

## **Annual Council – 16th May 2014**

### **Constitution and timetable of meetings 2014/2015**

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

- 1.1 This report sets out proposed amendments to the Constitution and is produced in accordance with the requirements of Article 14 of the Constitution and the Council's duty to monitor and review the Constitution. During the last municipal year the Standards Committee carried out a full review of the Constitution with the support of the Monitoring Officer with the exception of the scheme of delegations to officers which was reviewed, as usual by the Audit Committee.
- 1.2 The report also sets out the timetable of meetings to be adopted for the municipal year 2014/2015.

#### **2. Recommendations**

- 2.1 That the amendments to the following parts of the Constitution as set out in the report be approved:
  - (a) Part 1 – Summary
  - (b) Part 2 – Articles
  - (c) Part 3 – Responsibility for functions
  - (d) Part 4 – Rules of procedure
  - (e) Part 5 – Codes and protocols
- 2.2 That the Members' Allowances Scheme be approved for a further 12 months subject to any changes to structures or responsibilities.
- 2.3 That the timetable of meetings for the municipal year 2014/2015 as set out in Appendix 7 of the report be approved.

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

##### **3.1 Parts 1 and 2 – Summary and Article of the Constitution**

The Standards Committee at its meeting on 1st July 2013 received a report detailing amendments proposed to Parts 1 and 2 of the Constitution. Part 1 of the Constitution sets out a summary and explanation of the Constitution and some minor amendments have been made to reflect changes elsewhere in the Constitution. Part 2 contains the Articles of the Constitution which explain the rights of citizens and how the key parts of the Council operate. The amendments

approved by the Standards Committee are show in bold type and are set out in **Appendix 1** to the report.

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

This part of the Constitution (excluding Delegations to Officers) was considered by the Standards Committee at its meeting held on 7th October 2013 and the amendments which reflect changes in legislation are detailed in the report which is attached as **Appendix 2**.

The delegations to officers set out in Part 3 of 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. The Audit Committee at their meeting on 7th April 2014 reviewed the proposed amendments which reflect operational changes made throughout the last year and are set out in the report attached as **Appendix 3**.

### 3.3. **Part 4 – Rules of procedure (excluding Finance and contract rules)**

Part 4 of the Constitution relates to rules of procedure and is made up of eight sections.

The amendments proposed to this part of the Constitution are as follows:

#### **Part 4.1 – Council procedure rules - Amendments to motions – paragraph 15.6**

To provide clarity it is proposed to amend paragraph 15.6(a) to read as follows:

“Upon moving an amendment to a motion the mover shall, once it has been seconded, submit the amendment in writing to the person presiding and provide for circulation at the meeting sufficient copies for each member present prior to a vote being taken on the proposed amendment, failing which it shall fall.”

#### **Part 4.2 – Access to information procedure rules - General exceptions – paragraph 15(b)**

Replace the words “Chief Executive” with “Executive Director”. Paragraph 15(b) will now read:

“(b) the Executive Director has informed the Chair of a relevant Scrutiny and Performance Panel, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made”

This amendment is proposed in order to regularise the current procedure and enable the relevant Scrutiny and Performance Panel Chair to speak directly to the relevant Executive Director for an explanation as to why a particular matter had not appeared on the forward plan.

#### **Part 4.4 – Executive procedure rules – Who may make executive decisions**

Add “the Leader” to the list in the second paragraph.

This amendment updates the Constitution in line with current legislation set out in the Localism Act.

### **3.4 Part 5 – Codes and protocols**

#### **(a) Part 5.1 – Members’ Code of Conduct**

The code was last amended in 2012 as a result of the Localism Act. The code has been redrafted to make it more easily understandable. The main amendment was in relation to registration and disclosure of “disclosable pecuniary interests” as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Copy of the new code is attached as **Appendix 4** to this report.

#### **(b) Part 5.4 – Protocol for notification of “key decisions” for inclusion in the forward plan**

This amendment reflects the changes required by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The amendments occur in paragraph 2 of the definition set out below:

- (1) In these regulations a “key decision” means an executive decision, which is likely:
  - (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- (2) In determining the meaning of “significant” for the purpose of paragraph (1) this will be if it results in incurring expenditure which either exceeds that included in any approved revenue or capital budget, or results in the Council incurring expenditure, or the making of savings which are equivalent to or more than 5% of any approved revenue budget or 10% of a capital budget, subject to a de minimus level of £100,000.

(c) **Parts 5.7 and 5.9 – Protocol for practical operation of call-in procedure and protocol for handling information reports**

Minor changes to reflect the current position with all references to “Cabinet Office” amended to “Democratic Services”.

(d) **Part 5.10 – Budget setting protocol**

Minor change to paragraph 12 to amend reference to “Corporate Scrutiny and Performance Panel” to read “appropriate Scrutiny and Performance Panel”.

(e) **Part 5.12 – Monitoring Officer protocol**

Present protocol replaced with new protocol as set out in **Appendix 5** of this report.

(f) **New protocol – Filming, audio recording and photography at Council Meetings**

The Department for Communities and Local Government has published a guide relating to this issue but this guide refers solely to meetings of the Executive (Cabinet) and has caused confusion with members of the public and has led to some criticism of Councils in the media. Therefore a protocol has been produced in order to clarify the situation. This protocol is attached as **Appendix 6** to this report.

4. **Members Allowances Scheme**

The Council adopted a new scheme on 7th January 2013 to be operational from 1st April 2013 as required by the Local Authorities (Members Allowances) (England) Regulations 2003. In respect of the present scheme, the Council adopted the recommendation made by the Independent Review Panel to rely on an index for 4 years instead of reviewing the scheme annually, this index being the annual updating in line with the JNC pay award for officers.

5. **Timetable 2014/2015**

The draft timetable which is recommended for approval is attached as **Appendix 7**.

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


**Background papers - Nil**

**Author**

John Garner, Head of Democratic Services

☎ 01922 654366

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

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Signed:

Assistant Director of Legal and Democratic Services

6th June 2014

## Standards Committee – 1 July 2013

### Review of the Constitution

#### 1. Summary of report

The purpose of the report is to inform elected members about proposals to review the Council's Constitution throughout the forthcoming municipal year with a view to recommending the final document for adoption by the Council in June 2014.

#### 2. Recommendations

That the amendments highlighted in the Appendix to this report be approved for inclusion in the updated Constitution to be recommended to Council at its Annual Meeting in June 2014.

#### 3. Report detail

- 3.1 The Local Government Act 2000 directed that with all but a few exceptions every Council should adopt a Constitution which in concise terms would amongst other things enable decisions to be taken efficiently and effectively and ensure that those responsible for making decisions are clearly identifiable to local people and are required to explain the reasons for their decisions. Article 14 of the Constitution places a duty to monitor and review the Constitution. This duty falls within the remit of this Committee.
- 3.2 The present Constitution was first adopted in 2002 and, in accordance with Article 14 has been reviewed and amended on an annual basis since that time. Due to the obvious piecemeal changes that have been implemented over this period of time your officers feel that now would be an opportune time to review the Constitution section by section in order to make any necessary changes both to reflect any changes in legislation and grammar.
- 3.3 Your officers feel that elected member involvement in this process would be extremely useful and would give the Committee a wider role in considering the wider governance issues whilst carrying out this review. It is proposed that the following timetable be followed in conducting this review:

Date	Constitution
1 July 2013	Parts 1 and 2 of the Constitution

7 October 2013	Part 3 of the Constitution (Excluding Part 5 - Scheme of delegations to officers which will be considered in April 2014)
27 January 2014	Part 4 of the Constitution (Excluding the financial and contract rules which are the responsibility of the Audit Committee)
7 April 2014	Part 3 – Table 5 – Scheme of delegations to officers only  Part 5 – Codes and protocols  Part 7 – Management structure  Part 8 - Council structure  Part 9 – Member job descriptions  Part 10- List of members of the Council  Part 11 – Register of members’ interests

**Note:** Part 6 – Members’ allowances scheme - This is subject to a separate process which is considered by the Council itself.

3.4 This particular report is considering amendments to Parts 1 and 2 of the Constitution as set out in the **Appendix** to this report. These amendments are shown in bold type.

4. **Resource and legal considerations**

None directly related to this report.

## 5. Performance and risk management

Performance and risk management are a feature of all Council functions. It is important that Council policies and procedures are reviewed and updated on a regular basis. If the Council fails to do this there is an increased risk that the Council will be subject to legal challenge or litigation. In terms of performance it is important that elected members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the Council deliver services. The Constitution is a key part of this framework of internal control.

## 6. Equality implications

In maintaining up-to-date policies and procedures the Council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes in relationship to equalities that elected members and officers must observe.

### Background papers

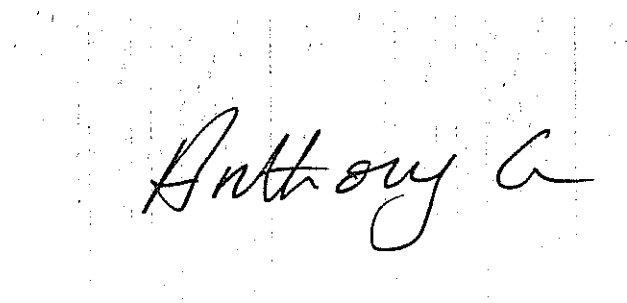
Walsall Council Constitution

#### Author

John Garner,  
Head of Democratic Services

☎ 654366

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

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Signed:

Head of Legal and Democratic Services and  
Monitoring Officer

21 June 2013



# **PART 1**

## **SUMMARY AND EXPLANATION**

# Summary and explanation

## The Council's Constitution

Walsall Metropolitan Borough Council has agreed a new Constitution which sets out how the Council will operate, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while other are a matter for the Council to choose. The Constitution is divided into **14** Articles which set out the basis rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols **are contained in a separate booklet which is issued with this Constitution**

### What's in the Constitution

Article 1 sets out the fundamental provisions of the Constitution. It confirms that Walsall Borough Council will act within the law and the provisions of this Constitution. It defines those documents which comprise the Constitution.

Articles 2 to 15 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- Scrutiny and Performance Panels (Article 6)
- The Executive (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Officers (Article **10**)
- Decision Making (Article **11**)
- Finance, Contracts and Legal Matters (Article **12**)
- Review and Revision of Constitution (Article **13**)
- Suspension, Interpretation and Publication of Constitution (Article **14**)

### How the Council operates

The Council **comprises** 60 Councillors. Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council take place **approximately** every 8 weeks and are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council. Members of the Executive which is the body which takes decisions about the running of the Council and the implementation of its policies, are appointed by the Leader of the Council. The Council also appoints the Members of the Scrutiny and Performance Panels and all other Committees of the Council.

## **The Council makes decisions about policy and budget.**

### **How decisions are made**

The Executive is part of the Council which is responsible for the operational decisions. The Executive is made up of the Leader and a Cabinet of up to 9 Councillors. When major decisions ("key decisions") are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. The plan must include those decisions which the Executive anticipates it will have to make over the next 4 months. If a key decision needs to be made which is not in the forward plan, special provisions exist to enable this to happen.

If these major decisions are to be discussed at a meeting of the Executive, this will generally be open to the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Overview and scrutiny**

There are **6** Scrutiny and Performance Panels who support the work of the Executive and the Council as a whole. They allow Members outside the Executive and citizens to have a greater say in Council matters by investigating issues of local concern. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Scrutiny and Performance Panels also monitor the decisions of the Executive. They can "call-in" a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **The Council's employees**

The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between officers and Members of the Council.

## **Citizens' rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Citizens have the right to:-

- Vote at local elections if they are registered.
- Contact their local Councillor about matters of concern to them.
- Obtain a copy of the Constitution.
- Inspect agendas, see reports and attend meetings of the Council and its Committees, except where, for example, personal or confidential matters are being discussed.
- Petition a request for a referendum of a Mayoral form of Executive.
- Find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers and when.
- Attend meetings of the Executive where decisions are being discussed or decided.
- See reports and background papers and records of decisions made by the Council and the Executive.
- Complain to the Council about Council services or how they feel they have been treated by the Council.
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this using the Council's own complaints processes.
- Complain to the **Monitoring Officer of the Council** if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external Auditor.

Where members of the public use specific Council services, for example, as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

## **Citizens responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers. At times of public debate individual citizens should respect the rights of others to express differing views.

# **PART 2**

## **ARTICLES OF THE CONSTITUTION**

# Article 1 – The Constitution

## Explanation

This article sets out the fundamental provisions of the Constitution. It confirms that Walsall Borough Council will act within the law and the provisions of this Constitution. It defines those documents which comprise the Constitution.

### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### 1.02 The Constitution

This Constitution, and all its Appendices, is the Constitution of the Walsall Borough Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:-

1. enable the Council to provide clear leadership to the community in partnership with citizens, business and other organisations at local, regional and national level seeking always to secure the best interests of the citizens of Walsall;
2. support the Council's commitment to social inclusion and community cohesion and active involvement of citizens in the process of local authority decision making and seeking to facilitate a greater understanding of how the Council operates and reaches its decisions;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively and ensure that those responsible for making decisions are clearly identifiable to local people and are required to explain the reasons for their decisions;
5. create a powerful and effective means of holding decision-makers accountable to the public account through an effective scrutiny process;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;

7. provide a means of improving the delivery of services to the community through the application of best value principles.

#### 1.04 **Interpretation and review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is the closest to and best reflects the purposes set out above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – Members of the Council

### Explanation

This article sets out the composition of the Council, eligibility to stand for election as a Member of the Council and the form of election to be used.

The Article also contains a section on the roles and functions of Members of the Council, emphasising that whatever their formal position in the Council they share common roles and responsibilities and deals with the rights and duties of Members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.

The article refers also to Members conduct and allowances.

### 2.01 Composition and eligibility

- (a) **Composition** – The Council will comprise 60 Members, otherwise called Councillors.

Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State or by the Electoral Commission.

- (b) **Eligibility** – Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

### 2.02 Election and terms of Councillors

**Election and terms** - Whole Council elections were held in June 2004. The ordinary election of a third of all councillors will be held on the first Thursday in May in each year except that in 2005 and every fourth year there after there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.03 Roles and functions of all Councillors

- (a) **Key roles** – All Councillors will:-
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process;
  - (iii) be involved in decision-making;



- (iv) be available to represent the Council on other bodies;
- (v) participate in the governance and management of the Council;
- (vi) maintain the highest standards of conduct and ethics;
- (vii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making; and
- (viii) respond to individual constituents enquiries and representations, fairly and impartially.

(b) **Rights and duties**

- (i) Councillors have a right to access information where they have “a need to know” to enable them to carry out their duties as Councillors. This is further discussed in the Access to Information Procedure Rules and the Member Officer protocol paragraph 9.1 – 9.10.
- (ii) Councillors have a statutory right to see any report on an agenda relating to business to be dealt with at a meeting of the Council or Committee of which they are a member. Like members of the public they can also have access to papers for any other Committee or the Executive which are available under the Access to Information Rules. Councillors are also entitled to see any document relating to business to be dealt with at “private meetings” of the executive at the conclusion of the meeting. (A private meeting is a statutorily defined term and excludes briefings). These rights are subject to limitations e.g. they do not apply to documents containing confidential information. A member may also not be entitled to see reports containing exempt information (defined in the access to information rules in part 4) unless the councillor has a need to know the information to perform his/her role as a Councillor.
- (iii) Members of the Scrutiny and Performance Panels have a wider right to see any documents relating to execution of business, or a key decision made by an officer, (even if it contains confidential or exempt information) so long as it is relevant to a decision which the Panel is reviewing.
- (iv) Councillors are not entitled to see documents containing advice from Political Assistants or Political Advisers.
- (v) Councillors must not make public information which is confidential or exempt or disclose it to any one else other than a Councillor entitled to know it. This is an obligation under the Members Code of Conduct.

- (vi) For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4
- (vii) If a member wishes to see a report or other information that is not available to the public then they should make their request in line with the member officer protocol.

#### 2.04 **Conduct**

Councillors are required to comply to with the code of conduct for elected members at all times and when dealing with officers to observe the protocol on member officer relations. In the event of any ambiguity on the application of the code of conduct or the protocol a member should seek advice and assistance at the earliest opportunity from the Monitoring Officer to avoid inadvertently breaching the code of conduct.

#### 2.05 **Allowances**

Councillors are entitled to receive allowances in accordance with the members allowances scheme set out in Part 6 of this Constitution. The scheme of allowances has to be published annually in a local newspaper and additionally following a review a by an independent review panel. The panel must review the scheme at least once every 4 years.

## Article 3 – Citizens and the Council

### Explanation

This article sets out what citizens can expect from the Council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.

#### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and referendum petitions** - Citizens on the electoral roll for the Borough have the right to vote for their local Councillor(s) and sign a petition to request a referendum for an elected Mayor form of Constitution. For a petition to be valid to require a referendum, the number of signatures to it must equate to no less than 5% of the electorate of the Borough (approximately 9,594), or such other percentage prescribed by Regulations. The Monitoring Officer should be contacted in order to establish the minimum number of signatures.
- (b) **Information** - Citizens have the right to:-
  - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Executive and or Scrutiny and Performance Panels, except where confidential or exempt information is likely to be disclosed and the meeting is then held in private;
  - (iii) find out from the forward plan what key decisions will be taken by the Executive and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council, its Committees, the Executive and Scrutiny and Performance Panels; and
  - (v) inspect the Council's accounts and make their views known to the external Auditor.
- (c) **Public Participation** - Citizens have the right to participate in the Council's question time and contribute to investigations by Scrutiny and Performance Panels.

- (d) **Complaints** - Citizens have the right to complain to:-
  - (i) the Council itself under its complaints procedure;
  - (ii) to the Ombudsman, normally after they have raised the complaint with the Council and have given the Council a chance to respond.

### 3.02 **Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers. At times of public debate individual citizens should respect the rights of others to express differing views.

## Article 4 – The Council

### Explanation

The Local Government Act, 2000, gives the Council collectively responsibility for approving the Council's policy framework and budget.

#### 4.01 Meanings

- (a) **Policy Framework** – means the following plans and strategies:-
- (i) Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 and Regulations proposed under Section 32 of the Local Government Act, 2000, and subsequent legislation be adopted by the Council:
    - Children and Young Peoples Plan;
    - Community Strategy;
    - Crime and Disorder Reduction Strategy;
    - Local Transport Plan;
    - Plans and strategies which together comprise the Development Plan;
    - Youth Justice Plan.
  - (ii) Other plans and strategies the Council considers should be adopted as part of the policy framework:
    - Corporate Plan
    - Food Law Enforcement Service Plan;
    - Licensing Authority Policy Statement
    - Quality Protects Management Action Plan
    - Pay Policy Statement
    - Regulation of Investigation Powers Act 2000
    - Sustainable Community Strategy
- (b) **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax reduction scheme, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

- (c) **Housing Land Transfer** - Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act, 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act, 1985.

#### 4.02 **Functions of the Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution, subject to those permitted under the delegation conferred upon the Head of Legal and Democratic Services as set out at 24.9 with the Scheme of Delegations to Officers at Part 3.5 of the Constitution ;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing and removing the Executive Leader;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service and designation of statutory officers (Monitoring Officer and Chief Finance Officer);
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (l) adopting a Code of Conduct for Members;
- (m) taking decisions in respect of functions which are not the responsibility of the Executive and which have not been delegated by the Council to Committees, Sub-Committees or officers;
- (n) the submission of proposals to the Secretary of State for an Order under Section 10 (Pilot Schemes for Local Elections in England and Wales) Representation of the People Act, 2000;
- (o) the approval of rules of procedure as set out in Part 4 of this Constitution;
- (p) the delegation of non-executive functions to Committees, Sub-Committees and officers;
- (q) the approval for the purpose of public consultation in accordance with Regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of or alterations to or the replacement of, a Development Plan; and
- (r) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

**4.05** The Council will be able to appoint any Member of the local authority (whether or not they are a Member of the Executive) to Committees or Sub-Committees established and which take decisions on functions which are not the responsibility of the Executive, such as development control and licensing.

## **Article 5 – Chairing the Council**

### **Explanation**

Council meetings will be Chaired by the Mayor.

#### **5.01 Role and function of the Mayor**

The Mayor and Deputy Mayor will be elected by the Council at the Annual Council Meeting.

The Mayor and in his or her absence, the Deputy Mayor, will have the following roles and functions:-

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
4. to promote public involvement in the Council's activities;
5. in the absence of the Chairman of the relevant Scrutiny and Performance Panel to decide whether or not to agree that a key decision not in the Forward Plan is required to be made at short notice as a matter of special urgency that cannot be reasonably be deferred; (See Access to Information Rules, paragraph 16)
6. in the absence of the Chairman of the relevant Scrutiny and Performance Panel, to decide whether or not to make a statement in writing that the determination by the Executive of a matter relating to policy or budget is required as a matter of urgency. (See Budget and Policy Framework Procedure Rules)

#### **5.02 Ceremonial Role**

The Mayor's role and responsibilities will be to attend such Civic and Ceremonial functions as the Council and he/she determines appropriate.



## **Article 6 – Scrutiny and Performance Panels**

### **Explanation**

This article sets out the basis and role of Scrutiny and Performance Panels. The overview and scrutiny function is central to the Constitution. Scrutiny and Performance Panels should be powerful bodies which meet in public to discuss and make recommendations on the development of policies and hold the Executive to account for their decisions. They also have a key role in considering matters of local concern. They may also be empowered to undertake Best Value reviews.

### **6.01 Terms of reference, functions and membership**

The Council will appoint the Scrutiny and Performance Panels, set out below to discharge the functions conferred by Section 21 of the Local Government Act, 2000, in relation to the matters set out below with the membership as **determined** in the Scrutiny and Performance Panel Procedure Rules in Part 4 of this Constitution:

#### **Children’s and Young People Scrutiny and Performance Panel**

All aspects and general services related to serving children and young people for example; education, children services, youth services within the functions set out in section 21 of the Local Government Act 2000.

#### **Community Services and Environment Scrutiny and Performance Panel**

All aspects and general services related to (1) serving the community, for example community safety, leisure and culture, third sector co-ordination and to review or scrutinise decisions made or other actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions (no less than twice in every 12 months) as required by the Police and Justice Act, 2006, within the functions set out in section 21 of the Local Government Act 2000 and (2) the environment such as waste management, highways maintenance, grounds maintenance and traffic management, and to review and scrutinise the exercise of flood risk management functions which may affect the local authority’s area as required by the Flood and Water Management Act 2010 within the functions set out in Section 21 of the Local Government Act, 2000 (as amended).

#### **Corporate Scrutiny and Performance Panel**

All aspects and general services relating to the Council’s corporate centre for example; financial services including the annual budget process and the Council wide financial position, corporate performance management, legal and democratic services, services falling within the Council’s transformation agenda within the functions set out in section 21 of the Local Government Act 2000.

## **Health Scrutiny and Performance Panel**

### **Remit**

All aspects and general services related to health service matters, for example, health partnership matters and the public health agenda as conferred under the Health and Social Care Act 2001 within the functions set out in section 21 of the Local Government Act 2000.

## **Regeneration Scrutiny and Performance Panel**

All aspects and general services related to regeneration for example; economic, environmental and physical regeneration, planning, land and property, partnership working and strategic housing matters within the functions set out in section 21 of the Local Government Act 2000.

## **Social Care and Inclusion Scrutiny and Performance Panel**

### **Remit**

All aspects and general services related to social care and inclusion for example; adult services as conferred under the Health and Social Care Act 2001 within the functions set out in section 21 of the Local Government Act 2000.

6.02 **Political balance** – The allocation of seats to political groups will be made in accordance with the political balance rules as provided for in the Council Procedure Rules in Part 4 of the Constitution.

### 6.03 **General role**

Within their terms of reference, Scrutiny and Performance Panels will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and/or the Executive and/or any policy, joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive; and
- (v) Will exercise the right to consider Councillor Call for Action.

## 6.04 Specific functions

### (a) **Policy development and review** - Scrutiny and Performance

Panels may:-

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive, Committees **and all non regulatory** Committees and the Chief Executive or Executive Directors or their representatives about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### (b) **Scrutiny** - Scrutiny and Performance Panels may:-

- (i) review and scrutinise the decisions made by and performance of the Executive, Committees and Council officers both in relation to individual decisions and over time, save for individual decisions that are of a regulatory/quasi judicial nature;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive, Committees and Chief Executive or Executive Directors or their representatives about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive, appropriate Committee and/or Council arising from the outcome of the scrutiny process;

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny and Performance Panel and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Finance**

Scrutiny and Performance Panels may exercise overall responsibility for the finances made available to them.

(d) **Annual report**

Scrutiny and Performance Panels must report annually to Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(e) **Officers**

Scrutiny and Performance Panels may exercise overall responsibility for the work programme of any officer employed to support their work.

## 6.05 **Proceedings of Scrutiny and Performance Panels**

Scrutiny and Performance Panels will conduct their proceedings in accordance with the Scrutiny and Performance Panel Procedure Rules set out in Part 4 of this Constitution.

# Article 7 – The Executive

## Explanation

The Executive (Leader and Cabinet) is at the heart of the day-to-day decision-making process. It also has a key role in proposing the budget and policy framework to the Council.

This article provides the basic components for the Executive.

The Rules of Procedure set out how the Executive will operate. These include arrangements for meetings and scheme of delegation.

### 7.01 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution and those local choice functions assigned to the Executive in Table 1 of Part 3 (Responsibility for Functions) of the Constitution. The general position under legislation is that unless expressly stated in legislation or the Council makes a choice on those matters where it has a choice, all functions are deemed to be an executive function.

### 7.02 Form and composition

The Executive will consist of the Executive Leader together with at least 2, but not more than 9, Councillors appointed to the Executive by the Executive Leader.

### 7.03 Appointment of the Leader of the Council

The Leader will be a Councillor elected to the position of Leader by the Council.

Where there is vacancy or imminent vacancy in the office of Leader the Chairperson shall request if there are any nominations for the office of Leader. Where nominations are received the normal voting rules shall apply.

The Leader's term of office ceases on earliest of

- the day after the annual Council following the normal date of retirement for the Councillor or
- the date he resigns office or
- the date the Council resolves that (s)he be removed from the office of Leader.

(imminent vacancy is defined as due to retire from office the following day)

## 7.04 Removal of the Leader

The Leader of the Council can only be removed from office if the Council so resolve following a notice of motion (subject to resignation, retirement or disqualification).

## 7.05 Other Executive Members

- (1) Other Executive Members will be appointed by the Executive Leader and shall hold office until:
  - (a) they resign from office; or
  - (b) they are suspended from being Councillors under Part III of the Local Government Act, 2000 (although they may resume office at the end of the period of suspension); or
  - (c) they are no longer Councillors; or
  - (d) the Executive Leader may remove them from office, either individually or collectively, at any time.
  
- (2) The Executive Leader has appointed the following executive members for the stated portfolios:

**Leader of the Council** - overall responsibility for Council strategy, the corporate plan and the working smarter programme, communications and public relations, emergency planning, city region agenda, government relations and liaison with local MPs and West Midlands leaders. Local Strategic Partnership.

**Deputy Leader and Regeneration and Transport** - economic development, physical development, markets, property and asset management, Black Country Consortium, sub regional regeneration issues. Town and district centres. Planning policy and local development framework. Strategic housing role, housing partnerships, private sector housing, homelessness. Traffic and transportation, car parks, gateways and corridors, strategic transport and highways. Pollution control.

**Children's services** - education services, schools meals commissioning, social services for children, safeguarding and promoting welfare of children, looked after children and corporate parenting, care leavers, interagency cooperation, involvement of children and young people, youth parliament, children's trust arrangements, youth offending services, youth service.

**Community engagement and voluntary sector** - neighbourhood management, community engagement and consultation, community associations, voluntary and community sectors.

**Environment** – Waste strategy, refuse collection, recycling, street cleaning and the management of the Council’s vehicle fleet.

**Public health and protection** - Public health, Chair of Health and Wellbeing Board, community safety, Safer Walsall Partnership, public protection.

**Resources** - strategic and operational financial management, insurance, risk management, revenues and benefits, policy led budgeting. Financial regulations, audit, legal and democratic services; human resources. Shared services, including ICT and procurement; business improvement.

**Leisure and culture** - parks, leisure and culture services including the New Art Gallery, libraries, adult learning, sports, museums and twinning. Cemeteries and crematoria.

**Social care** - care services for older people and people with learning disabilities, people with physical disabilities and people with mental health needs, health partnership, community meals, supporting people, protection for vulnerable adults.

#### 7.06 **Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

#### 7.07 **Responsibility for functions**

The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which Committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions; provided that no functions shall be discharged by an individual Member of the Executive.

## **Article 8 – Regulatory and other Committees**

### **Explanation**

Certain functions, such as planning, licensing, personnel, health and safety, rights of way, elections and miscellaneous functions cannot be functions of the Executive. This article establishes arrangements to deal with those activities.

The Local Authority (Functions and Responsibilities) (England) Regulations, 2000, as amended, together with other statutes and regulations made from time to time, specify those functions which are not to be functions of the Executive. Some of these non-executive functions are reserved to the Council for a decision in Article 4. The remaining non-executive functions are delegated to Committees, Sub-Committees or officers in Part 3 of this Constitution.

### **8.01 Regulatory and other Committees**

The Council will appoint to the following Committees whose terms of reference are set out in Part 3 of the Constitution:

- Audit Committee
- Appointments Board
- Employment Appeals Committee A
- Employment Appeals Committee B
- Health and Wellbeing Board
- Licensing and Safety Committee
- Planning Committee
- Standards Committee
- Area Panels

### **8.02 Political balance**

The allocation of seats to political groups will be made in accordance with the political balance rules as provided for in the Council Procedure Rules in Part 4 of the Constitution.

8.03 The Council will also appoint the statutory and advisory bodies set out below whose term of reference appear in Table 4 of Part 3 of the Constitution:

- Adoption Panel
- Fostering Panel
- Education Admission Appeals Panel
- Education Exclusions Appeals Panel
- Schools Forum
- Social Services Complaints Panel
- Standing Advisory Council on Religious Education (SACRE)



- 8.04 (a) If a Scrutiny and Performance Panel is reviewing a decision of the Committee, of which the Councillor is a Member, then the Councillor will have a personal interest, which she/he must disclose, before the agenda item is reached.
- (b) If the interest is of a financial nature, then the Councillor may not speak or vote on the matter and should leave the room or chamber where the meeting is being held.
- (c) Paragraph (a) will not apply to prevent the Councillor concerned attending the meeting to answer questions or give evidence.
- 8.05 The Council will be able to appoint any Member of the local authority (whether or not they are a Member of the Executive) to Committees or Sub-Committees established and which take decisions on functions which are not the responsibility of the Executive, such as development control and licensing.

## Article 9 – The Standards Committee

### Explanation

The Standards Committee is a key element of the ethical framework of the Council and is designed to ensure high standards of behaviour and conduct within the Council.

#### 9.01 Standards Committee

The Council will establish a Standards Committee.

#### 9.02 Composition

(a) **Membership** - The Standards Committee will comprise:

10 Councillors (The Leader of the Council nominating one member of the Executive to sit on the Committee)

(The Leader of the Council shall not be a member)

(b) **Chairing the Committee** – The Chairman of the Committee will be appointed by the Committee. A Member of the Executive may not chair the Committee.

#### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct of elected Members and co-opted voting members and church and parent governor representatives;
- (b) assisting and ensuring that Councillors, co-opted members and church and parent governor representatives observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising and training elected Member and co-opted voting members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to elected Members and co-opted voting members from requirements relating to interests set out in the Members' Code of Conduct;

- (g) dealing with Members misconduct falling outside breaches of the Code of Conduct, for example, breaches of protocols.

9.04 The Standards Committee will have the following additional functions:-

- (i) Dealing with allegations of breaches of the Member's Code of Conduct.
- (ii) Oversight of the Whistleblowing Policy.
- (iii) Strategic overview of the Employees' Code of Conduct.
- (iv) Overview of the conduct element of reports from external auditors.
- (v) Oversight and review of the Constitution.
- (vi) Dealing with breaches of protocols.
- (vii) Determining appeals against the designation of a post as being politically restricted.

## **Article 10 – Joint Arrangements**

### **Explanation**

This article enables the Council to make use of joint arrangements with other authorities and delegate to other local authorities.

#### **10.01 Arrangements to promote well being**

The Executive, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

#### **10.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions, which are not executive functions, in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.
- (c) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

#### **10.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a Joint Committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the Joint Committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 10.04 West Midlands Joint Committee

(a) The Council have entered into joint arrangement with other District Councils of the County of West Midlands which is a Joint Committee under the Local Government Act, 1972. The composition and terms of reference of the West Midland Joint Committee are set out below:-

1. (i) The District Councils of the County of West Midlands established a joint committee known as the West Midlands Joint Committee (“the Committee”) for the purpose of discharging (a) the functions mentioned in the Annex. The Committee was a joint committee for the purposes of Part VI of the Local Government Act, 1972 and the provisions of that part applicable to joint committees shall apply to the Committee.
- (ii) This revised Constitution was agreed by the District Councils of the County of West Midlands.
- (iii) This revised Constitution has been updated to reflect changes in law brought about primarily, by the Local Government Act, 2000.
2. (i) The Committee shall comprise 7 voting members, each District Council being entitled to appoint 1 voting member who shall be a member of the District Council making the appointment. In the event of any voting member of the Committee ceasing to be a member of the District Council which appointed him/her, the District Council shall forthwith appoint another voting member in his/her place. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
- (ii) Each District Council may appoint 2 of its members to attend meetings of the Committee as observer members in addition to the voting member appointed under (i) above. Such observer members may speak at meetings of the Committee but not vote.
- (iii) Each District Council may appoint members of the Council as substitutes for the voting members or observer members appointed under (i) or (ii) above to attend meetings of the Committee and its Sub-Committees in the absence for any reason of the voting members or observer members appointed under (i) and (ii) above and in attending meetings of the Committee and its Sub-Committees such voting members or observer members shall be treated in all respects as if they were appointed under (i) or (ii) above as the case may be. The Secretary of the Committee shall be informed prior to the commencement of the meeting of the names of substitute members.

- (iv) The Chairman of each Joint Authority appointed in the West Midlands shall be an ex-officio member of the Committee. Such ex-officio members may speak at meetings of the Committee but not vote.
  - (v) The Committee shall at its annual meeting elect a Chair and Vice-Chair from amongst its voting members. In the event of both being absent from the meeting, the Chair and the Vice-Chair for whatever reason, the Committee shall elect a Chair from amongst the voting members present for that meeting.
  - (vi) Four voting members of the Committee shall constitute a quorum. Except as otherwise provided by the Local Government Acts, 1972 and 1985, all questions shall be decided by a majority of the votes of the voting members present and voting, the Chair having the casting vote in addition to his/her vote as a member of the Committee.
  - (vii) A meeting of the Committee may be convened by the Chair at any time. A meeting of the Committee must be convened by the Chair within 28 days of the receipt of a requisition of any 2 voting members of the Committee addressed to the Secretary to the Committee. All such requisition shall be in writing and no business other than that specified in the requisition shall be transacted at such meeting.
  - (viii) The Committee shall from time to time make such standing orders for the carrying on of the business of the Committee as the Committee shall necessary or desirable.
  - (ix) For the avoidance of doubt and subject to there being no change to the law on this issue, where a District Council is operating executive arrangements pursuant to Local Government Act, 2000 (and any regulations made under it), it will be a matter for the Executive of the District Council to appoint any member, observer member or substitute member to the Committee.
3. The Committee shall from time to time appoint such Sub-Committees to consider an deal with any of the functions of the Committee as may be thought desirable.
  4. The Committee shall employ a Secretary and such other officers as may be deemed necessary for the due conduct of the business of the Committee at such remuneration (if any) and upon such terms as the Committee shall decide. The appointment of Secretary shall be for a term of 3 years and shall be made at the annual meeting of the Committee in the appropriate year.
  5. (i) The Secretary shall keep proper accounts of the money received and expended by the Committee.

- (ii) The Secretary shall apportion the expenses of the Committee between the District Councils in proportion to the population of each district in the County.
6. This revised Constitution and, subject to hereinafter mentioned, the functions of the Committee may be amended at any time by the unanimous agreement of the District Councils.

#### **10.05 Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

#### **10.06 Contracting out**

The Council in respect of non-executive functions and the Executive in respect of executive functions may contract out to another body or organisation, functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act, 1994, or under contracting arrangements where the contractor acts as the Council's agent and the usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

# Article 11 – Officers

## Explanation

This article sets out the senior management structure. It defines the roles of the Chief Executive and Directors and the Statutory Officer functions.

### 11.01 Management Structure

- (a) **General** -The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** -The Council will engage persons for the following posts, who will be designated Chief Officers with responsibilities as determined from time to time by the Chief Executive:-

Chief Executive  
Executive Director for Children’s Services  
Executive Director for Resources  
Executive Director for Neighbourhoods  
Executive Director for Regeneration  
Executive Director for Social Care and Inclusion  
**Director of Public Health**

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate those posts as shown:-

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Assistant Director for Finance	Chief Finance Officer with Section 151 responsibilities

Such posts will have the functions described in Article 11.02 –11.04 below.

- (d) **Structure** - The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at part 7 of this Constitution.

### 11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council** - The Head of Paid Service will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.



- (b) **Restrictions on functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### 11.03 Functions of the Monitoring Officer

- (a) **Advising whether executive decisions are within the budget and policy framework** - The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (b) **Providing advice** - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (c) **Restrictions on posts** - The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 11.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making**- After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** - The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Mayor and will support and advise Councillors and officers in their respective roles.

- (e) **Give financial information** - The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **11.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### **11.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **Article 12 - Decision Making**

### **Explanation**

Executive arrangements established under the Local Government Act, 2000 changed the basis of decision making in local authorities fundamentally. They require the Council to record and keep up to date details of who has responsibility for which decisions, and to make this available to the public.

#### **12.01 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of the Constitution.

#### **12.02 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:-

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice;
- (c) consideration to ways in which human rights can be enhanced and protected by the Council's actions;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) taking account and explaining the options considered and the reasons for the decision taken
- (g) due regard to the Members' Code of Conduct.

#### **12.03 Types of decision**

- (a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.
- (b) Key decisions:-
  - (i) A key decision is an executive decision which is likely:-

- (1) to result in the Council in incurring expenditure which exceeds that included in any approved revenue or capital budget or the limits set out within an approved borrowing or investment strategy and was not the subject of a specific grant;
  - (2) to result in the Council incurring expenditure, or the making of savings, which are equivalent to or more than 5% of any approved revenue budget or 10% of any capital budget, whichever is the lower, subject to a de minimus level of £50,000;
  - (3) to be significant in terms of its direct effects on communities in an area comprising two or more wards in the Borough.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **12.04 Decision making by the Council**

Subject to **paragraph** 12.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Executive**

Subject to **paragraph** 12.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by Scrutiny and Performance Panels**

Scrutiny and Performance Panels will follow the Scrutiny and Performance Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision making by Committees and Sub-Committees established by the Council**

Subject to **paragraph** 12.08, Council, Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

## **12.08 Decision making by Council bodies acting as tribunals**

The Council, a Committee, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 13 - Finance, contracts and legal matters**

### **Explanation**

This article introduces the scope and effect of the Council's financial and contract rules, authorisation of legal proceedings and authentication of documents.

#### **13.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Council's Procedure Rules set out in Part 4 of this Constitution.

#### **13.02 Contracts**

Every contract made by the Council will comply with the financial and contract rules set out in **Parts 4.7 and 4.8** of this Constitution.

#### **13.03 Legal proceedings**

The Head of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

#### **13.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

#### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services or other person authorised by him/her. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or some other person authorised by him/her.

## Article 14 - Review and Revision of the Constitution

### Duty to monitor and review the Constitution

#### Explanation

This article places a duty to monitor and review the Constitution.

14.01 The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. In this process the Monitoring Officer may receive recommendations from the Executive, Audit Committee, Standards Committee, Scrutiny and Performance Panels or the Chief Executive.

### Changes to the Constitution

#### Explanation

There is a difference in the process required for a change in executive arrangements than other aspects of the Constitution. Proposals to change from one form of executive to another require proper consultation, and change from Leader/Cabinet to an Elected Mayor form, or vice versa, requires a referendum. However, other changes may require limited or no consultation. **Statutory** guidance makes clear that the consultation required should be proportionate to the scale, scope and extent of the change proposed.

This article sets out minimum requirements for Constitutional changes, such changes may be prompted from internal reviews and evaluation of their governance, or from changes in public opinion triggering a Mayoral referendum.

- 14.02 (a) Approval - Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer, **in consultation with Group Leaders and the Chair of Standards Committee. Only changes made under the delegation conferred upon the Head of Legal and Democratic Services as set out at 24.9 within the Scheme of Delegations to Officers at Part 3.5 of the Constitution, are exempt from this process.**
- (b) Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa - The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# Article 15 – Suspension, interpretation and publication of the Constitution

## 15.01 Suspension of the Constitution

- (a) **Limit to suspension** - The articles of this Constitution may not be suspended. The procedure rules in Part 4 may be suspended within the Law by the Council under the procedure set out in (b) below.
- (b) **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 15.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 15.03 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.



## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:-

1. Article 6 - Scrutiny and Performance Panels and the Scrutiny and Performance Procedure Rules;
2. Article 7 - The Executive and the Executive Procedure Rules;
3. Article 11 - Joint arrangements
4. Article 13 - Decision Making and the Access to Information Procedure Rules;
5. Part 3 - Responsibility for Functions.

## **Standards Committee – 7 October 2013**

### **Review of the Constitution – Part 3 – Responsibility for functions (excluding Delegations to Officers)**

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

- 1.1 This is the second report relating to the review of the Constitution which will be continuing throughout the forthcoming municipal year.
- 1.2 This report reviews Part 3 of the Constitution – Responsibility for functions, excluding delegations to officers which falls within the remit of the Audit Committee.

#### **2. Recommendation**

That the amendments contained within this report be approved for inclusion in the updated Constitution to be recommended to Council at its Annual Meeting in June 2014.

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

- 3.1 Part 3 of the Constitution relates to responsibility for functions. The Local Authorities (Functions and Responsibilities) (England) Regulation 2000, specify which functions are not to be the responsibility of the Executive, those which may (but need not) be the responsibility of the Executive, these are known as “local choice functions”, and all other functions not so specified which are the responsibility of the Executive. The Executive arrangements set out in the Constitution make clear how the responsibility for all such functions are allocated.
- 3.2 The tables set out in the Constitution provide a means of showing clearly where functions lie. Table 1 covers the local choice functions; Table 2 covers functions which are not the responsibility of the Executive; Table 3 covers Executive responsibilities; Table 4 covers a range of Advisory and Statutory Committees and bodies established by the Council or of which the Council is a member or appoints membership; Table 5 covers delegations to officers; and Table 6 covers Joint Arrangements.

#### **4. Proposed amendments**

##### **4.1 Table 1**

- (a) Add the following after function 4:

Function	Decision making body
5. The making of arrangements pursuant to Section 95(3) of the Schools Standards and Framework Act 1998 (children to whom Section 87 applies) appeals by governing bodies against any decision to admit to the school such children to whom, at the time when the decision is made Section 87(2) applies.	Exclusion Appeals Panel

The addition of this function relates to pupils who have been twice excluded from a particular school.

- (b) Delete function 6 – “Arrangements for the appointment of Police Authorities.

This function is deleted as the Police Reform and social Responsibility Act 2011 transferred the control of police forces from police authorities to elected Police and Crime Commissioners.

- (c) Delete function 7 – “Best value reviews”

This function was repealed by Section 140 of the Local Government and Involvement in Public Health Act 2007.

#### 4.2 **Table 6**

The amendment to Table 6 is a result of the revised Constitution of the West Midlands Joint committee which reflects changes required to the Localism Act 2011 in relation to strategic planning and cross boundary infrastructure matters which must now be dealt with via the “Duty to co-operate”. The annex to the Constitution details the functions of the Joint Committee taking into account the establishment of a Shadow Integrated Transport Authority Board.

#### 5. **Resource and legal considerations**

None directly related to this report.

#### 6. **Performance and risk management**

Performance and risk management are a feature of all Council functions. It is important that Council policies and procedures are reviewed and updated on a regular basis. If the Council fails to do this there is an increased risk that the Council will be subject to legal challenge or litigation. In terms of performance it is important that elected members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the Council deliver services. The Constitution is a key part of this framework of internal control.

## 7. Equality implications

In maintaining up-to-date policies and procedures the Council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes in relationship to equalities that elected members and officers must observe.

### Background papers


Walsall Council Constitution

#### Author

John Garner,  
Head of Democratic Services

☎ 654366

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

A handwritten signature in black ink, appearing to read "Anthony A.", is centered on the page. The signature is written in a cursive style with a large initial 'A'.

Signed:

Head of Legal and Democratic Services and  
Monitoring Officer

27 September 2013



# Walsall Council

## Audit Committee – 7 April 2014

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

**Service:** Legal and Democratic Services

**Wards:** Not applicable

#### 1. Summary

This reports sets out amendments to officer delegations which will be considered by Annual Council at its meeting to be held on 16 June 2014.

#### 2. Recommendations

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

#### 3. Report detail

- 3.1 A wholesale review of officer delegations was undertaken in the municipal year 2008/2009, and as was the case last year, the proposed amendments to officer delegations for the forthcoming municipal year (2014/2015) are not so far reaching, but reflect new legislation and minor operational amendments. The **Appendix** to this report shows in column 1 the current delegation and the amendment to that delegation is shown in column 2.

The complete list of existing delegations are set out in Part 3.5 of the Constitution and can found on CMIS (Committee Management and Information system) <http://cmis/CMISWebPublic/Binary.ashx?Document=13197>

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

#### 4. Resource implications

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

## 5. Citizen impact

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

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

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

## 8. Performance and risk management issues

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

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

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

## 10. Consultation

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

### Background papers

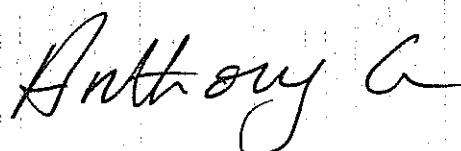
None

### Author

John Garner  
Head of Democratic Services

☎ 01922 654366

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



Tony Cox  
Head of Legal and Democratic Services  
28 March 2014

## Appendix

1. Current delegation	2. Proposed changes
<p><b>13. Executive Director, Resources</b></p>	<p>Insert following new delegation:</p> <p>13.3 Authority to waive the fee for Disabled Person's Parking Badge (Blue Badge) in exceptional circumstances.</p>
<p><b>15. Executive Director, Neighbourhood Services</b></p> <p>15.15 Powers under the Localism Act 2011 and any related secondary legislation to determine nominations and listing reviews for assets of community value and to maintain and operate a list of such assets.</p>	<p>15.15 Powers under the Localism Act 2011 and any related secondary legislation to determine nominations and listing reviews and compensation for assets of community value and to maintain and operate a list of such assets.</p>
<p><b>16. Executive Director, Children's services</b></p>	<p><b>Youth justice services</b></p> <p>Insert following new delegations:</p> <p>16.94 Under the Crime and Disorder Act 1998 to establish a youth offending team (locally called the Youth Justice Service) in co-operation with statutory partner agencies.</p> <p>16.95 To establish a management board for the Youth Justice Service in co-operation with statutory partners.</p> <p>16.96 The provision of an annual youth justice plan.</p> <p>16.97 Maintain a youth justice service in accordance with legislation and national standards.</p> <p>16.98 Ensure there are available sufficient staff to meet the</p>

requirements under the Crime and Disorder Act 1998, Police and Criminal Evidence Act 1984, the Criminal Justice and Immigration Act 2008, the Powers of Criminal Courts (sentencing Act) 2003, the Bail Act 1976 and the Legal Aid and Sentencing Offenders Act 2012.

16.99 To co-operate with Multi-Agency Public Protection Arrangements under Section 325 Criminal Justice Act to assess and manage the risk posed by sexual and violent young offenders.

16.100 To prevent and reduce offending within Walsall by Children and Young People (Crime and Disorder) Act 1998.

16.101 A range of responsibilities in relation to the operational duties of the Youth Justice Service including assessing young offenders, preparation of pre sentence reports, being the “responsible officer” on a variety of Court imposed orders which involves monitoring of compliance and delivery of Court Order Interventions, instigating breach action and revocation (covered by a range of legislation).

16.102 A range of responsibilities in relation to the operational duties of the Youth Justice Service including assessing young people subject to our Court disposals including assessment and interventions to prevent and reduce offending.

16.103 A range of responsibilities in relation to the operational duties of the Youth Justice Service including ensuring young people have the right to bail and the provision and oversight of bail support services.

16.104 To advise the Court in imposing Parenting Orders and managing and supervising Parenting Orders imposed in line with expected national standards and procedures.

16.105 The provision of appropriate adult services and the transfer of



young people to a place of safety under PACE.

16.106 To ensure the range of youth justice services listed are available in the local authority area and to communicate the same to the Courts, including bail support, local authority accommodation for remanded young people, provision of reports and other information to the courts. The placement and management of children and young people subject to a remands to local authority accommodation and remands secure accommodation. The provision of services to young people subject to a remand to youth detention accommodation.

16.107 A range of responsibilities for the Youth Justice Service to provide services to victims of young offenders under the Code of Practice for Victims of Crime (under the Domestic Violence, Crime and Victims Act 2004).

16.108 Compliance with the statutory guidance detailing roles and responsibilities under the Referrals Orders and Youth Offenders Panels Guidance, including the recruitment, training and management of volunteer panel member and the provision and management of panels to oversee Referral Orders.

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

16.110 A range of responsibilities for the Youth Justice Services to provide services to young people sentenced to custody (under a range of legislation), including liaison with the Secretary of State regarding early release of offenders, assessment for electronic monitoring upon release and assessment, management and breach of responsibilities once returned to the community.

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

	<p>Delete following legislation listed in paragraph 16.97:</p> <p>29. Sentencing Act 2000 30. Powers of Criminal Court (sentencing) Act 2000</p> <p>Insert the following legislation to the list at paragraph 16.97 after 28. Anti Social Behaviour Act 2003:</p> <p>Criminal Justice and Court Services Act 2000 Courts Act 2003 The Offender Management Act 2007 Road Traffic Act 1988 Firearms Act 1988 Sexual Offences Act 2003 Theft Act 1968 Crime Sentences Act 2000 Secure Accommodation Regulations 1991 and the Children (Secure Accommodation) (Amendment) Regulations 2012 Domestic Violence, Crime and Victims Act 2004</p>
<p><b>18. Executive Director, Regeneration Services</b></p> <p>18.5 Make applications for planning permissions, listed building, conservation and advert consents.</p> <p>18.26 Authority to take action under the following legislation (as may be amended), including where relevant, the determination of homelessness applications, the service of notices, issuing of licences, authorisation at works in default, implementation of charges, approval of grants, institution of legal proceedings etc:</p> <p>(1) Planning legislation (including the Town and Country Planning Act 1990, the Planning and Compulsory</p>	<p>18.5 Make applications for planning permissions, listed building and advert consents.</p> <p>18.26 Authority to take action under the following legislation (as may be amended), including where relevant, the determination of homelessness applications, the service of notices, issuing of licences, authorisation at works in default, implementation of charges, approval of grants, institution of legal proceedings etc:</p> <p>(1) Planning legislation (including but not limited to the Town and Country Planning Act 1990, the Planning and</p>

<p>Purchase Act 2004 and the Planning Act 2008;</p>	<p>Compulsory Purchase Act 2004, the Planning Act 2008 and the Town and Country Planning (Listed Buildings and Conservation Areas Act 1990);</p>
<p><b>20. Head of Planning and Building Control</b></p> <p>20.1 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.</p> <p>Applications to be determined by Committee:-</p> <p>(a) Applications for ‘major’ Development. ‘Major’ applications are defined as:-</p> <ul style="list-style-type: none"> <li>(i) Any application for residential development or change of use involving 10 or more dwellings;</li> <li>(ii) Other forms of development or change of use of 1000 sq. metres floor space or more;</li> <li>(iii) Applications for development or change of use of 0.5 ha or more of land and;</li> <li>(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;</li> </ul> <p>(b) Applications where it is proposed to make a decision that is contrary to the development plan or other published</p>	<p>20.1 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 (‘Committee’) under the terms of reference of that Committee or have been called in by a Councillor for determination by that Committee.</p> <p>Applications to be determined by Committee:-</p> <p>(a) Applications for ‘major’ Development. ‘Major’ applications are defined as:-</p> <ul style="list-style-type: none"> <li>(i) Any application for residential development or change of use involving 10 or more dwellings;</li> <li>(ii) Other forms of development or change of use of 1000 sq. metres floor space or more;</li> <li>(iii) Applications for development or change of use of 0.5 ha or more of land and;</li> <li>(iv) Minerals and waste applications for new or extended mineral workings or waste disposal (excluding development for ancillary or small scale works).</li> </ul> <p>Applications for time extensions, non-material amendments and variations under section 73 of the Town and Country Planning</p>

<p>Council standards/ guidelines;</p> <p>(c) Decisions that would need to be referred to the Secretary of State;</p> <p>(d) Applications that attract one or more written, valid (i.e. 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;</p> <p>(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;</p> <p>(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;</p> <p>(g) Decisions where it is known that a claim for compensation from the Council would arise or which otherwise may involve a financial payment;</p> <p>(h) Applications that are known to be submitted by or on behalf of:</p> <ul style="list-style-type: none"> <li>• Member of the Council; or</li> <li>• an organisation in which a Member has a known significant interest or involvement;</li> <li>• or an officer of Planning and Building Control;</li> <li>• or an officer of Property or Development and Delivery Services; or</li> </ul>	<p>Act 1990 to existing permissions for major development do not come within the above definition and are delegated to the Head of Planning and Building Control.</p> <p>(b) Applications where it is proposed to make a decision that is contrary to the development plan or other published Council standards/ guidelines;</p> <p>(c) Decisions that would need to be referred to the Secretary of State;</p> <p>(d) Applications that attract one or more written, valid (i.e. planning related) objections from statutory (as referred to by the Town and Country Planning (Development Management Procedure) (England) Order 2010 or other key consultees where it is proposed to make a decision that is contrary to the objection or applications that attract significant community interest from affected parties where it is proposed to make a decision that is contrary to the objection;</p> <p>(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;</p> <p>(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;</p> <p>(g) Decisions where it is known that a claim for compensation from the Council would arise or which otherwise may involve a financial payment;</p> <p>(h) Applications that are known to be submitted by or on behalf of:</p>
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<ul style="list-style-type: none"> <li>• other senior officer of the Council (defined for these purposes as any officer who holds a politically restricted post).</li> </ul> <p>(i) Any application that the Head of Planning and Building Control considers raises matters that should be considered by Committee.</p> <p>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.</p> <p>20.2 Authority to determine whether a formal application of details in respect of agricultural and forestry development should be submitted.</p> <p>20.3 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.</p> <p>20.4 Authority to undertake</p> <p>(a) The administration of the Building Act, 1984, in relation to:</p> <ul style="list-style-type: none"> <li>(i) Part I of the Building Regulations;</li> <li>(ii) Part III - Dangerous Structures, Demolitions, Drainage and Sanitary Conveniences;</li> <li>(iii) Part IV - Powers of Entry and Enforcement;</li> </ul> <p>(b) Administration of the Public Health Act, 1936, in relation</p>	<ul style="list-style-type: none"> <li>• a Member of the Council; or</li> <li>• an organisation in which a Member has a known significant interest or involvement;</li> <li>• or an officer of Planning and Building Control;</li> <li>• or an officer of Property or Development and Delivery Services; or</li> <li>• other senior officer of the Council (defined for these purposes as any officer who holds a politically restricted post).</li> </ul> <p>(i) Any application that the Head of Planning and Building Control considers raises matters that should be considered by Committee.</p> <p>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.</p> <p>20.2 Authority to make minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.</p> <p>20.3 Authority to respond to various consultation documents received from government departments on planning related matters, except where the Head of Planning and Building Control is of the opinion that the consultation involves matters which should be considered by Committee, Group Leaders or the relevant Portfolio Holder.</p> <p>20.4 In respect of Development Management:</p> <p>(a) To respond to developers’ notices of intention to carry out</p>
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<p>to:</p> <ul style="list-style-type: none"> <li>(i) Part II - Sanitation and Buildings;</li> <li>(ii) Part XI - Culverts, Ditches and Water Courses;</li> </ul> <p>(c) The Party Wall Act, 1996;</p> <p>(d) The Building (Local Authority Charges) Regulations 1988</p> <p>20.5 In respect of Development Management:</p> <ul style="list-style-type: none"> <li>(a) To respond to developers notice of intention to carry out development under Part 22 of the General Development Order, 1988 (mineral exploration only);</li> <li>(b) To determine whether Environmental Assessments are necessary under the Town and Country Planning (Assessment of Environmental Effects) Regulations, 1988;</li> <li>(c) Authority to determine applications for lawful development Certificates.</li> <li>(d) With respect to demolition of houses, authority to determine whether prior approval is required.</li> <li>(e) With regard to Telecommunications Development – authority to determine whether prior approval is required for siting and appearance;</li> <li>(f) To sign decisions made by Committee;</li> <li>(g) Authority to determine application for consent for the display of advertisements;</li> <li>(h) Approval of materials or other matters governed by</li> </ul>	<p>development under Part 22 of the Town and Country Planning (General Permitted Development) Order 1995 (mineral exploration only).</p> <ul style="list-style-type: none"> <li>(b) To determine whether Environmental Assessments are necessary under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.</li> <li>(c) To determine applications for lawful development certificates (existing and proposed).</li> <li>(d) With respect to demolition of houses, authority to determine whether prior approval is required.</li> <li>(e) With regard to Telecommunications Development – authority to determine whether prior approval is required for siting and appearance.</li> <li>(f) To sign decisions made by Committee.</li> <li>(g) Authority to determine applications for consent for the display of Advertisements.</li> <li>(h) Authority to approve Discharge of Condition Applications for planning applications and Listed Building Consents.</li> <li>(i) Authority to approve minor amendments and non-material amendments to previously approved planning permissions.</li> <li>(j) Authority to remove any planning applications that have not been determined or appealed from the Planning Register in accordance with Article 36 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.</li> </ul>
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<p>conditions included in existing consents;</p> <p>(i) Authority to approve minor amendments to previously approved planning permissions.</p> <p>20.6 Enforcement of Planning Control:</p> <p>(a) To remove or obliterate any placard or poster which is displayed in contravention of the Advertisement Regulations.</p> <p>(b) Power to authorise the issue of Enforcement Notices re: unauthorised development by itinerants and travellers.</p> <p>(c) To authorise the issue of Enforcement Notices and Temporary Stop Notices where immediate action is necessary.</p> <p>(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.</p> <p>(e) Authority to serve a breach of condition notice where planning conditions have not been complied with;</p> <p>(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 (as amended).</p> <p>(g) Power to serve a planning contravention notice, breach of condition notice or stop notice, or planning enforcement notice, in accordance with sections 171, 171BA, 171BB,</p>	<p>(k) The power to determine whether a submitted Pre-Information Process application complies with any Local Development Order adopted by the Council.</p> <p>(l) Authority to determine whether a formal application of details in respect of agricultural and forestry development should be submitted.</p> <p>20.5 Enforcement of Planning Control:</p> <p>(a) To remove or obliterate any placard or poster which is displayed in contravention of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 (as amended).</p> <p>(b) Power to authorise the issue of Enforcement Notices re unauthorised development by itinerants and travellers.</p> <p>(c) To authorise the issue of Enforcement Notices and Temporary Stop Notices where immediate action is necessary.</p> <p>(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.</p> <p>(e) To authorise the issue of Listed Building Enforcement Notices in circumstances where the delegated powers of officers to determine Listed Building Consents have resulted in the refusal of Listed Building Consent for retrospective development.</p> <p>(f) Authority to serve a breach of condition notice where planning conditions and Listed Building Consent</p>
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<p>187A and 183(1) of the Town and Country Planning Act 1990 as amended.</p> <p>(h) Power to give written assurance as regards prosecution for person served with a planning enforcement notice, and power to withdraw such assurance as appropriate, in accordance with section 172A of the Town and Country Planning Act 1990 as amended.</p> <p>(i) Power to remove and dispose of any unauthorised display structure and to exercise any other powers (including the power to recover reasonable expenses), in accordance with sections 225A and 225B of the Town and Country Planning Act 1990 as amended.</p> <p>(j) Power to serve an action notice to resolve persistent problems with unauthorised advertisements and to exercise any other powers (including the power to recover reasonable expenses, in accordance with sections 225C, 225D and 225E of the Town and Country Planning Act 1990 as amended.</p> <p>(k) Power to remedy defacement of premises and to exercise powers (including the power to recover reasonable expenses), in accordance with sections 225F and 225I of the Town and Country Planning Act 1990 as amended.</p> <p>(l) Power to serve notices in respect of post boxes and to exercise any other powers, in accordance with section 225G of the Town and Country Planning Act 1990 as amended.</p> <p>(m) Power to exercise powers in respect of bus shelters and other street furniture, in accordance with sections 225F and 225H of the Town and Country Planning Act 1990 as amended.</p>	<p>conditions have not been complied with.</p> <p>(g) Power to issue a planning contravention notice in appropriate circumstances and to hold discussions as a result of the “Time and Place” procedure in Section 171C of the Town and Country Planning Act 1990 (as amended).</p> <p>(h) Power to serve a planning contravention notice, breach of condition notice or stop notice, or planning enforcement notice, in accordance with sections 171, 171BA, 171BB, 187A and 183(1) of the Town and Country Planning Act 1990 (as amended).</p> <p>(i) Power to give written assurance as regards prosecution for person served with a planning enforcement notice, and power to withdraw such assurance as appropriate, in accordance with section 172A of the Town and Country Planning Act 1990 (as amended).</p> <p>(j) Power to remove and dispose of any unauthorised display structure and to exercise any other powers (including the power to recover reasonable expenses), in accordance with sections 225A and 225B of the Town and Country Planning Act 1990 (as amended).</p> <p>(k) Power to serve an action notice to resolve persistent problems with unauthorised advertisements and to exercise any other powers (including the power to recover reasonable expenses, in accordance with sections 225C, 225D and 225E of the Town and Country Planning Act 1990 (as amended).</p> <p>(l) Power to remedy defacement of premises and to exercise powers (including the power to recover reasonable expenses), in accordance with sections 225F and 225I of</p>
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<p>(n) Power to remedy defacement at owner or occupier's request and to exercise any other powers (including the power to recover reasonable expenses), in accordance with section 225J of the Town and Country Planning Act 1990 as amended.</p> <p>(o) Power to remove display structures, prevent or reduce unauthorised advertisements and/or remove or obliterate signs, so far as they relate to the operational land and premises of statutory undertakers, in accordance with sections 225A, 225C, 225F, 225K and 324 of the Town and Country Planning Act 1990 as amended.</p> <p>(p) (i) Where immediate action is necessary in respect of the issue of:</p> <p>(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;</p> <p>(b) a Stop Notice under Section 183 of the Town and Country Planning Act, 1990.</p> <p>The Head of Legal and Democratic Services in consultation with the Head of Planning and Building Control shall discharge the function.</p> <p>(ii) Before acting under part (i) any officer so acting:-</p> <p>(a) shall consult with such representatives of the political groups to which seats on the Committee have been allocated as the officer considers appropriate;</p>	<p>the Town and Country Planning Act 1990 (as amended).</p> <p>(m) Power to serve notices in respect of post boxes and to exercise any other powers, in accordance with section 225G of the Town and Country Planning Act 1990 (as amended).</p> <p>(n) Power to exercise powers in respect of bus shelters and other street furniture, in accordance with sections 225F and 225H of the Town and Country Planning Act 1990 (as amended).</p> <p>(o) Power to remedy defacement at owner or occupier's request and to exercise any other powers (including the power to recover reasonable expenses), in accordance with section 225J of the Town and Country Planning Act 1990 (as amended).</p> <p>(p) Power to remove display structures, prevent or reduce unauthorised advertisements and / or remove or obliterate signs, so far as they relate to the operational land and premises of statutory undertakers, in accordance with sections 225A, 225C, 225F, 225K and 324 of the Town and Country Planning Act 1990 (as amended).</p> <p>(q) (i) Where immediate action is necessary in respect of the issue of:</p> <p>(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;</p> <p>(b) a Stop Notice under Section 183 of the Town and Country Planning Act 1990;</p>
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<ul style="list-style-type: none"> <li>(b) shall record the urgent circumstances which make it necessary for action to be taken before a meeting of the Committee can be arranged;</li> <li>(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.</li> <li>(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.</li> <li>(q) 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.</li> </ul>	<p>the Head of Legal and Democratic Services in consultation with the Head of Planning and Building Control shall discharge the function.</p> <ul style="list-style-type: none"> <li>(ii) Before acting under part (i) any officer so acting:- <ul style="list-style-type: none"> <li>(a) shall consult with such representatives of the political groups to which seats on the Committee have been allocated as the officer considers appropriate;</li> <li>(b) shall record the urgent circumstances which make it necessary for action to be taken before a meeting of the Committee can be arranged;</li> <li>(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.</li> </ul> </li> </ul>
<p>20.7 The authority:</p> <ul style="list-style-type: none"> <li>(a) not to pursue enforcement action, even when there are unresolved complaints; to revoke authorities given for enforcement action; to withdraw enforcement notices;</li> <li>(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).</li> </ul> <p>20.8. The Head of Legal and Democratic Services in consultation with the Head of Planning and Building Control is authorised to make</p>	<ul style="list-style-type: none"> <li>(r) Authority to issue a Section 215 Notice subject to a period of 10 days being given to ward members to call in the Notice to the next meeting of the Planning Committee.</li> <li>(s) Authority to issue and serve notices under Section 330 of the Town and Country Planning Act, 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land.</li> <li>(t) Authority: <ul style="list-style-type: none"> <li>(i) not to pursue enforcement action, even when there</li> </ul> </li> </ul>

<p>minor variations to section 106 agreements, subject to consultation with the Chair of the Committee.</p> <p>20.9 The Head of Planning and Building Control be authorised to grant powers of entry to appropriate officers, planning enforcement.</p> <p>20.10 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.</p> <p>20.11 To administer and take action under the relevant provisions of the Fire Safety Reform Order 2005.</p> <p>20.12 The power to determine whether a submitted Pre-Information Process application complies with any Local Development Order adopted by the Council.</p>	<p>are unresolved complaints;</p> <p>(ii) to revoke authorities given for enforcement action;</p> <p>(iii) to withdraw enforcement notices;</p> <p>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).</p> <p>(u) to grant powers of entry to appropriate officers.</p> <p>20.6 Authority to administer and take action under:</p> <p>(a) The Building Act 1984 in relation to:</p> <p>(i) Part I of the Building Regulations;</p> <p>(ii) Part III - Dangerous Structures, Demolitions, Drainage and Sanitary Conveniences;</p> <p>(iii) Part IV - Powers of Entry and Enforcement;</p> <p>(b) The Public Health Act 1936 in relation to:</p> <p>(i) Part II - Sanitation and Buildings;</p> <p>(ii) Part XI - Culverts, Ditches and Water Courses;</p> <p>(c) The Party Wall etc Act 1996;</p> <p>(d) The Building (Local Authority Charges) Regulations 1988</p> <p>(e) the Regulatory Reform (Fire Safety) Order 2005.</p>
<p><b>21. Head of Development and Delivery</b></p>	<p>New delegations:</p>

	<p>21.3. Preparation and service of Dangerous Structure Orders in respect of listed buildings under Section 77(1)(a) of the Building Act 1984, following consideration of Sections 47 (Compulsory purchase), 48 (Repairs notice) and 54 (Urgent works notice).</p> <p>21.5 To determine and review Conservation Areas in accordance with Section 69(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><b>25. Regulatory Services Manager</b></p>	<p><b>25. Head of Communities and Public Protection</b> (Title to be changed throughout the delegations)</p> <p>Add the following to the list in paragraph 25.5:</p> <p style="text-align: center;">Enterprise Act 2002 Town and Country Planning Act 1990 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990</p>
<p><b>28. Head of Service, Engineering and Transportation Services</b></p> <p>28.1 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:</p> <p>28.2 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.</p> <p>28.3 The Head of Engineering and Transportation may authorise</p>	<p>28.1 The Head of Engineering and Transportation Services is authorised on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.</p> <p>28.2 The following delegations will be undertaken in accordance with Council policy and, as necessary, with the approval of the Chief Finance Officer and/or the Head of Legal and Democratic Services:</p> <p>28.3 To authorise, in the absence of the Head of Engineering and</p>

<p>officers from other authorities and public agencies working on regional projects to exercise powers within the borough from time to time:</p> <p>28.4 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.</p> <p>28.29 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:</p> <ul style="list-style-type: none"> <li>(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.</li> <li>(b) The design and implementation of measures provided as part of any Safer Routes to School projects.</li> <li>(c) The design and location of traffic calming features.</li> <li>(d) The design of traffic signal controlled junctions.</li> <li>(e) The design of minor junction improvements and alterations.</li> </ul>	<p>Transportation, the Group Manager (Highways and Environment) and the Group Manager (Road Traffic Network) to act on behalf of the Council, including the serving of Notices, prosecutions, and such matters as may require attention.</p> <p>28.4 The Head of Engineering and Transportation is authorised to take action under the following legislation and may authorise officers from engineering and transportation, other authorities and public agencies working on regional projects to exercise powers within the borough from time to time:</p> <p style="text-align: center;"><i>Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 – to be added to list of legislation set out in the Constitution</i></p> <p>28.5 Authority to vary fees and charges (excluding car parking charges), not fixed by statute.</p> <p>28.30 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:</p> <ul style="list-style-type: none"> <li>(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.</li> <li>(b) The design and implementation of measures provided as part of any Safer Routes to School projects.</li> <li>(c) The design and location of traffic calming features.</li> <li>(d) The design of traffic signal controlled junctions.</li> <li>(e) The design of minor junction improvements and alterations.</li> </ul>
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<p>(f) The design of bus priority measures and the location of bus stops and shelters.</p> <p>(g) Enforcement powers under all sections of the Traffic Management Act 2004.</p> <p>Subject to the proposal being in accordance with approved policy and, where appropriate, following full consultation with local residents and businesses.</p> <p>28.34 Authority to approve “No Parking on the Verge” signs in accordance with approved policy.</p>	<p>(f) The design of bus priority measures and the location of bus stops and shelters.</p> <p>Subject to the proposal being in accordance with approved policy and, where appropriate, following full consultation with local residents and businesses.</p> <p>Paragraph to be deleted.</p> <p>Insert new delegations:</p> <p>28.43 Enforcement powers under all sections of the Traffic Management Act 2004.</p> <p>28.44 Authority to assess and consider the appropriate stage to implement the termination of any further progression of penalty charge notices in accordance with civil parking enforcement.</p>
<p><b>30. Head of Human Resources and Development</b></p>	<p>Insert new delegation:</p> <p>30.9 To determine appeals against the designation of a post as being politically restricted.</p>

**33. Head of Street Pride**

**33. Head of Clean and Green Services**  
(Title to be changed throughout the delegations)

Insert new delegations:

- 33.5 Acceptance of bids for concessions within parks and open spaces.
- 33.6 Acceptance of hand-over from developers of open space.
- 33.7 Approval of routine lettings for events on greenspaces premises/land.
- 33.8 Approval of free/concessionary use of greenspaces facilities/equipment.
- 33.9 Approval of closure of parks and open spaces and associated facilities for essential maintenance.
- 33.10 Determining opening hours during holiday periods for parks and open spaces.
- 33.11 Approval of setting and variations in charges and core admission prices to events in parks and open spaces.
- 33.12 The authority to seek planning permission in respect of future proposed development for leisure, recreation, education and community purposes.
- 33.13 The authority to exercise all the powers and duties of the Council as a local authority to administer legislation in the furtherance of his duties, including but not limited to, the following Acts:

Allotments Acts 1922, 1925 and 1950  
Animals Act 1971

Anti-Social Behaviour Act 2003  
Clean Neighbourhoods and Environment Act 2005  
Dangerous Dogs Acts 1989 and 1991  
Dangerous Wild Animals Act 1976  
Dogs Act 1871  
Dogs (Fouling of Land) Act 1996  
Environmental Protection Act 1990  
Fire Safety and Safety at Places of Sport Act 1987  
Land Settlement Facilities Act 1909  
Local Government (Miscellaneous Provisions) Acts 1976  
and 1982  
Regulation of Investigatory Powers Act 2000  
Small Holdings and Allotments Act 1908  
Town Police Clauses Act of 1847 and 1889

33.14 Authority to vary fees and charges not fixed by statute.

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



1. Current delegation	2. Proposed changes
<p><b>14. Chief Finance Officer</b></p> <p>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.</p> <p>(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.</p> <p>(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;</p> <p>(c) Any other proposed capital expenditure outside of (a) and (b) above, shall be considered by Cabinet and referred to Council.</p> <p>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.</p> <p>14.7 Authority to write off irrecoverable amounts due to the Council up to and including £10,000:</p> <p>(a) Without limit as regards local taxation on a single property.</p> <p>(b) Without limit as regards housing and or Council tax benefit on a single property.</p>	<p><u>Insert following revised delegation:</u></p> <p>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.</p> <p>(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.</p> <p>(b) To approve capital expenditure which is subject to an identified and guaranteed external <b>or internal</b> funding stream where that funding stream has come on-stream in year (for example a new capital grant <b>or through generation of additional income or expenditure savings</b>) and only where this results in no additional call on Council resources;</p> <p>(c) Any other proposed capital expenditure outside of (a) and (b) above, shall be considered by Cabinet and referred to Council.</p> <p>14.5 To approve Capital Contingency requests within the limits set within the annually approved capital programme <b>and Revenue Contingency requests</b> as set out in the medium term financial strategy.</p> <p>14.7 Authority to write off irrecoverable amounts due to the council up to and including £10,000 <b>and</b>:</p> <p>(a) Without limit as regards local taxation on a single property.</p> <p>(b) Without limit as regards housing and or Council tax benefit on a single property.</p>

1. Current delegation	2. Proposed changes
<p>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.</p>	<p>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.</p>
<p>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.</p>	<p>14.12 To invest Council funds temporarily not required in accordance with the statutory provisions <b>defined in Part I (Section 12) of the Local Government Act 2003 which gives local authorities the power to invest for any purpose relevant to its functions or for the prudent management of its financial affairs</b>, and subject to other relevant guidance and restrictions which may be made by Statute, by Council or the Executive. <b>This is includes but is not restricted to Council's approved Treasury Management and Investment Strategy, Treasury Management Policy statement and approved practices.</b></p>
<p>14.13 Produce and report on the statutory determinations in setting the annual Council tax 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.</p>	<p>14.13 Produce and report <b>to Council</b> on the statutory determinations in setting the annual council tax requirement, as required under <b>Sections 30, 31A, 31B, 32, 36, and Chapter 4ZA (specifically Sections 52ZB , 52ZC)</b> of the Local Government <b>Finance Act</b> 1992 &amp; the robustness of the budget and adequacy of reserves as defined by <b>Section 25, 26, 27</b>, of the Local Government Act 2003.</p>
<p>14.15 To determine applications for rate relief from Non Domestic Rates under Section 44(a) of the Local Government Finance Act, 1988.</p>	<p>14.15 To determine applications for rate relief from Non Domestic Rates under Section <b>44A</b> of the Local Government Finance Act, 1988.</p>
<p>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.</p>	<p>14.17 To determine the completion date for a property notice in accordance with Section <b>46A</b> and Schedule <b>4A</b> of the Local Government Finance Act 1988 <b>as well as Section 17 of the Local Government Finance Act 1992.</b></p>

1. Current delegation	2. Proposed changes
<p>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:-</p> <ul style="list-style-type: none"> <li>- The administration of the councils HB &amp; CTB local schemes</li> <li>- The administration of the Councils Prosecution and Sanctions Policy in relation to Housing Benefit and Council Tax Benefit fraud.</li> </ul> <p>The administration of applications under the Discretionary Housing Payments Scheme. Including the power to make any determinations under the relevant legislation.</p> <p>14.26 Authority to manage and determine applications for business rate discount of 100% for properties designated within specified areas of the Black Country Enterprise Zone (Darlaston site).</p> <p>14.27 To approve the national non domestic rate government returns.</p>	<p>14.23 Administer the Council responsibilities under the provisions of the Social Security legislation <b>and in accordance with the council's approved policy</b> relating to the Housing Benefit and Council Tax <b>Reduction</b> Scheme including the following:-</p> <ul style="list-style-type: none"> <li>- The administration of the <b>council's local schemes</b></li> <li>- The administration of the Councils Prosecution and Sanctions Policy in relation to Housing Benefit and Council Tax <b>Reduction</b> fraud.</li> <li>- Including the power to make any determinations under the relevant legislation.</li> </ul> <p>14.26 Authority to manage and determine the <b>scheme</b> for business rate discount of 100% for properties designated within specified areas of the Black Country Enterprise Zone (Darlaston site).</p> <p>14.27 To approve national non domestic rate and <b>council tax</b> government returns.</p> <p><i><u>Insert following new delegations:</u></i></p> <p>14.28 To respond to consultation documents received from various government departments, subject to consultation with Group Leaders and the relevant portfolio holder.</p> <p>14.29 To undertake an annual review (jointly with the Executive Director of Adult Social Care) of the values of adult social care support packages based upon a resource allocation system.</p>

1. Current delegation	2. Proposed changes
<p><b>Note:</b> The following powers may be exercised by the:</p> <p>(a) Head of Finance: 4,5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22, 27</p> <p>(b) Head of Revenues: 6, 7(a), 8, 9,14, 15, 16, 17, 20.</p> <p>(c) Head of Benefits: 6, 7(b), 20, 23</p>	<p><u>Insert following <b>new</b> delegations:</u></p> <p>14.30 To devise a scheme to process business rate retail relief and the business rates reoccupation relief for qualifying bodies together with authority to amend each scheme to reflect any changes required by legislation and/or government guidance.</p> <p>14.31 Authority to manage and determine awards of business rate retail relief and business rates reoccupation relief under each scheme.</p> <p><u>Insert following revision:</u></p> <p><b>Note:</b> The following powers may be exercised by the:  Head of Finance: <b>2</b>, 4,5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22, 27  <b>In the absence of the Chief Finance Officer (Assistant Director of Finance) the Head of Finance will act as the designated Chief Financial Officer and may exercise all of the delegations as set out above and specifically 14.1.</b></p>
<p><b>31. Head of Internal Audit</b></p>	<p><u>Insert following:</u></p> <p>In the absence of the Chief Finance Officer (Assistant Director of Finance) <i>and</i> the Head of Finance, the Head of Internal Audit will act as the designated Chief Finance Officer and may exercise all of the CFO delegations and specifically 14.1.</p>

## 1 – Members' Code of Conduct

As a member or co-opted member of the Walsall Metropolitan Borough Council you have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all living or working in the area.

In accordance with the Localism Act provisions, when acting in this capacity you should be committed to behaving in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in this authority. These are known as the Nolan principles.

**Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

As a member of the Walsall Metropolitan Borough Council your conduct should in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you – putting their interests first.
- Dealing with representations or enquiries from residents, members of communities and visitors, fairly, appropriately and impartially.

- Not allowing other pressures, including financial interests of yourself and others connected to you, to deter you from pursuing constituents' casework, the interests of the Walsall Metropolitan Borough Council area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform as a member/co-opted member of this authority.
- Listening to the interests of all, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding yourself and other members to account but restricting access to information when the wider public interest or law requires it.
- Behaving in accordance with all the Council's legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the authority's resources.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential for good local government.
- Treating people with respect, including organisations and the public you engage with and those people you work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the authority.

The Act further provides for registration and disclosure of interests and this is done as follows:

## **Registration and disclosure of interests**

### **Registration of interests**

1. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any "disclosable pecuniary interests" which you have at that time.

2. Where you are re-elected or re-appointed you will have to complete a new Notification of disclosable pecuniary interests form within 28 days of your election or co-option.
3. You must keep your register of interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
4. A “disclosable pecuniary interest” is as prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in the Appendix to the Code.
5. A pecuniary interest is a “disclosable pecuniary interest” in relation to you if it is of a type described above, and either:
  - (a) it is an interest of yourself, or
  - (b) it is an interest of:
    - (i) your spouse or civil partner,
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if they were civil partners,and you are aware that that other person has the interest.
6. You are required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50 which you receive in your role as a member or co-opted member of the Council. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered in the record held by the Monitoring Officer.

### **Sensitive interests**

7. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected to you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is available for public inspection. Instead the Register of Interests may state that the member has an interest the details of which are withheld under Section 32(2) of the Localism Act 2011. If the member is required to disclose such an interest in a meeting, the member need not disclose the interest, but merely the fact that the member has a disclosable pecuniary interest in the matter concerned.

## **Disclosure of disclosable pecuniary interests at meetings, etc.**

8. The following provisions apply if you are present at a meeting of the authority, the Cabinet or of any committee, sub-committee or joint committee or joint sub-committee of the authority or you are a Cabinet member exercising an executive function and you are aware that you have a disclosable interest in a matter to be considered, or being considered, at the meeting or which is the subject of the executive decision.
9. If the interest is not entered into the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
10. If the interest is not entered into the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure.
11. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
12. You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting or in the case of an executive decision you must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else),
  - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless you have requested and been granted a relevant dispensation by the Standards Committee), or
  - (c) remain in the room during the discussion or vote on the matter.
13. Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

## **Disclosure of other interests at meetings**

14. Where you are present at a meeting of the authority, Cabinet or any committee, sub-committee, joint committee or joint sub-committee of the authority, or you are a Cabinet member exercising an executive function, and identify any other significant interests which you feel should be declared in the public interest, such interests should be declared at the meeting or, in the case of a Cabinet member exercising an executive function, prior to taking a decision.



15. In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a public perception of a conflict of interests in the matter under discussion. If so you should comply with the requirements of 12 and 13 above.

**Allegations of a failure to comply with the Code of Conduct**

16. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by the Council.

**Disclosable pecuniary interests**

A “disclosable pecuniary interest” is an interest of yourself or an interest (which you are aware of) of your partner (which means spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you are civil partners) within the following descriptions of interests.

“M” refers to you and “the relevant person” to you and those people described above.

Interest	Description
Employment	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Outside bodies	Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council.
Contracts	<p>Any contract which is made between the relevant person (or a body which the relevant person has a beneficial interest) and the Walsall Metropolitan Borough Council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within Walsall Metropolitan Borough.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Walsall Metropolitan Borough Council for a month or longer.

Corporate tenancies	<p>Any tenancy where ( to M's knowledge):</p> <p>(a) the landlord is the Walsall Metropolitan Borough Council; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of Walsall Metropolitan Borough Council; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant body has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

These descriptions of interests are subject to the following definitions:

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest.

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which the Monitoring Officer is notified of the interest;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities or any description, other than money deposited with a building society.

## 12 - Monitoring Officer Protocol

### General introduction to statutory responsibilities

The Monitoring Officer is a statutory officer under S 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Walsall Metropolitan Borough Council.

The current responsibilities of the Monitoring Officer role rest with the Head of Legal and Democratic Services, as designated under the Constitution at Article 11.01 (c). The Monitoring Officer will endeavour to discharge his/her statutory responsibilities in a positive manner that will enhance the overall reputation of the Council. He/she will as far as possible safeguard Members and Officers from legal difficulties and or criminal sanctions whilst acting in their official capacities.

The main functions of the Monitoring Officer at Walsall Metropolitan Borough Council are:

- (1) To report to the Council and/or the Executive in any case where she/he is of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, act of unlawfulness, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989; (LGHA 89);
- (2) To investigate any matter, which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
- (3) To act as the principal adviser to the authority's Standards Committee;
- (4) To maintain the register of members' interests;
- (6) To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;

In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:

- (1) Seeking timely legal advice, acting lawfully and complying with relevant Statutory guidance and Codes of Conduct),
- (2) Complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
- (3) Making lawful and proportionate decisions; and
- (4) Complying with the Council's Constitution;

- (5) Not taking action that would bring the Council, their public office, or professions into disrepute;
- (6) Communicating effectively with the Monitoring Officer and seeking advice on issues relating to constitutional or ethical matters.

The main statutory references for the Monitoring Officer's functions are set out in Appendix 1.

### **Working Arrangements**

It is important that members and officers work together to promote the corporate health of the Council, and maintain good governance. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers (Corporate Management Team, or equivalent arrangement) are designed to ensure the effective discharge of the Council's business and functions.

The Monitoring Officer will:

- (1) Be informed by Members and Officers of any issue(s) that are or likely to be of concern to the Council in relation to lawfulness or maladministration, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (2) Be given reasonable notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and/or Corporate Management Team (or equivalent arrangement);
- (3) Have the right to attend and make representations at any meeting of the Council before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- (4) In carrying out any investigation(s) and inquiries have unqualified access to any information held by the Council and to any member or officer who can assist in the discharge of his/her functions;
- (5) Ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer otherwise known as Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

- (6) Meet as required with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (7) Report to the Council as and when necessary on the Constitution and any proposed amendments subject to appropriate consultation, in particular, with the Executive Leader, the Head of Paid Service and Chief Finance Officer;
- (8) In accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources s/he requires in discharging his/her statutory functions;
- (9) Have an appropriate relationship with the Leader of the Council, Deputy Leader, Group Leaders, the Chair of Council, Cabinet Members, Standards, Regulatory Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- (11) Maintain and keep an up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- (12) Give informal advice and undertake relevant enquiries into allegations of misconduct by elected members under the council's code of conduct for elected members and, if appropriate, make a written report to the Standards Committee if, in the opinion of the Monitoring Officer, there is a serious breach of Walsall's Council's Code of Conduct for Members;
- (13) To inform the Leader of the Council and relevant group leaders of any allegation received by the Monitoring Officer of an alleged breach of the Code of Conduct for Elected Members by an Elected Member;
- (14) In consultation, as necessary, with the Leader of the Council, Cabinet, Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (15) Subject to the approval of the Standards Committee, be responsible for providing or commissioning any training for members on ethical standards and Code of Conduct issues;
- (16) Oversee the implementation of the local Code of Corporate Governance;
- (18) Appoint a deputy or deputies and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer. The Deputy will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer, or with his prior authorisation, or in the case of incapacity for whatever reason from the date of the said incapacity;

- (20) Have the right, after consultation with the Head of the Paid Service and the Chief Finance Officer, to notify the Police, the authority's auditors and/or other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- (21) Have the right to obtain at the authority's expense appropriate legal advice on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so;
- (22) Carry out reviews, investigations, and arrange the conduct of hearings in conformity with the Arrangements for dealing with standards allegations under the Localism Act 2011 in connection with allegations that there has been a breach of the Council Member Code of Conduct, by an elected member or members.

To ensure the effective and efficient discharge of the arrangements set out in the paragraphs above, Members and Officers will report any breaches of statutory duty, council policy or procedures, and other issues of lawfulness, maladministration or constitutional concerns to the Monitoring Officer, as soon as practicable. Prompt access to any relevant information, and attendance at meetings is essential to enable the Monitoring Officer to fulfil his/her responsibilities.

The Monitoring Officer will seek where possible to try to resolve any potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of a proposal.

Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that there may be circumstances where the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.

Where appropriate the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, and intervene in such processes to confirm a particular matter is a potential reportable incident and to ensure satisfactory resolution of the issue.

In appropriate cases, and to secure resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to any report of any Officer/Member presented to any forum of the authority.

Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Head of Paid Service (Chief Executive) and the Chief Finance Officer, he/she is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

Members and Officers may consult the Monitoring Officer on any issue concerning the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg: Finance and Contractual Rules, policy framework, terms of reference, scheme of delegations etc).

To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

### **Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the authority, he/she shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring for investigation and report back to the Chief Executive or request a neighbouring authority to make their Monitoring Officer available to the authority to investigate the matter and report back to the Chief Executive and/or the authority as appropriate, or appoint an Independent Investigator.

### **Sanctions for Breach of Walsall Council's Code of Conduct for Members and this Protocol**

Complaints about any breach of Walsall Council's Code of Conduct for Members may be referred to the Standards Committee depending on severity, which could lead, ultimately, to a range of sanctions against a Member. Failing to register or properly declare a registrable pecuniary interest may on summary conviction result in a fine not exceeding level 5 on the standard scale, and may result in disqualification for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority. The Councillor and the respective group leader will be informed of the complaint. Complaints about any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Leader and/or Chief Whip of the Political Party Group. Complaints about any breach of this Protocol by an Officer may be referred to the relevant Chief Officer and/or the Chief Executive.



## Appendix 1 - Summary of Main Monitoring Officer Functions

<b>Description</b>	<b>Source</b>
1 Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government & Housing Act 1989
2 Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government & Housing Act 1989
3 Appointment of Deputy	Section 5 Local Government & Housing Act 1989
4 Report on resources	Section 5 Local Government & Housing Act 1989
5 Investigate elected member misconduct in compliance with the Localism Act 2011	Chapter 7 Localism Act 2011, and statutory guidance.
6 Establish and maintain registers of members interests and gifts and hospitality	Section 29 Localism Act 2011 and Code of Conduct for Members and Co-opted Members of Walsall Council
7 Advice to members on interpretation of Code	Code of Conduct for Members, statute, regulations and guidance.
8 Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	Council Constitution, DETR Guidance
9 Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Section 5 Local Government and Housing Act 1989
10 Primary Qualified Person for considering whether information is exempt from disclosure under the Freedom of Information Act 2000	S36 FOI Act 2000
11 Advise on any indemnities and insurance issues for Members/Officers	Regulations under LGA 2000

# Protocol governing filming, audio recording and photography at Council meetings

## Introduction

Transparency and openness are the underlying principles behind everything the Council does. The concept of transparency and openness has been reinforced by statute and statutory guidance issued by the government over a number of years, from the Freedom of Information Act through to the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Regulation 20(4). This also reflects technological changes in the accessibility of information through social media which extends access to information to members of the public. The Department of Communities and Local Government Guidance “Your Council’s Cabinet – going to its meetings, seeing how it works” June (2013), has been interpreted as providing a general right for members of the public to film and report on all council meetings, however this only applies to meetings of the Executive (Cabinet).

However, Section 100A(7) Local Government Act 1972, as amended, provides that nothing in this section shall require a principal Council to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they are taking place.

The purpose of the protocol is to provide guidance on the filming of Council meetings to members of the public, elected members, and officers of the Council, and to avoid confusion as to when Council meetings can be recorded by audio, filmed, or photograph.

This protocol applies to public meetings of the Council, Cabinet, and their Committees or Sub-Committees.

## Use of social media, audio and visual recording, and photography at Council meetings

1. There is a strong general presumption that permission will be granted but this is at the discretion of the Chair of the meeting and in all cases the Chair’s decision shall be final.
2. The proceedings of the meeting should not be impaired or handicapped by the use of filming, recording or media tools, and it will be a matter for the Chair to determine based on the particular circumstances what behaviour is and is not appropriate.
3. Members of the press and public will only be permitted to use social media, audio and visual recording at Council meetings where the public have access to the meeting. If access is precluded under the Access to Information procedure rules because information is deemed to be confidential or exempt recording will not be permitted for those items of business.

4. All requests to film, record or photograph must be made within reasonable time before the meeting commences to ensure that all necessary arrangements can be made to facilitate the same, whilst respecting other members of the public's rights not to be filmed or recorded, and ensure practical arrangements can be made so that such recording or filming does not cause disruption to the efficient management of the meeting. Failure to provide reasonable notice may be taken into consideration by the Chair of the meeting as to whether or not to grant permission in 1 above.
5. Requests to film, record, or photograph any Council meeting should be made to the Head of Democratic Services or his/her representative who will then liaise with the Chair of the meeting, other Council officers and members of the public where relevant. If sufficient notice is received, the fact that filming, recording or photographing of a meeting will be taking place will be noted on the meeting agenda.
6. As part of the Chair's announcement at the beginning of a meeting where the whole or part is to be filmed, recorded or photographed, attendees of the meeting will be advised of their rights under the provisions of the Data Protection Act that they may elect not to be filmed recorded or photographed.
7. Whilst the Chair may consider objections to being filmed, recorded, or photographed at a Council meeting by its own elected members of officers, the fact that they are attending in an official capacity in a public meeting should weigh heavily against any such personal objections.
8. All recording or filming equipment should be set up before the commencement of the meeting.
9. Any audio/visual recording or photography must take place from a set position in the meeting room as approved by the Council. There must be areas of the room where visitors can sit who do not wish to be filmed, and anyone filming or recording must respect those wishes.
10. Anyone given permission to record/film or photograph any Council meeting, or part thereof, agree as part of the permission to record/ film or photograph proceedings agree that audio, visual recordings or photographs will not be edited, amended, or altered in any way that could lead to a misinterpretation of proceedings or bring the proceedings, the Council or individuals into disrepute. This includes refraining from editing or altering any such recording or photograph in a manner that may ridicule, cause offence or show a lack of respect to those being filmed, recorded or photographed.
11. The Council will require any filming, recording or photography to be undertaken in such a way that it is not disruptive or distracting to the good order and conduct of the meeting. If any stage in the course of the meeting the Chair considers that the use of social media tools has become inappropriate, or is inhibiting proceedings the Chair may withdraw permission to film, record or photograph the meeting.

12. If in contravention of 11 anyone fails to comply with the Chair's ruling the Chair may use his discretion to adjourn the meeting and order the individual who is causing the disturbance to be removed from the meeting room. The Chair also has the power if there is a general disturbance to call for a part of the meeting room to be cleared.
13. The Chair of meetings that are acting in a quasi-judicial role, such as licensing or planning committee will have to give particular consideration as to whether or not filming may be detrimental to proceedings by inhibiting representations or evidence that attendees may wish to make to the meeting. Similar considerations will need to be taken into account by Chairs of the Council's Scrutiny and Performance Panels.

DRAFT TIMETABLE 2014/2015 (6.6.14)

Appendix 7

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