

## Wolverhampton City Council

**OPEN DECISION ITEM****STANDARDS COMMITTEE**Date **19 APRIL 2012**

Originating Service Group(s)	<b>DELIVERY</b>
Contact Officer(s)/ Telephone Number(s)	<b>SUSAN KEMBREY 554900</b>
Title/Subject Matter	<b><u>COMPREHENSIVE REVIEW OF THE CONSTITUTION</u></b>

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**RECOMMENDATIONS**

- (a) That the Standards Committee consider the detailed proposed revisions of the Constitution as set out in Section 3 of the report for submission to the Annual Council meeting on 16 May 2012.
- (b) That the Standards Committee note that the Chair of the Special Advisory Group in consultation with the Assistant Director, Governance was authorised at Special Advisory Group to approve dates for the carrying out of comprehensive training for all Councillors, Co-opted and Independent Members and Officers on the revisions to the Constitution following the Annual Council meeting on 16 May 2012 and prior to the 'go live' date for the Constitution on 1 July.
- (c) That the Standards Committee note that the Chair of the Special Advisory Group in consultation with the Assistant Director, Governance was authorised at Special Advisory Group to approve minor amendments to the Constitution prior to its submission to Annual Council on 16 May 2012.

## 1.0 **PURPOSE**

- 1.1 To consider detailed proposed revisions to the Constitution set out in the attached Appendices.

## 2.0 **BACKGROUND**

- 2.1 Annual Council on 18 May 2011, approved a Comprehensive Review of the Constitution, to be undertaken in 2011 – 2012, with the aim of the new Constitution being published for May 2012 in time for approval by Annual Council 2012.
- 2.2 During 2010-2011 substantial revisions were made to the Constitution to update Financial Procedure Rules and Contract Procedure Rules.
- 2.3 Phase 1 of the Constitution Review incorporated amendments to the Constitution to reflect the Senior Management re-structure, "Leading for a Stronger City". This entailed a complete review of the Schedule of Delegations to Officers contained in Part 3 of the Constitution.
- 2.4 Phase 2 of the Constitution Review incorporated amendments approved at Annual Council on 18 May 2011 to approve house-keeping matters, to amend the Constitution to reflect advice on governance received from Leading Counsel concerning Victoria Halls, and also to amend "call-in" procedures.
- 2.5 Phase 3 of the Update required a substantial re-write of the Constitution to include recommendations identified in the Improvement Programme and to reflect member steer given at Special Advisory Group on 13 April 2011.
- 2.6 The Constitution Review is an inclusive process, engaging Members and Officers with the aim of producing a Constitution which is accessible, easy to use and fit for purpose, in appropriate formats.
- 2.7 Special Advisory Group, on 14 February last, considered and approved proposed substantial revisions to the Constitution. It also approved a period of consultation within the Council on the proposed revisions; this ran from 19 February to 19 March 2012. The consultation comprised two seminars for all Councillors on 5 and 6 March; copies of the proposed revisions were deposited in the Members Rooms and published on the intranet. The issues raised as a result together with proposed responses are set out in the attached schedule.
- 2.8 Special Advisory Group is also asked to consider and approve for inclusion in Appendix 2 to the Constitution, two further issues, namely the attached policy on Filming and Recording of meetings and a Protocol for the use by Councillors of Social Media. Further details on these two issues are considered in Section 3.6 and 3.7 of this report.

## 3.0 **DETAILS**

- 3.1 The two seminars for Councillors that were held on 5 and 6 March were attended by a total of 29 Members; discussion at both events was lively and informative. The issues raised at the seminars together with other matters raised by other Councillors, Co-opted and Independent Members and employees are set out in the attached schedule. Special Advisory Group is asked to consider these and any other matters and determine whether to recommend Standards Committee to incorporate them in the final draft version of the Constitution to be submitted to Annual Council on 16 May.

3.2 There are two aspects to the Constitution that remain outstanding. The first is the review being undertaken by Ann Reeder of the Scrutiny arrangements. At this stage, no revisions have been made to the Scrutiny Procedure Rules until the recommendations of her report have been considered by the Council. Neither has it been possible yet to revise the delegations to the Standards Committee due to the fact that Regulations are awaited as a result of the implementation of the Localism Act 2011. In terms of the delegations to the Standards Committee, if Regulations are issued under the Localism Act, in the period between this meeting and the Annual Council meeting or beyond, the Assistant Director, Governance has authority under the provisions of Article 1.4 of the Constitution to make amendments to the Constitution.

3.3 As far as the revisions to the Constitution are concerned, the following principal features are highlighted:

- (i) the Constitution has been transformed into a much smaller document that contains two supporting Appendices comprising the Delegations of Responsibility of Functions (Appendix 1) and Supporting Policies, Procedures and Codes (Appendix 2);
- (ii) consistent terminology has been used to give greater clarity, understanding and transparency. For example, the Constitution previously contained references to Members, Council Members and Councillors; this was confusing so the revised Constitution now makes reference only to Councillors. Members of the Cabinet, who were referred to variously as Executive Members, Portfolio holders or Cabinet Members are now referred to as Cabinet Member. References to staff, employees or Officers are now changed to employees. Finally, reference to Standing Bodies becomes Regulatory or other Committees;
- (iii) the revisions have been produced as far as possible in plain english;
- (iv) a number of proposed editorial changes have been made to the Constitution and the Appendices; some of these relate to in year changes to the Constitution as approved by full Council;
- (v) revisions have been made to the Articles of the Constitution;
- (vi) the Constitution now defines Red, Amber and Green decisions to provide greater clarity and help avoid future uncertainty. As far as Green Decisions are concerned, the proposed revisions make provision for individual Cabinet Member decision making within a framework and in accordance with recognised individual Cabinet portfolio responsibilities;
- (vii) Employee (formerly Officer) delegations have been revised following the Senior Management Re-structuring in 2011;
- (viii) in the light of proposals to delete with effect from the Annual Council meeting on 16 May, the Cabinet (External Relations) Panel,
- (ix) certain protocols and procedures have either been added or removed from the Constitution; in those instances where protocols and procedures have been removed, the Constitution will now signpost to the new location of those protocols and procedures

- 3.4 The issues raised as part of the consultation process are set out in the schedule below together with, where appropriate, relevant responses:
- 3.5 In terms of Delegations to Officers, the revisions propose that each Directorate will produce and maintain a scheme of those functions delegated to Officers based on either a competency or statutory framework.
- 3.6 With regard to the policy on the filming and recording of meetings, Special Advisory Group will recall that this issue arose as the result of a motion submitted by Councillor Keirle at the 21 December 2011 full Council meeting. The matter was initially referred to the Performance, Governance and Support Services Scrutiny Panel on 19 January 2012. The Panel overwhelmingly supported the proposal for the recording and filming of meetings and the use of social media for blogging and tweeting and recommended the Cabinet to approve the introduction of arrangements in accordance with the attached framework from the commencement of the 2012/13 municipal year. Cabinet on 7 March approved the recommendation and referred the matter to the Constitution Review Group, Special Advisory Group and Standards Committee to consider the proposed revisions to the Constitution in order to ensure a measure of control over these proposed arrangements.
- 3.7 As far as the use by Members of Social Media, a Protocol is in the course of preparation which it is proposed should be included as part of the Codes and Protocols set out in Appendix 2 to the Constitution. The intention is that this Protocol will be the subject of a Green Decision.
- 3.8 It is suggested that both the policy and protocol referred to in paragraphs 3.6 and 3.7 be included in Appendix 2 of the Constitution.

#### 4.0 **WAY FORWARD**

- 4.1 A copy of the detailed proposed revisions to the Constitution together with the comments of the Special Advisory Group (which are highlighted in bold and italicised text) are set out in the Appendices to this report. Members are asked to consider them in detail and make any further suggested changes. These revisions, once approved, will then form the basis of a report the Annual Council meeting on 16 May. It is intended that once approved, the final version will be published on the Council's website as an interactive document containing links that will enable users to navigate from key words to relevant sections/pages in the Constitution.
- 4.2 It has previously been agreed by Special Advisory Group that following approval of the revised Constitution by Annual Council, there should be a period of training for Members and Officers during June, in readiness for the new Constitution to go "live" from 1 July 2012.

#### 5.0 **FINANCIAL IMPLICATIONS**

- 5.1 There are no direct financial implications arising from this report. The Comprehensive Review Project and the revisions to the Constitution will strengthen the Councils Governance arrangements and the ultimate aim of this is to improve the Councils ability to secure the best possible outcomes from available resources, and to be able to demonstrate that it has done so.

[GE/23032012/U]

## 6.0 **LEGAL IMPLICATIONS**

- 6.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its standing orders relating to decision making, finance and contracts. The Council is also required to keep its Constitution updated.  
[FD/23032012/W]

## 7.0 **EQUALITIES IMPLICATIONS**

- 7.1 The Constitution is an essential part of the Councils Corporate Governance Framework, and plays a crucial role in ensuring that the Council fulfils its Equalities responsibilities.

## 8.0 **ENVIRONMENTAL IMPLICATIONS**

- 8.1 There are no direct environmental implications arising from this report.

### **Schedule of Background Papers**

The Constitution  
Constitution File – Reference GP 30/21

Name	Proposed Revision/Issue	Comments
	<b>Issues arising from Member Seminars</b>	
Councillor O'Neill	The consistent terminology used in the Constitution should flow through in to all reports; correspondence and official Council documentation	Agreed. All Directorates will be notified of this requirement. Also, report authors will be issued with new guidance and emphasis will be given in the Council's corporate Report Writing Guide that will contain a 'style' guide
Councillor Jaspal	Green Decisions – What is the definition of 'in consultation with' in respect of Cabinet Members taking individual Green decisions in consultation with Strategic Directors etc?	Green Decisions will continue to require the signatures of the appropriate Cabinet Member and Strategic Director; the presence of two signatures is evidence that the appropriate consultation has taken place. The revised Constitution will contain a safety net to refer a Green Decision to Cabinet if there is any doubt about whether a Green Decision is the appropriate mechanism to obtain a decision
Councillor Dass	Green Decisions – Ward Councillors are not notified in a timely manner, if at all, of the impact on their Wards of specific Green Decisions	Acknowledged. In future, arrangements will be established to notify relevant Ward Councillors, in advance (where appropriate) of the intention to make a Green Decision. However, this arrangement would be on a 'need to know' basis rather than being construed as a consultation on the merits or otherwise of the decision. <b><i>Relevant Ward Councillors and Chairs of LNPs to be notified in advance of details of reports to be submitted to Cabinet/Cabinet Panels where there is an impact on their respective Wards.</i></b>
Councillor Simkins	All Councillors should receive specific training in respect of their role in Scrutiny	Agreed. Training for all Scrutiny Councillors will be undertaken as part of the project currently being undertaken by Ann Reeder
Councillor Potter	All Councillors should receive specific training on the operation of the Constitution	Agreed. The Assistant Director, Governance will arrange training sessions following the Annual Council meeting on 16 May and prior to the revised Constitution 'going live' on 1 July 2012

Councillor Jones	The revised Constitution needs to specifically define Co-opted and Independent Members	Agreed; proposed changes incorporated in the revised version. A Glossary of Terms will also be produced
Councillor Jaspal	The Councillors Code of Conduct needs to identify timeframes for dealing with complaints against Councillors	Agreed; proposed changes are incorporated in the revised version. <b><i>In future, the Assessment Sub Committee to be convened within 28 days of a complaint/allegation being made</i></b>
Councillor Simkins	Further changes to the Constitution will be required following the implementation of the Localism Act 2011	Agreed. Regulations are currently awaited. The Assistant Director, Governance has authority under the provisions of Article 1.4 of the Constitution to make amendments to the Constitution
Councillor Minhas	If consistent terminology/language is to be introduced, should the current term 'Cabinet Member' be changed to 'Cabinet Councillor'; Member Reference Groups also need to be renamed?	Cabinet Member is the preferred terminology as it signifies that those Councillors are members of the Cabinet. A new description for Member Reference Groups can be established i.e. Steering Group. <b><i>In future Member Reference Groups to be known as Councillor Reference Groups</i></b>
Councillor Jaspal	Council Procedure Rules – Change the current period of notice of meetings from five to seven days	Agreed; proposed changes incorporated in the revised version. This would be in line with current practice <b><i>Also agreed that a review should be undertaken of the current arrangements for the posting out from the Civic Centre of mail to Councillors</i></b>
Councillor Jaspal	In order to ensure the impartiality of the Mayor and Deputy Mayor at full Council meetings, they should not generally participate in voting except when required to do so by law i.e. to approve the Budget	All Councillors including the Mayor are entitled to vote at meetings. The Constitution contains a protocol for the exercise of a casting vote for the Mayor in cases of a tied vote.

	<b>Individual Officer Responses to Consultation</b>	
Haydn Poyntz, Performance and Procurement Manager, City Services	<p>EU thresholds were adjusted for the period 1 January 2012 to 31 December 2013:</p> <ul style="list-style-type: none"> <li>• Works £4,348,350</li> <li>• Supplies and Services £173,934</li> </ul> <p>Make clear in the rules if professional fees are included or not in the total contract sum for reporting purposes/classifications of contract?</p>	Agreed; proposed changes incorporated in the revised version
Steve Hurdley, Regulatory and Statutory Requirements Officer, School Funding and Regulation Team	<p>Within Contract Procedure Rules the EU thresholds are out of date. New thresholds applied from 1 January 2012, and will be in place for a two year period.</p> <p>Section I of Financial Procedure Rules refer to five classes of contract whereas Contract Procedure Rules as amended in May 2011, now refer to four classes of contract.</p> <p>Within Financial Procedure Rules at E1 reference is made to 'section 23' but there is no explanation of what section 23 is. I think this is an old reference and related to former Financial Regulations.</p> <p>Some of the terminology throughout Financial Procedure Rules and Contract Procedure Rules seems to be out of date and needs to be amended to reflect the current position / definitions.</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed change incorporated in the revised version</p> <p>Agreed; proposed change incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p>
John Welsby, Assistant Director, Children and Family Support	<p>P4 - under purpose, could we add a statement about promoting equality and community as an explicit responsibility of the Council?</p> <p>2. P7 (and elsewhere P30 and P76 of delegations) - I am surprised that LNPs are embedded in the constitution - shouldn't they just be the way some</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>The inclusion of LNPs in the Articles of the Constitution seeks to provide as full a picture as possible of the Council's overall decision making structure and the part that LNPs play in it</p>



	<p>Councils in some years decide to do things rather than being embedded here? They don't have any statutory role so why not leave them out?</p> <p>3. P13 (and elsewhere) – the CYP Plan is not statutory any more so this should go in the list of plans we choose to do</p> <p>4. P19 - end of 6.3 - I don't think that we should have statements about 'accepted understanding' in a constitution - it is either this way or it isn't surely?</p> <p>5. P37 - Principles of decision making - shouldn't we include equality considerations?</p> <p>6. P37 - as discussed, I find the insertion of reference to key decisions confusing after having been pleased to see some clarity emerge around RAG - we at least need an explanation of the fact that key decisions may be R, A, or G. What makes a key, key and what does that require we do if it is R, A or G.</p> <p>Delegations:</p> <p>7. P7 - 11.8 (and elsewhere e.g. P39) - This should be under Children and Families. It is technically shared between SSL and C&amp;FS but by far the largest element of council funding here is for Children's Centres which are within C&amp;F and not within SSL. If we want to get picky you could say here 'excepting the provision of CCs' and under C&amp;F put the same as here adding 'with regard to Children's Centres'. This split is under review and it will either stay split with most being in C&amp;F or all coming to C&amp;F so this needs to change in some way at least.</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed change incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p>
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	<p>8. P7 - 11.5 - and elsewhere (e.g. P 39) - there is no such thing as an LEA - it is simply an LA. LEA's were done away with as separate entities with the introduction of Directors of Children's Services.</p> <p>9. P15 - and elsewhere - I have always found the role of Resources Panel difficult to understand in relation to Panel and I did not find that this rewrite helped. The Panel is here treated like other panels but it is of such standing in the decision-making process in practice that in my view this needs to change, or the Panel needs to be established with clear role and purpose specifically in the main body of the constitution - or at least, much more made of its delegated powers here.</p> <p>10 P15 -10 - this is too vague and could capture very minor restructures - this needs to be explicit about role in major restructures only e.g. those that require a S188 notice or which have budget implications over £200k (up or down) etc.</p> <p>11. P23 and elsewhere - do Cabinet really need to decide on spend of amounts like £30k?</p> <p>12. P59 and elsewhere (P88) - 3 - we have had specific agreement and need as discussed to ensure that all disc/ matters etc. below CO level are</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>This aspect will be addressed as part of the comprehensive training that will be undertaken prior to the introduction on 1 July of the new Constitution</p> <p>Major and minor restructure definition is based on disruption and change rather than cost. A major restructure is defined by a fundamental change to the way services are delivered. Yes responsibility should be with Directors. The current arrangements comply with the decision of full Council on 3 November 2010 that all restructuring proposals will be the subject of scrutiny to ensure they meet current and future needs. If this earlier decision is to be reversed then the revised Constitution could incorporate the change.  <b>Agreed to continue with the current arrangements subject to further consideration as part of the Scrutiny Review of scrutiny arrangements.</b></p> <p>This can be dealt with as a Green Decision</p> <p>The Council's Grievance Procedure is currently being reviewed; any changes that impact on the Constitution will be reported to Special Advisory Group in due course</p>
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	<p>dealt with solely by Employees - therefore Appeals panels should be employees. This is vital in my view and experience across the Council has demonstrated at some cost, the importance of this.</p> <p>13. P88 - reference to minor restructures - as above I think we need some clarity about minor or major and not be going to Councillors for what should be employees remit - strategic directors should be able to approve most restructures in their own areas within budget.</p> <p>14. P88 - I thought we couldn't extend sick pay now beyond national agreement anyway?</p>	<p>The current arrangements comply with the decision of full Council on 3 November 2010 that all restructuring proposals will be the subject of scrutiny to ensure they meet current and future needs. If Special Advisory Group wish to reverse this earlier decision then the revised Constitution could incorporate the change.</p> <p>Sick pay is only ever reviewed in extreme circumstances such as terminal illness</p>
Sheila Collett, Head of Local Neighbourhood Partnerships	<p>The piece that we wanted in on Code of Conduct for Members also applying to LNPs has been taken out. We need this bit added back in as it then ties up with the LNP governance framework going through Cabinet next week. It is also really important for the LNP meetings and has already been raised with me by an LNP Chair.</p>	<p>Special Advisory Group on 14 February proposed the removal of the following wording:- "Code of Conduct for Members – The Council's Code of Conduct for Members applies to Local Neighbourhood Forum meetings" It was removed on the grounds that the Code applies to Members at all times when they perform public duties. The Head of Local Neighbourhood Partnerships wishes the Code to apply to all LNP members (not just Councillors). The Council's Code of Conduct applies only to Councillors, Co-opted Members and independent Members of the Standards Committee; it cannot apply to other (unelected) members of LNPs. The Strategic Partnership could require LNP members to formally sign up to the principles of the Council's Code of Conduct</p>
Brian Bailey, Director, West Midlands Pensions Fund	<p>1. <u>Article 4.2</u> page 14: I assume the Director of Pensions is equivalent to Strategic Directors for the purpose of the Constitution as it relates to appointment requirements and delegations to Strategic</p>	<p>Agreed; proposed changes incorporated in the revised version</p>

	<p>Directions, but limited to matters relating to Pension Services and management of the pension operations empowered by the Superannuation Committee.</p> <p>2. <u>Article 4.5 (formerly 4.6) page 16:</u></p> <p>The definition of Budget conflicts with the financial activities delegated by Council to Superannuation Committee. For example, Statement of Investment Principles sets investment strategy for the Fund. The delegation to Superannuation Committee reflects the vast majority of the Fund's activities are undertaken on behalf of other employers, the major ones being represented on the Superannuation Committee. The functions of the Superannuation Committee are not an executive activity. It is suggested that the following is added: "The activities delegated to Superannuation Committee are not part of the Council's budget, but subject to comparable arrangements controlled and managed by the Superannuation Committee".</p> <p>3. <u>Delegations to Superannuation Committee, 1.2.5 page 59:</u></p> <p>The reference to Best Value is now outdated and paragraph 5 can be deleted.</p> <p>4. <u>Delegations to Superannuation Committee 1.2.2 page 59:</u></p> <p>It is suggested that after "... the acquisition and disposal of land", the following is added: (i) "Fund investment transactions, custody of assets, appointment of advisors, approval of expenditure</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p>
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	<p>and their related activities...” and then continue with “... shall not apply...”</p> <p><u>5. Delegations to Strategic Director, E10, E11, E13, E27:</u></p> <p>Reference to “manages” should be “manage or agree the management arrangements”; E24: to add after “To provide” “or agree the arrangements for “.</p> <p><u>6. G Delegations to Director of Pensions Service:</u> G1: delete “Superannuation” and add “the Council’s role as administering authority for the West Midlands Pension Fund”; G2: Limits or restrictions – add “In accordance with the Superannuation Committee’s investment strategy set out in its policy statement”. Add G4: The general delegations to Strategic Directors as they relate to the Council’s role as administering body.</p> <p><u>7. Financial Procedure Rules, A1.2, page 74:</u></p> <p>Add at the end of paragraph “but any arrangements require agreement of Council’s Section 151 Officer”</p> <p>B Budgets and Expenditure – Accounting page 82, paragraphs 5 and 6 do not work for the Pension Fund and suggest the following is added: “7. The application of 5 and 6 do not apply to Superannuation Committee activities, but any arrangements are subject to agreement of the Council’s Section 151 Officer”.</p>	<p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p> <p>Agreed; proposed changes incorporated in the revised version</p>

<p>Stephen Alexander, Head of Development Control</p>	<p>F6 delete "In accordance with the Scheme approved by planning Committee on 30.11.04" (Unnecessary reference - covered by F6, F7, F8 and Scheme of Delegation);</p> <p>Delete F9 and F10 (Unnecessary reference - covered by F6, F7, F8 and Scheme of Delegation); F15 - replace with "All applications which are advertised as a departure from the Development Plan and the officer recommendation is in support of the application shall be determined by Planning Committee" (Clearer wording);</p> <p>Delete F16 (Unnecessary due to F13, F14 and F12);</p> <p>F17 - add "apart from applications for Deeds of Variation" (note this does not override F12 so only applies to non-controversial applications);</p> <p>Delete F20, F22, F26, F27 and F28 (Unnecessary references - covered by F6, F7, F8 and Scheme of Delegation);</p> <p>Delete F24 - (catches some minor extensions to Council buildings - F6, F7, F8 and Scheme of Delegation would still apply).</p>	<p>Agreed; proposed changes incorporated into the revised version The proposed changes would reduce by approx. 2-3% the number of applications that are reported to Planning Committee annually. These would all be non-controversial applications</p> <p>Agreed; proposed changes incorporated into the revised version</p> <p>Agreed; proposed changes incorporated into the revised version</p> <p>Agreed; proposed changes incorporated into the revised version</p> <p>Agreed; proposed changes incorporated into the revised version</p>
<p>Charles Green, Strategic Director Education and Enterprise</p>	<p>Where a report has been the subject of pre-decision scrutiny by a Scrutiny Panel, it should not be capable of being 'Called In' for further scrutiny by the Scrutiny Board</p>	<p>The current arrangements may be considered as detrimental to efficient decision making. However, there may be a view that Call In of matters that have been the subject of pre-decision scrutiny should still be allowed particularly where the recommendations to Cabinet differ significantly from the recommendations of the Scrutiny Panel. A proposed change could be incorporated into paragraph 12.5 (g) of the Overview</p>

		and Scrutiny Procedure Rules to address the issue raised. It may be preferable to consider this aspect as part of the further revisions that will be required to the Constitution following consideration of Ann Reader's review of Scrutiny <b>Agreed to continue with the current arrangements subject to further consideration as part of the Scrutiny Review of scrutiny arrangements.</b>
Assistant Director, Governance	Appendix 1 Delegations to the West Midlands Joint Committee – some of the responsibilities are no longer relevant.	The Constitution of the Joint Committee is currently under review to include, for instance, reference to the establishment of a Police and Crime Panel. This work will be undertaken by Birmingham City Council Officers over the summer period. Once reviewed, the changes will need to be included in this Council's Constitution; it is suggested that authority be given to the Assistant Director, Governance to make the changes subject to the usual reporting arrangements
Assistant Director, Governance	Proposed changes to the Scrutiny Procedure Rules will need to be revised in the light of the review of Scrutiny by Ann Reader	Ann Reader's proposals for a fundamental review of the current Scrutiny arrangements will require a comprehensive re-drafting of the parts of the Articles and the Overview and Scrutiny Procedure Rules. The proposals that have been considered by the political Groups will need to be submitted to the Cabinet and ultimately full Council for consideration <b>It was noted that the intention is for a report of Ann Reeder's proposals will be submitted to Cabinet on 23 May 2012</b>
Assistant Director Governance	<b>DELEGATIONS TO LICENSING COMMITTEE</b> <u>Page 51. 1.</u> The following bullet points can be removed as the functions fall within provisions of the Licensing Act 2003 and the Gambling Act 2005. <ul style="list-style-type: none"> <li>• Regulated entertainment</li> <li>• Premises with amusement machines and amusements with prizes; pools promoters</li> </ul>	Proposed changes incorporated into the revised version

and track betting (Provision effective until 31st August 2007 - Superseded by Gambling Act 2005 on 1 September 2007)

- Provision of late night refreshment  
Within the last bullet point reference to food preparation should remain.

The bullet point referring to the functions of the Licensing Act 2003 need to be amended to read as follows:

- Licensing functions set out in the Licensing Act 2003, as amended by the Police Reform and Social Responsibility Act 2011
- Cinema (where provisions of LA 2003 do not apply), theatre, sex establishment licences and hypnotism

Page 52. Schedule.

The following should be amended to read -  
**Function.**

5. Power to licence drivers of Hackney Carriage and Private Hire vehicles.

13. Power to licence sex shops, sex cinemas and sexual entertainment venues.

**Provision of Act or Statutory Instrument**

1. Sections 5 to 8 , 53A-C and 41A - D of the Licensing Act 2003, as amended by Sections 103 - 140 of The Police Reform and Social Responsibility Act 2011

6. Section 55,56,57,62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976



	<p>7-9      Gambling Act 2005</p> <p>            Reference to the Betting, Gaming and Lotteries Act should be deleted</p> <p>10.        Gambling Act 2005</p> <p>            Reference to the Gaming Act 1968 should be deleted</p> <p>11-12     Gambling Act 2005</p> <p>            Reference to the Lotteries and Amusements Act 1976 should be deleted.</p> <p>13.        The Local Government(Miscellaneous Provisions) Act 1982 Section 2 and Schedule 3, as amended by Section 27 of the Policing and Crime Act 2009</p> <p>            Number 56, power to make closing orders under section 4 of LG(MP)A 1982 needs to be completely deleted as this provision now falls within the Licensing Act 2003.</p> <p>58.        Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995. Civil Partnership Act 2004, The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 and The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011.</p> <p>            It has been suggested that we cross reference with functions delegated to officers at paragraph F42 of</p>	
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officer delegations at Part 3/97. I understand Louise has devised wording to be used in relation to planning committee and suggest in order to be consistent it may be prudent to use the same wording for Licensing.

There are a number of Acts listed on pages 95 and 96 which are no longer valid to include:

Betting Gaming and Lotteries Act 1963  
Game Act 1931  
Gaming Act 1968  
Late Night Refreshment Houses Act 1969  
Licensing Acts 1964  
Lotteries and Amusements Act 1976  
Private Places of Entertainment (Licensing) Act 1967

The Marriage Act should read 1949 not 1994.

To the list we need to add:

Civil Partnership Act 2004  
Policing and Crime Act 2009  
The Police Reform and Social Responsibility Act 2011

Move "Transportation" delegations E47 - E54; pages 3/80 - 3/82 from Strategic Director for Delivery to Strategic Director for Education and Enterprise.

**Schedule of Planning Applications page 43**

After No 5 add insert

(6) Power to decline an overlapping planning permission - Section 70B of The Town and Country Planning Act 1990

(7) Power to decline to determine a retrospective planning application - Section 70C of The Town and Country Planning Act 1990

At Current No 6 delete reference to "Article .....Order 1995" and change to "The Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended and directions made thereunder" - I haven't put in the articles references I don't think we need to.

After current 19 insert

(20)Power to apply for a Planning Enforcement Order - Section 171 AB - 171BB of The Town and Country Planning Act 1990

(21) Power to issue assurances as regards prosecution for a person served with a Notice - Section 172A of The Town and Country Planning Act 1990

After current 15 insert

(16) Powers in relation to the unauthorised advertisements and defacement of premises - Sections 224 ,225 , 225A-K of The Town and Country Planning Act 1990.

At page 111

**Delegations to the Strategic Director of Education and Enterprise**

F8 delete all the wording after "Local Planning Authority" third line and add "subject to the Limits on Delegation specified in Paragraphs [ F11 - F28]\* in this Appendix 1 and excluding those matters reserved to the Cabinet and Full Council."

\*Note the paragraph references will need to be checked after the changes have been made as required by Stephen in his email of the 8 March 2012

**Functions delegated to Cabinet** page 8

Para 13.3 after "area action plans.." insert ", neighbourhood development plans"

Insert a cross reference at the end of the Planning Committee delegations to the delegations to the Strategic Director for Education and Enterprise to sign post the day to day exercise of powers as follows:-

"Note : The majority of functions of the Local Planning Authority are exercisable by the Strategic Director for Education and Enterprise in accordance with The Delegations to the Strategic Director for Education and Enterprise contained in Part F of Appendix 1 but subject to the Schedule of Limits on Delegation "

Delegations to Cabinet Members –

Cabinet Member, Children and Families

	<p>"To have political accountability for all social services to children and young people."</p> <p>"To have political accountability for all social services to adults."</p> <p>The existing paragraph relating to the Children Act 2004 concerning the Cabinet Member, Schools, Skills and Learning needs amending. It is paragraph 16 b. and needs to refer to the Cabinet Member Children and Families rather than Cabinet Member for Children and Young People.</p>	
Audit Committee	<p>Revise the delegations to the Audit Committee and Audit Examination of Paid Accounts/Monitoring of Audit investigations Sub Committee in line with CIPFA guide lines as follows:-</p> <p>Audit Committee – Delete existing delegations and replace with:-  “Audit Activity</p> <ul style="list-style-type: none"> <li>• To consider the Head of Internal Audit’s annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council’s corporate governance arrangements.</li> <li>• To consider summaries of specific Internal Audit reports as requested.</li> <li>• To consider reports dealing with the management and performance of the providers of Internal Audit Services.</li> <li>• To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.</li> </ul>	Proposed changes incorporated into the revised version

- To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance
- To consider specific reports as agreed with the External Auditor
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To liaise with the Audit Commission over the appointment of the Council's external auditor.
- To commission work from Internal and External Audit.

#### Regulatory Framework

- To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- To monitor the effective development and operation of risk management and corporate governance in the Council.
- To monitor council policies on 'Raising Concerns at Work' and the 'Anti fraud and corruption strategy' and the Council's complaints process.
- To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.

	<ul style="list-style-type: none"> <li>• The Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.</li> <li>• The Council's compliance with its own and other published standards and controls.</li> </ul> <p>Accounts</p> <ul style="list-style-type: none"> <li>• To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</li> <li>• To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.</li> </ul> <p>Examination of Paid Accounts/Monitoring of Audit Sub Committee Delete existing delegations and replace with:-</p> <ul style="list-style-type: none"> <li>• Monitor the progress of investigations undertaken by Audit Services.</li> </ul> <p>Refer significant issues arising from the above to the next scheduled meeting of the Audit Committee.</p>	
Corporate Procurement Manager	<p>Amend the Contract Procedure Rules as follows:-</p> <p>B. Requirements for All Contracts 2.4 3<sup>rd</sup> bullet point- replace Buying Solutions with Government Procurement Service</p> <p>4. Aggregation: 4.2 Add: "However there may be circumstances where opening up contracts to Small and Medium Enterprises (SME) may overall offer better value."</p>	Proposed changes incorporated into the revised version

C. Contract Procedures Summary – 2. EU Thresholds: Revise thresholds to 200,000Euro and £173,934 for Public Supplies and Services Contracts and 5,000,000 Euros and £4,348,350 for Works Contracts

Add after 3: 4. Execution of Contracts – 4.1 All contracts over £50,000 \*must\* only be awarded and signed by the Assistant Director, Governance”

G. Class 4 – Procedures above the EU Threshold or Governed by the Public Contracts Regulations 2006

1.1 revise dates to 1 January 2012 – 31 December 2013 and revise contract values to £173,934 for supplies and services (including goods and consultancy services) and£4,348,350 for Works

H Special Contract Types – 2.3 revise threshold values to £173,934

Add paragraph 3 – “Interim Managers/Agency Staff

3.1 The Council has pre-tendered framework contracts for a range of Interim Managers/Agency Staff which can be used in compliance with the Guidance Note for Agency Staff. Should there be a requirement to use suppliers outside these frameworks the Corporate Procurement Manager **\*must\*** be consulted to ensure that the contract conditions do not disadvantage the Council.

I Exemptions, Extensions and Variations –



1.3 - replace Head of Audit with Financial Controller

4. Variations and Extensions paragraph 4.3 revise with:

“For contracts where the contract sum together with the extension exceeds the Class 3 limit but below £100,000 an extension may be agreed by the relevant Service Group Director following the consideration of a written report by the Financial Controller and the Corporate Procurement Manager that the extension is justified. Where the original contract sum together with the extension exceeds £100,000 the decision **\*must\*** be taken by the Cabinet Panel (Resources).

After paragraph 4.4 add:

5. Negotiation

5.1 Negotiation within existing contracts may be undertaken where the Chief Officer responsible believes it will be of benefit to the Council. For Class 4 contracts you **\*must\*** check with the Corporate Procurement Manager prior to any negotiations taking place as changes to the contract may infringe the Public Contracts Regulations 2006.

5.2 For Class 4 contracts the financial or other benefits resulting from any negotiations shall be reported to the Cabinet Panel (Resources) before any changes are made.

L Selection of Tenderers for Works Contracts below the EU Threshold:

	<p>Paragraph 2.1, 2.2 replace Contractors Health and Safety Scheme (CHAS) with Safety Schemes in Procurement (SSIP)</p> <p>Paragraph 3.1 replace CHAS accredited with SSIP Registered</p>	
<p>Mark Taylor, Financial Controller</p>	<p>One thing that can be challenging for Officers to deal with is responses to Government consultations, especially where they give us next to no time to respond. Is it therefore worth considering incorporating something in the constitution that delegates authority to Strategic Directors to respond to these consultations and to seek Members views as appropriate?</p>	<p>This is the current operational arrangement so it may be deemed unnecessary to include anything in the Constitution.</p>
<p>Rob Willoughby, Assistant Director, Leisure and Communities</p>	<p>Pages 10 and 32 – Delegations to the Cabinet – Leisure and Community Services – Adult Education is now part of School Skills and Learning portfolio under Councillor Page, this may affect paragraphs 15.12 and 5.13</p> <p>P96 – Bereavement and Registration Services are now under City Services</p>	<p>Proposed changes incorporated into the revised version</p> <p>Proposed changes incorporated into the revised version</p>