Policy framework

The proposed amendments to Article 4 relate to the addition of new mandatory policies and strategies to be added to the policy framework as follows:

- Licensing Authority Policy Statement
- Sustainable Community Strategy
- Pay Policy Statement
- Regulation of Investigatory Powers Act 2000

The following plans and strategies have been deleted from the policy framework as a result of amended legislation or regulations:

- Annual Library Plan
- Local Agenda 21 Strategy
- Housing Investment Programme

3.2 **Article 9 – Standards Committee**

The Localism Act 2011 abolished Standards Committees with effect from 30th June 2012. Until the regulations are published to bring this into force the Council will still need to maintain a Standards Committee. As the Standards Board for England was abolished on 31st March 2012 all references to the Standards Board are deleted from the Constitution.

3.3 **Scheme of delegations to Committees**

The scheme of delegations to Committees have been reviewed on a regular basis and reflect changes in legislation or operational needs. The proposed significant amendments are as follows:

- (a) **Planning Committee:** (13) Public speaking at Planning Committee paragraphs (a), (e), (f) and (g) amended as follows (changes in bold):
- (a) Applicants, agents and persons wishing to express a view about **an item** that is being reported to the Planning Committee will have a right to speak at the Committee subject to the following rules. Details of the scheme will be included in the acknowledgment letter to agents/applicants and the notification letter/site notices to neighbours. Details will be available on the Council's website and in reception areas;
 - (e) **In relation to planning applications specifically**, the Committee may hear speakers either only for the applicant or only for objectors provided all parties have been given the opportunity to speak and one party chooses not to exercise his/her right;
 - (f) The number of speakers will be restricted to a maximum of two in favour of **an item** and two opposing **an item** chosen by order of notification of a wish to speak. The number of speakers allowed will include Councillors who are not members of the Committee.
 - (g) Speakers will be limited to 3 minutes each in respect of each **item**;
- (b) **Standards Committee:** All references to Standards Board for England are deleted.
- (c) **Employment Appeals Committees A and B**
- (i) Insert the following:

Training: All members of the Employment Appeals Committees shall be required to attend a training session on employment law, the Council's internal procedure and remit prior to sitting on the Committee for the first time and subsequently to attend refresher training annually thereafter.

(ii) The remit and delegations to be amended as follows:

Remit: To consider dismissal appeals by employees, excluding officers at Assistant Director level or above, in the context of the application of the relevant procedure for claims of unfair or unduly severe sanctions only, in accordance with the policies approved by the Council.

(Note: Disciplinary action in relation to officers at Assistant Director level and above is reserved to the Appointments Board under its delegations.)

Delegation: To determine appeals by employees, excluding officers at Assistant Officer level and above, in the context of the application of the relevant procedure for claims of unfair or unduly severe sanctions only, in accordance with the policies approved by the Council.

(Note: Disciplinary action in relation to officers at Assistant Director level and above is reserved to the Appointments Board under its delegations.)

3.4 **Advisory bodies, statutory Committees and other bodies**

The Fostering Panel and Schools Forum to be added to Table 4. These two statutory Committees have hitherto not been included in this section of the Constitution and therefore their constitution and remit have now been included. Amendments have been made to the Adoptions Panel in relation to membership of Councillors. Both Adoption and Fostering Panels now include reference to good practice advice received from the British Association for Fostering and Adoption. The remits of the Adoption Panel, Fostering Panel and Schools Forum are set out in **Appendix 1** to this report.

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. Major changes were implemented at the beginning of the municipal year 2009/10 and the proposed changes set out in **Appendix 2** to this report reflect operational changes made throughout the last year. The Audit Committee at their meeting on 17th April 2012 reviewed the proposed amendments. The proposed changes are highlighted in bold text.

3.6 **Budget and policy framework procedure rules**

The budget and policy framework procedure rules have been re-worded in order to more clearly differentiate between the two frameworks and also in order to give more clarity to the budget timescales which have to be adhered to. The budget and policy framework procedure rules are reproduced as **Appendix 3** to report this report.

3.7 Financial rules and contract rules

The financial rules and contract rules have been separated for clarity and are attached as **Appendices 4 and 5** to this report. Any changes made reflect changes in legislation or operational needs.

3.8 Budget setting protocol

As with the budget framework document this protocol has been amended and re-worded in order to more clearly set out the procedures to be followed up to and including budget setting and includes a flow diagram to assist this process. The budget setting protocol is attached as **Appendix 6** to this report.

3.9 Protocol for the use of resources by Councillors

This new protocol has been drafted by the Monitoring Officer to provide a guide to Councillors on the use of Council resources. The protocol is attached as **Appendix 7** to this report.

3.10 Timetable 2012/2013

The draft timetable which is recommended for approval is attached as **Appendix 8**.

The timetable has been prepared on the same basis as last year. In order to enable an easier flow of decisions when necessary from Cabinet to Council the Council will now meet within approximately 2/3 weeks after Cabinet meetings. The exact timings depends on the positioning of holidays and statutory requirements for budget meetings.

Although Area Community meetings are not Committees of the Council the dates have been included in the timetable for the convenience of members' diaries.

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, Democratic Services Manager

☎ 01922 653500

✉ garnerj@walsall.gov.uk

Signed:

Chief Executive

Date: 11th May 2012

Adoption Panel

Requirement to have an adoption panel

The Adoption Agency Regulations 2011 requires that the adoption agency must constitute one or more panels, as necessary

Membership

Regulation 3 states that the agency 'must maintain a list of persons who are considered by it to be suitable to be members of an adoption panel ('the central list'). Included on it must be:

- One or more social workers who have at least three years' relevant post qualifying experience.
- The medical adviser to the adoption agency.
- A person to chair the panel, who is independent of the agency,
- One or two people as vice chairs who may act as chair, if necessary.

Quorum

Regulation 6 requires that no business may be conducted unless the following meet as a panel:

- The chair or one of the vice chairs.
- A social worker.
- Three other members.
- If the chair is not present and the vice chair is not independent, then at least one other panel member must be an independent person.

Chair

The Chair of the panel must be an independent member. The Chair is appointed by invitation.

Vice –chair

The agency must appoint one or two vice chairs and it is preferable that that they are independent

Medical advisor

A medical advisor must be included on the central list

Agency advisor to the panel

The agency must appoint a senior manager to act as advisor to the panel

Elected members

An elected member makes a valuable contribution to the adoption panel in Walsall although this is not legal requirement

The regulations state that elected members cannot be one of the two independent persons who sit on the panel. Good practice advice received from the British Association for Fostering and Adoption says that it is consistent with good corporate parenting to have a Councillor on both the Adoption and Fostering Panels. This would be both as a voting member and an active corporate parent champion to understand key matters affecting children in care.

Legal advice

There is no requirement for the agency's legal advisor to be a panel member, but the panel "must obtain legal advice in relation to a case "when considering adoption as the plan for a child.

Meetings

The panel will meet on a monthly or bi-monthly basis as required.

Access to information

Meetings of the panel are held in private session. All the information provided to the panel is strictly confidential and papers are held in a secure place.

Remit

The panel has three main functions. It must consider:

- The case of every child referred to it by the adoption agency and make a recommendation to the agency as to whether the child should be placed for adoption
- The case of the prospective adopter referred to it by the adoption agency and make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child.
- The proposed placement referred to it by the agency and make a decision as to whether the child should be placed for adoption with that particular prospective adopter.

It may also give advice on:

- The proposed adoption support
- The proposed arrangements for contact
- The arrangements for the sharing of parental responsibility
- Two other functions relate to quality assurance and consultation on agency policies and procedures

Fostering Panel

Membership

The Fostering Services Regulations 2011 states that the fostering services provider must:

Maintain a list of persons who are considered by them to be suitable to be members of a fostering panel ('the central list'). Included on it must be:

- One or more social workers who have at least 3 years post qualifying experience
- A person to chair the panel who, in the case of any appointment made after 1 October 2011, must be independent of the fostering service provider, and
- One or two persons who may act as chair if the person appointed to chair the panel is absent or that the office is vacant ('the vice chairs'), from the persons on the central list.

Quorum

The panel is only quorate if the following meet

- The Chair or vice-chair;
- A social worker with at least 3 years' relevant post –qualifying experience;
- At least 3 other members
- If the Chair is not present, there must be at least one independent member present, either the vice-chair or a member, who could be the social work member, if they are independent of the agency.

Chair

The Chair of the panel should be an independent member. The Chair is appointed by invitation.

Vice Chair

The service should appoint one or if possible two vice chairs and it is preferable that they are independent of the agency.

Elected members

An elected member makes a valuable contribution to the fostering panel in Walsall although this is not legal requirement

The regulations state that elected members cannot be one of the two independent persons who sit on the panel. Good practice advice received from the British Association for Fostering and Adoption says that it is consistent with good corporate parenting to have a Councillor on both the Adoption and Fostering Panels. This would be both as a voting member and an active corporate parent champion to understand key matters affecting children in care.

Medical and legal advice

The fostering panel has access to medical expertise and legal advice

Meetings

The panel will meet on a monthly basis for a full day and additionally bi monthly for half a day.

Access to information

Meetings of the panel are held in private session. All the information provided to the panel is strictly confidential and papers are held in a secure place.

Remit

- To make recommendations about the approval of foster carers.
- To recommend any terms of approval.
- To consider the first review of carers and any other review if requested by the fostering service provider and to recommend the continuing approval of carers.
- To advise, where appropriate, on the procedure for reviews of carers and periodically to monitor their effectiveness.
- To oversee the conduct of assessments carried out by the fostering service provider.
- To give advice and make recommendations, on other matters or cases referred to it by the fostering service provider.

Schools Forum

Membership

Membership of the Schools Forum is specified within the Schools Forum Regulations 2010.

School members

5 primary head teachers to be appointed through the primary forum;
2 secondary head teachers to be appointed through the secondary forum;
1 special school head teacher to be appointed through primary forum;
1 nursery head teacher;
2 Academy head teachers;
1 Pupil Referral Unit head teacher;
1 Private, Voluntary and Independent (PVI) representative;
5 primary governors;
1 secondary governor;
1 special school governor;
2 Academy governors;
1 14 – 19 Partnership representative.

(Nominated substitutes to formally take part in meetings in their absence)

Non-School members

1 Church of England diocesan representative;
1 Catholic diocesan representative;
1 staff side Associations representative.

Observers

Cabinet portfolio holder for Children's Services

Chairman

The Chair and Vice-Chair are elected annually at the first autumn term meeting of the Forum for a period of 12 months.

Quorum

The Forum will be quorate only when 2/5^{ths} of the total membership is present (excluding any observers) and excluding vacancies.

Meetings

The Forum meets a minimum of 5 times per year.

Access to information

Meetings of Schools Forum are held in public.

Role

The role of Schools Forums includes powers to allow their Local Education Authority to increase the amount of central expenditure they are able to hold according to the regulations by approving:-

- Changes to the Central Expenditure Limited;
- Prudential borrowing;
- Premature retirement and redundancy costs;
- SEN transport;
- Combined budgets (Every Child Matters agenda);
- Schools' contingency funding.

The Schools Forum constitution has been amended in order to comply with the Schools Forums (England) Regulations, 2010.

In addition to its decision making function as set out above, the Schools Forum acts in an advisory capacity and is consulted by the local authority on:

- Any issue relating to the Every Child Matters agenda

Table 5

SCHEME OF DELEGATIONS OF FUNCTIONS TO OFFICERS OF NON-EXECUTIVE FUNCTIONS

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 11.01 (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.

Amended 25.5.11

- 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 Chief Officers must submit an annual report to the Audit Committee setting out the significant decisions, including key decisions taken under delegated powers by the Chief Officer (or other post holders within his/her directorate) in the previous year. Any such reports should summarise the manner of which some or all of such delegated powers have been exercised. Accordingly each officer exercising delegated powers shall be responsible for recording decisions taken.

A significant decision for the purpose of these delegations is a decision that has one of the following impacts:

- (a) It has a considerable direct and material impact upon the lives of the inhabitants of the borough or business operating within it, or
- (b) Results in the Council incurring expenditure for which there is no revenue or capital budget.

Notwithstanding the above and the separate requirement to report key decisions, a decision that is purely operational in nature or necessary to give effect to a decision of the Council, Cabinet, Licensing and Safety Committee, Planning Committee or such other Committee of the Council is not a significant decision for the purpose of these delegations.

- 3.2 Any member may request that decisions taken by officers under delegated powers be the subject of scrutiny by the appropriate Scrutiny and Performance panel. 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, Scrutiny and Performance panels 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.

Amended 27.5.10

3.3 Any such scrutiny will not make any action taken as a result of the decision invalid. However, the Scrutiny and Performance 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.

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- 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 Executive. 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;

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- (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 Scrutiny and Performance Panels and Area Community 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;

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- (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;

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- (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;

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- (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 and Contract Rules.
- 6.2 Acceptance of quotations and tenders must be in accordance with 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 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:

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- (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.

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.

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- 12.6 To settle complaints prior to the involvement of the Local Government Ombudsman in accordance with the remedies guidance published by the Commission for Local Administration in England (LGO 307 (01/06)).
- 12.7 To make compensatory payments up to a limit of £20,000 on an individual claim basis arising from reports/recommendations from the Ombudsman.
- 12.8 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

13. Executive Director, Resources

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

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 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 funding stream where that funding stream has come on-stream in year (for example a new capital grant) 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 as set out in the medium term financial strategy.

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- 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:
 - (a) Without limit as regards local taxation on a single property.
 - (b) Without limit as regards housing and or Council tax benefit on a single property.
- 14.8 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.
- 14.9 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.
- 14.10 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, 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.
- 14.11 To arrange finance and operating leases as required in accordance with the Council's capital programme.
- 14.12 To invest Council funds temporarily not required in accordance with the statutory provisions regulating approved investments as defined in Section 66 of the Local Government and Housing Act, 1989 subject to any restrictions which may be made by Statute, by Council or the Executive, in conjunction with the resources Planning and Treasury Manager.
- 14.13 Produce and report on the statutory determinations in setting the annual net budget requirement, as required **under Sections 32, 43 and 93 of the Local Government Act 1992** and the robustness of the budget **and adequacy of reserves as defined by Section 23 of the Local Government Act 2003**.
- 14.14 To fix incidental charges relating to local taxation, and central cashier functions.
- 14.15 To determine applications for rate relief from Non Domestic Rates under Section 44(a) of the Local Government Finance Act, 1988.
- 14.16 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.
- 14.17 To determine the completion date for a property notice in accordance with Section 46(a) of the Local Government Finance Act 1988 and Schedule 4 (a) of the Local Government Finance Act 1989.

To amended 23.5.12

- 14.18 Approve applications for financial assistance and to authorise grant claims from the European Union.
- 14.19 Appoint, manage and dismiss external investment managers, leasing and treasury management consultant.
- 14.20 Engage in data matching exercises designed to assist in the detection of fraud.
- 14.21 Open credit card facilities in line with standard bank conditions if and when such facilities are deemed necessary.
- 14.22 Deal with all matters relating to the transfer of the pension rights of pensionable employees.
- 14.23 Administer the Council responsibilities under the provisions of the Social Security legislation relating to the Housing Benefit and Council Tax Benefit Scheme including the following:-
- The administration of the councils HB & CTB local schemes
 - The administration of the Councils Prosecution and Sanctions Policy in relation to Housing Benefit and Council Tax Benefit fraud.
- The administration of applications under the Discretionary Housing Payments Scheme. Including the power to make any determinations under the relevant legislation.
- 14.24 Deal with internal audit issues under the Accounts and Audit Regulations 2011.
- 14.25 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.

Note: The following powers may be exercised by the:

- (a) Head of Finance: 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22
- (b) Head of Revenues: 6, 7(a), 8, 9, 14, 15, 16, 17, 20.
- (c) Head of Benefits: 6, 7(b), 20, 23

15. Executive Director, Neighbourhood Services

The holder of the post of Executive Director, Neighbourhood Services shall be responsible for the day to day management of his/her directorate and shall have the power, subject to the compliance with the Council's constitutional arrangements, and any relevant provision of the Council's Financial and Contract Rules, to:

- 15.1 (a) 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;

To be amended 23.5.12

Approved by Council 24 April 2006
Implemented 30 August 2006

3.5 12

- (b) Exercise the functions of the Council as a waste disposal authority including associated recycling activities;
- (c) Deal with all matters relating to fly posting, placarding, graffiti, fly tipping and abandoned vehicles;
- (d) Provide and be responsible for the vehicle fleet and the maintenance for vehicles owned and operated by the Council

15.2 Without prejudice to paragraph 1, to exercise strategic, operational, and management powers and duties of the Council under the following enactments:

- (a) Removal and disposal of vehicles regulations, 1986;
- (b) Road Traffic Regulation Act 1984;
- (c) Vehicle Excise Duty Act (removal and disposal) Regulations, 1997;
- (d) Control of Pollution Act 1974;
- (e) Environmental Protection Act 1990;
- (f) Highways Act 1980;
- (g) Litter Act 1983 (in so far as it relates to litter bins and street cleaning);
- (h) Public Health Act 1936;**
- (i) Public Health Act 1961;
- (j) Refuse Disposal (amenity) Act 1978;
- (k) Road Traffic Act 1998;
- (l) Building Act 1984;
- (m) Chronically Sick and Disabled Persons Act 1970;
- (n) Waste Minimisation Act 1998;
- (o) Public Health Acts 1936 and 1969;
- (p) Clean Neighbourhood and Environment Act 2005;
- (q) Crime and Disorder Act 1998
- (r) Fire Safety and Safety of Places of Sports Act 1987
- (s) Anti-Social Behaviour Act 2003

15.3 Authority to approve increases and variations in charges and fees not fixed by statute.

15.4 Authority to vary levels of charges and fees in respect of depot sales of surplus materials and miscellaneous charges, such revisions having regard to the retail price index and prevailing market conditions.

15.5 Authority to commence anti-social behaviour order proceedings (ASBO) under the Crime and Disorder Act 1998.

15.6 Authority to invite and accept tenders for the supply of materials, equipment, plant and services subject to compliance with the Financial and Contract Rules including:-

- (a) Competitive tenders having been obtained in accordance with the Council's Financial and Contract Rules and any relevant legislation;

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- (b) The tender accepted representing 'best value';
 - (c) Cost being accommodated within the relevant proved estimates.
- 15.7 Approval of ex gratia payments for non-staff of up to £500 per incident subject to the maximum provision within the relevant agreement;
- 15.8 Making minor variations in contract for collection of cash;
- 15.9 With the approval of the Chief Finance Officer and/or Head of Legal and Democratic Services:
- (a) Authority to vary future levels of charges for services (that is services for which charges are currently made but excluding car parking charges), such provisions having regard to the retail price index and prevailing market conditions;
 - (b) Authority to approve shortlists of consultants to be invited to tender or to submit proposals for specific investigations, analysis or designs subject to compliance with the Council's Financial and Contract Rules;
 - (c) Authority to approve short lists of contractors 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 the Council's Financial and Contract Rules;
 - (d) Authority to accept tenders for the supply of works, materials, equipment, plant, investigations, analysis or designs, subject to compliance with the Council's Financial and Contract Rules;
 - (e) Authority to accept the next placed tender in cases where the successful tenderer withdraws before entering into contract, subject to compliance with the Council's Financial and Contract Rules;
 - (f) Authority to utilise other contractors in order of next placed tender in the event of the successful tendered being unable to meet the programme of requirements, subject to compliance with the Council's Financial and Contract Rules;
 - (g) Authority to install bollards in verges and footways in accordance with the approved policy of the Committee;
 - (h) Authority to take action to remove unauthorised campers under the provisions of the Criminal Justice and Public Order Acts 1994;
 - (i) Authority to make purchases from companies offering products to the required specification at the lowest price available on that day;

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- 15.10 Authority to purchase nearly new vehicles from auction and second hand ex-demonstration vehicles, subject to compliance with the overall Vehicle Procurement Framework.
- 15.11 Deliver the Vehicle Replacement Policy of replacing vehicles over 5 years old, subject to budget availability.
- 15.12 The authority to seek planning permission in respect of future proposed development for education and community purposes.
- 15.13 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.

15.14 To make arrangements for the management of public conveniences.

Note: (a) Except where otherwise stated, the holder of the following post within Neighbourhood Services may exercise the above powers:

Assistant Director Neighbourhood Services

- (b) After consultation with the, Head of Paid Service and the Monitoring Officer, the Executive Director for Neighbourhood Services is duly authorised to add to this list.

16. Executive Director, Children's Services

The holder of the post of Executive Director, Children's Services shall be responsible for the day to day management of his/her Directorate and, without prejudice to the foregoing, shall have power, subject to compliance with the Constitutional arrangements, relevant Financial and Contractual Rules, and within the guidelines and policies determined by Council and Cabinet, to exercise duties of the Council as a Director of Children's Services (under the Children Act 2004 and other relevant legislation).

- 16.1 (a) Exercise the Authority's functions in its capacity as Local Education Authority – including further and higher education matters, except those excluded by Section 18 (3) of the Children Act 2004;
- (b) Exercise functions under Local Authority Social Services Act 1970, so far as they relate to children;
- (c) Exercise any health related functions exercised on behalf of any National Health Service body under section 75 of the National Health Service Act 2006;
- (d) Make arrangements to ensure local authority functions are discharged with regard to the needs to safeguard and promote the welfare of children;

To be amended 23.5.12

- (e) Prepare and publish a children and young persons plan;
 - (f) Co-ordinate action in response to **Ofsted inspections and peer reviews or challenges** and monitor and evaluate implementation;
 - (g) Establish and develop a Walsall Safeguarding Children's Board;
 - (h) Ensure there are in place complaint procedures which meet the local and statutory requirements including publication of the said procedures;
 - (i) 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;
 - (j) Provide an interpretation service where necessary.
- 16.2 To carry out the role and responsibility of the local education authority as it relates to schools in light of the Statutory Codes of Practice on LEA/School Relations.
- 16.3 Co-ordination of Standards Fund arrangements, including the appointment of staff and project workers for specific projects.
- 16.4 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.
- 16.5 Acceptance of grants, loans, maintenance allowances, discretionary awards in respect of students and pupil support which comply with statutory requirements and approved Council policies.
- 16.6 Approval of grants and awards for Home to School transport which comply with statutory requirements and approved Council policies.
- 16.7 In relation to special educational needs:
- (a) The service of notices requiring the parents to satisfy the authority that their child is receiving sufficient full time education;
 - (b) The service of school attendance orders;
 - (c) The making of payments by way of recoupment where mandatory;
 - (d) The determination of all matters including the service of notices relating to the assessment and statementing of special educational needs under the Education Acts.

To be amended 23.5.12

- 16.8 The determination of arrangements for the placement of pupils in schools, special schools, or for education other than at a school.
- 16.9 The determination of the dates of school terms and holidays.
- 16.10 The production and implementation of support packages for schools on a buy-back basis (ie business planning arrangements).
- 16.11 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.
- 16.12 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.
- 16.13 Subject to the rights of the Governors, 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 Development and Chief Finance Officer where applicable.
- 16.14 To take all appropriate steps to achieve the effective use of school land and buildings.
- 16.15 To exercise the power of the local education authority in respect of School Attendance Orders and Education Supervision Orders **including making arrangements to identify those children not receiving education.**
- 16.16 To exercise the power of the local education authority under Byelaws regulating the employment of children and prohibiting street trading by young persons.
- 16.17 The exercise of the powers of the local education authority in relation to admissions and exclusion procedures.
- 16.18 The power to appoint and remove Local Education Authority representative school governors.
- 16.19 To 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 Procedure Rules and the costs falling within existing budget provisions.
- 16.20 To 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 set by the Executive Director, Children's Services in consultation with the Head of Legal and Democratic Services.

To be amended 23.5.12

- 16.21 To take legal action in consultation with the Head of Legal and Democratic Services in relation to non-school attendance
- 16.22 The service and enforcement of notices under the relevant Education Acts.
- 16.23 The service of notices requiring parents to satisfy the authority that their child is receiving sufficient full-time education.
- 16.24 The making of payments by way of recoupment where mandatory.
- 16.25 The authority to seek planning permission in respect of future proposed development for education and community purposes.
- 16.26 To agree the authority's liability in relation to capital works at voluntary aided schools where these cannot be accommodated within the authority's Capital Programme in consultation with the Chief Finance Officer.
- 16.27 To determine applications for teachers and head teachers for early retirement in consultation with the Chief Finance Officer and Head of Human Resources and Development.
- 16.28 To enter into contracts where projects are funded by external agencies in circumstances where rapid response is required in accordance with Financial and Contract Rules.
- 16.29 To 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).
- 16.30 To 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.
- 16.31 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.
- 16.32 To maintain an adoption service in accordance with legislation and national standards.
- 16.33 To maintain a fostering service in accordance with legislation and national standards.
- 16.34 To ensure there are available sufficient staff to meet the directorate duties under the Mental Health Act 1983 and Mental Health Act 2007.

Amended 12.9.11

- 16.35 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.
- 16.36 To refer persons to the Secretary of State for possible inclusion on the Protection of Children Act list.
- 16.37 To ensure that the educational attainment and state of health of looked after children are monitored.
- 16.38 To ensure that arrangements remain in place for the management of the child protection register.
- 16.39 To ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 16.40 To 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.
- 16.41 To appeal to the tribunal against Commission for Social Care Inspection decisions to cancel registration, vary or remove a condition of registration, or add a new condition of registration in respect of the directorate.
- 16.42 Exercise parental responsibility for all children in the care of the directorate
- 16.43 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.
- 16.44 To manage the various functions of the Council with regard to the Youth Offending Service.
- 16.45 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.
- 16.46 Discretion to vary charges in cases where there are special circumstances, hardship etc.
- 16.47 Authority to make ex-gratia payments in appropriate circumstances to non staff up to the value of £500 per instance.
- 16.48 Authority to determine applications or assistance under Section 17 (6) of the Children Acts 1989.
- 16.49 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.

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- 16.50 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.
- 16.51 To receive and find appropriate placements for children committed to the care of the local authority on interim or full care orders.
- 16.52 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.
- 16.53 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.
- 16.54 Authority to provide places for children and families in family centres and other day care provisions.
- 16.55 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.
- 16.56 To 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.
- 16.57 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.
- 16.58 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.
- 16.59 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.

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- 16.60 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.
- 16.61 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 appose 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.
- 16.62 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).
- 16.63 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.
- 16.64 Authority to negotiate on the authority's behalf inter-agency agreements, including inter-agency fees which fall within nationally and locally agreed guidelines.
- 16.65 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.
- 16.66 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:
- (1) Children and Young Persons Act 1933;
 - (2) Children and Young Persons Act 1969;
 - (3) Local Authorities Social Services Act 1970;
 - (4) Chronically sick and disabled persons Act 1970;
 - (5) Bail Act 1976;
 - (6) Mental Health Act 1983;
 - (7) Police and Criminal Evidence Act 1984;
 - (8) Public Health (Control of Disease) Act 1984;
 - (9) Disabled Persons (Services Consultation and Representation) Act 1986;

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- (10) Children Act 1989;
- (11) Education Act 1996;
- (12) Crime and Disorder Act;
- (13) School Standards and Framework Act 1998;
- (14) Health Act 1999;
- (15) Immigration and Asylum Act 1999, part 6;
- (16) Protection of Children Act 1999;
- (17) Carers and Disabled Children Act 2000;
- (18) Care Standards Act 2000;
- (19) Powers of Criminal Court (sentencing) Act 2000;
- (20) Nationality, Immigration and Asylum Act 2002;
- (21) Children (Leaving Care) Act 2000;
- (22) Adoption and Children Act 2002;
- (23) Criminal Justice Act 2003;
- (24) Child Trust Funds Act 2004;
- (25) Children Act 2004;
- (26) Mental Capacity Act 2005;
- (27) Disability Discrimination Act 2005;
- (28) Children and Adoption Act 2006;
- (29) Mental Health Act 2007.
- (30) Academies Act, 2010.

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

17. Executive Director, Social Care and Inclusion

The holder of the post of Executive Director, Social Care and Inclusion shall be responsible for the overall strategic management of the directorate, 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:

- 17.1 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 and workforce planning, lead the implementation of standards, manage cultural change, promote local access, ownership, partnership working across all agencies, deliver a whole systems approach to supporting communities and promote social inclusion and well being.
- 17.2 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.

Amended 7.11.11

- 17.3 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.
- 17.4 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.
- 17.5 Ensure that there are in place, complaints procedures which meet the legislative requirements including publicising the said procedures.
- 17.6 Ensure that there is in place an efficient process for assessment and care management for current and potential service users and carers.
- 17.7 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.
- 17.8 Ensure there are available sufficient staff to meet the directorates duties under the Mental Health Act 1983 and Mental Health Act 2007.
- 17.9 Ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 17.10 Provide an interpretation service where necessary.
- 17.11 Appeal to the Tribunal against Care Quality Commission inspection decisions to cancel registrations; or add a new condition of registration of a directorate establishment.
- 17.12 Ensure the carrying out of duties required by Court Orders.
- 17.13 Present reports to Courts and Tribunals where required.
- 17.14 After consultation with the Head of Legal and Democratic Services, make any application to the courts as appropriate.
- 17.15 Provide support for asylum seekers and their dependents who are destitute or likely to become destitute and for them support not available elsewhere.
- 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.

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- 17.17 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.
- 17.18 Authority to admit persons with mental ill health, physical disabilities or learning difficulties to day centres or workshops provided for them.
- 17.19 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.
- 17.20 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).
- 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).
- 17.22 Authority to waive Financial and Contract Rules in relation to seeking quotations and tenders for certain community care services.
- 17.23 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.
- 17.24 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.
- 17.25 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.
- 17.26 Authority to approve applications for concessionary travel passes for people with learning disabilities and those who are mentally ill.
- 17.27 Authority to approve interest free loans not exceeding £30,000 in accordance with guidelines as approved by the Council's Executive.
- 17.28 Discretion to vary charges in cases where there are special circumstances, hardship etc.
- 17.29 Authority to make ex-gratia payments in appropriate circumstances to non-staff up to the value of £500 per instance.
- 17.30 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.

Amended 25.5.11

17.31 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;
- (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;
- (28) Disabilities and Discrimination Act 2005;
- (29) Mental Health Act 2007.

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

18. Executive Director, Regeneration Services

The Executive Director, Regeneration shall be responsible for the day to day management of Regeneration 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:

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- 18.1 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.
- 18.2 Issue responses to planning applications and development plan consultations received from neighbouring authorities where such responses are in line with existing Council policy and do not raise matters of strategic concern, in relation to the development/implementation of the development plan, including the Black Country Joint Core Strategy, the Regional Strategy and any subsequent Public Inquiry or Examinations in Public
- 18.3 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.
- 18.4 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.
- 18.5 Make applications for planning permissions , listed building, conservation and advert consents.
- 18.6 Invite, accept and appoint term consultants and contractors, for a specified period for the development and execution of approved design and/or maintenance projects/programmes for the annual minor improvements and local safety programmes 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.
- 18.7 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.
- 18.8. 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.
- 18.9 (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 Contractual Rules.

Amended 25.5.11

- 18.10 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.
- 18.11 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.
- 18.12 Authority to approve charity market stalls.
- 18.13 Authority to approve the transfer of market stall licences to another family member or employee upon application, providing the officer considering the application is satisfied that the licence holder had traded on the market concerned for at least 5 years; and that during the 2 years immediately preceding the application:
- (a) The family member has personally assisted the licence holder in trading on the stall to which the application relates; or
 - (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.
- 18.14 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.
- 18.15 Write off irrecoverable market charges for former stall holders.
- 18.16 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.
- 18.17 Exercise all routine housing functions that are not specifically delegated to any relevant Cabinet member, the Cabinet, or any Committee.
- 18.18 Make decisions under Part 6 and Part 7 of the Housing Act 1996, and to review decisions made under Part 7, Sections 175-218.
- 18.19 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.
- 18.20 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.

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- 18.21 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.
- 18.22 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.
- 18.23 The authority to seek planning permission in respect of future proposed development for education and community purposes.
- 18.24 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;
 - (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.**
- 18.25 (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

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- (v) Paragraph 25 Schedule 7 (Empty Dwelling Management Orders: power of entry to carry out work)
- (b) To authorise in his absence the Assistant Director (Regeneration and Housing) to grant such authorisations .
- (c) To authorise the Manager Housing Standards and Improvement 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.
- (c) To authorise in the absence of the Housing Standards and Improvement Manager, the Principal Environmental Health Officer (Housing Standards) and Principal Environmental Health Officer (Housing Improvements) to act on behalf of the Council, 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;

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- (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

18.26 Authority to take action under the following legislation, 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 and Compulsory Purchase Act 2004;
- (2) 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.

18.27 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.

18.28 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.

18.29 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:

Assistant Director Regeneration
 Head of Development and Delivery
 Head of Strategic Regeneration
 Head of Housing
 Head of Property Services
 Head of Planning and Building Control

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

19. Head of Planning and Building Control

19.1 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 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. Minor amendments to existing permissions, and ancillary or small scale works 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 Country Planning (General Development Procedure Order) 1995) 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 £10,000 where there is significant community interest;

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- (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:
 - 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.

- 19.2 Authority to determine whether a formal application of details in respect of agricultural and forestry development should be submitted.
- 19.3 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.
- 19.4 Authority to undertake:-
 - (a) The administration of 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) Administration of the Public Health Act, 1936, in relation to:
 - (i) Part II - Sanitation and Buildings;
 - (ii) Part XI - Culverts, Ditches and Water Courses;

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- (c) The Party Wall Act, 1996;
- (d) The Building (Local Authority Charges) Regulations 1988

19.5 In respect of Development Management:

- (a) To respond to developers notice of intention to carry out development under Part 22 of the General Development Order, 1988 (mineral exploration only);
- (b) To respond to consultations from neighbouring Local Planning Authorities on planning applications and development plans which do not raise strategic issues;
- (c) To determine whether Environmental Assessments are necessary under the Town and Country Planning (Assessment of Environmental Effects) Regulations, 1988;
- (d) Authority to determine applications for lawful development Certificates.
- (e) With respect to demolition of houses, authority to determine whether prior approval is required.
- (f) With regard to Telecommunications Development - authority to determine whether prior approval is required for siting and appearance;
- (g) To sign decisions made by Committee;
- (h) Authority to determine application for consent for the display of advertisements;
- (i) Approval of materials or other matters governed by conditions included in existing consents;
- (j) Authority to approve minor amendments to previously approved planning permissions.

19.6 Enforcement of Planning Control:

- (a) To remove or obliterate any placard or poster which is displayed in contravention of the Advertisement Regulations;
- (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

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- (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) Authority to serve a breach of condition notice where planning conditions have not been complied with;
- (f) 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
- (g) (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, as amended by the Planning and Compensation Act, 1991;
 - (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.
- (iii) 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.
- (h) 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.

Amended 12.9.11

- 19.7 The authority:
- (a) not to pursue enforcement action, even when there are unresolved complaints; to revoke authorities given for enforcement action; to withdraw enforcement notices;
 - (b) 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).
- 19.8. The Head of Legal and Democratic Services in consultation with the Head of Planning and Building Control is authorised to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.
- 19.9 The Head of Planning and Building Control be authorised to grant powers of entry to appropriate officers, planning enforcement.
- 19.10 The authority to remove any planning applications that have not been determined or appealed from the Planning Register in accordance with Article 25 of the General Development Procedure Order 1995.
- 19.11 To administer and take action under the relevant provisions of the Fire Safety Reform Order 2005.

20. Head of Development and Delivery

- 20.1 The Head of Development and Delivery has authority to determine the following applications and to take the following actions under Part VIII, Chapter 1 of the Town and Country Planning Act 1990 and Town and Country Planning (Trees) Regulations 1999:
- (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;

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- (d) 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.
- 20.2 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.
- 20.3 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.
- 20.4 With regard to the Regeneration Capital Programmes and other grant aided 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 (the most economically advantageous) tender, quotation or estimate, **awarding grants and entering into appropriate agreements with grant recipients**, subject to Financial and Contract Rules.
- 20.5 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.
- 20.6 Authority to issue a Hedgerow Retention Notice in accordance with the provisions of the Hedgerows Regulations 1997.
- 20.7 The authority not to pursue enforcement action if it is considered that it is no longer expedient to do so.
- 20.8 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.
- 20.9 The Head of Development and Delivery be authorised to grant powers of entry to appropriate officers.

To be amended 23.5.12

- 20.10 The Head of Development and Delivery be authorised to confirm any Tree Preservation Order, where no objections have been received, or where objections have been resolved.
- 20.11 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.

21. Head of Strategic Regeneration

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.

22. Head of Housing

- 22.1 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.
- 22.2 Make arrangements to ensure local authority functions are implemented with regards to the needs to safeguard and promote the welfare of vulnerable adults.
- 22.3 Provide an interpretation service where necessary.
- 22.4 Acceptance of standard fund and other grant allocations where these are costs in accordance with approved Council policy.
- 22.5 To authorise the Head of Legal and Democratic Services to complete tenancy agreements in respect of/and licences to occupy Supported and Temporary Accommodation.
- 22.6 To ensure that all arrangements for service provision are reviewed in accordance with legislative requirements and mandatory guidance.
- 22.7 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.

Amended 12.9.11

- 22.8 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.
- 22.9 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.
- 22.10 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)).**
- 22.11 Authority to approve applications for concessionary travel passes for vulnerable clients fleeing violence or homelessness.
- 22.12 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.**
- 22.13 To increase charges payable for the occupation of council owned supported housing and temporary accommodation in line with councils calculated rate of inflation

23. 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:

- 23.1 To exercise the functions of the Council's chief legal officer.
- 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.
- 23.3 To authorise and certify officers for the purposes of the regulation of Investigatory Powers Act 2000.
- 23.4 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.

To be amended 23.5.12

- 23.5 Settle conveyancing and other legal costs in connection with conveyancing matters.
- 23.6 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 14.3.3 of the Council's Financial and 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 Financial and Contract Rules 14, 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.

Amended 12.9.11

23.7 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.

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

24. **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 members of staff employed in Public Safety, 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.

- (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.

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

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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
Environment Act 1995
Environmental Protection Act 1990
Equality Act 2010
Estate Agents Act 1979

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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

To be amended 23.5.12

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 Misdemeanors 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
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.

Amended 25.5.11

- 24.5 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.
- 24.6 To authorise the **Regulatory Services Manager** 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
- 24.7 Enforcement of the Customs and Excise Management Act 1979 and the Tobacco Products Act 1979 relating to fiscal marking of tobacco products.
- 24.8 The administration of the Safety of Sports Grounds Act, 1975, in relation to the issue of Safety Certificates.
- 24.9 Authority to take action in respect of prohibition notices under Section 10 of the Safety of Sports Grounds Act, 1975;
- 24.10 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.
- 24.11 Authority to vary fees and charges not fixed by Statute.
- 24.12 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:

To be amended 23.5.12

- (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;

25. Head of Service, Leisure and Community Health

- 25.1 Acceptance of bids for concessions at events.
- 25.2 Acceptance of hand-over from developers of open space, or payments under agreements under Section 106 Town and Country Planning Act 1990.
- 25.3 Approval of routine lettings for events on Leisure and Community Health premises/land under control of Education and Neighbourhoods Services.
- 25.4 Approval of free/concessionary use of Leisure and Community Health facilities/equipment.
- 25.5 Approval of closure of Leisure and Community Health facilities for essential maintenance.
- 25.6 Determining opening hours during holiday periods for Leisure and Community Health facilities.
- 25.7 Approval of setting and variations in charges and core admission prices to Leisure and Community Health parks, open spaces, facilities, and events.
- 25.8 Acceptance of bids for concessions at parks and open spaces.

To be amended 23.5.12

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

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:

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

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

25.11 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

25.12 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

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

To be amended 23.5.12

Approved by Council 24 April 2006
Implemented 30 August 2006

- 25.14 To act as Proper Officer for the Registration Service (Births, Deaths and Marriages and Civil Partnerships).
- 25.15 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.

26. Head of Property Services

Authority to exercise the following powers and functions:

- 26.1 To undertake the day-to-day management of the land and premises including the authorisation of expenditure, subject to budgetary control.
- 26.2 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.
- 26.3 **To approve easements, wayleaves and licences, subject to consultation as appropriate with relevant service areas.**
- 26.4 To approve rent reviews on behalf of the Council as either landlord or tenant where provided for in existing leases.
- 26.5 To approve assignments of the residue of leases and tenancy agreements and underleases thereof, subject to the receipt of satisfactory references.
- 26.6 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.
- 26.7 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.
- 26.8 To take any action and/or institute proceedings to terminate unauthorised encroachment on land in the Council's ownership.
- 26.9 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.

To be amended 23.5.12

- 26.10 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.
- 26.11 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.
- 26.12 To approve minor amendments to decisions of the Executive on sales, purchases, leases and contracts.
- 26.13 To submit planning applications in relation to the development or change of use of land or premises.

27. Head of Service, Engineering and Transportation Services

- 27.1 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:
- 27.2 To authorise, in the absence of the Head of Engineering and Transportation, the Service Manager for Traffic and Transportation to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.
- 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.
- 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.
- (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;

Amended 12.9.11

- (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

To be amended 23.5.12

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
 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

- 27.5 Authority to vary future levels of charges for services for which charges are currently made (excluding car parking charges), such revisions having regard to the retail price index and prevailing market conditions.
- 27.6 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.
- 27.7 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.
- 27.8 Authority to accept tenders for the supply of works, materials, equipment, plant, investigations, analyses or designs, subject to compliance with Contract Rules.

Amended 25.5.11

- 27.9 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.
- 27.10 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.
- 27.11 Authority to appoint consulting engineers after fee bidding, subject to compliance with Contract Rules.
- 27.12 Authority to appoint agency staff subject to compliance with Contract Rules.
- 27.13 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.
- 27.14 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.
- 27.15 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.
- 27.16 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.
- 27.17 Authority to exercise powers under the Transport Act 1968 in respect of objections to Operators' Licence applications on safety and environmental grounds.
- 27.18 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.

Amended 25.5.11

- 27.19 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.
- 27.20 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.
- 27.21 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.
- 27.21 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.
- 27.23 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.
- 27.24 Authority to object to the location of new bus stops and bus shelters on road safety grounds.
- 27.25 Authority to install bollards in verges and footways in accordance with approved policy.
- 27.26 Authority to implement measures to ensure the safe operation of the highway network, including serving notices and carrying out minor works, within approved budgets.
- 27.27 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.
- 27.28 Authority to approve the numbering of houses.
- 27.29 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.

Amended 25.5.11

27.30 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.
- (g) Enforcement powers under all sections of the Traffic Management Act 2004.

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

27.31 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.

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

Amended 25.5.11

- (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.

27.33 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.

27.34 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 26.34(a) to (d) the matter will be referred to the relevant Executive Director.

27.35 Authority to approve "No Parking on the Verge" signs in accordance with approved policy.

Amended 25.5.11

- 27.36 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.
- 27.37 Authority to approve displays and exhibitions in pedestrianised areas in accordance with approved policy.
- 27.38 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.
- 27.39 In accordance with the requirements of the Public Lighting Contract authorise advertising on street lighting columns.
- 27.40 Authority to undertake administration of the Public Health Act, 1936, in relation to Part XI - Culverts, ditches and water courses.
- 27.41 Authority to administer sections 169 and 173 of the Highways Act 1980, with regard to scaffold licences and hoarding permits.
- 27.42 Authorise members of staff (in consultation with the **Regulatory Services Manager**) employed in Street Pride 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

28. Head of Benefits

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

29. Head of Human Resources and Development

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

To be amended 23.5.12

- 29.2 To act as “proper officer” in relation to appointment and dismissal of the Head of the Paid Service and Statutory Chief Officers.
- 29.3 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;
- 29.4 To approve payment of gratuities to retiring employees in accordance with discretionary powers available through the Local Government Act, 1972, and the Superannuation Regulations.
- 29.5 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.
- 29.6 Increase Members’ Allowances in accordance with the bottom of the National Joint Council Local Government pay spine.
- 29.7 To determine hardship advances to employees.
- 29.8 To authorise directed surveillance, for investigatory purposes, in accordance with the Regulation of Investigatory Powers Act, 2000.

30. Head of Internal Audit

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

31. 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.

To be amended 23.5.12

32. Head of Greenspaces

32.1 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**

32.2 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 Greenspaces is of such a serious or sensitive nature that it would be inappropriate for him/her to act under delegated powers.**

32.3 The Head of Greenspaces may authorise members of staff employed in Greenspaces, 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.**

32.4 The determination of appeals relating to fixed penalty notices issued under the above legislation.

To be amended 23.5.12

3 - Budget and policy framework procedure rules

1. The framework for Executive decisions

The Council will be responsible for the adoption of its Budget and its Policy Framework as set out in Article 4 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Process for developing the framework

The process by which the Policy Framework, and the Budget shall be developed is:

- (a) After consulting stakeholders and ward Councillors in a manner appropriate to the matter under consideration, the Executive will draw up initial proposals in relation to any plan, or strategy which forms part of the Council's policy framework. Details of the executive's consultation process shall be included in relation to each of these matters in the council's published forward plan.
- (b) The Scrutiny and Performance Panel will consider the plan or strategy at its next meeting and decide whether to respond to the Executive's initial proposals and whether any consultation by it is appropriate. If so the Scrutiny and Performance Panel will conduct a consultation exercise and will reflect any representations made to it in its response to the Executive within the timescale set for decision by the Executive.
- (c) The Executive will finalise its proposals for the Council to consider having taken into account any comments from the Scrutiny and Performance Panel. The report to Council will show the Executive's response to those comments.
- (d) Where the Executive has submitted a draft plan or strategy and the Council has objections to it, the Council must, before amending, approving or adopting it, notify the Leader of its objections and give to him or her instructions requiring the Executive to reconsider the plan or strategy in the light of those objections.
- (e) Where the Council gives the Leader instructions under paragraph (d) it must specify a period of at least 5 working days beginning on the day after the date the Leader receives the instructions during which the Executive may either:
 - (i) submit a revised plan or strategy together with its reasons for any amendments to the Council for its reconsideration; or
 - (ii) inform the Council of any disagreement it has with any of the Council's objections specifying its reasons.

- (f) When the period specified in paragraph (e) has expired the Council must take into account any amendments included in the revised plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reason for that disagreement submitted to the Council within the period specified when:
- (i) amending the draft plan or strategy;
 - (ii) approving the plan or strategy for submission to the Secretary of State or Minister of the Crown;
 - (iii) adopting the plan or strategy with or without modification.

If the Executive objects to the decision of the Council, the Leader shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

For the budget

- (g) Where before the 8 February in any financial year the Executive submits to the Council:
- (i) estimates of amounts in making any calculation in accordance with sections 30, to 37, section 40 (calculated by precepting authorities in accordance with sections 43 to 48); and chapter 4ZA of the Local Government Finance Act 1992;
 - (ii) estimates of such a calculation; or
 - (iii) amounts required to be stated in a precept under Part I of the Local Government Finance Act 1982,

Following the consideration of those estimates or amounts the Council has any objections to them it must before making a calculation or issuing a precept notify the Leader of its objections and give to him or her instructions requiring the Executive to reconsider those estimates or amounts in the light of those objections and in accordance with the Council's requirements.

- (h) Where the Council gives the Leader instructions under paragraph (g) it must specify a period of at least 5 working days beginning on the day after the date the Leader receives the instructions during which the Executive may either:
 - (i) submit a revision of those estimates or amounts together with its reasons for any revision to the Council for its reconsideration; or
 - (ii) it may inform the Council of any disagreement it has with any of the Council's objections specifying its reasons .
- (i) When the period specified in paragraph (h) has expired, the Council must take into account any amendments made to the estimates or amounts, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reason for that disagreement submitted to the Council within the period specified when making calculations or issuing a precept under the provisions set out in paragraph (g).
- (j) Paragraphs (g) to (i) shall not apply in relation to calculations in accordance with section 52(I), 52(J), 52(T) or 52(U) or amounts stated in a precept issued to give effect to calculations under section 52(J) or 52(U) of the Local Government Finance Act 1992.
- (k) The Council shall make its final decision on the matter on the basis of a simple majority. In all events that decision must be made before 11 March in the financial year preceding that for which it is set. The decision shall be made in public in accordance with Article 4, of this Constitution and shall be implemented immediately.

3. Decisions outside the Budget or the Policy Framework

- 3.1 The Executive, Committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and the policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Council, subject to 4 below.
- 3.2 If the Executive, Committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a

matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the Budget or Policy Framework

4.1 The Executive, a Committee of the Executive, an individual member of the Executive or officers, or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the Council; and
- (ii) if the chairman of a relevant Scrutiny and Performance Panel agrees that the decision is a matter of urgency. The reasons why it is not practical to convene a quorate meeting of Council and the consent of the chairman of the relevant Scrutiny and Performance Panels to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of a relevant Scrutiny and Performance Panel the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.

4.2 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. In-year changes to policy framework

The responsibility for agreeing the budget and the policy framework lies with the Council, and decisions by the Executive, a committee of the Executive an individual member of the Executive or officers, or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals, except by referral to the Council. The process and limits of authority of decision-takers in respect of amendments to capital and revenue budgets are set out in the Council's Financial Rules.

6. Call-in of decisions outside the budget or policy framework

6.1 Where an Scrutiny and Performance Panel is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or Chief Finance Officer.

6.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's and/or Chief

Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny and Performance Panel if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- 6.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny and Performance Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall consider the request of the Scrutiny and Performance Panel at its next meeting. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

Financial rules

1 Application and Use of Financial and Contract Rules (FCRs)

Replace with

1 Application and Use of Financial Rules (FCRs)

1.1 Purpose and Authority of Financial and Contract Rules

1.1.4 These Financial and Contract Rules form part of the Council's constitution and replace the Financial Procedure Rules and Contract Procedure Rules approved by the Council on 28 May 2003. These rules shall only be amended or varied by the full Council. Only following a resolution of the full Council, or in occasions of urgency as described in section paragraph 1.6 of this rule, shall any officer act other than in accordance with these financial and contract rules.

Replace with

1.1.4 These Financial and Contract Rules form part of the Council's constitution and replace the Financial and Contract Procedure Rules approved by the Council on 24 April 2006. These rules shall only be amended or varied by the full Council.

1.2 Other Instructions to Be Followed

1 Each of these Finance and Contract Rules is supported by a set of Detailed Procedures. These Detailed Procedures may be issued, amended, revoked or suspended following approval by the Council's executive management team EMT, providing all three of the council's statutory officers are present at that meeting.

Replace with

Nothing delete

2 The Council's officers shall comply at all times with these Financial and Contract Rules and Detailed Procedures that support them wherever detailed procedures have been approved by the Council's executive management team and are in operation. Failure to comply may be seen as a breach of the Council's Code of Conduct for Employees. Officers shall also follow further instructions contained in the Council's:

- a) *Approved procedures on use of electronic communications,*
- b) *Budget monitoring and control manual and Medium Term Financial Strategy*
- c) *VAT and accounting manuals,*
- d) *Resolutions regulating local taxation, and*
- e) *Other relevant Council policies.*

Replace with

2 The Council's officers shall comply at all times with these rules. Failure to comply may be seen as a breach of the Council's Code of Conduct for Employees. Officers shall also follow further instructions contained in the Council's:

- a) **Budget management and control manual and Medium Term Financial Strategy**
- b) **VAT and accounting manuals,**
- c) **Resolutions regulating local taxation,**
- d) **The Grants Manual and**
- e) **Other relevant Council policies, and procedures.**

1.3 Role of the Cabinet and Executive Directors

3 Where decisions pertain to more than one directorate, these shall be taken by either;

- a) *Two or more Executive Directors whose directorates are involved unless agreed otherwise between the Executive Directors whose directorates involved, or*
- b) *The Council's executive management team (EMT)*

Replace with

3 Where decisions pertain to more than one directorate, these shall be taken by either;

- a) **Two or more Executive Directors whose directorates are involved unless agreed otherwise between the Executive Directors whose directorates involved, or**
- b) **The Council's corporate management team**

1.4 When Financial and Contract procedure rules apply

6Where the council makes grants, its officers shall undertake this in accordance with financial and contract procedure rule 17.4 below

Replace with

Nothing (17.4 no longer exists)

2.1 Purpose

1 Officers involved in the Council's financial management shall take appropriate action concerning:

- a) Financial management standards,
- b) Virements and budget transfers,
- c) Treatment of Year-end Balances,
- d) Accounting Policies,
- e) Accounting Records and Returns,
- f) The Annual Statement of Accounts

2 Officers should undertake all actions in accordance with this rule and with section 2 of the Council's Financial and Contract Detailed Procedure.

Replace with

1 Officers involved in the Council's financial management shall take appropriate action concerning:

- a) Financial accounting standards,**
- b) Virements and budget transfers,**
- c) Treatment of Year-end Balances,**
- d) Accounting Policies,**
- e) Accounting Records and Returns,**
- f) The Annual Statement of Accounts, and**
- g) The Grants Manual**

2 nothing delete

2.3 Virements and budget transfers

2 Virement of budget within

a) **the same service.** The prior approval of the relevant budget holder and the chief finance officer's nominee shall be required for any virement of whatever amount.

b) **Different services in the same directorate** the prior approval of the relevant Executive Director, the chief finance officer's nominee and the relevant cabinet portfolio holder shall be required for any virement of whatever amount

c) **Different directorates.** The prior approval of the relevant cabinet portfolio holder the relevant Executive Director and the chief finance officer's nominee is shall be required for any virement of whatever amount.

Replace with

Virements

Steps taken by the Executive, [a committee of the executive, an individual member of the Executive or officers, discharging executive functions] to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to paragraphs xx to yy below.

Year and accounting transfers, realignment of central support services, and internal recharges, do not constitute a virement nor to those changes in management responsibilities.

Such bodies or individuals shall be entitled to vire across budget Headings, sums not exceeding singularly or in aggregate for the financial year, as follows:

(a) Capital

A chief officer may vire capital up to £25,000 across budget headings (or, up to £100,000 with the approval of the chief finance officer, in consultation with the Executive Member for Finance and Personnel).

The Executive may vire capital up to £500,000 across budget headings or up to £250,000 from a revenue budget heading to capital.

Any capital virement above £500,000 shall require the approval of full Council

(b) Revenue

A chief officer may vire revenue up to £50,000 across budget headings (or, up to £100,000 with the approval of the chief finance officer

The Executive may vire revenue up to £1,000,000 across budget headings

Any revenue virement above £1,000,000 shall require the approval of full Council.

The Executive may: -

(a) Increase capital or revenue expenditure in-year by use of reserves (in addition to the use of reserves planned in the budget calculations), provided that such use of reserves do not exceed £1,000,000 in aggregate in a financial year and provided that the chief finance officer has certified in writing that such use of reserves would not cause the Council's overall reserves to fall below a prudent level. Any such use of reserves shall be reported to the next meeting of full Council.

(b) Increase the capital budget provided that additional expenditure can be funded through -

Additional external resources,

Additional capital receipts, over and above the level required to fund the approved capital programme,

Additional credit approvals,

The Chief Executive may exercise any of the powers of the Executive, in consultation with the Leader, the Executive Member for Finance and Personnel and the chief finance officer where the legal or financial position of the Council or the interests of the residents of Walsall would be prejudiced if the matter were not determined before the next scheduled executive meeting. The Chief Executive will report any such decision to the next meeting of the Executive, and then to Council.

2.4 Treatment of Year-end Balances

4 In exceptional circumstances, schools may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the chief education officer in consultation with the Chief Finance Officer. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

Replace with.

4 In exceptional circumstances, a school may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Executive director responsible for education in consultation with the Chief Finance Officer. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

2.5 Accounting Policies

1 The Chief Finance Officer shall be responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC), for each financial year ending 31 March.

*2 The Chief Finance Officer shall ensure that; a) Systems of internal control are in place that ensure financial transactions are lawful,
b) Suitable accounting policies are selected and applied consistently,
c) Proper accounting records are maintained, and
d) Financial statements are prepared following the financial year-end that present fairly the financial position of the authority and its expenditure and income.*

Replace with

2.5 Accounting Policies

1 The Chief Finance Officer shall be responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom and the Service Reporting Code of Practice, supported by International Financial Reporting Standards (IFRS), for each financial year ending 31 March.

2 The Chief Finance Officer shall ensure that;

- a) **Systems of internal control are in place that ensure financial transactions are lawful,**
- b) **Suitable accounting policies are selected and applied consistently,**
- c) **Proper accounting records are maintained, and**
- d) **Financial statements are prepared following the financial year-end that present fairly the financial position of the authority and its expenditure and income.**

3.1 Purpose

2 Officers should undertake all actions in accordance with this rule, with section 3 of the Council's Financial and Contract Detailed Procedures, the MTFs and with its budgetary control manual.

Replace with

2 Officers should undertake all actions in accordance with this rule, the MTFs and with its budget management control manual.

3.2 Format of the budget

2 The Chief Finance Officer shall ensure that controls are maintained to ensure that the budget's format;

- a) *Complies with all legal requirements and also with the CIPFA Best Value Accounting – Code of Practice (BVACOP)*
- b) *Reflects the accountabilities of service delivery.*

Replace with

2 The Chief Finance Officer shall ensure that controls are maintained to ensure that the budget's format;

- a) **Complies with all legal requirements, whole of government accounts reporting requirements; and CIPFA's Service Reporting Code of Practice**
- b) **Reflects the accountabilities of service delivery.**
- c) **Ensures transparency and visibility of the council's budget to key stakeholders**

3.3 Budgets and Medium-Term Financial Planning

1 The Council is a complex organisation responsible for delivering a wide variety of services. It shall create and operate efficient plans to enable its resources to be allocated in accordance with agreed priorities. The budget shall form the financial expression of the Council's plans and policies.

2 The Council's revenue budget shall be constructed to ensure that resource allocation properly reflects the service plans and priorities of the full Council. The budget shall enable the Council, through its cabinet and officers, to plan, authorise, monitor and control the way money is allocated and spent.

3 The Council shall not budget for a deficit or accept any budgetary proposals that are contrary to statute law.

4 The Council shall operate a Medium Term Finance Strategy (MTFS), which shall be revised annually by cabinet to ensure that it is preparing for events in advance.

5 All budget holders shall ensure that there exist systems of control, which are operated to provide;

a) Specific budget approval for all expenditure,

b) Budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the cabinet for their budgets and the level of service to be delivered, and

c) A monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Replace with

3.3 Budgets and Medium-Term Financial Planning

1 The Council is a complex organisation responsible for delivering a wide variety of services. It shall create and operate efficient plans to enable its resources to be allocated in accordance with agreed priorities. The budget shall form the financial expression of the Council's plans and policies.

2 The Council's revenue budget shall be constructed to ensure that resource allocation properly reflects the plans and priorities of the full Council. The budget shall enable the Council, through its cabinet and officers, to plan, authorise, monitor and control the way money is allocated and spent.

3 The Council shall operate a Medium Term Finance Strategy (MTFS), which shall be approved annually by cabinet to ensure that it is preparing for events in advance.

3.5 Capital Programmes

1 The Council shall establish and maintain a programme of capital expenditure to enable it to acquire or enhance fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. This capital programme shall be approved annually by the Council to enable it to shape the way the Council's services are delivered in the long term.

2 Capital expenditure shall form part of the Council's investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources within the Government's controls on the financing capacity of the authority.

3 All officers responsible for capital programmes shall ensure:

a) Approval is obtained for the programme of capital expenditure,

b) Expenditure on capital schemes is subject to the preparation and approval of a capital finance report by the Chief Finance Officer or his/her nominee detailing the cost estimate, project plan, progress targets and associated revenue expenditure,

c) Accountability for each proposal is accepted by a named manager,

d) Monitoring of projects' progress is undertaken, comparisons made with approved budget and action taken to deliver the project on time, to standard and within budget.

Replace with

3.5 Capital Programmes

1 The Council shall establish and maintain a programme of capital expenditure to enable it to acquire or enhance fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. This capital programme shall be approved annually by the Council to enable it to shape the way the Council's services are delivered in the long term.

2 Capital expenditure shall form part of the Council's investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

3 All officers responsible for capital programmes shall ensure:

- a) Approval is obtained for the programme of capital expenditure,**
- b) Expenditure on capital schemes is subject to the preparation and approval of a capital finance report by the Chief Finance Officer or his her nominee detailing the cost estimate, project plan, progress targets and associated revenue expenditure,**
- c) Accountability for each proposal is accepted by a named manager,**
- d) Monitoring of projects' progress is undertaken, comparisons made with approved budget and action taken to deliver the project on time, to standard and within budget.**

3.6 Maintenance of Reserves

2 The CFO shall ensure that;

- a) Reserves are maintained in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice", and the Council's agreed accounting policies.*
- b) For each reserve established, the purpose, usage and basis of transactions should be clearly identified, and*
- c) Reserves are established and used only following authorisation of the Chief Finance Officer and in accordance with the MTFS*

Replace with

2 The CFO shall ensure that;

- a) Reserves are maintained in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom, and the Council's agreed accounting policies.**
- b) Reserves are established and used only following authorisation of the Chief Finance Officer and in accordance with the MTFS**

4 Risk Management and Control of Resources

4.1 Purpose

2 Officers should undertake all actions in accordance with this rule and with section 4 of the Council's Detailed Procedures.

Replace with
Nothing delete

5 Audit Requirements

5.1 Purpose

2 Officers should undertake all actions in accordance with this rule, along with:

- a) Section 5 of the Council's Detailed Procedures,*
- b) The Council's anti-fraud and anti-corruption policies and strategy, and*
- c) The Council's Confidential Reporting Policy (Whistle blowing).*

Replace with

2 Officers should undertake all actions in accordance with this rule, along with:

- a) The Council's Anti-fraud and Corruption policies and strategy, and**
 - b) The Council's Confidential Reporting Policy (Whistle blowing).**
-

5.2 Internal Audit

1 The Council, through its Chief Internal Auditor, shall maintain an internal audit service, which complies with the requirements of section 151 of the Local Government Act 1972, the Accounts and Audit Regulations 2003 and the Accounts and Audit (Amendment) Regulations 2006. It shall provide an independent and objective appraisal function for reviewing the system of internal control. It shall examine, evaluate and report on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Replace with

5.2 Internal Audit

1 The Council, through its Head of Internal Audit, shall maintain an internal audit service, which complies with the requirements of section 151 of the Local Government Act 1972, and the Accounts and Audit Regulations 2011 Regulations 2006. It shall provide an independent and objective assurance function for reviewing the system of internal control. It shall examine, evaluate and report on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

5.2 Internal Audit

3 The Council, through its cabinet and Executive Directors, shall ensure;

- a) *Internal audit is independent in its planning and operation, and*
- b) *The Chief Internal Auditor has direct access to the Head of Paid Service, CFO, all levels of management and directly to elected members of the Council.*

Replace with

3 The Council shall ensure;

- a) **Internal audit is independent in its planning and operation, and**
- b) **The Chief Internal Auditor has direct access to the Chair of the Audit Committee, Head of Paid Service, Chief Finance Officer, all levels of management and directly to elected members of the Council.**

6 Assets

6.1 Purpose

1 All officers involved in any way with the Council's finances, resources or management should take appropriate action to secure;

- a) *Security, including equipment stocks and stores,*
- b) *Intellectual property,*
- c) *Treasury management, and*
- d) *Staffing.*

2 Officers should undertake all actions in accordance with this rule and with section 6 of the Council's Detailed Procedures.

Replace with

Nothing delete

6.2 Security

3 Inventories shall be maintained to cover all items of plant, equipment, furniture and fittings whose value is believed to exceed £50 in value. Each Head of Service or Service Manager shall maintain a record of all such items under his or her control, to be kept in the form prescribed by the Council's "Asset Management Procedure" and maintained in a place where it may be protected from fire, flood or other damage. The inventory shall be reviewed at least annually or if any item passes permanently into or out of the service.

Replace with

3 Inventories shall be maintained to cover all items of plant, equipment, furniture and fittings whose value is believed to exceed £500 in value. Each Head of Service or Service Manager shall maintain a record of all such items under his or her control, to be kept in a suitable form. The inventory shall be

reviewed at least annually or if any item passes permanently into or out of the service.

6.5 Staffing

1 In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

2 The Council, through its cabinet and Executive Directors, shall ensure that a budget exists to cover its entire staff, and shall create and maintain controls to ensure that;

- a) An appropriate staffing budget is produced,*
- b) Procedures are in place for forecasting staffing requirements and cost*
- c) Controls are implemented that ensure staff time is used efficiently and to the benefit of the authority*
- d) Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.*

Replace with

6.5 Staffing

1 The Council, through its cabinet and Executive Directors, shall ensure that a budget exists to cover its entire staff, and shall create and maintain controls to ensure that;

- a) An appropriate staffing budget is produced,**
 - b) Procedures are in place for forecasting staffing requirements and cost.**
 - c) Controls are implemented that ensure staff time is used efficiently and to the benefit of the authority**
 - d) Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.**
-

7.1 Purpose

1 All officers involved in the Council's financial systems and procedures should act in accordance with this rule and with section 7 of the Council's Detailed Procedures.

Replace with

Nothing delete.

8 Income, Ordering and Payment

8.1 Purpose

2 Officers should undertake all actions in accordance with this rule and with section 8 of the Council's Detailed Procedures.

Replace with

Nothing delete

8.6 Trading Accounts and Business Units

1 Trading accounts and business units have become important, as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the Best Value Performance Plan (BVPP).

Replace with

8.6 Trading Accounts and Business Units

1 For Trading accounts and business units authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

9 External Arrangements

9.1 Purpose

1 All officers involved in the Council's financial management should take appropriate action regarding:

- a) Partnerships,*
- b) External funding, and*
- c) Work for third parties.*

2 Officers should undertake all actions in accordance with this rule and with section 9 of the Council's Detailed Procedures.

Replace with

9 External Arrangements

9.1 Purpose

1 All officers involved in the Council's financial management should take appropriate action regarding:

- a) Partnerships,**
 - b) External funding, and**
 - c) Work for third parties.**
-

9.2 Partnerships and Purchasing Consortiums

1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council works in partnerships and consortia with others – public agencies/bodies, private companies, community groups and voluntary organisations. The Council still delivers some services, but its distinctive leadership role is to bring together the contributions of the various stakeholders. The mutual objective is to deliver a shared vision of services based on user wishes.

2 The Council will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

3 The main reasons for entering into a partnership are:

- a) The desire of the Council to improve services and the well being of the population of Walsall*
- b) The desire to find new ways to share risk,*
- c) The ability to access new resources,*
- d) To provide new and better ways of delivering services, and*
- e) To forge new relationships.*

4 A partner is defined as either:

- a) An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or*
- b) A body whose nature or status gives it a right or obligation to support the project.*

5 Partners participate in projects by:

- a) Acting as a project deliverers, partners, stakeholder or sponsors, solely or in concert with others,*
- b) Acting as a project funder or part funder, and/or*
- c) Being the beneficiary group of the activity undertaken in a project.*

6 Partners have common responsibilities;

- a) To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation,*
- b) To act in good faith at all times and in the best interests of the partnership's aims and objectives,*
- c) Be open about any conflict of interests that might arise,*
- d) To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors,*
- e) To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature, and*
- f) To act wherever possible as ambassadors for the project.*

7 All Council officers shall act to ensure that partners;

- a) Are made and remain aware of the Council's responsibilities under its Financial and Contract Rules, associated procedures and policies,*
- b) Undertake appropriate risk management processes,*
- c) Ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise, d) Agree and accept formally*

the roles and responsibilities of each of the partners involved in the project before the project commences, and

e) Communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

8 A purchasing consortium is generally two or more public bodies working together jointly to purchase without the key characteristics of partnership working.

9 All partnerships and purchasing consortium purchases must be procured in accordance with these rules, except in the case of a purchasing consortium where another Public Body's constitution is followed and the procedure followed represent Best Value and good practice in the view of the Council's corporate procurement unit.

10 Where the Council enters into a contract with a partner, the Executive Director responsible for the creation of that contract shall inform all other Executive and Assistant Directors of the contract's requirements. All Council officers shall comply with the requirements of the partnership contract except, where:

a) The contract specifically excludes or limits compliance, or

b) Compliance in any specific instance would be unlawful, contrary to ministerial advice or an external grantor's conditions of funding.

11 In the case of schools, they shall not be required to comply with such partnership contracts where their governors act;

a) In accordance with the Education Framework and Standards Act or other legislation providing specific freedom of action to schools, or

b) As a body corporate in matters to which the local management delegations do not pertain.

Replace with

9.2 Partnerships and Purchasing Consortia

4 A partner is defined as either:

a) An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or

b) A body whose nature or status gives it a right or obligation to support the project.

7 All Council officers shall act to ensure that partners;

a) Are made and remain aware of the Council's responsibilities under its Financial and Contract Rules, associated procedures and policies,

b) Undertake appropriate risk management processes,

c) Ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise,

d) Agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences, and

e) Communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

8 A purchasing consortium is generally two or more public bodies working together jointly to purchase without the key characteristics of partnership working.

9 All partnerships and purchasing consortium purchases must be procured in accordance with these rules, except in the case of a purchasing consortium where another Public Body's constitution is followed and the procedure followed represent value for money and good practice in the view of the Council's corporate procurement unit.

10 Where the Council enters into a contract with a partner, the Executive Director responsible for the creation of that contract shall inform all other Executive and Assistant Directors of the contract's requirements. All Council officers shall comply with the requirements of the partnership contract except, where:

- a) The contract specifically excludes or limits compliance, or
- b) Compliance in any specific instance would be unlawful, contrary to ministerial advice or an external grantor's conditions of funding.

11 In the case of schools, they shall not be required to comply with such partnership contracts where their governors act;

a) In accordance with the Education Framework and Standards Act or other legislation providing specific freedom of action to schools, or

b) As a body corporate in matters to which the local management delegations do not pertain.

9.3 External Funding

1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the Council's aims, objectives and priorities.

2 Local Councils are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers.

3 Funds from external agencies such as the NRF, National Lottery and the Single Regeneration Budget provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

4 All Council officers shall act to ensure that;

- a) All conditions of funding and any statutory requirements can be and are fully met,
- b) Responsibilities of the accountable body are clearly understood,
- c) Funds are acquired only to meet the priorities approved in the policy framework by the full Council,

- d) Any match-funding requirements are given due consideration prior to entering into long-term agreements, and*
- e) Future capital and revenue budgets reflect grantors' requirements.*

Replace with

9.3 External Funding

4 All Council officers shall act to ensure that;

- a) All conditions of funding and any statutory requirements can be and are fully met,
 - b) Responsibilities of the accountable body are clearly understood,
 - c) Funds are acquired only to meet the priorities approved in the policy framework by the full Council,
 - d) Any match-funding requirements are given due consideration prior to entering into long-term agreements, and
 - e) Future capital and revenue budgets reflect grantors' requirements.
 - f) Requirements detailed within the Grants manual are met.
-

Contract rules

1 Background and Purpose

- 1.1 These Contract Rules (“the **Rules**”) are made under Section 135 Local Government Act 1972.
- 1.2 The **Rules** form part of the **Council’s Constitution** and replace Rules 10 to 16 of the Council’s Financial and Contract Rules approved by Council on 24th April 2006. Only full **Council** shall approve amend or vary these **Rules**.
- 1.3 The purpose of the **Rules** is to:
 - 1.3.1 uphold the principles that all purchasing and disposal procedures must achieve **Best Value**;
 - 1.3.2 be consistent with the highest standards of integrity;
 - 1.3.3 ensure fairness in allocating contracts;
 - 1.3.4 comply with all legal requirements;
 - 1.3.5 support the **Council’s** corporate aims and policies including “**Working Smarter**” and the “**Think Walsall**” Charter and has a commitment to support a sustainable local economy; and
 - 1.3.6 comply with the **Council’s Corporate Procurement Strategy** and the **Procurement Code**.

2 Application

- 2.1 The **Rules** shall apply to:
 - 2.1.1 Contracts (including **Frameworks Agreements**) for purchasing, commissioning, leasing or hire of goods, works or services for the **Council**;
 - 2.1.2 Sub-contracts where the **Council** specifies, names or nominates a sub-contractor to a **contractor** in a **tender** specification;
 - 2.1.3 Unless the **Council** expressly agrees otherwise, **contracts** on behalf of any **Partnership** for which the **Council** is the accountable body;
 - 2.1.4 Schools, except where the requirements of the Schools Standards and Frameworks Act 1998 or other statutory provisions require otherwise.
- 2.2 Where the **Council** is required to follow rules laid down by Central Government or other organisation that provides grant funding (“the **Grantor**”) to the **Council**, **Officers** shall follow the **Grantor’s** contract procedure rules where they are more stringent than the **Council’s**.
- 2.3 The **Rules** do not apply to:
 - 2.3.1 Contracts of employment for the **Council’s Officers**, except in the making of contracts with recruitment and staffing agencies; or
 - 2.3.2 Subject to Rule 23, Contracts relating to the purchase or sale of interests in land; or

- 2.3.3 Contracts for treasury management and loans; or
- 2.3.4 Choosing a partner organisation where the **Cabinet** has agreed that a public/private partnership shall be undertaken, in which case the procedure laid down in the relevant statutory provisions will be followed; or
- 2.3.5 The investment of assets belonging to charities and trusts for which an **Officer** acts as treasurer: or
- 2.3.6 **Grants** made by the **Council**.

3 Compliance

- 3.1 All procurements shall be conducted in accordance with the following:
 - 3.1.1 All relevant statutory provisions including the Public Contracts Regulations 2006 (as amended) (“the **Regulations**”);
 - 3.1.2 The relevant **EU Rules**;
 - 3.1.3 The **Council’s Constitution**; and
 - 3.1.4 The **Council’s Corporate Procurement Strategy** and **Procurement Code**.
- 3.2 Failure to comply with the **Rules** may leave the **Council** or individual **Officers** or **Members**, open to risk of legal challenge. Breaches will be regarded as a serious matter which may be considered gross misconduct and could lead to disciplinary action and/or dismissal. Any **Officer** becoming aware of any compliance failure should inform the **Monitoring Officer** who will if necessary investigate the matter and report to **Cabinet**. Alternatively matters can be raised through the **Council’s** whistleblowing policy.
- 3.3 **Officers** and **Members** must not invite or accept any gift or reward in respect of the award or performance of any contract contrary to the provisions of the Bribery Act 2010. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal in the case of **Officers** and a reference to the Standards Committee in the case of **Members**. Where appropriate a matter may be referred to the Police.
- 3.4 **Officers** must declare any interests which could bring them into conflict with the **Council’s** interests.
- 3.5 **Members** must disclose all relevant interests on their register of interest forms, and any meeting they attend.

4 Preparing to contract

- 4.1 Authority for all **contracts** must be granted before they are entered into. Authority can be in the form of:
 - 4.1.1. A **Cabinet** resolution; or
 - 4.1.2. A decision made properly within the powers of **Cabinet** or **Chief Officer** under the **Scheme of Delegations**; or

4.1.3. A decision by **Cabinet** delegating authority to an **Authorised Officer**.

4.2 Subject to Rule 9, the following conditions must be met:

4.2.1. The **contract** must comply with the **Rules** and the **Financial Regulations**; and

4.2.2. There must be enough budget to cover the financial commitment being made including ongoing revenue costs, **Authorised Officers** will need to seek approval for the power to offset any shortfall in budget.

4.3. **Executive Directors** have overall responsibility for the operation of the Council's functions. All requirements for goods, services or works that fall within those areas must first have been consulted on with the relevant **Executive Director** prior to the commencement of any procurement or commissioning exercise.

5 Use of Existing Contracts

5.1 Existing **Council contracts**, consortium arrangements or **Framework Agreements** shall be used wherever available unless a **Chief Officer** has agreed otherwise in writing in which case these rules shall apply. Before any procurement is commenced, **Authorised Officers** shall establish whether:

5.1.1 The **Council** has existing contracts or beneficial arrangements for the future purchase of goods, works and services; or

5.1.2 Items are to be found in any available **Council's** i-Procurement online purchasing system; or

5.1.3 The **Council** is able to purchase through a public authority purchasing consortium; or

5.1.4 Buying Solutions' or other Central Purchasing Bodies' **Framework Agreements** are available.

5.2 The **Council's Head of Procurement** shall follow the requirement of the **Rules** in order to:

5.2.1 Procure goods, works and services which may be required throughout the **Council's** service areas, ensuring such **contracts** are made known to all **Chief Officers**; and

5.2.2 Join the **Council** into consortia with other public authorities to enable the procurement of goods, materials, works or services by more than one public authority.

6 Special Contracts

Schools

6.1 Where the **Rules** apply to the **Council's** schools, the School's governing body shall:

6.1.1 Act as the **Head of Service** for all procurement, commissioning, leasing, purchasing or sale of any goods, works or services over which the School has authority under the delegation of Schools management or other legislation;

- 6.1.2 Delegate to the School's head teacher or other senior members of the School's staff such authority as it sees fit to take actions on its behalf; and
- 6.1.3 Seek authority of the **Council's Executive or Assistant Directors** or **Cabinet** wherever the **Rules** require.

Social Care Contracts

- 6.2 The **Chief Officers** responsible for providing Social Care for Children and Adult Services shall:
 - 6.2.1 Consult with the **Head of Legal and Democratic Services** to create a set of rules governing the procurement of services relating to Social Care, which fall within Part B of the **Regulations**;
 - 6.2.2 Ensure such rules reflect the structure of the market for Social Care services; and
 - 6.2.3 Balance the need to achieve **Best Value** with that to make **contracts** rapidly to meet individual service users' needs.
- 6.3 Except where a set of rules have been created **Officers** shall procure services only in accordance with the **Rules** and the **Procurement Code**.

Consultants

- 6.4 **Chief Officers** who wish to appoint consultants shall ensure:
 - 6.4.1 The **Council** has a genuine need for consultants;
 - 6.4.2 The nature and extent of the work is clearly defined;
 - 6.4.3 Suitably qualified and experienced consultants provide quotations or tenders;
 - 6.4.4 A written contract is made with the consultant who is appointed in a form approved by the **Head of Legal and Democratic Services**;
 - 6.4.5 Consultants provide insurance cover to a level approved by the **Corporate Risk and Project Manager**; and
 - 6.4.6 The consultant shall formally accept the appointment before the work is commenced.

Appointments of Legal Advisors and Experts

- 6.5 Where a **Chief Officer** seeks to appoint external legal advisors and experts, following consultation with the **Head of Legal and Democratic Services**, the following rules shall apply:
 - 6.5.1 **Tenders** shall not be required for the engagement of counsel; medical experts, the clergy or experts at court proceedings; and
 - 6.5.2 **Tenders** shall not be required for the instruction of legal advisers, who shall be appointed in consultation with the **Head of Legal and Democratic Services**.

7 Advertising and Approved Lists

- 7.1 There is a general presumption in favour of competition. **Authorised Officers** shall ensure that where proposed **contracts** irrespective of their **total contract value** might be of interest to potential **tenderers** located in other states of the European Union, a sufficiently accessible advertisement is published. Generally the greater the interest of the contract to potential **tenderers** from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:
- 7.1.1. The **Council's** website;
 - 7.1.2. Portal websites specifically created for contract advertisements;
 - 7.1.3. National official journals; and
 - 7.1.4. The Official Journal of the European Union (OJEU)/ Tenders Electronic Daily (TED) (even if there is no requirement within the **Regulations**).
- 7.2 **Approved Lists** should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot be aggregated and priced in a single tendering exercise. **Approved Lists** cannot be used where the **Regulations** apply.

8 Contract Value and Procedure

- 8.1 The **total contract value** shall be the genuine pre-estimate of the value of the entire contract excluding **Value Added Tax**. This includes all payments to be made or potentially to be made under the entirety of the **contract** and for the whole of the predicted contract period (including proposed extensions and options). Wherever possible estimates shall be based on previous purchases, catalogue prices or **suppliers'** estimates.
- 8.2 There shall be no artificial splitting of a **contract** to avoid the application of the provisions of the **Regulations** and/or the **Rules**.
- 8.3 The tables below sets out the which procurement process should be used dependent upon the **total contract value** as calculated in accordance with this Rule:

GOODS AND SERVICES

Total Contract Value £	Type of Contract	Procurement Process to be Used	Acceptance of Tender	Rule no.
Between £2,500 and up to £10,000	Not subject to the Rules but still subject to Best Value	Recommended at least 2 competitive quotations if available	Head of Service/Service Manager	N/A
Above £10,000 and up to £50,000	MINOR for goods and services	At least 2 written quotations	Head of Service/Service Manager	10,15
Above £50,001	SIGNIFICANT	At least 3 written	Head of Service	

and up to EU Threshold	for goods and services	tenders		11,16,17,18
Above EU Threshold and up to £500,000	MAJOR for goods and services	The Regulations apply At least 3 written tenders	Executive Director/Assistant Director	12,14,16,17,18
£500,001 and above	STRATEGIC for goods and services	The Regulations apply At least 4 written tenders	Cabinet or Delegated Approval	13,14,16,17,18,19

WORKS

Total Contract Value £	Type of Contract	Procurement Process to be Used	Acceptance of Tender	Rule no.
Between £2,500 and up to £10,000	Not subject to the Rules	Recommended at least 2 competitive quotations if available	Head of Service/Service Manager	N/A
Above £10,000 and up to £50,000	MINOR For works	At least 2 written quotations	Head of Service/Service Manager	10,15
Above £50,001 and up to £173,934(EU Threshold for goods and services)	SIGNIFICANT For works	At least 3 written tenders	Head of Service	11,16,17,18
Above £173,934(EU Threshold for goods and services) and up to £500,000	MAJOR For works	At least 3 written tenders	Executive Director/Assistant Director	12,16,17,18
Above £500,001 and up to EU Threshold	STRATEGIC For works	At least 4 written tenders	Cabinet or Delegated Approval	13,16,17,

(for works)				18,19
EU threshold (for works) and above	STRATEGIC For works	The Regulations apply At least 4 written tenders	Cabinet or Delegated Approval	14,16,17, 18,19

- 8.4 Where the **contract** is a mix of goods, services and works advice must be sought from the **Head of Procurement** and/or the **Head of Law** as to whether the **Regulations** apply.
- 8.5 Where electronic tendering is available it shall be used. Full details of the electronic tendering system and how it works can be found in the **Procurement Code**.

9 Waiver/Exemption of the Contract Rules

- 9.1 If a **Chief Officer** believes that goods, works or services are needed urgently by the **Council**, he or she may in writing waive or suspend the requirement to follow the **Rules** and other instructions to the extent necessary to remedy the urgent situation. Such waiver or suspension shall only apply where:
- 9.1.1 A situation of genuine urgency is perceived to exist; or
 - 9.1.2 Action is required to safeguard the **Council's** assets or interests; or
 - 9.1.3 **Grants** or other funding will be lost unless urgent action is taken.
- 9.2 The **Chief Officer** responsible for waiving or suspending any part of these rules or procedures shall provide a written report to the **Corporate Management Team** as soon as practicable detailing the **Rules** or procedures they have set aside and the reasons requiring these actions.
- 9.3 A **Chief Officer** shall not be required to seek **quotations** or **tenders** where (subject to compliance with Rule 4):
- 9.3.1. Goods must be purchased from a **supplier** holding exclusive rights of manufacture or supply and where no generic equivalent exists;
 - 9.3.2. Goods to be purchased are required by the **Council** as a partial replacement for or in addition to existing goods already purchased by the **Council** and when to obtain the goods from a **supplier** other than the **supplier** which supplied the existing goods would oblige the **Council** to acquire goods having different technical characteristics which would result in:
 - 9.3.2.1 Incompatibility between the existing goods and the goods to be purchased; or
 - 9.3.2.2 Disproportionate technical difficulties in the operation and maintenance of the existing goods.
 - 9.3.3. Items whose price is controlled by trade organisations or Central Government regulations;

- 9.3.4. Repairs or parts for existing plant or machinery provided by the original **supplier**;
 - 9.3.5. Hiring of performance artists or other suppliers of fine art exhibits; and
 - 9.3.6. Items to be obtained at a public auction, fair or market.
- 9.4 Before an **Authorised Officer** procures using any of the exemptions set out in Rule 9.3 above, they must where the **contract** is likely to exceed the **EU Threshold** seek advice from the **Head of Procurement** and/or **Head of Law** as to the application of the **Regulations. Authorised Officers** must:
- 9.4.1 Provide, wherever applicable, a written estimate of the anticipated cost to the **Chief Officer** responsible where the anticipated cost exceeds £25,000; and
 - 9.4.2 Ensure **contracts** with the **suppliers** or providers follow the **Rules** where applicable;
 - 9.4.3 Before items are purchased from a public auction, the **Chief Officer** shall first be informed in writing of:
 - 9.4.3.1 The quality, condition and provenance of each article, whose purchase is sought;
 - 9.4.3.2 The reason for seeking to purchase at a public auction, market or fair; and
 - 9.4.3.3 The anticipated value of the item if purchased by other means.
- 9.5 **Authorised Officers** attending an auction shall receive written instructions from the **Chief Officer** responsible for the service specifying:
- 9.5.1 The item or items for which they are to bid; and
 - 9.5.2 Requirements to inspect the item prior to the commencement of bidding; and
 - 9.5.3 The highest value which may be bid for the item or items.

10 Minor Contracts

- 10.1 "**Minor Contracts**" are contracts for goods works and services which exceed £10,000 but do not exceed £50,000.
- 10.2 **Minor Contracts** shall be authorised by the **Authorised Officers** or by any **Officer** who holds authority to use the **Council's** I-Procurement or ORACLE software up to the value of the proposed purchase.
- 10.3 **Officers** shall seek to obtain written quotations from at least **two suppliers** for all **Minor Contracts** whose value is anticipated to be between £10,001 and £50,000. In the event that there are not **two suppliers** interested in submitting a **quotation** following compliance with the requirements of Rule 7, then **quotations** shall be obtained from those **suppliers** who are willing to submit a **quotation**.
- 10.4 **Quotation** shall be sought using the procedure set out in Rule 15 below.
- 10.5 **Quotations** shall be returned to the **Authorised Officer** who shall open them. **Quotations** shall be kept safely and in confidence until they are assessed and accepted or rejected.

- 10.6 The **Authorised Officer** may accept one or more of the **quotations** received.
- 10.7 Where **quotations** have been received the **Authorised Officer** shall appoint one or more **suppliers** by providing them with the **Council's** official purchase order. Where appropriate, the **Authorised Officer** shall sign the official purchase order or authorise the order electronically through the **Council's** ORACLE or other electronic purchasing order processing system.
- 10.8 Wherever a **quotation** has been accepted a letter of appointment shall be sent to each **supplier** whose **quotation** has been accepted. This should be done as soon as possible after the **Council's** formal acceptance of the **quotation**.
- 10.9 The **contract** for **Minor Contracts** up to a value of £50,000 shall be evidenced by an official order generated from the **Council's** ORACLE accounts payable software and bearing a unique reference number.

11 Significant Contracts

- 11.1 "**Significant Contracts**" are contracts for goods, works or services which exceed £50,000 but do not exceed the current **EU Threshold** (for goods and services).
- 11.2 An **Authorised Officer** shall take responsibility for the procurement of **Significant Contracts**. This **Officer** shall report regularly to a **Chief Officer**.
- 11.3 Formal sealed **tenders** shall be invited from at least **three suppliers** for **Significant Contracts**. In the event that there are not **three suppliers** interested in submitting a **tender** following compliance with the requirements to advertise in Rule 7, then a **tender** shall be obtained from those **suppliers** who are willing and able to submit a **tender**.
- 11.4 **Tenders** shall be sought, evaluated and awarded in accordance with Rules 16 and 17 below.
- 11.5 Sealed **tenders** shall be returned to the **Council** as required by the **Invitation to Tender**. They shall be held securely in the custody of the **Authorised Officer** and remain unopened until the time set for their opening.
- 11.6 **Tenders** for **Significant Contracts** shall be opened by the relevant **Head of Service** or by two **Officers** delegated in writing by that **Head of Service** to open such **tenders**. In cases where an electronic tendering system is used, the system used should have sufficient controls to prevent premature opening of the documents and post opening amendments. A suitable audit trail should be made available and only those **Officers** authorised to open the **tenders** should be able to access the mailbox created to receive the **tenders**.
- 11.7 The **Authorised Officer** may accept one or more of the **tenders** received. Where the value exceeds £100,000, letters of acceptance shall be signed by a **Chief Officer** responsible for the service.
- 11.8 **Significant Contracts** shall be evidenced by a written contract in a form approved by the **Head of Legal and Democratic Services**, which shall be signed by the **Head of Service** responsible for the service on the **Council's** behalf and by an authorised signatory of the **contractor**.

12 Major Contracts

- 12.1 “**Major Contracts**” are contracts for goods, works or services which exceed the **EU Threshold** (for goods and services) but do not exceed £500,000.
- 12.2 The procurement of **Major Contracts** for goods and services shall follow the **Regulations**.
- 12.3 An **Authorised Officer** shall take responsibility for the procurement of **Major Contracts** in respect of works. This **Officer** shall report regularly to a **Chief Officer**.
- 12.4 Formal sealed **tenders** shall be invited from at least **three suppliers**. In the event that there are not **three suppliers** interested in submitting a **tender** following compliance with the requirements to advertise in Rule 7, then a **tender** shall be obtained from those suppliers who are willing and able to submit a **tender**.
- 12.5 **Tenders** shall be sought, evaluated and awarded in accordance with Rules 16 and 17 below.
- 12.6 Sealed **tenders** shall be returned to the Tenders – Postal/Courier and Filing Services Civic Centre. They shall be held securely and remain unopened until the time set for their opening.
- 12.7 **Tenders** for **Major Contracts** shall be opened by the relevant **Executive or Assistant Director** or by two **Officers** delegated in writing by that **Executive or Assistant Director** to open such **tenders**. In cases where an electronic tendering system is used, the system used should have sufficient controls to prevent premature opening of the documents and post opening amendments. A suitable audit trail should be made available and only those **Officers** authorised to open the **tenders** should be able to access the mailbox created to receive the **tenders**.
- 12.8 The **Chief Officer** responsible for the service area may accept one or more of the **tenders** received.
- 12.9 **Suppliers** appointed are to confirm acceptance of their appointment in writing. No work, other than the **supplier’s** off-site preparations should be commenced, nor any delivery of goods, materials or services accepted, until the **supplier** appointed has:
- 12.9.1 Formally accepted their appointment,
 - 12.9.2 Provided evidence of insurances to the satisfaction of the **Council’s Corporate Risk and Project Manager**; and
 - 12.9.3 Provided any agreed surety or bond to the **Council**.
- 12.10 **Major Contracts** shall be evidenced by a written contract, in a form approved by the **Head of Legal and Democratic Services**, which shall be signed by **Executive Director** responsible for the service on the **Council’s** behalf and by an authorised signatory of the **contractor**.
- 12.11 The **Authorised Officer** should create a regular monitoring report for the **Assistant or Executive Director** or Project Board responsible for the **contract**. This report should include up-to-date information on the **contract’s** performance and expenditure to date and the predicted out-turn. The report should highlight any areas of difficulty and propose remedial action.

13 Strategic Contracts

- 13.1 “**Strategic Contracts**” are contracts for goods, works or services which exceed £500,000.

- 13.2 The procurement of **Strategic Contracts** for goods and services shall follow the **Regulations**.
- 13.3 The procurement of **Strategic Contracts** for works over the **EU Threshold** (for works) shall follow the **Regulations**.
- 13.4 An **Authorised Officer** shall take responsibility for the procurement of **Strategic Contracts** in respect of works up to the **EU Threshold** (for works). This **Officer** shall report regularly to a **Chief Officer**.
- 13.5 Formal sealed **tenders** shall be invited from at least **four suppliers**. In the event that there are not **four suppliers** interested in submitting a **tender** following compliance with the requirements to advertise in Rule 7, then a **tender** shall be obtained from those **suppliers** who are willing to submit a **tender**.
- 13.6 **Tenders** shall be obtained, evaluated and awarded in accordance with Rules 16 and 17 below.
- 13.7 Sealed **tenders** shall be returned to the Tenders – Postal/Courier and Filing, Civic Centre. They shall be held securely and remain unopened until the time set for their opening.
- 13.8 **Tenders** for **Strategic Contracts** shall be opened by the **Cabinet Member** to whose portfolio the project or purchase pertains or in the event of their unavailability another **Cabinet Member** in the presence of the **Monitoring Officer** or any **Officer** nominated in writing by him or her for this purpose. In cases where an electronic tendering system is used, the system used should have sufficient controls to prevent premature opening of the documents and post opening amendments. A suitable audit trail should be made available and only those **Officers** authorised to open the **tenders** should be able to access the mailbox created to receive the **tenders**.
- 13.9 One or more **tenders** shall be accepted following a resolution of the **Cabinet**. **Cabinet** may resolve to delegate acceptance of **tenders** for individual **contracts** to a **Chief Officer**.
- 13.10 The **Executive or Assistant Director** responsible shall sign all letters of appointment.
- 13.11 **Suppliers** appointed are to confirm acceptance of their appointment in writing. No work, other than the **supplier's** off-site preparations should be commenced, nor any delivery of goods, materials or services accepted, until the **supplier** appointed has:
- 13.10.1 Formally accepted their appointment;
 - 13.10.2 Provided evidence of insurances to the satisfaction of the **Council's Corporate Risk and Project Manager**; and
 - 13.10.3 Provided any agreed bond or surety to the **Council**.
- 13.12 **Strategic Contracts** shall be evidenced by a written contract in a form approved by the **Head of Legal and Democratic Services**. All **Strategic Contracts** exceeding £500,000 shall be made under the **Council's** seal.
- 13.13 The **Authorised Officer** should create a regular monitoring report for the **Assistant or Executive Director** and any Project Board responsible for the **contract**. This report should include up-to-date information on the **contract's** performance and expenditure to date and the predicted out-turn. The report should highlight any areas of difficulty and propose remedial action.

14 Contracts subject to the Regulations

- 14.1 Where the **total contract value** of any **Major** or **Strategic Contract** exceeds **EU Threshold** the **Regulations** must be complied with.
- 14.2 The **Regulations** are lengthy and detailed and only the principal requirements are set out in the **Rules**. Advice must be sought from the **Head of Procurement** and /or the **Head of Law** before starting any procurement which is likely to be subject to the **Regulations**.
- 14.3 The **Regulations** specify how the **contract** shall be advertised, the types of the procedure to be used, timescales, evaluating the **tender** and how the contract shall be awarded (including mandatory debriefing and a standstill period). Failure to adhere correctly to the **Regulations** may result in legal proceedings being taken against the **Council**.
- 14.4 The **Rules** shall apply to **contracts** subject to the **Regulations** in so far as they do not conflict with the **Regulations**.
- 14.5 For the avoidance of doubt, it is not possible to waive all or any part of the **Regulations**.

15 Quotations

- 15.1 **Authorised Officers** shall seek to obtain written **quotations** from at least **two suppliers** for all **Minor Contracts** whose value is anticipated to be between £10,001 and £50,000. **Authorised Officers** shall:
- 15.1.1 Seek to obtain **quotations** only from suppliers known to be able to provide the goods works and services required;
 - 15.1.2 Seek all **quotations** at a similar time, providing a written specification;
 - 15.1.3 Allow a reasonable time for **suppliers** to provide **quotations**;
 - 15.1.4 Receive **quotations** by letter, facsimile or email; and
 - 15.1.5 Evaluate all **quotations** received.
- 15.2 Subject to the **Regulations** **Authorised Officers** shall retain **quotations** in accordance with document disposal guidelines, ensuring they remain available for inspection by the **Chief Internal Auditor** or any representative of the **Council's** external auditor.

16 Tenders

- 16.1 **Tenders** shall be sought from **suppliers** who have responded to any advert placed by the **Council** in accordance with Rule 7 of the **Rules** and may be capable of being awarded the **tender**.
- 16.2 All **suppliers** invited to tender for **Significant, Major or Strategic contracts** shall be provided at no cost to themselves with identical **Invitation to Tenders** which shall specify:
- 16.2.1. The date and time by which **tenders** are to be received, and the address to which they are to be delivered;
 - 16.2.2. All documents to be completed, which shall include health and safety and equality and diversity questionnaires;

- 16.2.3. Instructions for the **tender's** return; and
 - 16.2.4. Whether **tenders** may be returned electronically in the event an electronic system is available and approved for use.
- 16.3 Information supplied shall include but not be limited to:
- 16.3.1. Full specification of all goods works or services to be provided;
 - 16.3.2. Intended duration of the proposed **contract**;
 - 16.3.3. Evaluation criteria to be used in assessing **tenders**; and
 - 16.3.4. The method by which any errors in **tenders** will be treated.
- 16.4 Those seeking a **tender** shall provide to each **tenderer**:
- 16.4.1. A copy of every document to be completed and instructions needed for its completion;
 - 16.4.2. The summary form of **tender** to be completed and signed by the **tenderer**; and
 - 16.4.3. A label for the envelope in which the **tender** is to be returned on which should be written the name of the proposed **contract** and the Directorate to which the **contract** relates or details of how to return the **tender** electronically.
 - 16.4.4. A copy of the contractual terms and conditions to which the **tenderer** will be bound if they are awarded the **tender**.
- 16.5 Where **tender** documentation is likely to be bulky, **tenderers** should be advised that the envelope is to be affixed to the package containing the **tender**.
- 16.6 Each **tender** shall be informed that:
- 16.6.1 the **Council** does not bind itself to **contract** with the **supplier** offering the cheapest **tender** or with any **supplier**;
 - 16.6.2 that the **Council** will not be liable for any costs or expenses whatsoever incurred by the **tenderers** in respect of the preparation and submission of their **tender** and that the **Council** shall be at liberty to cancel the **tender** process at any time and shall not be liable for any costs or expenses whatsoever incurred by the **tenderer** as a result of such cancellation;
 - 16.6.3 that it will not consider any **tender** which is not accompanied by all **tender** documents;
 - 16.6.4 that it may not consider any **tender** received after the latest date and time;
 - 16.6.5 that it may not consider any **tender** bearing any mark or label identifying the tenderer, whether made by the sender, an agent or carrier;
 - 16.6.6 that it will not consider any **tender** offering a variant offer, except where it accompanies a compliant offer unless stated otherwise; or
 - 16.6.7 that it will not consider any **tender** requiring a form of contract other than that approved by the **Council's Head of Legal and Democratic Services**.
- 16.7 Subject to the **Regulations Authorised Officers** shall retain tenders in accordance with document disposal guidelines, ensuring they remain available for inspection by the **Chief Internal Auditor** or any representative of the **Council's** external auditor.

17 Evaluation and Award of Tenders

- 17.1 **Tenders** shall be assessed:
- 17.1.1 As soon as possible after they have been opened;
 - 17.1.2 In line with evaluation criteria set out in the **Invitation To Tender**; and
 - 17.1.3 By **Authorised Officers** or duly appointed consultants.
- 17.2 Assessment shall be restricted to:
- 17.2.1 Information contained within the **tenders**;
 - 17.2.2 Further information requested from **tenderers** following initial assessment of **tenders** and any clarification required; and
 - 17.2.3 Material provided at an interview or presentation (if available).
- 17.3 The **Authorised Officer** responsible for assessment of the **tenders** shall:
- 17.3.1 Examine all compliant offers and variant or alternative offers where applicable;
 - 17.3.2 Deal with errors in **tenders** using the method set out in the **tender** specification;
 - 17.3.3 Seek clarification and additional detail from each **tenderer**;
 - 17.3.4 Undertake financial evaluation of each **tenderer**; and
 - 17.3.5 Where appropriate invite **tenderers** to attend interviews and make presentations.
- 17.4 The Authorised Officer may also:
- 17.4.1 Seek additional information from **tenderers** in writing where that is relevant or needed to remove ambiguities from **tenders**. Where this is provided by telephone, **Officers** should keep a log of the questions asked and answers given;
 - 17.4.2 Create a small panel of appropriate **Officers** to interview some or all **tenderers**; and
 - 17.4.3 Interview **tenderers** following proper planning. **Tenderers** to be called should receive adequate details of what is required and sufficient time to prepare answers and presentations. Questions, answers and marks awarded should be written and retained.
- 17.5 The **Authorised Officer** shall produce an evaluation report to the **Chief Officer** who is to accept one or more **tenders**. In respect of **Strategic Contracts** this report shall be made available to the **Cabinet**, or any **Project Board** prior to their accepting one or more **tenders**.
- 17.6 The evaluation report shall offer clear, costed recommendations, to the **Chief Officer** responsible for accepting the **tender**.

18 Form of Contract

- 18.1 The **Council** shall make **contracts** with **suppliers** appointed in accordance with the **Rules** and with the requirements of the **Financial Regulations** and the **Procurement Code**.
- 18.2 Every **contract** made by the **Council**, whether by way of official purchase order, or by formal written agreement, shall require:
- 18.2.1 Goods, works or services to comply with British Standard or equivalent European Union standard wherever these exist;
 - 18.2.2 Evidence that **suppliers** maintain sufficient insurance as may be required by the **Corporate Risk and Project Manager** throughout the duration of the **contract**;
 - 18.2.3 Compliance with the Construction (Design and Management) Regulations 2007 wherever these apply;
 - 18.2.4 An appropriate health and safety policy;
 - 18.2.5 An acceptable equality policy compliant with the provisions of the Equalities Act 2010;
 - 18.2.6 A signed statement agreeing that the **Council** may revoke the **contract** in the case of corrupt activity or behaviour by the **contractor**; and
 - 18.2.7 Where applicable a clause setting out when any bond or surety shall be returned and retention monies released.
- 18.3 All official purchase orders and written contracts shall:
- 18.3.1 Describe the goods, works or services to be provided;
 - 18.3.2 State the price to be paid and when it shall be paid, along with any discounts or other deductions; and
 - 18.3.3 Indicate the time or times, within which the **contract** is to be performed, including any terms and conditions under which the **contract** may be extended;
 - 18.3.4 Include any terms and conditions set out by the **Council** or agreed with the **supplier**;
 - 18.3.5 Include provisions to deal with any disputes which may arise;
 - 18.3.6 Where appropriate a clause whereby liquidated damages will be paid to the **Council** by the **contractor** wherever the provision of goods works or services is not completed within the time set out in the contract;
 - 18.3.7 Fulfil the requirements of the **Council's Financial Regulations**; and
 - 18.3.8 Comply with the requirements of the **Council's ORACLE** accounts payable system.
- 18.4 In all cases the official purchase order or written contract document shall be in a form approved by the **Head of Legal and Democratic Services** except where:
- 18.4.1 A **contract** is to be made with a statutory undertaking or utility company;
 - 18.4.2 Government purchasing agreement terms and conditions are to be used;
 - 18.4.3 Terms and conditions are agreed by a purchasing consortium which includes the **Council**;

- 18.4.4 A Central Government office requires their terms and conditions are followed, or
- 18.4.5 The **Head of Legal and Democratic Services** agrees use of the **contractor's** terms and conditions.

19 Execution of Contracts under seal

- 19.1 **Authorised Officers** requiring a written **contract** to be made under the **Council's** seal shall provide the following:
 - 19.1.1 Written confirmation of compliance with the **Rules** and the exercise of authority by a **Chief Officer**;
 - 19.1.2 For **Strategic Contracts** a copy of the **Cabinet** decision accepting the **tender** and awarding the **contract** or delegated authority to an **Officer** to accept the **tender** and award the **contract**;
 - 19.1.3 Any other documents required by the **Head of Legal and Democratic Services**, to enable a **contract** to be sealed.
- 19.2 The seal is applied by the **Head of Legal and Democratic Services** or his or her nominated **Officer**. The application of the seal is an administrative function and not a legal review of the **contract** or the tendering exercise.
- 19.3 Where a **contract** has no consideration (no discernable money is being spent by the parties) the **Council's** seal shall be used.

20 Register of Contracts

- 20.1 **Executive Directors** shall keep a register of all **contracts** subject to the **Rules** entered into by that Directorate ("**the Register of Contracts**"). **Authorised Officers** shall ensure **contracts** for which they are responsible are entered into this **Register of Contracts**: this includes any amendments or variations. The form required to enter the contract in the **Register of Contracts** can be found in the **Procurement Code**. The **Register of Contracts** shall be available for inspection by the **Chief Internal Auditor** at all reasonable times.
- 20.2 A copy of the form entering the **contract** in the **Register of Contracts** sent to the **Chief Internal Auditor** the **Head of Legal and Democratic Services** and the **Head of Procurement**.
- 20.3 A copy of every signed **contract** and every subsequent amendments/variations thereto entered into by the **Council** will be retained by the service area to which it relates. Failure to do this will be regarded as a serious matter which may be considered gross misconduct and could lead to disciplinary action and/or dismissal.
- 20.4 The original **contract** and any subsequent amendments/ variations thereto shall be forwarded to the **Head of Law**, and then kept securely in the **Council's Central Records**.

21 Contract Management

- 21.1 An **Authorised Officer** shall:
 - 21.1.1 Take responsibility for communications between the **Council** and the **contractor**;

- 21.1.2 Ensure the **contractor** complies with the **contract's** terms, provides appropriate insurances, and complies with health and safety and other legislation;
 - 21.1.3 Represent the **Council** at meetings with the **contractor** and stakeholders;
 - 21.1.4 Report on the **contract** progress to **Chief Officers**, any **Project Board** or **Cabinet** as appropriate and its completion; and
 - 21.1.5 Examine the **contractor's** final account.
- 21.2 The **Authorised Officer** shall meet with the **contractor**, the **Council's** client service area and other interested parties both before the start of the **contract**, at regular intervals throughout its duration and following its completion. Minutes of these meetings should provide an accurate record of the **contract's** progress.
- 21.3 The **Authorised Officer**, or a duly appointed consultant acting on the **Council's** behalf, may instruct the **contractor** to vary the goods, works or services provided as follows:
- 21.3.1 The variation is instructed in accordance with the terms of the **contract**;
 - 21.3.2 Variation orders are created in writing, and are provided to the **contractor**, with a copy retained by the **Authorised Officer**;
 - 21.3.3 All variation orders are created at the time the variation is instructed, and
 - 21.3.4 Variation orders indicate the price, wherever possible in accordance with prices offered in the **contractor's tender**; and
 - 21.3.5 All contingency items and provisional sums are removed once the works commence.
- 21.4 **Chief Officers** must approve all variations whose value exceeds £50,000. Where variations require additional funding or a change to the **Council's** capital programme, the **Chief Finance Officer** shall be consulted prior to the variation being approved.

22 Trading externally and surplus assets

- 22.1 **Executive and Assistant Directors** shall sell goods works or services only after consultation with the **Head of Legal and Democratic Services**.
- 22.2 Paragraph 22.1 is subject to:
- 22.2.1 The provision of such trading activities and the manner in which it is provided is lawful;
 - 22.2.2 The proposal to dispose of **Council** owned assets, including surplus or obsolete furniture or equipment shall be approved by the relevant **Head of Service** with their agreement that there is no further need for such assets. Surplus assets shall first be offered to other service areas or directorates within the **Council** (including schools maintained by the **Council**). Any such asset which remains to be disposed of externally shall be offered for sale at the highest price attainable;
 - 22.2.3 When considering the sale of an asset and the process to be followed to secure offers to purchase due regard shall be had to the reasonably anticipated value of the item and the associated costs of seeking the sale when determining the process for sale;

- 22.2.4 A written contract is entered into by the **Council** for the provision of the goods works or services;
- 22.2.5 Where it is a legal requirement for full **Council** to approve the fees or charges such approval is sought; and
- 22.2.6 Where the anticipated income to be raised exceeds £500,000 in any financial year the appropriate **Executive Director** will first seek approval of **Cabinet**.

23 Disposal of Land and Property

- 23.1 The **Executive Director** for Regeneration shall be responsible for acquisitions and disposals of land, whether by way of purchase sale or lease.
- 23.2 Before land is offered for sale or lease, an **Authorised Officer** shall arrange land sales and leases so that the **Council** obtains best consideration. An **Authorised Officer** shall obtain a qualified valuer's estimate of the likely sale price shall be obtained.
- 23.3 Prior to the making of a compulsory purchase order in order to acquire any land or property, a written report shall be presented to the **Cabinet**.
- 23.4 Where there is no provision for the cost of acquisition or redevelopment of the land in the **Council's** approved capital programme, a Capital Finance Report shall be considered by the **Cabinet** and by the **Council** if appropriate.
- 23.5 The written approval of the **Cabinet** shall be obtained prior to any advertisement being placed or **contract** executed where:
 - 23.6.1 In the reasonable opinion of the Head of Property Services the value of land to be acquired or disposed of by way of sale is estimated to exceed £500,000; or
 - 23.6.2 In the reasonable opinion of the Head of Property Services leases of land or property are proposed whose rental value is anticipated to exceed £50,000 during any complete year.
- 23.6 Where **Cabinet** authority is not required, the **Executive Director** for Regeneration shall approve in writing:
 - 23.7.1 Any purchase or sale whose price is not anticipated to exceed £500,000 in value; and
 - 23.7.2 Proposed leases whose rental value is not anticipated to exceed £50,000 during any complete year.
- 23.7 The Head of Property Services shall agree:
 - 23.8.1 Any purchase or sale whose price is not anticipated to exceed £100,000 in value; and
 - 23.8.2 Proposed leases whose rental value is not anticipated to exceed £10,000 during any complete year.
- 23.8 Prior to disposal of land or property, the **Executive Director for Regeneration** in consultation with the **Strategic Property Board**, shall determine whether:
 - 23.9.1 The land or property shall be disposed of to one particular person;

- 23.9.2 Formal sealed tenders are to be obtained and the land transferred to the person providing the highest offer strictly in accordance with the terms of their **tender**;
- 23.9.3 Sealed offers leading to negotiations for the sale to the person making the highest bid under mutually agreeable terms; or
- 23.9.4 The land shall be sold by public auction.

24 Trading within the Council

- 24.1 The **Council** has a number of internal service providers who may be able to supply the goods works and services that are required. All purchasing must achieve **Best Value** and the use of the internal service provider must be part of that consideration.

25 Definitions and Interpretation

- 25.1 In the Rules the following terms shall have the following meanings:

“Approved List”	A list of suppliers of goods works and services, drawn up or approved for use by Chief Officers, of persons ready and capable of supplying goods works and services in accordance with the procedure set out in the Procurement Code
“Authorised Officer”	An Officer who has the authority to deal with the contract in question given to the relevant Chief Officer in writing <u>and</u> who has received the required procurement training
“Best Value”	The duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by Council
“Cabinet”	The Council Executive
“Cabinet Member”	An elected member of the Cabinet
“Central Purchasing Bodies”	A contracting authority which acquires goods or services intended for one or more contracting authority in accordance with the Regulations
“Chief Finance Officer”	As defined in the Council’s Constitution
“Chief Internal Auditor”	As defined in the Council’s Constitution
“Chief Officer”	The Council’s Executive and Assistant Directors

	and Heads of Service
“contract”	Any contract for the execution of works or the supply of goods and services and “contracts” shall be interpreted accordingly
“contractor”	A person who is contracted by the Council to supply goods works or services
“Corporate Management Team”	As defined in the Council's Constitution
“Corporate Procurement Strategy”	The Council's current published strategy for procurement as created amended and approved from time to time by the Council's Corporate Management Team
“Corporate Risk and Project Manager”	The relevant paid service manager
“Council”	Walsall Metropolitan Borough Council
“Council Constitution”	The constitution of the Council which sets out how the Council will operate, how decisions are made and the procedures which will be followed
“E U Rules”	The European Union Directives which have been embodied in the Regulations
“E U Threshold”	The contract value at which the EU Rules and the Regulations apply and which are set every two years on 1 st January. The values as at 1 st January 2010 are: <ul style="list-style-type: none"> • Goods and services - £173,934 • Works - £4,348,350
“Executive and Assistant Directors”	The relevant Chief Officers
“Financial Regulations”	The procedures to be followed when planning undertaking or reviewing any matter relating to the management of the Council's finances which form part of the Council's Constitution
“Framework Agreement”	An Agreement between one or more authorities and one or more economic operators the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and where appropriate the quantity envisaged and “Framework Agreements” shall be interpreted accordingly

“Grant”	A gift or donation under which Council giving it has no right to receive anything in return but may attach terms and conditions specifying how the grant is to be spent.
“Grantor”	The organisation giving a Grant to the Council.
“Head of Law”	The relevant paid head of service
“Head of Legal and Democratic Services”	The relevant paid head of service
“Head of Procurement”	The relevant paid head of service
“Invitation to Tender”	The invitation to tender documents in the form required by the Rules
“Members”	As defined in the Council’s Constitution
“Monitoring Officer”	As defined in the Council’s Constitution
“Officer”	An Officer of the Council
“opening” when used in connection with tenders	Both manually and electronically
“Partnership”	An agreement between the Council and any public or private organisation to deliver a specific project or services
“Procurement Code”	The Council’s detailed guide for Authorised Officers on the procurement procedures as created amended and approved from time to time by the Council’s Corporate Management Team
“Project Board”	A board of Officers formed to oversee the tendering of Strategic Contracts
“quotation”	A quotation of price (and any other relevant) without a formal issue of an Invitation to Tender
“Regulations”	The Public Contract Regulations 2006 (as amended)
“Rules”	The Council’s Contract Rules 2010
“Scheme of Delegations”	As defined in the Council’s Constitution
“Strategic Property	The meeting held by the Executive Director for Regeneration or his representative Officers to

Board	discuss acquisitions or disposal of land with the Deputy Leader and or Leader of the Council.
“supplier”	A person who supplies goods works and services
“tender”	A formal proposal issued in response to an Invitation to Tender
“tenderer”	Any person who submits a formal tender in response to an Invitation to Tender
“Think Walsall”	The Council’s commitment to maximise the benefits to citizens business and third sector organisations through its procurement activities. When undertaking a tender process the inclusion of questions and contractual clauses reflecting these aims must be considered.
“total contract value”	The whole value or estimated value(in money or equivalent value for a single purchase or disposal calculated as follows: <ul style="list-style-type: none"> • Where the contract is for a fixed period by taking the total price to be paid or which might be paid during the whole of the period; or • Where the contract is for one year and may continue until terminate by notice the total price to be paid or which might be paid over the first three years
“Working Smarter”	The programme adopted by the Council the objectives of which are improvements to customers; taking out waste; and a radical service redesign.

25.2 Any terms which are capitalised but not defined above shall have the meaning given to it in the **Council’s Constitution**.

25.3 The **Head of Legal and Democratic Services** shall compile and maintain the **Rules** and shall advise on their implementation and interpretation. In the case of ambiguity regarding their interpretation the **Head of Legal and Democratic Services** shall determine the correct application and interpretation of the **Rules**.

25.4 Delegated Authority is given to **Head of Legal and Democratic Services** and the **Chief Finance Officer** in consultation with the relevant **Cabinet Member** to amend and or update the **Rules** as appropriate to meet future and operational requirements to ensure the aims and principles of the **Rules** are given full effect.

Appendix 6

10 - Budget setting protocol

1. The revenue budget and capital programme will be constructed in the context of the Council's Medium Term Financial Strategy, which is reviewed and revised by the Chief Finance Officer each year and approved by Cabinet.
2. The timetables and responsibilities for the construction and maintenance of a range of financial rules, strategies and procedures are as set out in the Council's prevailing Medium Term Financial Strategy.
3. The Chief Finance Officer or nominee will issue draft cash limits for the ensuing 5 years based on best knowledge available, taking into account all active budget decisions taken by council in setting the current year's budget.
4. The Chief Finance Officer or nominee will issue appropriate budget guidelines to finance staff and to services by 30 June in the preceding year. These will include, amongst other things, the protocols for the construction of the budget and the assumptions to be used in respect of pay awards and inflation for the period of the budget construction.
5. Services will undertake thorough budget preparation, and will submit, to the Chief Finance Officer or nominee, comprehensive financial plans for the 5 year period detailing any policy changes Council would need to make in meeting the cash limits, cut together with a revised position for the current year by 30 September. Prior to any submission a full equality impact assessment will have been carried out.
6. These will be summarised by the Chief Finance Officer or nominee and presented to the Corporate Management Team and Cabinet by 31 October.
7. The Council tax base will be considered and set by Cabinet and notifications (received by) relevant bodies by no later than 31 January.
8. Cabinet will review the draft budget and make any adjustments considered necessary. If there is no overall control in the Council, the Cabinet will inform the Leaders of any Group not represented on the Cabinet of its budget proposals before consulting with each of the Scrutiny and Performance Panels and stakeholders.
9. Cabinet will ensure that each of the committees has at least one opportunity to scrutinise the draft budget proposals relating to the services within their remit and make comments and recommendations to Cabinet.
10. Scrutiny will meet in sufficient time for Cabinet to consider and take account of any comments and recommendations made by the committees, when making their final recommendation to Council.

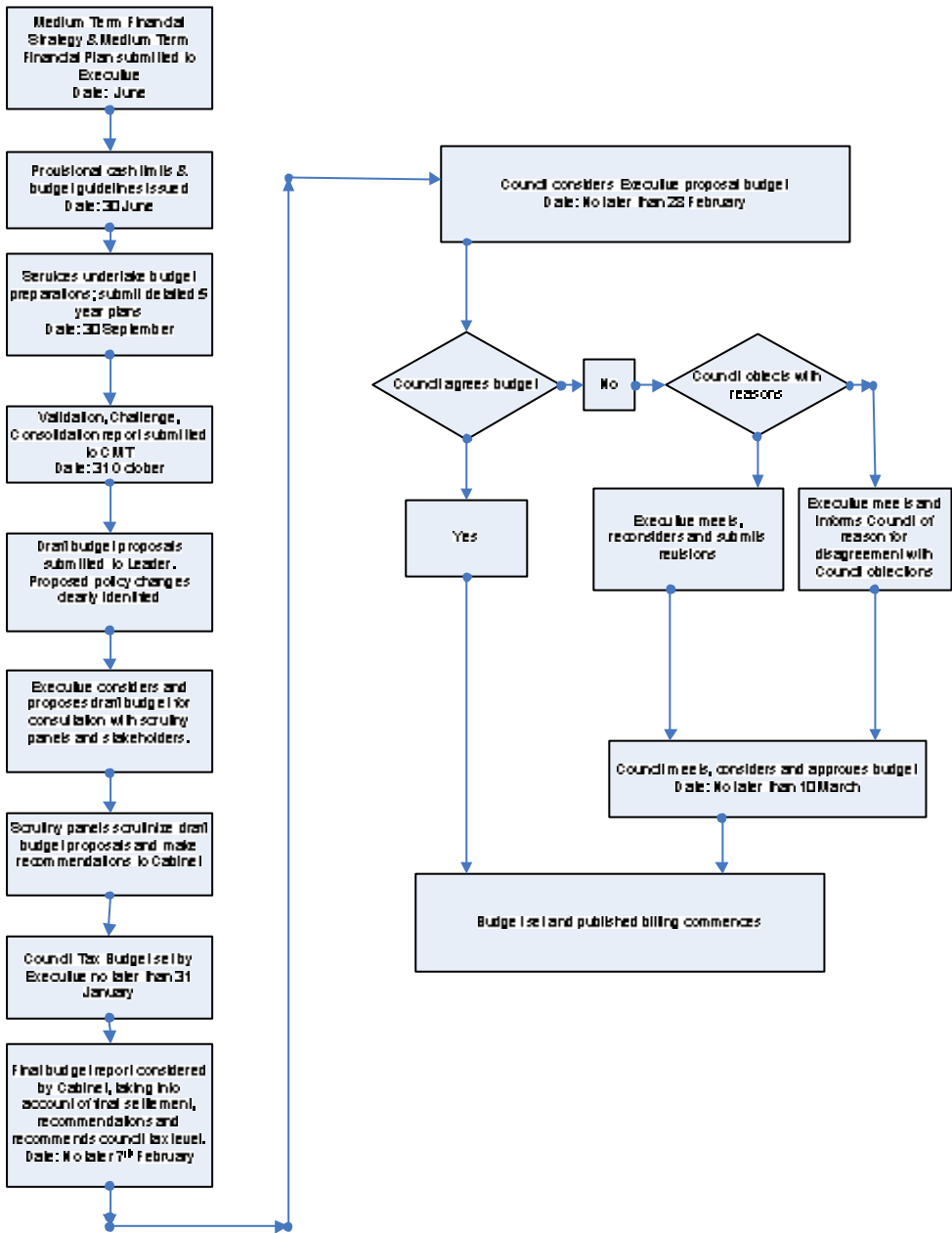
Comment: Sent to?

11. Consultation on the draft budget will take place with a range of stakeholders, the timing of which will be sufficient for Cabinet to consider any comments and recommendations at its meeting in which will fall in late January or early February.
12. The Corporate Scrutiny and Performance Panel will scrutinise the Council-wide financial position and draft proposals in addition to the draft budgets relating to the services within its remit.
13. Cabinet will consider the comments and recommendations of scrutiny and stakeholders.
14. The final revenue budget report to Cabinet will include a risk assessment of the financial position and the budget, a statement by the Chief Finance Officer on the adequacy of the budget and the level of reserves, and consideration of the medium term financial outlook for a period of at least 5 years.
15. The Chief Finance Officer will prepare a detailed draft resolution for Cabinet setting out the details of the revenue budget and capital programme and the statutory determinations; constructed in compliance with the Local Government Finance Act.1992.
16. Cabinet will make a final recommendation on the budget and capital programme to Council before 8 February including the level of council tax required to provide a balanced budget. In the event that a proposed council tax requirement triggers a council tax referendum, this will be made explicit
17. As the formal notification of precepts in relation to the fire and police authorities may not align with the council's budget timetable, any amendments to council tax and/or statutory determinations arising from final budget adjustments and the final notification of such precepts may be made by the (council's) statutory Chief Finance Officer.
18. Council will consider the Cabinet's recommendation on the revenue budget, council tax level and capital programme no later than 28 February.
19. If the Cabinet's recommendation is agreed by Council, this will form the revenue budget, council tax level and capital programme for the following year.
20. If the Cabinet recommendation is amended, save for the finalisation of precepts, this will form the revenue budget, council tax level and capital programme for the following year.
21. In all circumstances, Council will consider and approve a revenue budget and capital programme for the following year before 11 March, in accordance with the Local Government Finance Act 1992.

Comment: Are you saying after budget Council meet, if there are changes- i thought it was the law that approval of the budget is reserved only to Full Council and therefore we cant do this?

22. In all circumstances, Council will consider and approve a revenue budget and capital programme for the following year before 11 March, in accordance with the Local Government Finance Act 1992.
23. The key aspects of the budget setting process are set out on the attached flow diagram.

Budget Process



16 - Use of resources by Councillors protocol

Introduction

1. The purpose of this protocol is to provide a guide to the use of Council resources by Councillors. The key principle underlying this protocol is that public office and public resources should not be used to further purely private or party political purposes.

Resources provided to Councillors

2. The Council provides a range of facilities to support Councillors, including stationery, postage, photocopying, and an e-mail address and officer support to enable Councillors to carry out their duties as a Councillor. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
3. Councillors, or anyone authorised by them, may only use these resources for Council business, such as correspondence relating to Council business or services or replying to letters from local residents.
4. The use of any Council resources for political purposes or election purposes would be a breach of the Council's Members' Code of Conduct unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed. If members are in any doubt they should seek advice from the Head of Democratic Services or Monitoring Officer.
5. Provided that they are not in connection with political purposes, Councillors may make private telephone calls and use copiers for private copying in accordance with charges set by the Council from time to time. If members are in any doubt they should seek advice from the Head of Democratic Services or Monitoring Officer.
6. Councillors are provided with an official Council e-mail address for use as part of their duties as a Councillor. This e-mail address may not be used for any political purpose unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
7. The e-mail address should not be used in any ward newsletters which contain election material or which are distributed during any election period (which runs from the publication of the notice of election to the close of the polls).

8. Councillors supplied with a Council computer and internet connection facilities must sign the Council's standard agreement for the use of such IT equipment and services.
9. The Standards Board for England has previously given guidance on "what constitutes using resources "improperly for political purposes"?"

"Paragraph 6(b)(ii) acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that members carry out their duties.

There will be times when it is acceptable for political groups to use the resources of the authority, for example, to hold meetings in authority premises. Often it is impractical to separate a member's political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.

However, members and Monitoring Officers will need to exercise considerable vigilance to ensure that this provision is not abused. They must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources for party political purposes will be a breach of the Code of Conduct.

Paragraph 6(b)(ii) of the Code complements Section 2 of the Local Government Act 1986, which prevents the publication of material "designed to affect public support for a political party".

This sub-paragraph goes considerably further than Section 2 of the Local Government Act 1986 and the Code of Recommended Practice on Publicity. It covers not only the publication of campaigning material but also any other activity that is intended to promote purely party political interests.

Members must have regard to any applicable local authority code of publicity made under the powers contained in Section 4 of the Local Government Act 1986. Publicity is defined as "any communication, in whatever form, addressed to the public at large or to a section of the public. It will cover meetings and websites as well as printed and other written material.

The context in which a member acts will obviously be important in relation to paragraphs 6(b)(ii) and 6(b)(iii). Members should be particularly scrupulous about the use of authority resources when elections are pending, particularly those resources relating to publicity. When using their Council's resources in these circumstances, they should not appear to be seeking to influence public opinion in favour of them, their party colleagues or their party."

10. It should also be pointed out that timing will be material. During the time prior to any election – local, parliamentary, European or indeed a referendum – it is likely that a firmer line will be taken in terms of what can and cannot be said, as the perception of “politicking” and the use of public resources for political purposes is more likely to be carefully scrutinised. The Council’s Code of Conduct on Publicity is clear that in the period of time leading up to an election, all forms of publicity – and that would include letters produced by members and sent to constituents – must conform with additional safe-guards and requirements. Members, therefore, need to refer to that in considering the content (as well as the circulation) of any correspondence during this time.

As always, this is an issue that is predominantly one of subjective judgements and, as a result, members may wish to seek advice on a case-by-case basis.

Breach of this protocol

11. Failure to comply with the requirements for the use of Council resources as set out in this protocol will constitute a potential breach of the Council’s Members’ Code of Conduct.
12. Members should ensure that they understand and comply with the Council’s own rules about the use of such resources particularly:-
 - Where facilities are provided in members’ homes at the Council’s expense;
 - In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
 - Regarding ICT security.

	May	June	July	August	September	October	November	December	January	February	March	April	May
Mon.													
Tue.	1								1 Bank hol.				
Wed.	2			1					2				1
Thur.	3			2			1 Employ A		3 Corporate SP Com. Serv. SP				2 Planning
Fri.	4	1		3			2		4	1	1		3
Mon.	7 Bank hol.	4 Bank hol.	2 Standards	6	3 Sp. Audit	1 Willenhall AC	5 N'th Walsall AC	3 Walsall S. AC	7 Council	4 Walsall S. SP	4 Social Care SP	1 Bank hol.	6 Bank hol.
Tue.	8	5 Bank hol.	3 Employ B Aldridge AC Walsall S. AC	7	4 Employ B Social Care SP	2 Employ B Walsall S.AC	6 Employ B Brownhills AC	4 Employ B	8 Employ B Children SP	5 Employ B Aldridge SP	5 Employ B Environment SP	2 Employ B Aldridge AC	7
Wed.	9	6	4 Darlaston AC	8	5 Licensing	3	7	5	9 Darlaston SP	6	6	3 Willenhall AC	8
Thur.	10	7 Com Serv SP Social Care SP	5 Employ A Com. Serv. SP	9	6 Employ A Regen. SP	4 Employ A	8 Employ A Environ. SP	6 Employ A Aldridge AC	10 Employ A Planning	7 Employ A Planning	7 Employ A Planning	4 Employ A Planning	9
Fri.	11	8	6	10	7	5	9	7	11	8	8	5	10
Mon.	14	11	9 Council	13	10 B'hills AC N'th Walsall AC	8 Standards	12 Audit	10 Willenhall AC	14 Audit	11 Willenhall AC	11	8 Council	13
Tue.	15	12 Employ B Audit	10 Employ B	14	11 Employ B Corporate SP	9 Employ B	13 Employ B Health SP	11 Employ B Environ. SP	15 Employ B Social Care SP	12 Employ B Children SP	12 Employ B Health SP	9 Employ B Corporate	14
Wed.	16	13 Cabinet	11	15	12 Cabinet	10	14 Darlaston AC	12 Cabinet	16 Licensing	13	13 Cabinet	10	15
Thur.	17	14 Employ A Children SP Regen. SP	12 Employ A Social Care AC	16	13 Employ A Children SP	11 Employ A Com. Serv. SP	15 Employ A Planning	13 Employ A Planning	17 Employ A Regen. SP	14 Employ A Com. Serv. SP	14 Employ A	11 Employ A Regen. SP	16
Fri.	18	15	13	17	14	12	16	14	18	15	15	12	17
Mon	21 An. Council	18 Environment SP	16 Regen. SP	20	17 Environment SP	15 Social Care SP	19 Council	17	21 Standards	18	18 N'th Walsall AC	15 Audit	20 An. Council
Tue.	22	19 Employ B	17 Employ B Children SP	21	18 Employ B Health SP	16 Employ B Regen. SP	20 Employ B Social Care SP	18 Employ B Health SP	22 Employ B	19 Employ B	19 Employ B Brownhills AC	16 Employ B Environ. SP	21
Wed	23 Adj. Council	20	18 Licensing	22	19 Darlaston AC	17 Licensing	21	19	23 Cabinet	20	20 Darlaston AC	17 Licensing	22 Adj. Council
Thur	24	21 Employ A Health SP Corporate SP	19 Employ A Corporate SP	23 Planning	20 Employ A Planning	18 Employ A Planning	22 Employ A Com. Serv SP	20 Employ A	24 Employ A Environ. SP	21 Employ A Council	21 Employ A	18 Employ A Social Care SP	23
Fri	25	22	20	24	21	19	23	21	25	22	22	19	24
Mon	28	25 Extra-ord. Council	23 Environment SP	27 Bank hol.	24 Council	22	26 Children SP	24 Bank hol.	28 N'th Walsall AC	25 Audit	25 Walsall S. AC	22 Standards	27 Bank hol.
Tue	29	26 Employ B N'th Walsall AC Brownhills AC	24 Employ B Health SP	28	25 Employ B Audit	23 Employ B Corporate SP	27 Employ B Regen. SP	25 Bank hol.	29 Employ B Health SP	26 Employ B Corporate SP	26 Employ B Children SP	23 Employ B Health SP	28
Wed	30 Licensing	27 Willenhall AC	25 Cabinet	29	26	24 Cabinet	28 Licensing	26 Bank hol.	30	27 Licensing	27	24 Cabinet	29
Thur	31 Planning	28 Employ A Planning	26 Employ A Planning	30 Com. Serv. SP	27 Employ A Aldridge AC	25 Employ A	29 Employ A Corporate SP	27	31 Employ A Brownhills AC	28 Employ A Regen. SP	28 Employ A Com. Serv. SP	25 Employ A	30
Fri		29	27	31	28	26	30	28			29 Bank hol.	26	31
Mon			30			29		31				29	
Tues			31			30 Employ B Children SP						30	
Wed						31							