



# **WOLVERHAMPTON CITY COUNCIL**

## ***THE CONSTITUTION***

## Key

***Bold and Italics*** - to be inserted/amended

**Red** - to be moved to elsewhere in the Constitution or Appendices

**Red** - to be deleted

**CONSTITUTION OF WOLVERHAMPTON CITY COUNCIL**

**THE CONSTITUTION**

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## ~~1. The Council's Constitution~~

~~Wolverhampton City Council has agreed a constitution which sets out how the Council operates, 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 the law, while others are a matter for the Council to choose.~~

~~The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.~~

## ~~2. What's in the Constitution?~~

~~Article 1 of the Constitution commits the Council to take decisions openly, efficiently and effectively. The Council will encourage citizens and their representatives to play a part in the decision making process by contributing towards policy development and the scrutiny of decisions.~~

~~Articles 2—16 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 meeting (Article 4).~~
- ~~• Chairing the Council (Article 5).~~
- ~~• Overview and scrutiny of decisions (Article 6).~~
- ~~• The Executive (Article 7).~~
- ~~• Regulatory and other committees (Article 8).~~
- ~~• The Standards Committee (Article 9).~~
- ~~• Area Structures (Article 10).~~
- ~~• Joint arrangements (Article 11).~~
- ~~• Officers (Article 12).~~
- ~~• Decision making (Article 13).~~
- ~~• Finance, contracts and legal matters (Article 14).~~

- ~~Review and revision of the Constitution (Article 15).~~
- ~~Suspension, interpretation and publication of the Constitution (Article 16).~~

### ~~3. How the Council operates~~

~~The Council is composed of 60 councillors with one-third elected three years in four. Councillors are democratically accountable to 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 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 and Councillors to regulatory and other committees described in Articles 8, 9 and 10. The Leader of the Council appoints members to the Executive that is the Cabinet, and the Cabinet Panels, described in Article 7, from members of the Council. The Council also appoints Councillors to undertake overview and scrutiny of the Executive as described in Article 6.~~

### ~~4. How decisions are made~~

~~The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council and nine other Councillors who together form the Cabinet. When major decisions are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for 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.~~

### ~~5. Overview and Scrutiny~~

~~The Scrutiny Board and six Scrutiny Panels support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by enquiring into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Board and 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.~~

## ~~6. Area Structures – Local Neighbourhood Partnerships~~

~~In order to give local citizens a greater say in council affairs the Council has created local neighbourhood partnerships. The areas covered and the membership, powers and responsibilities are described in Article 10.~~

## ~~7. The Council's staff~~

~~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 relationships between officers and members of the council.~~

## ~~8. 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. The local Citizens' Advice Bureau can advise on individuals' legal rights.~~

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

~~Citizens have the right to:~~

- ~~• vote at local elections if they are registered;~~
- ~~• contact their local councillor about any matters of concern to them;~~
- ~~• obtain a copy of the Constitution;~~
- ~~• attend meetings of the Council, the Executive, the Scrutiny Board and Panels and committees except where, for example, personal or confidential matters are being discussed;~~
- ~~• petition to request a referendum on 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 key decisions are being discussed or decided;~~

- ~~see reports and background papers, and any record of decisions made by the Council and Executive;~~
- ~~use the Complaints and Compliments Procedure if they have a complaint about Council Services;~~
- ~~complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;~~
- ~~complain to the Standards Committee 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.~~

~~The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Assistant Director (Governance) at the Civic Centre, St Peter's Square, Wolverhampton WV1 1RG.~~

## **PURPOSE OF THE CONSTITUTION**

- 1 The City Council is the democratically elected authority for Wolverhampton.**
- 2 Its overarching role is to improve the quality of life of the people of Wolverhampton by:**
  - **arranging delivery of services driven by the sole purpose of serving all Wolverhampton residents, Council Tax payers and businesses within the City**
  - **providing clear and accountable community leadership and promoting equality of opportunity**
  - **championing the City's interests, supporting the local economy and enhancing the environment**
  - **consulting and involving the citizens of Wolverhampton in planning ahead and making decisions on their behalf**
  - **influencing and working in partnership with other organisations.**

**It has the broad power under the Local Government Act 2000 and Localism Act 2011 to promote and improve the social, economic and environmental well-being of the area and has statutory responsibility for the provision of a range of services. The City Council sees one of its most significant roles as championing the interests of the people of Wolverhampton.**

- 3 The Council develops strategic plans for the City in consultation with the wider Wolverhampton community and implements those plans through its own services (delivered by its own **staff** employees or by contractors), in partnership with other organisations and by influencing other agencies including government departments and other councils.**
- 4 The Council has approved this Constitution, which sets out how the Council operates, 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 the law, while others are a matter for the Council to choose.**



*The Council has a duty to promote and uphold high standards of conduct by its **members** Councillors. Councillors have agreed to follow a code of conduct referred to in Appendix 2 to ensure high standards in the way they undertake their duties **referred to in Appendix 2**.*

**5 The Constitution covers the following issues:**

- a. *the way meetings are regulated and conducted;*
- b. *the functions of the Council, the **Executive** Cabinet, Scrutiny, and Regulatory and other Committees;*
- c. *which meetings can make which decisions and when decisions will be made **in-public**;*
- d. *how **Members** Councillors are appointed to and removed from the **Executive** Cabinet;*
- e. *how and when decisions may be made by individual Councillors **Members** and individual **Officers** Employees;*
- f. *how much **Members** Councillors receive in Allowances;*
- g. *Standards of conduct;*
- h. *Local Partnership and Local Neighbourhood Partnerships;*
- i. *joint working with other authorities;*
- j. *audit procedures, financial and contract rules*

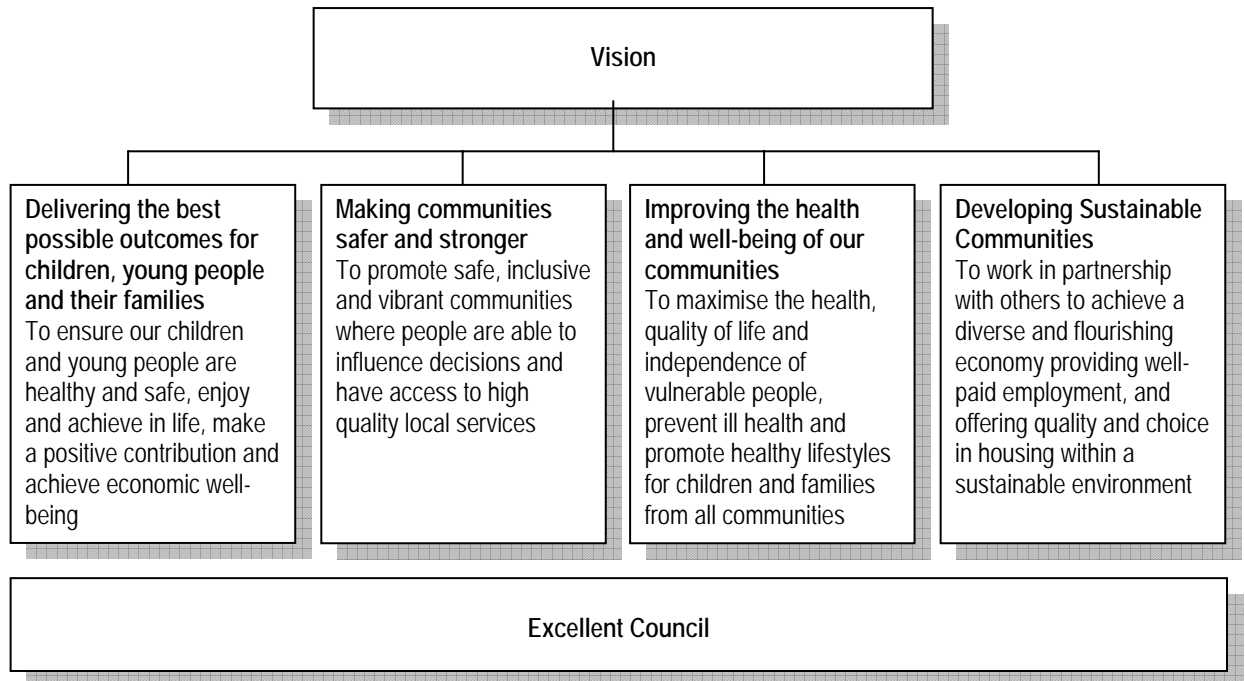
**6 The Council exercises all of its powers and duties in accordance with the law and this Constitution. The powers and duties of the Council are set out in various Acts of Parliament and supporting legislation.**

**7 The purpose of the Constitution as set out in Article 1.3 is to:**

- a. *enable the Council to provide a clear framework for clear leadership to the community in partnership with citizens, businesses and other;*
- b. *support the active involvement of citizens in the process of local authority decision-making;*
- c. *help Councillors represent their constituents **more** effectively;*
- d. *enable decisions to be taken efficiently and effectively;*
- e. *create a powerful and effective means of holding decision-making to public account;*
- f. *ensure that no one will review or scrutinise a decision in which they were directly involved;*

- g. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and**
- h. provide a means of improving the delivery of services to the community**

**This is in the context of the Councils vision for Wolverhampton**



## **8 How the Council operates**

**The Council is comprised of 60 Councillors with one-third elected three years in four. Councillors are democratically accountable to 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. The balance of power within the Council depends upon the number of **members** Councillors elected for each political party. Other than through the **Executive** Cabinet structure, the composition of meetings reflects the political make up of the Council proportionately.**

**All Councillors meet together as the Full Council. The Full Council is chaired by the Mayor. Meetings of the Full Council are normally open to the public. There are certain matters which the law states only the Full Council can decide. These are described in Article 4 of the Constitution.**

**At Full Council meetings Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council, as the political head of the Council. The Council can dismiss the Leader if there is a vote of no confidence in him/her. The Leader is appointed for a 4 year term (or until the expiry of the Leader's term of office as a Councillor) and Full Council also appoints Councillors to the Scrutiny, Regulatory Committees and other bodies described in Articles 6, 8, 9 and 10.**

*Meetings of the Full Council, the **Executive Cabinet**, Scrutiny, Regulatory Committees and other bodies usually take place at the Civic Centre, Wolverhampton. Notice of when these meetings are held and what decisions will be made is available from Democratic Services at the Civic Centre and are contained on the Council's website.*

*The Leader of the Council appoints annually **members** Councillors to the Cabinet and the Cabinet Panels, described in Article 76.*

## 9 How decisions are made

*The Council has adopted the "Leader and **Executive Cabinet**" model of political management.*

*The Constitution identifies which decisions the Council will make and which decisions the **Executive Cabinet** will make. The **Executive Cabinet** is the part of the Council which is responsible for most day-to-day decisions. When key decisions are to be discussed or made, these are published in the Leader's Forward Plan referred to in Appendix 1. If these key decisions are to be discussed at a meeting of the **Executive Cabinet**, this will generally be open for the public to attend except where personal or confidential matters are being discussed.*

*The **Executive Cabinet** 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 Full Council to decide. The **Executive Cabinet** will also formulate policy within that Policy Framework for the Full Council to consider. The **Executive Cabinet** can decide on other policies that do not form part of the Policy Framework.*

## 10 Regulatory Committees

*The law gives the Council powers to grant approvals, licences, consents, permissions and registration in matters such as planning, licensing, health and safety, rights of way etc. These are not allowed to be dealt with by the **Executive Cabinet** and these powers are exercised by Committees of the Council. A list of these Committees and their respective responsibilities are contained in Appendix 1.*

## 11 Overview and Scrutiny

The Scrutiny Board and six Scrutiny Panels support the work of the **Executive Cabinet** and the Council as a whole. They allow citizens to have a greater say in Council matters by enquiring into matters of local concern. These lead to reports and recommendations which advise the **Executive Cabinet** and the Council as a whole on its policies, budget and service delivery. The Board and Panels also monitor the decisions of the **Executive Cabinet**. They can 'call-in' a decision which has been made by the **Executive Cabinet** but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the **Executive Cabinet** reconsider the decision. They may also be consulted by the **Executive Cabinet** or the Council on forthcoming decisions and the development of policy.

## 12 Area Structures – The Local Partnership and Local Neighbourhood Partnerships

*In order to give local citizens a greater say in Council affairs the Council has created Local Neighbourhood Partnerships. The areas covered and the membership, powers and responsibilities of these are described in Article 10.*

## 13 ~~The Council's staff~~ Employees

*The Council have ~~people~~ employees ~~working for it referred to as 'Officers'~~. ~~Officers~~ who perform a number of different roles, ranging from delivering services to giving advice, implementing decisions and managing the work of the Council. ~~Officers~~ Employees operate in a politically neutral way, which ~~members~~ Councillors must respect. Some ~~officers~~ employees have a specific duty to ensure that the Council acts within the law and uses its resources wisely. These ~~officers~~ employees are the Monitoring Officer and the Section 151 Officer. There is a protocol that governs the relationships between ~~Members~~ Councillors and ~~Officers~~ employees which is set out in Appendix 2.*

## 14 Citizens' Rights

*Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 of this Constitution*

*Citizens have the right to:*

- *vote at local elections if they are included in the Electoral Register;*
- *attend meetings of the Council, the ~~Executive~~ Cabinet, the Scrutiny Board and Panels and Regulatory Committees ~~and Standing Bodies~~ except where, for example, personal or confidential matters are being discussed;*
- *petition to request a referendum on an elected mayor;*
- *petition the Council and receive a response*
- *establish, from the Leader's Forward Plan, what major decisions are to be discussed by the ~~Executive~~ Cabinet or decided by the ~~Executive~~ Cabinet or ~~officers~~ employees, and when;*
- *view reports and background papers, and any record of decisions made by the Council and ~~Executive~~ Cabinet;*
- *use the Complaints and Compliments Procedure if they have a complaint about Council Services;*
- *complain to the Ombudsman if they think the Council has not followed its procedures properly.*
- *complain to the Standards Committee if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; ~~and~~. (Note: Regulations under the Localism Act 2011 are currently awaited that will impact on the role of the Standards Committee. Revisions to this section of the Constitution may be required once those Regulations have been published.)*

- ***inspect the Council's accounts and make their views known to the Council's External Auditor.***

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Assistant Director Governance Services at the Civic Centre, St Peter's Square, Wolverhampton WV1 1SH.

## **Article 1 - The Constitution**

### **1.1 Powers of the Council**

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

### **1.2 The Constitution**

This Constitution, and **all** its appendices, is the Constitution of **the** Wolverhampton City Council.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- ~~1.~~ **a.** enable the Council to provide clear leadership to the community in partnership with citizens, business and other organisations;
- ~~2.~~ **b.** support the active involvement of citizens in the process of local authority decision-making;
- ~~3.~~ **c.** help Councillors represent their constituents **more** effectively;
- ~~4.~~ **d.** enable decisions to be taken efficiently and effectively;
- ~~5.~~ **e.** create a powerful and effective means of holding decision-makers to public account;
- ~~6.~~ **f.** ensure that no one will review or scrutinise a decision in which they were directly involved;
- ~~7.~~ **g.** ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- ~~8.~~ **h.** provide a means of improving the delivery of services to the community.

### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will ~~always choose~~ **be guided by** that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15. ***Any amendments, including those made by the Monitoring Officer will form part of the Constitution.***

## Article 2 – ~~Members of the Council~~ Councillors

### 2.1 ~~Composition and eligibility~~ Membership of the Council

- (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 Electoral Commission and approved by the Secretary of State.
- (b) ~~Eligibility.~~ Only registered voters of the area or those living or working there will be eligible to hold the office of councillor.

*The Membership of the Council comprises 60 ~~members or~~ Councillors, who are elected by the voters of the City of Wolverhampton. There are 20 wards within the City and 3 Councillors are elected by the voters of each ward. This is in line with a scheme which was drawn up by the Electoral Commission and approved by the Secretary of State.*

*Only those eligible persons, defined by electoral law, will be permitted to hold the office of Councillor.*

### 2.2 Elections and Term of ~~councillors~~ Office

~~The ordinary election of a third of all councillors will be~~ **Local Elections are usually** held on the first Thursday in May each year, **the date may, on occasions, be changed by Parliament.** ~~except that in 2009~~ **In 2013** and every fourth year ~~after~~ **following**, there will be no ~~regular~~ **local** elections, **unless there are changes to election law.** **A third of all Councillors normally stand for election and** the terms of office of Councillors will, **normally**, 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.~~

### 2.3 ~~Roles and functions of all councillors~~ Key Roles

- (a) ~~Key roles~~ All Councillors will:
- (i) **a.** collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions **for the City Council**;
  - (ii) **b.** represent their communities and bring their views into the Council's decision-making process ~~i.e. become the advocate of and for their communities~~;
  - (iii) **c.** deal with individual casework, **respond to Constituents' enquiries and represent them fairly, promptly and impartially** and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) **d.** balance different interests within the ward and represent the ward as a whole;
  - (v) **e.** be involved in decision-making;
  - (vi) **f.** be available to represent the Council on other bodies; and
  - (vii) **g.** maintain the highest standards of conduct and ethics.

2.4 **The overriding duty of Councillors is to the whole community, but they have a special duty to residents of their ward.**

~~(b) — Rights and duties~~

## 2.5 Rights and Duties

~~(i)~~ a. Councillors ~~will~~ have ~~such~~ rights of access to ~~such~~ documents, information, land and buildings of the Council as are necessary for ~~the proper discharge of their functions~~ **and them to be able to carry out their role properly and** in accordance with the law.

~~(ii)~~ b. Councillors will not make **any information** public ~~information which if it~~ is confidential or exempt, without the consent of the Council, or divulge information given in confidence to anyone other than a ~~Councillor or officer~~ **employee** entitled to know it.

~~(iii)~~ c. For these purposes, “confidential” and “exempt” information are defined in the Access to Information ~~Procedure~~ Rules ~~in Part 4 of this Constitution~~ **contained in Appendix 2 of this Constitution.**

## 2.6 Conduct

Councillors will at all times ~~observe the Members' abide by the Council's~~ Code of Conduct ~~and the Protocol on for Members Councillors, Member/Officer Councillor/Employee Relationships Protocol and other general guidance~~ set out in ~~Part 5 of this Constitution~~ **Appendix 2.**

## 2.7 ~~Members' Councillors' Allowances~~

Councillors will be entitled to receive allowances in accordance with the ~~Members' Councillors' Allowances Scheme~~ set out in ~~Part 6~~ **Appendix 2** of this Constitution



## Article 3 - Citizens and The Council

### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate *in Council business* are explained in more detail in the Access to Information Procedure Rules in **Part 4 Appendix 2** of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution *and other matters under Localism Act*.
- (b) **Information.** Citizens have the right to:
  - (i) a. attend meetings of the Council ~~and its Executive~~ *the Cabinet*, the Scrutiny Board, Scrutiny Panels, *and Regulatory and other Committees and Standing Bodies* except where confidential or exempt information is likely to be disclosed. ~~and the meeting is therefore held in private~~;
  - (ii) b. attend meetings of the ~~Executive~~ *Cabinet* when key decisions are being considered;
  - (iii) c. find out from the ~~Forward Plan~~ what key decisions will be taken by the ~~Executive~~ *Cabinet* and when;
  - (iv) d. see reports and background papers, and any records of decisions made by the Council and the ~~Executive~~ *Cabinet*; ~~and~~
  - (v) e. inspect the Council's accounts and make their views known to the external auditor.
  - f. *contact their local councillor about any matters of concern to them*;
  - g. *obtain a copy of the Constitution*.
- (c) **Complaints.** Citizens have the right to complain to:
  - (i) a. the Council ~~itself~~ under its complaints scheme;
  - (ii) b. the Ombudsman after using the Council's own complaints scheme;
  - (iii) c. the Standards Committee ~~for England~~ about a breach of the ~~Members'~~ *Councillors* Code of Conduct.

### 3.2 Citizens' responsibilities

*In pursuing these rights* Citizens must not be violent, abusing or threatening to Councillors or ~~officers~~ *employees* and must not wilfully harm things owned by the Council, Councillors or ~~officers~~ *employees*.

## Article 4 - The Full Council

### Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- (i) **those required by the Local Government Act 2000 and Regulations:**
- ~~• Best Value Performance Plan;~~
  - Children and Young People’s Plan;
  - Sustainable Community Strategy;
  - Crime Community Safety and Drug Reduction Strategy;
  - Licensing Authority Policy Statement
  - Statement of Gambling Policy
  - Local Transport Plan;
  - Plans and alterations which together comprise the Local Development Framework;
  - Youth Justice Plan.
- (ii) **those recommended by the Government**
- The plan and strategy which comprise the Housing Investment Programme including housing finance and rents;
  - Adult Learning and Skills Strategy;
  - Environment Strategy;
- (iii) **those which the Council has decided as a matter of local choice:**
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions’ relating to the control of the Council’s borrowing requirement, investments, 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.~~

(d) Wolverhampton Homes Delivery Plan

4.1 **The Full Council comprises all 60 elected ~~member~~ Councillors of Wolverhampton City Council. By law, there are some things that only the Full Council has the power to do. The person who chairs the Full Council meeting is the Mayor (further details are set out in Article 5).**

4.2 **Functions of the Full Council** Only the Full Council will exercise the following functions:

- a. Adopting and changing the Constitution
- b. Approving ~~or~~ **and** adopting **the Budget and** 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 Appendix 2** of this Constitution, making decisions about any matter in the discharge of ~~an~~ **executive Cabinet** 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. Electing the Leader of the Council ~~and removing him/her from office at any time by passing a resolution to that effect.~~ **at the Annual Council Meeting in accordance with Article 7.6.3.**
- e. **Receiving the Leader's nominations to serve on the Cabinet and Cabinet Panels**
- f. Approving and/or amending the terms of reference for ~~the Cabinet, Cabinet Panels, Cabinet Members' responsibilities, Standing Bodies, area committees and forums, the Scrutiny Board and Scrutiny Panels~~ **all Committees, Panels and Boards (not being Committees Panels or Boards of the Executive Cabinet), and** deciding on their composition and making appointments to them
- g. Appointing representatives to outside bodies unless the appointment is ~~a~~ **an** ~~executive~~ **Cabinet** function or has been delegated by the Council.
- h. **Approving and** adopting, annually, a ~~Members' Councillors' Allowances Scheme under Article 2.5.~~ **Members' Councillors' Allowances Scheme**
- i. Changing the name of the area, conferring the honour of Honorary Alderman or Freedom of the City
- j. ~~Making arrangements to approve~~ **Confirming** the appointment and dismissal of the Head of Paid Service, ~~and~~ **Strategic** Directors (as defined by the Local Government and Housing Act 1989) ~~and the Director of Pensions, West Midlands Pension Fund~~
- k. Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal **Bills Acts**
- l. 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 Cabinet, and~~

- m. ~~Delegation to and from other local authorities under Article 11.~~ **Approval of the Annual Pay Policy**
- n. **Dealing with any petition containing over 2,500 signatures received by the Council in accordance with the Protocol for dealing with Petitions at Council Meetings set out in Appendix 2.**
- o. **A Resolution not to issue a casino premises licence under section 166 of the Gambling Act 2005.**
- p. All other matters which by law must be reserved to **the Council and Strategic Directors.**

#### 4.43 Full Council Meetings

There are three types of **Full Council meeting and their purpose is set out in the Council Procedure Rules in Appendix 2 to this Constitution:**

- a. The Annual Meeting - **This is held in May each year and its main purpose is to elect the Mayor;**
- b. Ordinary Meetings – **These take place approximately every six weeks and include the meeting in March each year at which the Council sets the Budget including the level of Council Tax for the following financial year;**
- c. Extraordinary Meetings – **held ~~wherever~~ whenever ~~the Council believes~~ an additional meeting is required to discuss a specific issue ~~ie~~ such as the conferment of the honour of Freeman or Freedom of the City or Honorary Alderman.**

and they will be conducted in accordance with the Council Procedure Rules set out in ~~Part 4 of this Constitution~~ **Appendix 2.**

#### 4.54 ~~(a)~~ **Policy Framework.** The Policy Framework **means** comprises the following plans and strategies:

~~(i)~~ a. **those required by the Local Government Act 2000 and Regulations:**

- ~~• Children and Young People's Plan;~~
- **Sustainable Community Strategy;**
- **Crime, Community Safety and Drug Reduction Strategy;**
- **Licensing Authority Policy Statement**
- **Statement of Gambling Policy**
- **Local Transport Plan;**
- **Plans and alterations which together comprise the Local Development Framework;**
- **Youth Justice Plan.**

~~(ii)~~ b. **those recommended by the Government**

- **The ~~p~~Plan and ~~s~~Strategy which comprise the Housing Investment Programme including housing finance and rents;**
- **Adult Learning and Skills Strategy;**
- **Environment Strategy;**

~~(iii)~~ *c. those which the Council may decide as a matter of local choice from time to time. These are:-*

- *The Children and Young People's Plan*
- *The Corporate Plan*

**4.65** (b) **Budget** *The ~~b~~Budget includes the allocation of financial resources to different services and projects, including contingency funds, setting the ~~c~~Council ~~t~~Tax and decisions' relating to the Council's borrowing requirements, its investments and the control of its capital expenditure and the setting of virement limits. It includes the Medium Term Financial Strategy and the Capital Management Strategy. The Council sets its budget in March each year.*

(c) *The activities delegated to the Superannuation Committee are not part of the Council's budget, but subject to comparable arrangements controlled and managed by the Superannuation Committee.*

Article 5 - ~~Chairing The Council~~ The Mayor and Deputy Mayor

5.1 Role and function of the Mayor

- a. *The Mayor will be elected and the Deputy Mayor will be appointed at the Annual Council meeting. The methodology for the rotation of the office of Mayor and Deputy Mayor is contained in Appendix 2 to this Constitution.*
- b. *The Council's Code of Conduct for ~~Members~~ Councillors applies to the Mayor and Deputy Mayor.*
- c. *Neither the Mayor nor the Deputy Mayor may be a ~~member~~ Councillor of the ~~Executive~~ Cabinet Member during their respective term of office. The Mayor, during ~~their~~ his/her respective term of office, will not serve on any Regulatory ~~Body~~ Committee of the Council including the Planning and Licensing Committees*
- d. The Mayor and in his/her absence, the Deputy Mayor, have the following roles and functions:

5.2 Ceremonial Role

The Mayor and the Deputy Mayor will represent the City at local, regional, national and international civic and ceremonial events.

5.3 Chairing the *Full Council Meeting*

*The Mayor will be elected and the Deputy Mayor will be appointed ~~by the~~ at the Annual Council ~~annually~~ meeting. The methodology for the rotation of the office of Mayor and Deputy Mayor is contained in ~~Part 5~~ Appendix 2 ~~of~~ to this Constitution.*

- a. *The protocol governing the use of the Mayor's casting vote at meetings of the Full Council is set out in Appendix 2.*

The Mayor ~~will have~~ **has** the following responsibilities:

- ~~(a)~~ a. to uphold and promote **Wolverhampton and** the purposes of the Constitution, and to interpret *and give rulings on* the Constitution where necessary **and following appropriate advice from the Monitoring Officer,**
- ~~(b)~~ b. to preside over meetings of the **Full Council** so that its business can be carried out efficiently and with regard to the rights of ~~e~~Councillors and the interests of the community;
- ~~(c)~~ c. to ensure that the **Full Council** meeting is a forum for the debate of matters of concern to the local community and the place at which ~~members~~ **Councillors** who are not on the **Executive Cabinet** are able to hold the **Executive Cabinet** to account;
- ~~(d)~~ d. to promote public involvement in the Council's activities;
- ~~(e)~~ e. to be the conscience of the Council.

***f. The protocol governing the use of the Mayor’s casting vote at meetings of the Full Council is set out in Appendix 2.***

**~~5.4 Membership of Regulatory Bodies~~**

~~The Mayor, during their respective term of office, will not serve on any Regulatory Body of the Council including Planning and Licensing Committees~~

**~~5.5 Protocol Governing the Use of the Mayor’s Casting Vote~~**

~~The protocol governing the use of the Mayor’s casting vote is contained in Part 5 of this Constitution.~~

## Article 7 6 - The ~~Executive Cabinet~~

### 76.1 Role

The ~~Executive Cabinet~~ will carry out all the ~~local authority's~~ **Council's** functions which are not the responsibility of any other part of the ~~local authority~~ **Council**, whether by law or under this Constitution. ~~The Executive Cabinet will also formulate policy listed in the Policy Framework and the Budget for to consideration by Full Council.~~

### 76.2 Form and Composition

The ~~Executive Cabinet~~ will ~~consist of~~ **comprise** the Leader **of the Council** together with at least 2, ~~but not more than~~ **and up to a maximum of** 9, Councillors appointed ~~to the Cabinet~~ by the Leader.

### 76.3 Leader of the Council

~~In accordance with the decision of the Council on 16 December 2009 and the Local Government and Public Involvement in Health Act 2007~~ the Leader ~~will~~ **must** be ~~a councillor~~ elected ~~to the position of Leader~~ by the Council **at its annual meeting following the Local Government Elections for a period of 4 years or for up to the end of his/her term of office as a Member Councillor whichever is shorter.** The Leader will hold office ~~for a period of four years or~~ until:-

~~(a) his/her term of office as a councillor expires; or~~

- a. he/**she** resigns from the office; or
- b. ~~he/she~~ is suspended from being a councillor under Part ~~III~~ **3** of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension) **(NB. Will change post Localism Act); or**
- c. he/**she** is no longer a councillor; or
- d. ~~he/she is removed from office~~ by resolution of the Council, **in which case a new Leader will be elected either at the meeting approving the resolution or at a subsequent meeting.**

~~(Note(1) Where the Leader is removed from office by resolution of the Council, at that same meeting, the council will elect a new leader)~~

~~(Note(2) There is an accepted understanding amongst political groups that~~ Upon any change in the political control of the ~~e~~**Council**, the ~~!Leader~~ will resign from office without the need for ~~(e)~~ **6.3(d)** above to be invoked.)

### 76.4 Other ~~Executive Cabinet~~ Members

Other ~~Executive Cabinet~~ Members shall **be appointed annually by the Leader and will** hold office until:

- a. they resign from office; or
- b. ~~they are suspended from being a Councillors~~ under Part ~~III~~ **3** of the Local Government Act 2000 (although they may resume office at the end of the period of suspension) **(NB. Will change post-Localism Act); or**
- c. they are no longer ~~a Councillors~~; or
- d. they are removed from office, ~~either individually or collectively,~~ by the Leader **who must give notice in writing of any removal to the Proper Officer. The removal**



~~will take effect two working days after the receipt of the notice by the Proper Officer.~~

#### ~~7.5 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.~~

#### ~~7.6 Responsibility for functions~~

~~The Council will set out in Part 3 of this Constitution which members of the Executive, Cabinet Panels, officers or joint arrangements are responsible for the exercise of particular executive functions.~~

#### **7.6.5 Responsibility for Functions**

**The Leader notifies the ~~Executive~~ Cabinet and Full Council which of the individual ~~members of the Executive~~ Cabinet Members, Committees of the ~~Executive~~ Cabinet and ~~officers~~ employees or joint arrangements are responsible for the exercise of particular ~~Executive~~ Cabinet functions.**

#### **7.6.6 ~~Portfolio~~ Responsibilities of Cabinet Members**

**The current ~~portfolio~~ responsibilities of Cabinet Members are shown in Appendix 1**

#### **7.6.7 The roles and functions of the ~~Executive~~ Cabinet are as follows:**

- a. **Responsibility for proposing, consulting on, developing, monitoring, reviewing and advising the Council on the budget and the policy framework**
- b. **To be responsible for all decisions relating to the implementation of Council policy.**
- c. **Making decisions on expenditure provided they are within the budget set by the Council and in accordance with the Financial Regulations and may vire budgets within limits as decided from time to time.**

**The ~~Executive~~ Cabinet is responsible for:**

- d. **Monitoring the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, requiring or approving any remedial action to be taken where it considers it to be necessary and appropriate**
- e. **Approving, monitoring and reviewing the Council's human resources policies**
- f. **Approving, monitoring and reviewing the provision of services to the Council delivered by external or internal suppliers**
- g. **Advising the Council on strategic matters in relation to corporate governance, community governance and community strategy**
- h. **Monitoring and reviewing issues relating to area working**

- i. Carrying out all functions in respect of the organisation of schools under the Education and Inspections Act 2006 or any subsequent amending legislation
- j. Exercising the Council's emergency functions in the event of a major emergency incident in the area, or in a neighbouring area, if it affects or might affect the residents, business or economy of the area, subject to the urgent action provisions being used as necessary
- k. The ~~Executive~~ Cabinet shall make recommendations to the Council on any topic when directed by the Council
- l. The ~~Executive~~ Cabinet shall except so far as specifically allocated to Full Council or any other Committee or Sub-Committee, discharge all operational functions of the Council.

~~76.8~~ The Council delegates its powers and duties to the ~~Executive~~ Cabinet so far as it is necessary to discharge these responsibilities. These are set out in Appendix 1.

~~76.9~~ The ~~Executive~~ Cabinet will conduct its meetings in accordance with the ~~Executive~~ Cabinet Procedure Rules set out in Appendix 2.

~~76.10~~ The ~~Executive~~ Cabinet may carry out the functions set out in Article ~~76.7~~:

- a. Itself;
- b. Through a Committee of the ~~Executive~~ Cabinet, which may co-opt other ~~Members~~ Councillors or persons who if so co-opted will not be voting members ~~of the committee~~
- c. By delegating its power to an individual Cabinet Member ~~of the Executive~~ (subject to rules to be approved by Council from time to time currently see Rule 24 Appendix 2)
- d. By delegating its power to an ~~officer~~ employee, who shall exercise that power in accordance with the scheme of delegation to ~~officers~~ employees set out in Appendix 1.
- e. For the purposes of this Constitution decisions made by the ~~Executive~~ Cabinet itself or by a Committee of the ~~Executive~~ Cabinet are called Amber Decisions
- f. For the purposes of this Constitution, decisions made by an Individual Cabinet Member ~~of the Executive~~ are called Green Decisions.

~~76.11~~ The ~~Executive~~ Cabinet may appoint any advisory bodies such as task groups or policy development boards it deems necessary, comprising any Cabinet Members ~~of the executive~~, other ~~members~~ Councillors or persons. These bodies cannot exercise ~~executive~~ Cabinet functions.

NB: Certain functions listed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent amendments of these Regulations cannot be exercised by the ~~Executive~~ Cabinet.

### **7.6.12 Urgent Decisions outside the Budget or Policy Framework**

An urgent decision which is contrary to the Policy Framework or budget adopted by the Council may be taken by the ~~Executive Cabinet~~ if the Chair~~man~~ of ~~the~~ Scrutiny ~~Board~~ agrees that the decision is urgent. If no such Chair~~man~~ is available (or willing) then the Mayor or in his/her absence the Deputy Mayor may agree that it is urgent before a decision ~~may be implemented~~ is-taken.

### **6.13 Urgent Business**

*Where an urgent decision on a matter delegated to the Cabinet is required but it is not feasible to arrange a meeting of the Cabinet, the appropriate Strategic Director in conjunction with the Chief Executive is authorised to take the appropriate urgent action provided that the action shall have first been discussed with and approved in writing by the Leader (or in the Leader's absence, the Deputy Leader) and two other Cabinet Members and the Chair and Vice-Chair of the Scrutiny Board or their nominees..*

*The written authorisation must include details of the proposal and justification of using the Urgent Business Procedure. Expenditure must be within existing budgets. Any action taken under this rule must be reported to the next available meeting of the Cabinet for information. Such decisions will not be subject to the usual Call In procedures set out in Appendix 2, although they may be examined after implementation to determine whether the justification for the course of action was appropriate.*

Article 6 7 – Overview and Scrutiny Arrangements

6.7.1 Terms of reference

The Council will appoint a Scrutiny Board and Scrutiny Panels as set out ~~in the left hand column of the table~~ below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters ~~set out in the right hand column of the same table~~ **indicated**.

Scrutiny Board and Scrutiny Panels	Scope
Scrutiny Board	The co-ordination of the work of the Scrutiny Panels, <del>Policy</del> <b>Scrutiny Review Groups, Member Champions and Scrutiny Commissions Inquiries</b> . Scrutiny of the work of the Cabinet.
Children and Young People	The scrutiny of the provision of all local authority services for children and young people including education and learning, social care, special needs, play provision.
Adults and Community	The scrutiny of the provision of social care and support services; supported housing services; health and welfare services; community and cultural services and leisure provision.
Safer Communities	The development of scrutiny of crime and disorder and community safety issues in accordance with the Police and Justice Act 2006.
Sustainable Communities	Working with communities to promote sustainable development. The delivery of sustainable planning and economic regeneration, strategic housing, coordinated planning, highways, transportation and environmental policies.
Performance, Governance and Support Services	The oversight of organisation and performance and human, financial, technical and material resources to support the delivery of Council services.
Health	Health Scrutiny in accordance with the Health and Social Care Act 2001.

## 67.2 General role of the Scrutiny Board and Scrutiny Panels

Within the terms of reference set out in the Overview and Scrutiny Procedure Rules in ~~Part 4 Appendix 2~~ of this Constitution ~~the Scrutiny Board will:~~

- ~~(i)~~ a. Co-ordinate the work of the Scrutiny Panels and Scrutiny Review Groups.
- ~~(ii)~~ b. Receive reports from the Member Champion every six months and give consideration to the work ~~done~~ **undertaken** and issues that the Member Champion wishes scrutiny to consider investigating further.
- ~~(iii)~~ c. Maintain regular dialogue with the ~~Executive~~ **Cabinet** on service improvement, performance management of cross-cutting issues, policy development and budgetary provision.
- ~~(iv)~~ d. Oversee and ensure access to appropriate learning and development for scrutiny ~~members~~. **Councillors**
- ~~(v)~~ e. Discharge the call-in procedures.

The Scrutiny Panels will:

- ~~(i)~~ f. Maintain regular dialogue with the ~~Executive~~, **Cabinet** Scrutiny Board and Member Champion.
- ~~(ii)~~ g. Ensure that members of the public and stakeholders are informed of and involved in issues within the remit of each Panel.
- ~~(iii)~~ ~~Discharge the call-in procedure.~~

## 67.3 Proceedings of the Scrutiny Board and Scrutiny Panels

The Scrutiny Board and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in ~~Part 4 Appendix 2~~ of this Constitution.

## Article 8 - Regulatory and Other Committees

### 8.1 Regulatory and Other Committees

~~The Council will appoint the Standing Bodies set out in Part 3 of this Constitution to discharge the functions described therein.~~

- a. *The Annual Council meeting will appoint **annually** the following Regulatory and other Committees:-*

*The Planning Committee  
The Licensing Committee  
The Superannuation Committee  
The Standards Committee  
The Audit Committee  
The Petitions Committee  
Appeals Panel*

- b. *These Committees will discharge their responsibility for functions in accordance with Appendix 1 of this Constitution and also in accordance with the Council Procedure Rules set out in Appendix 2.*

### 8.2 ~~Member Reference~~ Steering Groups

- a. *From time to time, Full Council may appoint time limited cross party ~~Member Reference~~ Steering Groups whose role and remit will be to oversee a specific emerging subject matter including consideration of policy, strategy and detail including regular monitoring and scrutiny in accordance with approved Terms of Reference to ensure relevant targets and key milestones are met. The ~~considerations~~ of any recommendations of ~~Member Reference~~ Steering Groups, including options appraisal, must be formally reported to and approved by the Cabinet or appropriate Cabinet Panel.*
- b. *~~Member Reference~~ Steering Groups will discharge their responsibility for functions in accordance with the Council Procedure Rules set out in Appendix 2.*

Article 9 - ~~The~~ Standards ~~Committee~~ of Conduct

9.1 CODE OF CONDUCT FOR ~~MEMBERS~~ COUNCILLORS

- a. *The Council has resolved to include the Ten General Principles of Public Life as a preamble to the Code of Conduct for ~~Members~~ Councillors which is set out in Appendix 2. These principles define the standards that ~~members~~ Councillors should uphold and serve as a reminder of the purpose of the Code of Conduct.*
- b. *The Ten General Principles of Public Life*

*Selflessness - ~~members~~ Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.*

*Honesty and integrity - ~~members~~ Councillors should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.*

*Objectivity - ~~members~~ Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.*

*Accountability - ~~members~~ Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.*

*Openness - ~~members~~ Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.*

*Personal judgement - ~~members~~ Councillors may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.*

*Respect for others - ~~members~~ Councillors should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's Statutory Officers and its other employees.*

*Duty to uphold the law - ~~members~~ Councillors should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.*

*Stewardship - ~~members~~ Councillors should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.*

*Leadership - ~~members~~ Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.*

## 9.2 CODE OF CONDUCT FOR EMPLOYEES

a. The Council has also introduced a Code of Conduct for ~~Officers~~ Employees which is set out in Appendix 2.

~~1.1 a.b.~~ The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment.

~~1.2 b.c.~~ The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. The Code is based upon a standard code approved by the local authority associations.

~~1.3 e.d.~~ The Code applies to all local government employees in Wolverhampton.

~~d.e.~~ Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within the Council, including office holders such as registrars.

## 9.1 Standards Committee

The Council will establish a Standards Committee and three Sub Committees:-

- (i) Assessment Sub-Committee;
- (ii) Review Sub-Committee, and
- (iii) Hearing Sub-Committees as and when required for particular hearings, comprising where possible, Members who have not been involved on the assessment or review of the particular matter.

## 9.2 Composition

(a) **Membership.** The Standards Committee will be composed of:

- the Mayor, Deputy Mayor and four elected Members of the Council and;
- six persons (called “independent members”) who are appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001 and the Standards Committee (England) Regulations 2008.

The Sub-Committees set out in paragraph 9.1 will be convened to deal with individual complaints. Membership will not be static.

- Each of the Sub-Committees will be comprised of 4 Members:
- A member who has considered a complaint as part of the Assessment Sub Committee will not sit on a Review Sub-Committee dealing with the same complaint.



- (b) **Independent** members. Independent Members will be entitled to vote at meetings of the Standards Committee only when any of the matters set out in Article 9.3 are being
- (c) **Chairing the Committee.** A member of the Council may not chair the Committee. An Independent Member will chair the Committee and all Sub-Committees.

### ~~9.3 — Ethical Role and Functions~~

~~The Standards Committee will have the following terms of reference:~~

- ~~(a) to promote and maintain high standards of conduct by councillors, independent members and church and parent governor representatives;~~
- ~~(b) to assist councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;~~
- ~~(c) to receive, assess and refer complaints that a Councillor, Co-opted member or Church and Parent Governor representative have failed to comply with the Council's Code of Conduct under local assessment arrangements through its sub-committees.~~
- ~~(d) to appoint a Hearing Sub-Committee where it has been agreed by a Sub-Committee that one is required.~~
- ~~(e) advising the Council on the adoption or revision of the Members' Code of Conduct and Members' Allowances Scheme;~~
- ~~(f) monitoring the operation of the Members' Code of Conduct and Members' Allowances Scheme;~~
- ~~(g) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;~~
- ~~(h) granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;~~
- ~~(i) advising the Council generally on the revision of the Constitution and particularly the Officers Code of Conduct and the Protocol on Member/Officer Relationships;~~
- ~~(j) maintaining oversight of the Council's whistle blowing policy;~~
- ~~(k) maintaining oversight of the Council's Complaints and Compliments procedure;~~
- ~~(l) maintaining oversight of the Local Code of Corporate Governance.~~

### ~~9.4 — Additional Role and Functions~~

~~The Standards Committee will have the following additional roles and functions:~~

- ~~(a) to liaise between the Council and the Ombudsman;~~

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- ~~(b) to advise the Council on the conferment of the title of Honorary Alderman or Freedom of the City;~~
- ~~(c) to advise the Council on the making, amendment, revocation or re-enactment of bylaws and the promotion of or opposition to local or personal Acts in Parliament.~~

Article 10 - ~~Area Structures~~ – The Local Partnership and Local Neighbourhood Partnerships

10.1 Local ~~Strategic~~ Partnership

- a. *The Wolverhampton Partnership, the City's Local Partnership, comprises organisations from across the public sector, businesses and voluntary and community sectors who work together to ensure shared priorities for the City are achieved.*
- b. *Its aim to bring together the commitment, resources, energy and skills of the City's organisations, groups and communities to achieve our shared vision and goal: to improve the prosperity and quality of life for local people and revitalise our City. Its main purpose is to work together to achieve the City Strategy priorities and objectives, to raise the City's profile and image, and to involve communities and residents in influencing how services are delivered and improved.*
- c. *It is vital that everyone benefits from the City Strategy, including the most vulnerable people in the community.*
- ~~d. The Partnership comprises an Executive Board, three delivery groups (clusters), sub-groups and a stakeholder forum.~~

10.12 Area Structures

The Council may appoint area structures (which may be known by other titles) as it thinks fit.

10.23 Form, composition and function

- a. The Council and its partners have established ~~fifteen~~ **14 Area Structures known as** Local Neighbourhood Partnerships ~~as set out in the Neighbourhood Renewal Strategy~~ to cover the neighbourhoods as indicated below:
  - Bilston East
  - Bilston North
  - Ettingshall
  - Bantock ~~Partnership~~
  - ~~Heath Town~~ **Heathfield Park**
  - ~~Bushbury South~~/Low Hill and ~~the~~ Scotlands/~~Underhill~~
  - Wednesfield/~~Long Knowle/part of~~ **and** Fallings Park
  - Whitmore Reans ~~and Dunstall~~
  - East Park
  - Oxley and Bushbury North
  - Springvale
  - Tettenhall
  - Blakenhall
  - Penn ~~and Merry Hill~~
  - ~~• City Centre~~

**10.34 b.** Each Area Structure will ~~agree~~ **approve** its own internal arrangements that best reflect the needs of its area (although for consistency across the ~~15~~ **14** LNEP's a common governance framework and Terms of Reference will be adopted. This will generally comprise:

- A Core Group meeting at least quarterly
- A wider Forum which will meet as determined locally.

~~The Local Strategic Partnership will determine the level of funding for:~~

**c. The City Council will determine the level of funding for:-**

- delegated budgets for small projects/grants; and
- support for work and development of Local Neighbourhood Partnerships

~~In addition, following the report to Cabinet dated 14 July 2010, the LSP Board has the following delegations:~~

- ~~Authority is delegated to the LSP Board to approve expenditure and/or savings plans for any funding that is allocated to the LSP to manage by the Council, including the approval of payment of grants to individuals and/or external bodies~~
- ~~Authority is delegated to the LSP Board to approve expenditure and/or savings plans for any funding received from outside of the Council where the Council is then given responsibility for spending those monies by the LSP.~~
- ~~Financial updates will be provided by the LSP within future quarterly revenue budget monitoring reports to Cabinet (Resources) Panel and these updates will be developed with support from the Council's Finance Department.~~

~~Council Members should not directly seek the position of Chair of their Local Neighbourhood Partnership (LNP) unless expressly requested by representatives of the wider community who attend the LNP meetings.~~

#### **~~10.4~~ Code of Conduct for Members**

~~The Council's Code of Conduct for Members applies to Local Neighbourhood Forum meetings.~~

#### **10.54 Access to Information**

Area structures will comply with the Access to Information Rules in **Part 4 Appendix 2** of this Constitution. Agendas and notices for area structure meetings which deal with both functions of the ~~Executive~~ **Cabinet** and functions which are not the responsibility of the ~~Executive~~ **Cabinet** will state clearly which items are which.

## Article 11 - Joint Arrangements

### 11.1 Arrangements to Promote Well Being

The **Executive Cabinet**, 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.

### 11.2 Joint Arrangements

- a. The Council may establish joint arrangements with one or more local authorities to exercise functions which are not **executive Cabinet** 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 Cabinet** may establish joint arrangements with one or more local authorities to exercise functions which are **executive Cabinet** functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.

***Except as set out below the Executive Cabinet may only appoint Executive Cabinet Members to a Joint Committee and those members Councillors need not reflect the political composition of the Council as a whole.***

***The Executive Cabinet may appoint members Councillors to a Joint Committee from outside the executive Cabinet in the following circumstances:***

- ***the Joint Committee has functions for only part of the area of the authority and that area is smaller than two fifth of the authority by areas or population. In such cases the Executive Cabinet may appoint to the Joint Committee any Councillor who is a member Councillor for a ward which is wholly or partly contained within the area;***
  - ***the Joint Committee is discharging a function in relation to five or more authorities;***
  - ***the function which the Joint Committee is discharging is a function which is required by statute to be discharged by a Joint Committee;***
  - ***political balance requirements do not apply to such appointments.***
- c. Details of any joint arrangements including delegations to Joint Committees will be found in the Council's scheme of delegations in **Part-3 Appendix 1** of this Constitution.

### 11.3 Access to information

The Access to Information Rules in **Part-4 Appendix 2** of this Constitution apply **to Joint Arrangements**.

#### 11.4 Delegation to and from Other Local Authorities

- a. The Council may delegate functions to another local authority or, in certain circumstances, the **Executive Cabinet** of another local authority.
- b. The **Executive Cabinet** may delegate **executive Cabinet** functions to another local authority or the **Executive Cabinet** 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 meeting.

#### 11.5 Contracting Out

The Council in respect of non-**executive Cabinet** functions and the **Executive Cabinet** in respect of **executive Cabinet** functions may contract out to another body or organisation functions which may be exercised by an **officer employee** 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 under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

#### 11.6 Shadow Health and Well Being Board

- a. ***The Council has established, in accordance with legislation, a Shadow Health and Well Being Board in conjunction with partner organisations to have leadership responsibility for a number of key partnership areas including oversight of Public Health arrangements, Local Health Watch, assessment of local need, health promotion, health improvements, joint commissioning and local safeguarding arrangements across both adults and children.***
- b. ***The Shadow Health and Well Being Board will discharge its responsibility for functions in accordance with its Terms of Reference set out in Appendix 1 of this Constitution and in accordance with the Council Procedure Rules set out in Appendix 2 of this Constitution.***

Article 12 – ~~Officers~~ Employees

12.1 Management Structure

- a. **General.** The Full Council may engage such ~~staff (referred to as officers)~~ **employees** as it considers necessary to carry out its functions.
- b. **Head of Paid Service, Monitoring Officer and Section 151 Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director (Governance)	Monitoring Officer
<del>Section 151 Officer</del> <b>Assistant Director (Corporate Services)</b>	Section 151 Officer

~~Such~~ **These** posts will have the functions described in Articles 12.2 – 12.4 below in addition to responsibility for the functions undertaken by the Service Group(s) which they manage.

- c. The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of ~~officers~~ **employees**. This is set out in ~~Part [7]~~ **Appendix 2** of this Constitution.

12.2 Functions of the Head of Paid Service

- a. **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of ~~officers~~ **employees** required for the discharge of functions and the organisation of ~~officers~~ **employees**.
- b. **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

- a. **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to- date version of the Constitution and will ensure that it is widely available for consultation by ~~members~~ **Councillors**, ~~staff~~ **employees** and the public.
- b. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council or to the ~~Executive~~ **Cabinet** in relation to an ~~executive~~ **Cabinet** function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c. **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**d. Receipt, assessment, referral and determination of complaints** that ~~Members Councillors~~ have not complied with the Code of Conduct

~~**e. Receiving reports.** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.~~

~~**f.e. Conducting investigations.** The Standards Committee or the Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.~~

*(all above change post Localism Act)*

~~**g.f. Proper Officer for access to information.** The Monitoring Officer will ensure that ~~executive~~ **Cabinet** decisions, together with the reasons for those decisions and relevant ~~officer~~ **employee** reports and background papers are made publicly available as soon as possible.~~

~~**h.g. Advising whether ~~executive~~ Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the ~~Executive~~ **Cabinet** are in accordance with the budget and policy framework.~~

~~**h.h. 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.~~

~~**j.i. Restrictions on posts.** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.~~

#### 12.4 Functions of the Section 151 Officer

**a. Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Full Council or to the ~~Executive~~ **Cabinet** in relation to ~~an~~ ~~executive~~ **Cabinet** function and the Council's external auditor if he 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 Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

**c. Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**d. Providing advice.** The Section 151 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 will support and advise Councillors and ~~officers~~ **employees** in their respective roles.



**12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such ~~officers~~, **employees** accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.6 Conduct**

~~Officers~~ **Employees** will comply with the ~~Officers'~~ **Employees'** Code of Conduct and the Protocol on ~~Officer~~**Employee**/~~Member~~**Councillor** Relationships set out in ~~Part 5~~ **Appendix 2** of this Constitution.

**12.7 Employment**

The recruitment, selection and dismissal of ~~officers~~ **employees** will comply with the ~~Officer~~ **Employee** Employment Rules set out in ~~Part 4~~ **Appendix 2** of this Constitution.

## Article 13 - Decision Making

### 13.1 Responsibility for decision making

The Council will issue and keep up to date a record which describes which part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions. This record is set out in **Part 3 Appendix 1** of this Constitution.

### 13.2 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** - including the taking of professional advice from **officers employees**;
- c. respect for human rights;
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes;
- f. due consideration to alternative options;
- g. **recording** provision of the reasons for the decision (**providing that this does not involve a breach of confidentiality**)
- h. to take into consideration **financial, legal, equalities and** risk implications

### 13.3 Types of decision

~~a~~ **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the Full Council **only** and not delegated. **These are known as Red Decisions.**

~~b~~**a** Key decisions.

**Key decisions may not be taken by an individual Cabinet Member.**

A key decision is an **executive Cabinet** decision which is likely:

to result in the 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

to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

~~c~~**b** A decision maker may only make a key decision in accordance with the requirements of the **Executive Cabinet** Procedure Rules set out in **Part 4 Appendix 2** of this Constitution.

**Note:** The Council has determined that expenditure or savings in excess of £200,000 will be deemed significant. This figure will be reviewed by the Council from time to time.

**Key decisions may not be taken by an individual Cabinet Member.**

- a.c. ~~Decisions reserved to full Council.~~ **Decisions relating to the functions listed in Article 4.2 will be made by the Full Council only and not delegated. These are known as Red Decisions.**
- d. **Decisions relating to the functions listed in the delegations to the Cabinet and Cabinet Panels are referred to in Appendix 1. These are known as Amber Decisions.**
- e. **Decisions of individual Cabinet Members relating to their individual ~~portfolio~~ Cabinet responsibilities and are listed in Appendix 1. These are known as Green Decisions.**

#### ~~13.4 Decision making by the full Council~~

~~Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part [4] **Appendix 2** of this Constitution when considering any matter.~~

#### ~~13.5 Decision making by the Executive~~

~~Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part [4] Appendix 2 of this Constitution when considering any matter.~~

#### ~~13.6 Decision making by the Scrutiny Board and Scrutiny Panels~~

~~The Board and Panels will follow the Overview and Scrutiny Procedure Rules set out in Part 4 Appendix 2 of this Constitution when considering any matter.~~

#### ~~13.7 Decision making by Committees and Sub-Committees established by the Council~~

~~Subject to Article 13.8, Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 Appendix 2 of this Constitution as apply to them.~~

- f. **Decisions of individual Cabinet Members in conjunction with Designated Officers in respect of matters which have been delegated to them by the ~~Executive~~ Cabinet. All such decisions must be reported back to the ~~Executive~~ Cabinet as evidence that the decision has been made.**

#### 13.4 Decision making by Council bodies acting as tribunals

The Council, a councillor or an ~~officer~~ **employee** 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.

#### 13.5 Urgent Decisions

**The Cabinet and Regulatory and Other Committees may in exceptional circumstances make urgent decisions.**

**The procedure for making urgent decisions by the Cabinet is set out in Article 6 and by Regulatory and Other Committees in Part 8 of Appendix 1 —~~Delegations to all Regulatory and Other Committees.~~**

### ~~13.9 — Decision Making During the Summer Recess~~

~~(1) — During the period of the summer recess, when there are no planned meetings, urgent decisions of—~~

~~(a) — The Executive; or~~

~~(b) — Regulatory and other Committees and Standing Bodies will be taken by the Chief Executive, a Strategic Director or Assistant Director (designated Officer) in consultation with the relevant Cabinet Member or, in his/her absence, the Leader as respects (a) above; or with the Chair, Vice-Chair and Shadow Chair (or their nominees) of the relevant Committee or body as respects (b) above; subject to paragraph 2 below.~~

~~(2) — The designated Officer must take the following steps:—~~

~~(i) — When dealing with an urgent Amber Executive Decision, the designated Officer must~~

~~(a) — obtain the written agreement of the relevant Cabinet Member or in his/her absence the Leader to the required course of action, unless there are exceptional circumstances that prevent him/her from being consulted~~

~~(b) — consult at least one opposition Member of the Call In Group or the principal opposition spokesperson for the service area under consideration to obtain his/her written approval to the proposed decision.~~

~~(ii) — On receipt of written approval in accordance with paragraph (i) above, the decision shall be treated as an amber decision which has not been called in for scrutiny and is capable of being implemented.~~

~~(iii) — If, within three working days of it being sought not received approval of or has received an objection from the opposition member of the call in group or the principal opposition spokesperson to the proposed decision, the decision shall be treated as having been called in for scrutiny.~~

~~(3) — Decisions made in accordance with this paragraph shall be:—~~

~~(a) — in accordance with a report format approved by the Monitoring Officer; and~~

~~(b) — formally recorded and reported by the Monitoring Officer for information to the next available meeting of the Executive, Regulatory, other Committee or Standing Body.~~

## **Article 14 - Finance, Contracts and Legal Matters**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in ~~Part 4~~ **Appendix 2** of this Constitution.

### **14.2 Contracts**

Contracts made by the Council will comply with the Contracts Procedure Rules set out in ~~Part 4~~ **Appendix 2** of this Constitution.

### **14.3 Legal proceedings**

The Assistant Director (Governance) 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 he **or she** considers that such action is necessary to protect the Council's interests.

### **14.4 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 Assistant Director (Governance) or other person authorised by him **or her**, unless any enactment otherwise authorises or requires. ~~or the Council has given requisite authority to some other person.~~

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director (Governance). A decision of the Council, or of any ~~part of it~~ **properly constituted body of the Council**, 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 Assistant Director (Governance) should be sealed. The affixing of the Common Seal will be attested by the Authorised Officer i.e. the Assistant Director (Governance) or some other person authorised by him/her.

## Article 15 - Review and Revision of the Constitution

### 15.1 ~~(a)~~ Duty to monitor and review the constitution

#### a. The Monitoring Officer

~~The Standards Committee~~ **The Monitoring Officer** will monitor and review the operation of the Constitution to ensure that ~~the~~ **its** aims and principles ~~of the Constitution~~ are given full effect.

#### ~~(b)~~ ~~Special Advisory Group~~

~~The Special Advisory Group, referred to in Part 3/58 will advise the Monitoring Officer on matters relating to the Constitution.~~

#### ~~(c)~~ **b. Protocol for monitoring and review of constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

### 15.2 Changes to the Constitution

**Approval.** Changes to the constitution will ~~only~~ be approved **only** by the Full Council after consideration of the proposal by the Monitoring Officer, **the Constitution Review Group, the Special Advisory Group** and the Standards Committee.

### 15.3 Constitution Review Group

**The Constitution Review Group comprising the Monitoring Officer and other relevant ~~Officers~~ employees will ~~insist~~ assist in monitoring, reviewing and proposing changes to the Constitution above for consideration by the Special Advisory Group, Standards Committee and Full Council.**

## **Article 16 - Suspension, Interpretation and Publication of the Constitution**

### **Article 16 - Suspension, Interpretation and Publication of the Constitution**

#### **16.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended. The Rules may be suspended to the extent permitted within those Rules and the law.

#### **16.2 Interpretation**

- a. ***Except as provided below; the ruling of the Monitoring Officer as to the interpretation of this Constitution will be final.***
- b. ***In relation to Proceedings of Full Council, the ruling of the Mayor as to the construction ~~or~~ and application of ~~this~~ the Constitution ~~will have regard to the purpose of this Constitution contained in Article-1~~ shall not be challenged at any meeting of the Full Council.***

#### **16.3 Publication**

- a. ~~The Assistant Director (Governance)~~ ***The Monitoring Officer*** will ***give provide upon request*** a printed copy of this Constitution to each ~~member~~ ***Councillor*** of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the ~~member~~ ***Councillor*** first being elected to the Council.
- b. ~~The Assistant Director (Governance)~~ ***The Monitoring Officer*** will ensure that copies ***of the Constitution*** are available for inspection at ~~the~~ ***Council's*** offices, libraries and other appropriate locations ***and will be made available on the Council's website*** and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. ~~The Assistant Director (Governance)~~ ***The Monitoring Officer*** will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary. ***Only if there is to be a summary.***
- ~~(d) — A copy of the Constitution will be made available on the Council's website.~~

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

The following parts of this Constitution constitute the **executive Cabinet** arrangements:

1. Article ~~76~~ (~~The Executive Cabinet~~) and the **Executive Cabinet Procedure Rules**;
2. Article ~~67~~ (~~Overview and Scrutiny Arrangements~~) and the **Overview and Scrutiny Procedure Rules**;
3. Article 10 (~~Area Committees and Forums~~ **The Local Partnership and Local Neighbourhood Partnerships**) to the extent to which functions have been delegated to them by the **Executive Cabinet**;
4. Article 11 (Joint arrangements) to the extent to which functions have been delegated by the **Executive Cabinet**;
5. Article 13 (Decision ~~m~~**Making**) and the Access to Information Procedure Rules **contained in Appendix 2**;
6. ~~Part 3~~ **Appendix 1** (Responsibility for Functions).





# WOLVERHAMPTON CITY COUNCIL

## *DELEGATIONS / RESPONSIBILITY OF FUNCTIONS*

*[This document forms part of the  
Constitution]*

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**1**

**Responsibility for Functions**

Responsibility for Functions  
Delegation to ~~Officers~~ **Employees**

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## 1. INTRODUCTION

1.1 The Local Authorities (Functions and Responsibilities) (England) Regulations (as amended) give effect to section 13 of the Local Government Act 2000 by specifying:-

- which functions are not to be the responsibility of the **Executive Cabinet**;
- which functions may (but need not) be the responsibility of the **Executive Cabinet** (local choice functions);
- which functions are to some extent the responsibility of the **Executive Cabinet** ;
- all other functions not so specified are to be the responsibility of the **Executive Cabinet** .

1.2 The following pages set out:

- those functions which are the responsibility of the **Executive Cabinet** and how those functions have been delegated to the Cabinet or a Cabinet Panel;
- those functions which are not the responsibility of the **Executive Cabinet** and how those functions have been retained by the full Council or delegated to a **Standing Body Regulatory or other Committee** of the Council. **Standing Bodies Regulatory or other Committees** of the Council are variously titled as shown but are “Committees of the Council” for the purposes of the Local Government Acts;
- those functions which are delegated to **officers employees**.
- All Cabinet Members share collective responsibility for the proper discharge of Council functions. Each Cabinet Member has lead individual or collective responsibility for cross cutting themes and discrete functions. Individual and collective responsibilities are identified against each function. This does not prevent other Cabinet Members from exercising these or related functions as appropriate, neither does it detract from their collective and supportive role. The notation is intended to assist in identifying who has lead responsibility for the function in question. The **Executive Cabinet** Procedure Rules in **Part 4 Appendix 2** of this Constitution specify how and by whom **executive Cabinet** decisions may be made.

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
1. ORGANISATION AND CO-ORDINATION	
1.1 To organise the work of the Council and to advise the Council on the number, scope and functions of and delegations to Cabinet Panels, Cabinet Members, <del>Standing Bodies</del> , <b>Regulatory or other Committees</b> , Area Committees and Forums, the Scrutiny Board and Scrutiny Panels.	Leader
1.2 To appoint and remove from office the Deputy Leader and Cabinet Members	Leader
1.3 To advise the Council on membership of Cabinet Panels, <del>Standing Bodies</del> , <b>Regulatory or other Committees</b> , Area Committees and Forums and the Scrutiny Board and Scrutiny Panels.	Leader
1.4 To co-ordinate the work of the <del>Executive Cabinet</del> and to consider and advise the Council and the Cabinet Panels on major items of policy.	Leader/ALL
1.5 To work positively with the Scrutiny Board and Scrutiny Panels to formulate policies and practices and to ascertain the views of partners, other organisations and individuals.	Leader/ALL
1.6 To consider and, where appropriate, act on the advice and recommendations of the Scrutiny Board and Scrutiny Panels.	Leader/ALL
1.7 To advise the Council on matters of relevance arising from the deliberations of the Police Authority and any Joint Boards and Joint Committees set up under the provisions of the Local Government Act 1985.	Leader/ALL
1.8 To appoint representatives on outside bodies if requested to do so by the Council.	Governance and Performance
1.9 To advise the Council on Parliamentary and boundary matters and the Council's functions relating to European, Parliamentary and local elections.	Governance and Performance
2. BUDGET AND POLICY FRAMEWORK	
2.1 To prepare the budget and policy framework for consideration by the Council.	Leader/Resources
2.2 To consult on and prepare the revenue and capital budgets for submission to and approval by the Council.	Leader/Resources

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
2.3 To determine the Council Tax base.	Leader/Resources
2.4 To consult with the business community, the voluntary sector and individuals and then to advise the Council on the level of Council Tax and the amount to be charged to the Collection Fund for Council services.	Leader/Resources
2.5 To submit, on behalf of the Council, representations to the Local Government Association on major policy issues.	Leader
<b>3. CORPORATE/COMMUNITY PLANNING</b>	
3.1 To lead the community planning process.	Leader
3.2 To work with partners and other bodies to establish a strategy to promote the economic, social and environmental well-being of Wolverhampton and its citizens.	Leader/ALL
3.3 To take direct responsibility for particular areas of partnership working of key importance to the strategic objectives of the Council.	Leader/ALL
3.4 To review and advise the Council on progress made in implementing corporate plans, policies and objectives and to recommend amendments to take account of changing circumstances.	Leader/ALL
<b>4. CUSTOMER RELATIONS</b>	
4.1 To oversee press and media relations.	Leader
4.2 To oversee public relations, advertising and marketing.	Leader/Resources
4.3 To oversee community engagement/public consultation.	Leader/Resources
<b>5. RESOURCES</b>	
5.1 To prepare, implement and review the Council's E-Government Strategy, ICT Strategy and Customer Services Strategy	Resources
5.2 To determine policy on Asset Management and approve Asset Management Plans.	Resources
5.3 To discharge the Council's functions relating to the Mayoralty, civic ceremonial and civic hospitality.	Resources
<b>6. EMERGENCY PLANNING</b>	
6.1 To discharge the functions of the Council relating to major emergencies and contingencies arising from natural or man-made disasters.	Leader/Resources

<b>2. DELEGATIONS TO THE CABINET</b>	<b>Cabinet Member(s) with lead responsibility</b>
6.2 To prepare and implement local plans relating to civil defence and peacetime emergencies.	Leader/Resources
6.3 To authorise additional financial and material resources and to approve immediate <b>executive Cabinet</b> action in the event of the initiation of major emergency procedures under the emergency plan.	Leader/Resources
<b>7. CITY SERVICES</b>	
7.1 To provide and maintain public conveniences.	City Services
7.2 To prepare, implement and review the operation of a Waste Management Strategy.	City Services
7.3 To discharge the functions of the Council relating to Waste Management including environmental cleansing, litter control, refuse collection and disposal, waste disposal, waste minimisation and recycling.	City Services
7.4 To be responsible for transport services, cleaning, catering, building services and facilities management, street lighting services, highway maintenance services and parking services.	City Services
7.5 To discharge the functions of the Council relating to bereavement centre services including the provision and maintenance of cemeteries and crematoria and public mortuary facilities.	City Services
<b>8. CHIEF OFFICER/PROPER OFFICER MANAGEMENT STRUCTURES</b>	
8.1 To advise the Council on the Chief Officer Management Structure and Appointment of Proper Officers.	Leader
8.2 To advise the Council on the designation of:	Leader
(i) an <b>officer employee</b> to be Head of Paid Service;	
(ii) an <b>officer employee</b> to be Monitoring Officer;	
(iii) an <b>officer employee</b> to be responsible for the proper administration of the Council's financial affairs.	
8.3 To appoint Proper Officers in connection with Environmental Health and Social Care, Housing and Health matters.	Leader
8.4 To appoint a Proper Officer in connection with the Registration Service	Leader

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
<b>9. PEOPLE AND PERFORMANCE</b>	
9.1 To prepare, implement and review the operation of human resource policies and procedures to enhance the organisational development and learning of the Council's employees.	Governance and Performance
9.2. To prepare implement and review the operation of policies relating to recruitment and resourcing, health and safety, disciplinary and grievance procedures, management of attendance, early retirement and redundancy.	Governance and Performance
9.3 To prepare, implement and review the operation of the Council's Equal Opportunities in Employment policy with particular reference to the needs of the minority ethnic community, women and people with disabilities.	Governance and Performance
9.4 To consider and implement "Single Status".	Governance and Performance
9.5 To consult Trade Unions and employee organisations.	Governance and Performance
9.6 To ensure equality of opportunity in service delivery.	Governance and Performance
<b>10. CHILDREN AND YOUNG PEOPLE</b>	
10.1 To have political accountability for the effectiveness, availability and value for money of all local authority services for children and young people, namely education and learning provision, social care, support for children and young people with special needs, play and leisure provision.	Children and Families
10.2 To demonstrate leadership to engage partners and encourage local communities in order to improve services and outcomes for children and young people both within the local authority and externally with partner organisations.	Children and Families
10.3 To safeguard and promote the welfare of children across all agencies and ensure that provision meets the needs of the most vulnerable.	Children and Families
10.4 To prepare, implement and review the operation of the Children and Young People's Plan.	Children and Families
10.5 To promote the welfare of children in need and to provide appropriate services including assessment, advice, counselling and guidance, residential care, day care, adaptations to property and aids to daily living.	Children and Families



<b>2. DELEGATIONS TO THE CABINET</b>	<b>Cabinet Member(s) with lead responsibility</b>
10.6 To provide a fostering and adoption service including acting as an adoption agency.	Children and Families
10.7 To act as a focus for the Council undertaking its role as Corporate Parent and to act on the advice and recommendations of the Corporate Parenting Panel.	Children and Families
10.8 To co-ordinate the preparation, implementation and review of the Youth Justice Plan and contribute to the Youth Offending Team.	Children and Families
10.9 To provide a developmental play service for children and young people.	Children and Families
10.10 To administer grants, awards and loans to pupils and students.	Children and Families
10.11 To liaise with providers of information, advice and guidance services.	Children and Families
10.12 To provide a youth service including youth clubs, projects and programmes aimed at promoting the social and educational development of young people.	Children and Families
10.13 To work with the Health and Social Care Partnership Board and Children and Young People's Partnership to develop and implement the Strategic Health Partnership and Joint Planning Arrangements in relation to children.	Children and Families
<b>10.14 To work with the Early Years Development and Child Care Service to implement the requirements of the Childcare Act 2006.</b>	Children and Families
<b>11. SCHOOLS</b>	
<b>Note:</b> The Children Act 2004 places political accountability for all services for Children and Young People on the Cabinet Member for Children and Young People. Functions marked "Schools" means that operational responsibility has been delegated to the Cabinet Member for Schools, Skills and Learning as far as is consistent with the Statutory Framework.	
11.1 To organise the provision of schools and school places to meet statutory requirements to deliver learners entitlements and to secure value for money.	Schools, Skills and Learning
11.2 To promote school improvement and strategies to improve educational attainment including those for people aged 14 – 19.	Schools, Skills and Learning

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
11.3 To monitor, review and report on the performance of Wolverhampton schools and to ensure appropriate action, including intervention, is taken in relation to OFSTED reports on individual schools.	Schools, Skills and Learning
11.4 To deal with school budgetary matters including the implementation of the Fair Funding Scheme and the operation of the Schools Forum.	Schools, Skills and Learning
11.5 To appoint LEA representatives to school governing bodies.	Schools, Skills and Learning
11.6 To deal with matters relating to admissions to schools and other learning settings in conjunction with the Admissions Forum.	Schools, Skills and Learning
11.7 To make arrangements relating to admission and exclusion appeals.	Schools, Skills and Learning
11.8 To work with the Early Years Development and Child Care Service to implement the requirements of the Childcare Act 2006.	<del>Schools, Skills and Learning</del> Children and Families
11.9 To discharge the Council's functions in respect of the educational requirements of children with Special Educational Needs.	Schools, Skills and Learning
11.10 To develop and implement a comprehensive strategy for post 16 education and to liaise with post 16 colleges and other providers in conjunction with the Black Country Learning and Skills Council.	Schools, Skills and Learning
<b>12. TRAFFIC, TRANSPORTATION AND HIGHWAYS</b>	
12.1 To promote and implement transportation policies in partnership with other local authorities and transport providers.	Economic Regeneration and Prosperity
12.2 To prepare, implement and review the operation of the Local Transport Plan for Wolverhampton as its contribution to the West Midlands Transport Plan.	Economic Regeneration and Prosperity
12.3 To exercise the Council's functions as lead authority for strategic planning and transportation matters in the West Midlands and to provide or procure services to support the work of the West Midlands Planning and Transportation Sub-Committee.	Economic Regeneration and Prosperity
12.4 To contribute to the Regional Transport Strategy.	Economic Regeneration and Prosperity

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
12.5 To discharge the functions of the Council relating to highways (except those regulatory functions delegated to the Planning Committee), street lighting, highways structures, bridges, transportation, traffic regulation, and parking.	Economic Regeneration and Prosperity
12.6 To provide facilities which improve access and mobility for the citizens of Wolverhampton.	Economic Regeneration and Prosperity
12.7 To contribute to the development and implementation of Community Safety Programmes including road safety measures, education and training.	Economic Regeneration and Prosperity
12.8 To discharge the Council's functions relating to highways and land drainage.	Economic Regeneration and Prosperity
<b>13. PLANNING AND URBAN DESIGN</b>	
13.1 To be responsible for all matters relating to the physical environment and spatial planning of the City with an appreciation of the need to develop and improve the business prosperity and the sustainable community life of the citizens of Wolverhampton and to exercise the Council's functions and responsibilities as a Section 4(4) strategic planning authority.	Economic Regeneration and Prosperity
13.2 To prepare, implement and review the Statement of Community Involvement to ensure that communities, businesses and other external stakeholders are involved in plan and planning policy making and to work with and take account of the views of the Planning Committee before determining plans and planning policy.	Economic Regeneration and Prosperity
13.3 To discharge the Council's functions relating to the statutory development plan (except those functions which are the responsibility of the Council) including preparing, implementing and reviewing the development plan documents (core strategy, area action plans, <b>neighbourhood development plans</b> , site specific allocations, proposals map and generic development control policies within the local development framework in order to provide the statutory spatial planning framework to guide development and transportation proposals to protect and enhance the environment and address climate change.	Economic Regeneration and Prosperity
13.4 To prepare, implement and review the Local Development Scheme.	Economic Regeneration and Prosperity
13.5 To prepare, implement and review Supplementary Planning documents which form part of the local development framework, including planning/development Briefs and master plans of City	Economic Regeneration and Prosperity

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
wide significance.	
13.6 To prepare implement and review appropriate planning and development control policies, practices and procedures to facilitate the improvement of community life and business prosperity within the City.	Economic Regeneration and Prosperity
13.7 To establish a Joint Committee to be for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 a local planning authority, confer additional functions on a Joint Committee or its dissolution	Economic Regeneration and Prosperity
13.8 To assemble land for planning purposes.	Economic Regeneration and Prosperity
13.9 To compulsorily purchase land for planning purposes.	Economic Regeneration and Prosperity
13.10 To consider and determine all matters relating to building control.	Economic Regeneration and Prosperity
<b>14. STRATEGIC AND PRIVATE SECTOR HOUSING</b>	
14.1 To recommend to the Council the rents for Housing Revenue account dwellings.	Economic Regeneration and Prosperity
14.2 To facilitate the provision of affordable housing in conjunction with the Housing Corporation, Registered Social Landlords and other providers.	Economic Regeneration and Prosperity
14.3 To discharge the Council's functions relating to Wolverhampton Homes Limited as set out in the <i>Office of the Deputy Prime Minister's</i> section 27 consent and the Management Agreement.	Economic Regeneration and Prosperity
14.4 To discharge the Council's functions relating to Tenant Management Organisations and Estate Management Boards.	Economic Regeneration and Prosperity
14.5 To sell and buy back dwellings pursuant to the Right To Buy provisions and those dwellings not required for letting.	Economic Regeneration and Prosperity
14.6 To secure the improvement of private sector dwellings and the surrounding environment by means of Housing Renewal Areas, the application of grants, Care and Repair and other means.	Economic Regeneration and Prosperity
14.7 To work with owners of unfit houses, where necessary adopting legislative steps to remedy unfitness of individual properties.	Economic Regeneration and Prosperity
14.8 To undertake clearance programmes, including the payment of compensation, home loss and disturbance payments.	Economic Regeneration and Prosperity

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
14.9 To improve health and safety and general physical standards in Houses in Multiple Occupation.	Economic Regeneration and Prosperity
14.10 To prepare implement and review the Council's Empty Properties Strategy.	Economic Regeneration and Prosperity
<b>15. LEISURE AND COMMUNITIES</b>	
15.1 To prepare, implement and review the operation of the Crime Reduction, Community Safety and Drug Strategy including anti-social behaviour strategies.	Leisure and Communities
15.2 To promote Community Safety and to work with the Wolverhampton Community Safety Partnership and any similar body.	Leisure and Communities
15.3 To be responsible for local and neighbourhood arrangements including neighbourhood renewal and management and neighbourhood wardens.	Leisure and Communities
15.4 To consider voluntary sector policy issues in conjunction with the Voluntary Sector Partnership Forum.	Leisure and Communities
15.5 To co-ordinate the Council's response to section 17 of the Crime and Disorder Act 1998.	Leisure and Communities
15.6 To develop and implement a Cultural Strategy for Wolverhampton.	Leisure and Communities
15.7 To provide public open space, allotments, play areas and nature reserves, together with programmes for active and passive recreational use.	Leisure and Communities
15.8 To provide sport and recreation facilities, resources and programmes for community use and development.	Leisure and Communities
15.9 To ensure the provision of an effective and efficient libraries service in accordance with nationally approved public library standards.	Leisure and Communities
15.10 To provide for the safekeeping of the City's documentary and cultural heritage making it available for public consultation.	Leisure and Communities
15.11 To provide learning opportunities for personal fulfilment and community development throughout Wolverhampton.	Leisure and Communities

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
15.12 To provide adult education and training on skills for employability, especially first steps and skills for life i.e. literacy, numeracy, English for speakers of other languages (ESOL) and ICT.	<del>Leisure and Communities</del> Schools, Skills and Learning
15.13 To maintain evaluate and develop the Wolverhampton Adult Education Service.	<del>Leisure and Communities</del> Schools, Skills and Learning
15.14 To provide a range of arts and cultural facilities, resources, programmes and events for the development and enjoyment of the performing, literary, visual and media arts.	Leisure and Communities
<b>16. ENVIRONMENT</b>	
16.1 To prepare, implement and review the operation of the Council's environmental policies including the <del>Local Agenda 21</del> <b>Sustainability</b> Strategy.	Health and Wellbeing
16.2 To prepare, implement and review the operation of an Air Quality Strategy.	Health and Wellbeing
16.3 To discharge the functions of the Council relating to environmental health including infectious diseases, food safety, contaminated land, pollution control, statutory nuisances and noise nuisance and animal welfare; management of dogs.	Health and Wellbeing
<del>16.4 To discharge the functions of the Council relating to public health, smoke free public places (Health Act 2006)</del>	<del>Health and Wellbeing</del>
16.54 To discharge the Council's functions relating to trading standards including standards of quality and quantity, safety, fair trading and advice.	Health and Wellbeing
<b>17. ADULT SERVICES</b>	
17.1 To promote the welfare of and commission and provide services for: <ul style="list-style-type: none"> <li>• Older People</li> <li>• People with mental health needs</li> <li>• People with learning disabilities</li> <li>• People with physical and sensory disabilities</li> <li>• Asylum seekers</li> <li>• Carers</li> </ul>	Adult Services
<del>17.2 To co-ordinate the preparation, implementation and review of Better Care Higher Standards.</del>	Adult Services

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
17.32 To maintain, develop and improve services and outcomes for adults working with partner agencies (services include supported housing, residential care, day care, domiciliary care, meals services, welfare, catering, adaptations to property, aids to daily living, sheltered housing care and support).	Adult Services
17.43 To administer the Supporting People Service.	Adult Services
17.54 To administer the Blue Badge Scheme to facilitate the mobility of people with disabilities and to determine and implement the Council's policy in relation to travel concessions for older people and people with disabilities.	Adult Services
17.65 To prepare, implement and review the operation of a Strategy for Adults <b>Social Care Transport Policy and Learning Disability Joint Commissioning Strategy.</b>	Adult Services
17.76 Contribute the social care focus to the Health Economies Local Improvement Plan.	Adult Services
17.87 To undertake and co-ordinate the Council's functions in relation to the protection of vulnerable adults.	Adult Services
17.98 To protect the property of people admitted to the Council's care or to hospital and to arrange for the burial of people without means.	Adult Services
17.109 To work with the <del>Health and Social Care Partnership Board</del> <b>Health and Well Being Board</b> to develop and implement the Strategic Health Partnership and Joint Planning Arrangements in relation to adults.	Adult Services
<b>18. HEALTH</b>	
18.1 To consider and promote matters in relation to health and health inequalities	Health and Well Being
18.2 To consider all health related issues including working in partnership with the <del>Primacy Care Trust</del> and Acute Trust within the City.	Health and Well Being/All
18.3 To oversee public health and the public health budget	Health and Well Being
18.4 To receive the Children's Trust Annual Report	Children and Families
18.5 To formally receive the minutes and reports of the Joint Governance Group	Health and Well Being / Adult Services

2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
18.6 To consider the Joint Strategic Needs Assessment and ensure coherent and co-ordinated commissioning.	Health and Well Being
18.7 To be responsible for the production of a Health and Well Being Strategy and an Annual Health Improvement Plan.	Health and Well Being
18.8 To ensure directions of GP Consortia and other Commissioners fit with the Health Improvement Plan and to hold them to account for delivery.	Health and Well Being
18.9 To be responsible for the coordination and delivery of health promotion and ill-health prevention campaigns as well as public health.	Health and Well Being
18.10 To oversee local Health Watch (the local advocacy, complaints resolution and public involvement service).	Health and Well Being
18.11 To support local voice and patient choice by ensuring that the views of local people are used.	Health and Well Being
18.12 To be the formal mechanism to oversee the Joint Commissioning Programme (section 75 pooled budget)	Health and Well Being
<b>18.13 To promote and co-ordinate partnership working with the Wolverhampton Strategic Partnership and all other public bodies, the business and voluntary sectors and other external stake holders across the full range of Council functions and responsibilities.</b>	Leader
<b>18.14 To advise the <del>Cabinet</del> Council on issues arising from the Council's functions relating to:</b>	
<b>18.15 European, national and regional issues of significance to the City.</b>	Leader
<b>18.16 Liaison with European and national Members of Parliament on matters affecting the City.</b>	Leader
<b>18.17 Current and future economic trends for the City and the measures necessary to promote the industrial, commercial and cultural well being of the City.</b>	Economic Regeneration and Prosperity
<b>18.18 The development and implementation of a Tourism Strategy for Wolverhampton in conjunction with the private and voluntary sectors.</b>	Leisure and Communities
<b>18.19 To receive reports and minutes from partner bodies and to advise the <del>Cabinet</del> Council on issues arising as appropriate.</b>	ALL
<b>18.20 To work with Government <del>Office for the West Midlands</del></b>	Economic Regeneration and



2. DELEGATIONS TO THE CABINET	Cabinet Member(s) with lead responsibility
<i>Agencies, other Councils and bodies active in the fields of economic development and regeneration in the sub region and region.</i>	Prosperity
18.21 <i>To exercise the Council's functions relating to West Midlands Enterprise Board Limited, Birmingham International Airport and other similar companies or bodies of which the Council is a member.</i>	Economic Regeneration and Prosperity
18.22 <i>To exercise the Council's functions relating to Birmingham International Airport.</i>	Leader
18.23 <i>To work with the City Centre Company and similar bodies to promote the Town and District Centres in the City.</i>	Economic Regeneration and Prosperity
18.24 <i>To take positive steps to encourage industry and commerce by the provision of facilities (including sites, buildings, plant and machinery, finance including grants loans and services) and by promotional activities.</i>	Economic Regeneration and Prosperity
18.25 <i>To promote development of sites with significance for regeneration in the City.</i>	Economic Regeneration and Prosperity
18.26 <i>To prepare, implement and review the operation of Conservation, Heritage and Natural Environment Strategies and schemes and work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee on conservation area appraisals and management plans, review of the local list and article 4 directions.</i>	Economic Regeneration and Prosperity
18.27 <i>Within the policy framework established by the Council to prepare, implement and review supplementary planning documents which are locally important and area specific including planning/development briefs and master plans and to work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee in preparing these documents and to advise Cabinet of issues of significance.</i>	Economic Regeneration and Prosperity
18.28 <i>To encourage the creation of employment opportunities and to facilitate a supply of skills and labour as appropriate to the needs of the market.</i>	Economic Regeneration and Prosperity
18.29 <i>To be responsible for community centres through and in partnership with local community based organisations.</i>	Leisure and Communities

3. DELEGATIONS TO THE CABINET ( <del>RESOURCES</del> ) PANEL	Cabinet Member(s) with lead responsibility
1. To discharge the Council's functions as "accountable body" in relation to externally funded schemes.	ALL
2. To receive regular budget monitoring reports together with performance against the Treasury Management policies, practices, activities and key targets set out in the CIPFA Code of Practice.	Resources
3. To <del>determine individual claims for</del> <b>oversee</b> Housing Benefit, Council Tax Benefit and rate relief <del>and administer the relevant schemes and regulations</del> <b>arrangements.</b>	Resources
4. <del>To deal with all other financial matters in accordance with the Financial Procedure Rules in Part 4 Appendix 2 of this Constitution.</del>	Resources
5.4 To approve the contract strategy for major, specialist, higher value or important contracts and the award of contracts over the specified limit in accordance with the Contracts Procedure Rules in <del>Part 4</del> <b>Appendix 2</b> of this Constitution.	Resources
6.5 To authorise the institution, defence or discontinuance of any proposed or pending litigation of special importance to the Council or having significant financial implication.	ALL
7.6 To authorise enforcement policies, practices and procedures and approve prosecution or other enforcement action in relation to all regulatory functions of the Council where such authority has not been delegated to an <del>officer</del> <b>employee</b> in accordance with the "Delegations to <del>Officers</del> <b>Employees</b> " contained in <del>Part 3</del> <b>Appendix 1</b> of this Constitution.	ALL
8.7 Within relevant statutory provisions, to establish policies, procedures and criteria, and determine fees and charges for the processing and determination of applications for any approval, consent, licence, permission or registration, granted by or on behalf of the <del>Executive</del> <b>Cabinet.</b>	ALL
9. <del>To implement salary awards and alterations in conditions of service.</del>	Governance and Performance
10.8. To determine staffing restructures, changes to vacant posts or the establishment of new posts and to receive reports on those Human Resources matters set out in the Schedule of Human Resources Delegations <del>in the "Delegations to Officers Employees" contained in Part 3 Appendix 1 of this Constitution.</del>	Governance and Performance
11.9. To prepare, implement and review the Food Law Enforcement	Economic

3. DELEGATIONS TO THE CABINET ( <i>RESOURCES</i> ) PANEL <b>(RESOURCES)</b>	Cabinet Member(s) with lead responsibility
Service Plan.	Regeneration and Prosperity
120. Within policy determined by Cabinet and in accordance with approved Asset Management Plans:	
120.1 To be responsible for the Civic Centre and associated civic buildings.	Resources
120.2 To be responsible for other premises and facilities required to deliver the Council's services.	ALL
120.3 To control, manage or dispose of all Council land which is surplus to operational requirements.	Resources
120.4 To deal with property transactions in accordance with the Contracts Procedure Rules in <b>Part 4 Appendix 2</b> of this Constitution.	Resources
131 To be responsible for all corporate services, including City Direct, financial services, information technology, legal and procurement services, the Document Centre and technical services.	Resources
142. To oversee <b>Members' Councillors'</b> support services, including policies in relation to training, conference's and travel arrangements	Resources
153. To be responsible for e-government communications, customer services, press office, creative services and complaints.	Leader/ Resources
164. To be responsible for the Press Office	Leader
175. To be responsible for scrutiny, democratic and member support services.	Leader/ Resources
186. To approve the use of the Council's Coat of Arms.	Governance and Performance
19.7. To appoint HM Coroner and to provide support services.	Governance and Performance
20.18. To be responsible for the Council's markets service including its retail and wholesale markets, and occasional or special market activities.	City Services
24.19. To <b>agree approve</b> the application of monies received under the Proceeds of Crime Act 2002 in excess of £30,000	All

3. DELEGATIONS TO THE CABINET ( <i>RESOURCES</i> ) PANEL <b>(RESOURCES)</b>	Cabinet Member(s) with lead responsibility
220. To be responsible for the appointment of Council representatives to outside bodies except those bodies to which appointments are made at the Annual Council meeting.	Governance and Performance
231. To receive schedules of “Green decisions” taken by a <del>Designated Officer in consultation with a member of the Executive</del> <b>Cabinet Members</b> in accordance with the <del>Executive</del> <b>Cabinet</b> Procedure Rules in <del>Part 4</del> <b>Appendix 2</b> of this Constitution.	ALL
242. To prepare, implement and review the Council’s Empty Properties Strategy including the making of the Compulsory Purchase Orders in pursuance of the Council’s Private Sector Empty Properties Strategy.	Economic Regeneration and Prosperity
23. <b><i>To be responsible for bids for European Funding, Single Regeneration Budget, New Deal for Communities, Lottery Funding and other external funding to assist in the regeneration and development of the City and the improvement of services.</i></b>	Economic Regeneration and Prosperity
24. <b><i>To be responsible for bids for and to allocate resources available for funding the voluntary and community sector and to determine codes of practice, <del>grant conditions, and service agreements</del> and terms and conditions for grants.</i></b>	Leisure and Communities
25. <b><i>To review and monitor performance and as appropriate vary and/or terminate grant allocations.</i></b>	Leisure and Communities

4.	<b>DELEGATIONS TO THE CABINET (<i>PERFORMANCE MANAGEMENT</i>) PANEL (<del>PERFORMANCE MANAGEMENT</del>)</b>	<b>Cabinet Member(s) with lead responsibility</b>
1.	To determine and review the Council's Performance Management Framework.	<b>Governance and Performance</b>
2.	To oversee the management of performance within the Council including arrangements for monitoring performance.	<b>Governance and Performance</b>
3.	To oversee the arrangements for the management of performance relating to activity undertaken by the Council in partnership with other organisations.	<b>Governance and Performance</b>
4.	To respond to performance issues that come to light as a result of performance monitoring or raised by external inspection of the Council.	<b>Governance and Performance</b>
5.	Where appropriate refer issues arising from performance monitoring or raised by external inspection to the Scrutiny Board or a Scrutiny Panel for their consideration prior to providing a <del>an</del> <b>executive Cabinet</b> response.	<b>Governance and Performance</b>

<b>5. DELEGATIONS TO THE CABINET (EXTERNAL RELATIONS) PANEL (EXTERNAL RELATIONS)</b>	<b>Cabinet Member(s) with lead responsibility</b>
1. To promote and co-ordinate partnership working with the Wolverhampton Strategic Partnership and all other public bodies, the business and voluntary sectors and other external stake holders across the full range of Council functions and responsibilities.	Leader
2. To advise the Cabinet/Council on issues arising from the Council's functions relating to:	
2.1 European, national and regional issues of significance to the City.	Leader
2.2 Liaison with European and national Members of Parliament on matters affecting the City.	Leader
2.3 Current and future economic trends for the City and the measures necessary to promote the industrial, commercial and cultural well being of the City.	Economic Regeneration and Prosperity
2.4 Bids for European Funding, Single Regeneration Budget, New Deal for Communities, Lottery Funding and other external funding to assist in the regeneration and development of the City and the improvement of services.	Economic Regeneration and Prosperity
2.5 The development and implementation of a Tourism Strategy for Wolverhampton in conjunction with the private and voluntary sectors.	Leisure and Communities
3. To receive reports and minutes from partner bodies and to advise the Cabinet/Council on issues arising as appropriate.	ALL
4. To work with Government Office for the West Midlands, Other Councils and bodies active in the fields of economic development and regeneration in the sub region and region.	Economic Regeneration and Prosperity
5. To exercise the Council's functions relating to West Midlands Enterprise Board Limited, Birmingham International Airport and other similar companies or bodies of which the Council is a member.	Economic Regeneration and Prosperity
6. To exercise the Council's functions relating to Birmingham International Airport.	Leader
7. To work with the City Centre Company and similar bodies to promote the town and district centres in the City.	Economic Regeneration and Prosperity
8. To take positive steps to encourage industry and commerce by the provision of facilities (including sites, buildings, plant and machinery, finance including grants loans and services) and by promotional activities.	Economic Regeneration and Prosperity

<p><b>5. DELEGATIONS TO THE CABINET (EXTERNAL RELATIONS) PANEL (EXTERNAL RELATIONS)</b></p>	<p><b>Cabinet Member(s) with lead responsibility</b></p>
<p>9. To promote development of sites with significance for regeneration in the City.</p>	<p><b>Economic Regeneration and Prosperity</b></p>
<p>10. To prepare, implement and review the operation of Conservation, Heritage and Natural Environment Strategies and schemes and work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee on conservation area appraisals and management plans, review of the local list and article 4 directions.</p>	<p><b>Economic Regeneration and Prosperity</b></p>
<p>11. Within the policy framework established by the Council to prepare, implement and review supplementary planning documents which are locally important and area specific including planning/development briefs and master plans and to work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee in preparing these documents and to advise Cabinet of issues of significance.</p>	<p><b>Economic Regeneration and Prosperity</b></p>
<p>12. To encourage the creation of employment opportunities and to facilitate a supply of skills and labour as appropriate to the needs of the market.</p>	<p><b>Economic Regeneration and Prosperity</b></p>
<p>13. To bid for and to allocate resources available for funding the voluntary sector and to determine codes of practice, grant conditions, and service agreements.</p>	<p><b>Leisure and Communities</b></p>
<p>14. To be responsible for community centres through and in partnership with local community based organisations.</p>	<p><b>Leisure and Communities</b></p>

**65. Cabinet Members Collective and Individual ~~Portfolio~~ Responsibilities**

All Cabinet Members share collective responsibility for the proper discharge of Council functions. Each Cabinet Member has lead individual and collective responsibility for cross cutting themes and discrete functions. Individual responsibilities are identified below together with collective responsibilities. This does not prevent other Cabinet Members from exercising these or related functions as appropriate; neither does it detract from their collective and supportive role. The **Executive** Cabinet Procedure Rules in Appendix 2 of the Constitution specify how and by whom **executive** Cabinet decisions may be made.

Individual Cabinet Members are empowered to make **Executive** Individual 'Green' Decisions subject to consultation with the appropriate Strategic Director in respect of their own areas of responsibility as set out in Appendix 1 subject to the following exceptions :-

- 1.1 Those decisions delegated to an **officer** employee unless the **officer** employee refers the decision to the Cabinet Member
- 1.2 Expenditure of over £100,000
- 1.3 A decision or recommendation on strategy or policy
- 1.4 A decision that has significant cross-cutting implications in respect of other **portfolio** responsibilities
- 1.5 A decision that has a significant impact on the way the Council operates or will operate
- 1.6 A decision that is a departure from any agreed Corporate objective or the approved Budget (other than by virement of up to £100,000)
- 1.7 Where the Leader (before a decision is either taken or implemented) requires the decision to be taken collectively by the **Executive** Cabinet\*
- 1.8 A decision which any Cabinet Member has asked to be taken collectively by the **Executive** Cabinet (before a decision is taken)\*
- 1.9 A decision in which the Cabinet Member has either a personal and prejudicial interest or a conflict of interest.

\*Notification of this by the Leader or a Cabinet Member must be to the Assistant Director (Governance).

The **Executive** Cabinet may delegate any decision to an Individual Cabinet Member who must then follow the procedure in this document in making that decision.

The Cabinet Member must take into account professional, legal and financial implications and any advice given by the **officers employee** Strategic Director.

If any **officer employee** Strategic Director gives advice that the decision would fall within one of the exceptions listed above or that the matter



*should not be the subject of an individual Cabinet Member decision then the matter shall be a decision for the **full Executive** Cabinet.*

*Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate Cabinet Member is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.*

*The Leader will determine in instances where it is unclear under which area of **portfolio** responsibilities a matter should be referred for decision.*

#### **65.1 Cabinet Members Collective **Portfolio** Responsibilities**

- a. To co-ordinate the work of the **Executive** Cabinet and to consider and advise the Council and the Cabinet Panels on major items of policy.*
- b. To work positively with the Scrutiny Board and Scrutiny Panels to formulate policies and practices and to ascertain the views of partners, other organisations and individuals.*
- c. To consider and, where appropriate, act on the advice and recommendations of the Scrutiny Board and Scrutiny Panels.*
- d. To work with partners and other bodies to establish a strategy to promote the economic, social and environmental well-being of Wolverhampton and its citizens.*
- e. To take direct responsibility for particular areas of partnership working of key importance to the strategic objectives of the Council.*
- f. To review and advise the Council on progress made in implementing corporate plans, policies and objectives and to recommend amendments to take account of changing circumstances.*
- g. To authorise the institution, defence or discontinuance of any proposed or pending litigation of special importance to the Council or having significant financial implication.*
- h. To authorise enforcement policies, practices and procedures and approve prosecution or other enforcement action in relation to all regulatory functions of the Council where such authority has not been delegated to an **officer** employee in accordance with the “Delegations to **Officers** Employees” contained in Appendix 1 of this Constitution.*
- i. Within relevant statutory provisions, to establish policies, procedures and criteria, and determine fees and charges for the processing and determination of applications for any approval, consent, licence, permission or registration, granted by or on behalf of the **Executive** Cabinet.*

- j. To discharge the Council's functions as "accountable body" in relation to externally funded schemes.*
- k. To be responsible for premises and facilities required to deliver the Council's services.*
- l. To approve the application of monies received under the Proceeds of Crime Act 202 in excess of £30,000*
- m. To receive schedules of "Green decisions" taken by a **Designated Officer in consultation with a Cabinet Member of the Executive** in accordance with the **Executive** Cabinet Procedure Rules in Appendix 2 of this Constitution.*
- n. To receive reports and minutes from partner bodies and to advise the Cabinet/Council on issues arising as appropriate.*
- o. To advise the Council on matters of relevance arising from the deliberations of the Police Authority and any Joint Boards and Joint Committees set up under the provisions of the Local Government Act 1985*

## **75.2 Individual Cabinet Member **Portfolio** Responsibilities**

### **7.1 Leader**

- a. Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an **officer** employee, to take lead responsibility within the Cabinet for the following matters including the signing of Green Decisions.*
- b. To Chair meetings of the Cabinet*
- c. To have lead responsibility for:*
  - (1) Organising the work of the Council and advising the Council on the number, scope and functions of and delegations to Cabinet Panels, Cabinet Members, **Standing Bodies** Regulatory or other Committees, Area Committees and Forums, the Scrutiny Board and Scrutiny Panels.*
  - (2) The appointment and removal from office the Deputy Leader and Cabinet Members*
  - (3) Advising the Council on the membership of Cabinet Panels, **Standing Bodies** Regulatory or other Committees, Area Committees and Forums and the Scrutiny Board and Scrutiny Panels.*
- d. Budget and Policy Framework*

- (1) The preparation in conjunction with the Cabinet Member for Resources of the budget and policy framework for consideration by the Council**
- (2) In conjunction with the Cabinet Member for Resources consultation on and preparation of the revenue and capital budgets for submission to and approval by the Council.**
- (3) In conjunction with the Cabinet Member for Resources the determination of the Council Tax base.**
- (4) In conjunction with the Cabinet Member for Resources the discharge of the Council's functions as "accountable body" in relation to externally funded schemes.**
- (5) For consultation with the business community, the voluntary sector and individuals and advise the Council on the level of Council Tax and the amount to be charged to the Collection Fund for Council services.**
- (6) For the submission, on behalf of the Council, representations to the Local Government Association on major policy issues**

**e. Corporate/Community Planning**

**Overseeing and leading the community planning process.**

**f. Customer Relations**

- (1) Overseeing press and media relations and to be responsible for the Press Office**
- (2) In conjunction with the Cabinet Member for Resources for overseeing public relations, advertising and marketing.**
- (3) In conjunction with the Cabinet Member for Resources for overseeing community engagement/public consultation**
- (4) In conjunction with the Cabinet Member for Resources to be responsible for e-government communications, customer services, press office, creative services and complaints.**

**g. Emergency Planning**

- (1) In conjunction with the Cabinet Member for Resources the discharge of the functions of the Council relating to major emergencies and contingencies arising from natural or man-made disasters.**
- (2) In conjunction with the Cabinet Member for Resources the preparation and implementation of local plans relating to civil defence and peacetime emergencies.**

- (3) ***In conjunction with the Cabinet Member for Resources the authorisation of additional financial and material resources and to approve immediate **executive** Cabinet action in the event of the initiation of major emergency procedures under the emergency plan.***

***h. Chief Officer/Proper Officer Management Structures***

- (1) ***Advising the Council on the Chief Officer Management Structure and appointment of Proper Officers.***
- (2) ***Advising the Council on the designation of:***
- (a) ***an officer to be Head of Paid Service;***
  - (b) ***an officer to be Monitoring Officer;***
  - (c) ***an officer to be responsible for the proper administration of the Council's financial affairs.***
  - (d) ***the appointment of Proper Officers in connection with Environmental Health and Social Care, Housing and Health matters.***
  - (e) ***the appointment of a Proper Officer in connection with the Registration Service.***

***(i) General***

- (1) ***The promotion and co-ordination of partnership working with the Wolverhampton **Strategic** Partnership and all other public bodies, the business and voluntary sectors and other external stake holders across the full range of Council functions and responsibilities.***
- (2) ***Advising the Cabinet/Council on issues arising from the Council's functions relating to:***
- European, national and regional issues of significance to the City.***
- Liaison with European and national Members of Parliament on matters affecting the City.***
- (3) ***Receiving reports and minutes from partner bodies and advising the Cabinet/Council on issues arising as appropriate***
- (4) ***The promotion and co-ordination of partnership working with the Wolverhampton **Strategic** Partnership and all other public bodies, the business and voluntary sectors and other external***

**stake holders across the full range of Council functions and responsibilities.**

- (5) **The submission, on behalf of the Council, representations to the Local Government Association on major policy issues.**
- (6) **The community planning process**
- (7) **~~For e~~ Exercising the Council's functions relating to Birmingham International Airport**

**8. Cabinet Member, Economic Regeneration and Prosperity**

- a. **Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an ~~officer~~ employee, to take lead responsibility within the Cabinet for the following matters including the signing of Green Decisions.**
- b. **To have lead responsibility for:**
  - (1) **Traffic, Transportation and Highways**
  - (2) **Planning and Urban Design**
  - (3) **For all matters relating to the physical environment and spatial planning of the City with an appreciation of the need to develop and improve the business prosperity and the sustainable community life of the citizens of Wolverhampton and to exercise the Council's functions and responsibilities as a Section 4(4) strategic planning authority.**
  - (4) **The preparation, implementation and review the Statement of Community Involvement to ensure that communities, businesses and other external stakeholders are involved in plan and planning policy making and to work with and take account of the views of the Planning Committee before determining plans and planning policy.**
  - (5) **The discharge of the Council's functions relating to the statutory development plan (except those functions which are the responsibility of the Council) including preparing, implementing and reviewing the development plan documents (core strategy, area action plans, site specific allocations, proposals map and generic development control policies within the local development framework in order to provide the statutory spatial planning framework to guide development and transportation proposals to protect and enhance the environment and address climate change.**

- (6) The preparation, implementation and review of the local development scheme.**
- (7) The preparation, implementation and review of Supplementary Planning documents which form part of the local development framework, including planning/development Briefs and master plans of City wide significance.**
- (8) The preparation, implement and review of appropriate planning and development control policies, practices and procedures to facilitate the improvement of community life and business prosperity within the City.**
- (9) The establishment of a Joint Committee to be for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 as local planning authority, to confer additional functions on a Joint Committee or its dissolution**
- (10) The assembly of land for planning purposes.**
- (11) The compulsory purchase land for planning purposes.**
- (12) Consideration and determination of all matters relating to building control.**

**c. Strategic and Private Sector Housing**

- (1) Recommendations to the Council on the rents for Housing Revenue account dwellings.**
- (2) The facilitation of the provision of affordable housing in conjunction with the Housing Corporation, Registered Social Landlords and other providers.**
- (3) The discharge of the Council's functions relating to Wolverhampton Homes Limited as set out in the ODPM's section 27 consent and the Management Agreement.**
- (4) The discharge of the Council's functions relating to Tenant Management Organisations and Estate Management Boards.**
- (5) The sale and buy back of dwellings pursuant to the Right To Buy provisions and those dwellings not required for letting.**
- (6) The securing of the improvement of private sector dwellings and the surrounding environment by means of Housing Renewal Areas, the application of grants, Care and Repair and other means.**
- (7) Working with owners of unfit houses, where necessary adopting legislative steps to remedy unfitness of individual properties.**

- (8) **Undertaking clearance programmes, including the payment of compensation, home loss and disturbance payments.**
- (9) **Improving health and safety and general physical standards in Houses in Multiple Occupation.**
- (10) **The preparation, implementation and review of the Council's Empty Properties Strategy including the making of Compulsory Purchase Orders in pursuance of the Council's Private Sector Empty Properties Strategy.**
- d. **Current and future economic trends for the City and the measures necessary to promote the industrial and commercial well being of the City.**
- e. **Making bids for European Funding, Single Regeneration Budget, New Deal for Communities, Lottery Funding and other external funding to assist in the regeneration and development of the City and the improvement of services.**
- f. **Working with Government ~~Office for the West Midlands~~ Departments, other Councils and bodies active in the fields of economic development and regeneration in the sub region and region.**
- g. **The exercise of the Council's functions relating to West Midlands Enterprise Board Limited and other similar companies or bodies of which the Council is a member.**
- h. **Working with the City Centre Company and similar bodies to promote the town and district centres in the City.**
- i. **Taking positive steps to encourage industry and commerce by the provision of facilities (including sites, buildings, plant and machinery, finance including grants loans and services) and by promotional activities. Promoting development of sites with significance for regeneration in the City.**
- j. **The preparation, implementation and review of the operation of Conservation, Heritage and Natural Environment Strategies and schemes and work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee on conservation area appraisals and management plans, review of the local list and Article 4 directions.**
- k. **Within the policy framework established by the Council for the preparation, implementation and review of supplementary planning documents which are locally important and area specific including planning/development briefs and master plans and to work with and take account of the views of local communities, businesses, other stakeholders and the Planning Committee in preparing these documents and to advise Cabinet of issues of significance.**

- l. The encouragement of the creation of employment opportunities and to facilitate a supply of skills and labour as appropriate to the needs of the market.*
- m. The preparation, implementation and review the operation of the Council's environmental policies including the Local Agenda 21 Strategy.*
- n. The preparation, implementation and review of the operation of an Air Quality Strategy.*
- o. The discharge of the functions of the Council relating to environmental health including infectious diseases, food safety, public health, contaminated land, pollution control, statutory nuisances and noise nuisance and animal welfare; Smoke Free Public Places (Health Act 2006); management of dogs.*
- p. The discharge of the Council's functions relating to Trading Standards including standards of quality and quantity, safety, fair trading and advice.*

**9. Cabinet Member, Resources**

- a. Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an **officer** employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.*
- b. To have lead responsibility for:
  - (1) Budget and Policy Framework*
  - (2) In conjunction with the Leader the preparation of the budget and policy framework for consideration by the Council.*
  - (3) In conjunction with the Leader consultation on and preparation of the revenue and capital budgets for submission to and approval by the Full Council.*
  - (4) In conjunction with the Leader the determination of the Council Tax base.*
  - (5) In conjunction with the Leader consultation with the business community, the voluntary sector and individuals and then to advise the Council on the level of Council Tax and the amount to be charged to the Collection Fund for Council services.**
- c. Emergency Planning*



- (1) *In conjunction with the Leader the discharge of the functions of the Council relating to major emergencies and contingencies arising from natural or man-made disasters.*
- (2) *In conjunction with the Leader the preparation and implementation of local plans relating to civil defence and peacetime emergencies.*
- (3) *In conjunction with the Leader the authorisation of additional financial and material resources and to approve immediate **executive** Cabinet action in the event of the initiation of major emergency procedures under the emergency plan.*

d. **Resources**

- (1) *Receiving regular budget monitoring reports together with performance against the Treasury Management policies, practices, activities and key targets set out in the CIPFA Code of Practice.*
- (2) ~~*The determination of individual claims for*~~ *To oversee Housing Benefit, Council Tax Benefit and rate relief **and administer the relevant schemes and regulations.*** arrangements.
- ~~(3) *Deal with all other financial matters in accordance with the Financial Procedure Rules in Appendix 2 of this Constitution.*~~
- ~~(4)~~ (3) *The approval of procurement arrangements including tender lists and award of contracts for Class IV and Class V Contracts in accordance with the Contracts Procedure Rules in Appendix 2 of this Constitution.*
- ~~(5)~~ (4) *The authorisation of the institution, defence or discontinuance of any proposed or pending litigation of special importance to the Council or having significant financial implication.*
- ~~(6)~~ (5) *The authorisation of enforcement policies, practices and procedures and approve prosecution or other enforcement action in relation to all regulatory functions of the Council where such authority has not been delegated to an **officer** employee in accordance with the “Delegations to **Officers** Employees” contained in Appendix 1 of this Constitution.*
- ~~(7)~~ (6) *Within relevant statutory provisions, for the establishment of policies, procedures and criteria, and determine fees and charges for the processing and determination of applications for any approval, consent, licence, permission or registration, granted by or on behalf of the **Executive** Cabinet.*

e. ~~For~~ *The Civic Centre including use by external bodies.*

- f. The control, management or disposal of all Council land which is surplus to operational requirements.**
- g. Dealing with property transactions in accordance with the Contracts Procedure Rules in Appendix 2 of this Constitution.**
- h. To be responsible for all corporate services including City Direct, financial services, information technology, legal and procurement services, reprographics, technical services**
- i. For Democratic and Member support services and Scrutiny including policies in relation to training, conferences and travel arrangements**
- j. Receiving reports and minutes from partner bodies and to advise the Cabinet/Council on issues arising as appropriate**
- k. To determine policy on Asset Management and approve Asset Management Plans.**
- l. To discharge the Council's functions relating to the Mayoralty, civic ceremonial and civic hospitality.**
- m. To deal with all other financial matters in accordance with the Financial Procedure Rules in **Part 4** Appendix 2 of this Constitution.**
- n. To approve procurement arrangements including tender lists and award of contracts for Class IV and Class V Contracts in accordance with the Contracts Procedure Rules in Appendix 2 of this Constitution.**

**~~10.~~ Cabinet Member, Leisure and Communities**

- a. Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an **officer** employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.**
- b. To have lead responsibility for:**
  - (1) Neighbourhoods and Community Safety**
    - (i) The preparation, implementation and review of the operation of the Crime Reduction, Community Safety and Drug Strategy including anti-social behaviour strategies.**
    - (ii) The promotion of Community Safety and to work with the Wolverhampton Community Safety Partnership and any similar body .For local and neighbourhood arrangements including neighbourhood renewal and management and neighbourhood wardens. Voluntary sector policy issues in conjunction with the Voluntary Sector Partnership Forum.**

**The co-ordination of the Council's response to section 17  
of the Crime and Disorder Act 1998.**

**(2) Cultural Services**

- (i) The development and implementation of a Cultural Strategy for Wolverhampton.**
- (ii) The provision of public open space, allotments, play areas and nature reserves, together with programmes for active and passive recreational use**
- (iii) The provision of sport and recreation facilities, resources and programmes for community use and development.**
- (iv) Ensuring the provision of an effective and efficient libraries service in accordance with nationally approved public library standards.**
- (v) The safekeeping of the City's documentary and cultural heritage making it available for public consultation.**
- (vi) The provision of learning opportunities for personal fulfilment and community development throughout Wolverhampton.**
- (vii) The maintenance, evaluation and development of the Wolverhampton Adult Education Service.**
- (viii) The provision of a range of arts and cultural facilities, resources, programmes and events for the development and enjoyment of the performing, literary, visual and media arts.**
- (ixviii) The development and implementation of a Tourism Strategy for Wolverhampton in conjunction with the private and voluntary sectors.**
- (ix) To bid for and to allocate resources available for funding the voluntary and community sector and to determine codes of practice, ~~grant conditions, and service agreements~~ and terms and conditions for grants.**
- (xi) To review and monitor performance and as appropriate vary and/or terminate grant allocations.**
- (xi)(xii) To be responsible for community centres through and in partnership with local community based organisations.**

**11. Cabinet Member, Health and Well Being**

- a. **Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an officer employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.**
- b. **To have lead responsibility for:**
- (1) **The consideration of all health related issues, including working in partnership with the ~~Primary Care Trust~~ and Acute Trust within the City.**
  - (2) **The Health and Well Being Shadow Board the responsibilities of which include:**
    - (i) **Leading on the Joint Strategic Needs Assessment and ensure coherent and co-ordinated commissioning.**
    - (ii) **Producing a Health and Well Being Strategy and an Annual Health Improvement Plan.**
    - (iii) **Ensuring decisions of GP Consortia and other Commissioners fit with the Health Improvement Plan and hold them to account for delivery.**
    - (iv) **Responsibility for the coordination and delivery of health promotion and ill-health prevention campaigns as well as public health issues.**
    - (v) **Overseeing local Health Watch (the local advocacy, complaints resolution and public involvement service).**
    - (vi) **Supporting local voice and patient choice by ensuring that the views of local people are used.**
    - (vii) **Being the formal mechanism to oversee the Joint Commissioning Programme (Section 75 pooled budget)**
  - (3) **To prepare, implement and review the operation of the Council's environmental policies including the Sustainability Strategy.**
  - (4) **To prepare, implement and review the operation of an Air Quality Strategy.**
  - (5) **To discharge the functions of the Council relating to environmental health including infectious diseases, food safety, contaminated land, pollution control, statutory nuisances and noise nuisance and animal welfare; management of dogs.**

- (6) *To discharge the Council's functions relating to trading standards including standards of quality and quantity, safety, fair trading and advice.*

**12. Cabinet Member, City Services Delivery**

- a. *Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an officer employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.*
- b. *To have lead responsibility for:*
- (1) *The provision and maintenance of public conveniences.*
  - (2) *The preparation, implementation and review of the operation of a Waste Management Strategy.*
  - (3) *The discharge of the functions of the Council relating to waste management including environmental cleansing, litter control, refuse collection and disposal, waste disposal, waste minimisation and recycling*
  - (4) *The preparation, implementation and review the Food Law Enforcement Service Plan.*
  - (5) *For the Council's markets service including its retail and wholesale markets, and occasional or special market activities.*
  - (6) *For transport services, cleaning and catering, building services.*
  - (7) *The discharge of the functions of the Council relating to bereavement centre services including provision and maintenance of cemeteries and crematoria and public mortuary services*

**13. Cabinet Member, Governance and Performance**

- a. *Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an officer employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.*
- b. *To have lead responsibility for:*
- (1) *The appointment of representatives on outside bodies if requested to do so by the Council*

- (2) *The appointment of Council representatives to outside bodies except those bodies to which appointments are made at the Annual Council meeting.*
- (3) *Advising the Council on Parliamentary and boundary matters and the Council's functions relating to European, Parliamentary and local elections.*
- (4) *Reviewing and advising the Council on progress made in implementing corporate plans, policies and objectives and to recommend amendments to take account of changing circumstances.*
- (5) *Overseeing community engagement/public consultation.*
- (6) *The preparation, implementation and review of the operation of human resource policies and procedures to enhance the organisational development and learning of the Council's employees.*
- (7) *To preparation, implementation and review of the operation of policies relating to recruitment and resourcing, health and safety, disciplinary and grievance procedures, management of attendance, early retirement and redundancy.*
- (8) *To preparation, implementation and review of the operation of the Council's Equal Opportunities in Employment policy with particular reference to the needs of the minority ethnic community, women and people with disabilities.*
- (9) *Consideration and implementation of "Single Status".*
- (10) *Consultation with Trade Unions and employee organisations. For ensuring equality of opportunity in service delivery.*
- ~~(11) For the implementation of salary awards and alterations in conditions of service.~~
- ~~(12) The determination of **staffing** employee restructures, changes to vacant posts or the establishment of new posts and to receive reports on those Human Resources matters set out in the Schedule of Human Resources Delegations **in the "Delegations to Officers Employees" contained in Part 3 Appendix 1 of this Constitution.**~~
- (13) *The determination and review of the Council's Performance Management Framework.*
- (14) *Overseeing the management of performance within the Council including arrangements for monitoring performance.*

- (154)** For overseeing the arrangements for the management of performance relating to activity undertaken by the Council in partnership with other organisations.
- (165)** For responding to performance issues that come to light as a result of performance monitoring or raised by external inspection of the Council.
- (176)** Where appropriate for referring issues arising from performance monitoring or raised by external inspection to the Scrutiny Board or a Scrutiny Panel for their consideration prior to providing an **executive** Cabinet response.
- (187)** For overseeing arrangements for Comprehensive Area Assessment (CAA).
- (198)** For approving the use of the Council's Coat of Arms
- (2019)** For the appointment of HM Coroner

**14. Cabinet Member, Adult Services**

- a. Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an **officer** employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.
- b. To have lead responsibility for:
- (1) The promotion of the welfare of and commission and provision of services for:
    - Older People
    - People with mental health needs
    - People with learning disabilities
    - People with physical and sensory disabilities
    - Asylum seekers
    - Carers
  - ~~(2) The co-ordination of the preparation, implementation and review of Better Care Higher Standards.~~
  - (32)** The maintenance, development and improvement of services and outcomes for adults working with partner agencies (services include supported housing, residential care, day care, domiciliary care, meals services, welfare, catering, adaptations to property, aids to daily living, sheltered housing care and support).

- (43) The administration of the Supporting People Service.**
- (54) The administration of the Blue Badge Scheme to facilitate the mobility of people with disabilities and to determine and implement the Council's policy in relation to travel concessions for older people and people with disabilities.**
- (65) The preparation, implementation and review of the operation of a Strategy for Adults, Social Care Transport Policy and Learning Disability Joint Commissioning Strategy.**
- (76) Contributing to the social care focus to the Health Economies Local Improvement Plan.**
- (87) For undertaking and co-ordinating the Council's functions in relation to the protection of vulnerable adults.**
- (98) The protection of the property of people admitted to the Council's care or to hospital and to arrange for the burial of people without means.**
- (109) Working with the Health and ~~Social Care Partnership~~ Wellbeing Board and its successor, the Shadow Well Being Board to develop and implement the Strategic Health Partnership and Joint Planning Arrangements in relation to adults.**
- (140) The discharge of the functions of the Council relating to bereavement centre services including the provision and maintenance of cemeteries and crematoria and public mortuary facilities.**

**15. Cabinet Member, Children and Families**

- a. Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions Regulations, or where authority has not been delegated to an ~~officer~~ employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.**
- b. To have lead responsibility for:**
  - (1) Political accountability for the effectiveness, availability and value for money of all local authority services for children and young people, namely education and learning provision, social care, support for children and young people with special needs, play and leisure provision.**
  - (2) To have political accountability for all social services to adults.**
  - (23) The demonstration of leadership to engage partners and encourage local communities in order to improve services and**



*outcomes for children and young people both within the local authority and externally with partner organisations.*

- (34) Safeguarding and promoting the welfare of children across all agencies and ensure that provision meets the needs of the most vulnerable.*
- (45) The preparation, implementation and review of the operation of the Children and Young People's Plan.*
- (56) The promotion of the welfare of children in need and to provide appropriate services including assessment, advice, counselling and guidance, residential care, day care, adaptations to property and aids to daily living.*
- (67) The provision of a fostering and adoption service including acting as an adoption agency.*
- (78) Acting as a focus for the Council undertaking its role as Corporate Parent and to act on the advice and recommendations of the Corporate Parenting Panel.*
- (89) The co-ordination, preparation, implementation and review of the Youth Justice Plan and contribute to the Youth Offending Team.*
- (910) The provision of a developmental play service for children and young people.*
- (101) The administration of grants, awards and loans to pupils and students.*
- (142) Liaising with providers of information, advice and guidance services.*
- (123) The provision of a youth service including youth clubs, projects and programmes aimed at promoting the social and educational development of young people.*
- (134) Working with the Health and Social Care Partnership Board and Children and Young People's Partnership to develop and implement the Strategic Health Partnership and Joint Planning Arrangements in relation to children.*
- (145) For working with the Early Years Development and Child Care Service to implement the requirements of the Childcare Act 2006.*

**16. Cabinet Member, Schools, Skills and Learning**

- a. **Where not otherwise reserved to the Council, a Committee of the Council or other body under the Local Authority Functions**

**Regulations, or where authority has not been delegated to an officer employee, to take lead responsibilities within the Cabinet for the following matters including the signing of Green Decisions.**

**b. To have lead responsibility for:**

- (1) Note: The Children Act 2004 places political accountability for all services for Children and ~~Young People~~ Families on the Cabinet Member for Children and ~~Young People~~ Families. Functions marked "Schools" means that operational responsibility has been delegated to the Cabinet**
- (2) The maintenance, evaluation and development of the Wolverhampton Adult Education Service including ~~The~~ provision of adult education and training on skills for employability, especially first steps and skills for life i.e. literacy, numeracy, English for speakers of other languages (ESOL) and ICT.**
- (3) The organisation of the provision of schools and school places to meet statutory requirements to deliver learners entitlements and to secure value for money.**
- (4) The promotion of school improvement and strategies to improve educational attainment including those for people aged 14 – 19.**
- (5) The monitoring, review and reporting on the performance of Wolverhampton schools and to ensure appropriate action, including intervention, is taken in relation to OFSTED reports on individual schools.**
- (6) Dealing with school budgetary matters including the implementation of the Fair Funding Scheme and the operation of the Schools Forum.**
- (7) For the appointment of ~~LEA~~ representatives to school governing bodies.**
- (8) For dealing with matters relating to admissions to schools and other learning settings in conjunction with the Admissions Forum.**
- (9) Making arrangements relating to admission and exclusion appeals.**
- (10) For working with the Early Years Development and Child Care Service to implement the requirements of the Childcare Act 2006.**

~~(11)~~(10) ***The discharge of the Council's functions in respect of the educational requirements of children with Special Educational Needs.***

~~(12)~~(11) ***The development and implementation of a comprehensive strategy for post 16 education and to liaise with post 16 colleges and other providers in conjunction with the Black Country Learning and Skills Council.***

## 6. FUNCTIONS WHICH ARE RESERVED TO THE FULL COUNCIL

1. Adopting and ~~changing~~ **revising** the Constitution.
2. Approving or adopting the budget and policy framework, and any application to the Secretary of State in respect of any Housing Land Transfer (as set out in Article 4.1).
3. Subject to the urgency procedure contained in the Access to Information Procedure Rules in ~~Part 4~~ **Appendix 2** of this Constitution, making decisions about any matter in the discharge of ~~an executive~~ **Cabinet** 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.
4. Electing the ~~!Leader~~ of the Council and removing him/her from office at any time by passing a resolution to that effect.
5. **Receiving from the Leader his appointments to the Cabinet and Cabinet Panels.**
- ~~5.6.~~ **Agreeing Approving** and/or amending the terms of reference for the Cabinet, Cabinet Panels, Cabinet Members' responsibilities, ~~Standing Bodies~~ **Regulatory or other Committees, Area Forums** **Local Neighbourhood Partnerships**, the Scrutiny Board and Scrutiny Panels ~~and deciding on their composition and making appointments to them.~~
- ~~6.7.~~ **To determine the composition of and make appointments to Standing Bodies Regulatory or other Committees, Scrutiny Board and Panels, Area Forums.**
- ~~6.8.~~ Appointing representatives to outside bodies unless the appointment has been delegated by the **Full** Council.
- ~~7.9.~~ **Approving and** Adopting a ~~Members'~~ **Councillors'** Allowances scheme and ~~Members'~~ **a Councillors'** Code of Conduct.
- ~~8.~~ 10. Changing the name of the area, conferring the title of ~~h~~**Honorary** ~~a~~**Alderman** or ~~f~~**Freedom** of the ~~e~~**City**.
- ~~9.11.~~ ~~Making arrangements for~~ **Confirming** the appointment and dismissal of the ~~h~~**Head of** ~~p~~**Paid** ~~s~~**Service, and Strategic Directors and the Director of Pensions, West Midlands Pension Fund. chief officers and deputy chief officers** (as defined by the Local Government and Housing Act 1989).
- ~~10.12.~~ Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

- ~~11.~~ **13.** 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 Cabinet**.
- 14.** *Approval of the Annual Pay Policy.*
- 15.** *Dealing with any petition containing over 2,500 signatures received by the Council in accordance with the Protocol for dealing with Petitions at Council meetings set out in Appendix 2.*
- ~~12.~~ **16.** ~~rResolution~~ **Resolving** not to issue a Casino Premises Licence under section 166 of the Local Government Act 2005.
- ~~13.~~ **17.** All other matters which, by law, must be reserved to **Full Council and Strategic Directors**.

7. **DELEGATIONS TO ALL ~~STANDING BODIES~~ REGULATORY OR OTHER COMMITTEES**

1. ~~Standing Bodies~~ **Regulatory or Other Committees** comprise:

The Planning Committee  
The Licensing Committee  
The Appeals Panels  
The Superannuation Committee  
The Standards Committee  
The Audit Committee  
The Petitions Committee

and any other body established by the Council to exercise non-executive **Cabinet** functions.

**Each ~~Standing Body~~ Regulatory or other Committees:**

2. May, within guidance set by the Council, delegate any of its functions to an ~~officer~~ **employee** of the Council. The Assistant Director (Governance) shall maintain a list of ~~officer~~ **employee** delegations. **These are set out in Appendix 1.**

3. May, within relevant statutory provisions and Council policy:

~~3.1~~(a) establish policies, procedures and criteria and determine fees and charges for the processing and determination of applications for any approval, consent, licence, permission or registration granted by or on behalf of the ~~Standing Body~~ **Regulatory or other Committees;**

~~3.2~~ (b) impose any condition, limitation or other restriction on any such approval etc;

~~3.3~~(c) determine whether and in what manner, to enforce:

- (i) any failure to comply with an approval etc;
- (ii) any failure to comply with a condition, limitation or restriction to which any such approval etc is subject;
- (iii) any other contravention in relation to an approval etc;

~~3.4~~(d) amend, modify, vary, suspend or revoke any approval etc.

4. May, within relevant statutory provisions, obtain information relating to interests in land necessary for the discharge of functions delegated to the ~~Standing Body~~ **Regulatory or other Committees.**

5. May authorise prosecution or other enforcement action in relation to all functions delegated to the ~~Standing Body~~ **Regulatory or other Committees.**

**6 Appointment of Sub-Committees**

***Subject to any decision by the Full Council each Regulatory or other Committees may appoint Sub-Committees of not fewer than three voting members for such purposes as they think fit and may make arrangements for a Sub-Committee to discharge any of its functions.***

**7 Attendance of the Mayor**

***The Mayor shall, in addition to those Regulatory or other Committees to which he/she has been specifically appointed, be entitled “ex-officio” to attend the meetings of all other Regulatory or other Committees (but not of any Sub-Committee thereof) and to speak but not to vote thereat.***

**8 Attendance of the Chair and Vice-Chair**

***The Chair and Vice-Chair of a Regulatory or other Committees may attend and speak at a meeting of any Sub-Committee appointed by that Regulatory or other Committees, but may not vote unless appointed as a voting member.***

**9 Urgent Business**

***The appropriate Strategic Director, in conjunction with the Chief Executive is authorised to take appropriate urgent action in respect of matters delegated to the Regulatory or other Committees provided that the action shall first have been discussed with and approved in writing by the Chair (or in the Chair’s absence the Vice-Chair) and Shadow Chair (or in the Shadow Chair’s absence the Shadow Vice-Chair) of the Regulatory or other Committees. The written authorisation must include details of the proposal and justification for using the expedited procedure. Expenditure must be within existing budgets. Any action taken under this Rule must be reported to the next available meeting of the Regulatory or other Committees for information. A permanent record of all action under this delegation shall be maintained by the Chief Executive.***

**8. DELEGATIONS TO THE PLANNING COMMITTEE**

1. To work with the Cabinet to develop planning policies.
2. To exercise the Council's functions relating to town and country planning and development control as set out in the Schedule.
3. To exercise the Council's functions relating to common land or village greens as set out in the Schedule.
4. To exercise the Council's functions relating to works in or on highways and relating to footpaths as set out in the Schedule.
5. To exercise the other Council functions set out in the Schedule together with such other specific powers or duties which may be permitted or required to be delegated from time to time by Regulations made under the Local Government Act 2000.

**SCHEDULE**

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
<b>Functions relating to town and country planning and development control</b>	
1. Powers and duties relating to local development documents which are development plan documents.	Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004.
2. Power to agree to establish a Joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority.	Section 29 of the Planning and Compulsory Purchase Act 2004.
3. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
4. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
5. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
<b>6. Power to decline an overlapping planning permission.</b>	<b>Section 70 B of the Town and Country Planning Act 1990.</b>



<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
<b>7. Power to decline to determine a retrospective planning application.</b>	<b>Section 70 C of the Town and Country Planning Act 1990.</b>
<b>6.8.</b> Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 <del>and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995, The Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended</del> and directions made thereunder.
<b>10.9.</b> Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992.
<b>14.0.</b> Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights..	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.
<b>12.1.</b> Power to enter into an agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
<b>13.2.</b> Power to issue a certificate of existing or proposed lawful use or development with the exception of small Care Homes	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
<b>14.3.</b> Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
<b>15.4.</b> Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.
<b>15.</b> <i>Powers in relation to the unauthorised advertisements and defacement of premises.</i>	<b>Section 224, 225, 225 A – K of the Town and Country Planning Act 1990.</b>
<b>16.</b> Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990. Section 88 of the Planning (Listed Buildings and

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
	Conservation Areas) Act 1990; Section 36 Planning (Hazardous Substances) Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Section 171C, 171 E to H 187A and 183(1) of the Town and Country Planning Act 1990.
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
<b>20. Power to apply for a Planning Enforcement Order</b>	<b>Section 171 AB – 171 BB of the Town and Country Planning Act 1990.</b>
<b>21. Power to issue assurances as regards prosecution for a person served with a Notice.</b>	<b>Section 172 A of the Town and Country Planning Act 1990.</b>
202. Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990.
213. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22.4. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of the Schedule 14 to that Act.
235. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
246. Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
257. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act.

**Function**

**Provision of Act or Statutory Instrument**

<p><del>26</del><b>28</b>.Duties relating to applications for listed building consent and conservation area consent</p>	<p>Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.</p>
<p><del>27</del><b>29</b>.Power to serve a building preservation notice, and related powers.</p>	<p>Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><del>28</del><b>30</b>.Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.</p>	<p>Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><del>29</del><b>31</b>.Powers to acquire a listed building in need of repair and to serve a repairs notice.</p>	<p>Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><del>30</del><b>2</b>.Power to apply for an injunction in relation to a listed building.</p>	<p>Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><del>31</del><b>3</b>.Power to execute urgent works.</p>	<p>Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>
<p><b>Functions relating to common land or village greens</b></p>	
<p><del>32</del><b>4</b>.Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p style="margin-left: 20px;">(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or</p> <p style="margin-left: 20px;">(b) an order under section 147 of the Inclosure Act 1845.</p>	<p>Regulation 6 of the Commons Registration (New Land) Regulations 1969.</p>
<p><del>33</del><b>5</b>.Power to register variation of rights of common.</p>	<p>Regulation 29 of the Commons Registration (General) Regulations 1966.</p>

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
<b>Functions relating to works in or on highways and relating to footpaths</b>	
346. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c.22)
357. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
368. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981.
379. Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
3840. Power to create footpath or bridleway by agreement.	Section 25 of the Highways Act 1980.
3941. Power to create footpaths and bridleways.	Section 26 of the Highways Act 1980.
402. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
413. Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
424. Power to determine application for public path extinguishment order.	Section 118ZA and 118C(2) of the Highways Act 1980.
435. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.
446. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980.
457. Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.
468. Power to make a public path diversion order.	Section 119ZA and 119C (4) of the Highways Act 1980.
479. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
4850. Power to make a special diversion order.	Section 119B of the Highways Act 1980.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
4951. Power to require application for order to enter into agreement.	Section 119C (3) of the Highways Act 1980.
502. Power to make an <del>SSSI</del> <b>Sites of Special Scientific Interest</b> diversion order.	Section 119D of the Highways Act 1980.
513. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA, and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
524. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
535. Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980.
546. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130 (B) (7) of the Highways Act 1980.
557. Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.
568. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.
579. Functions relating to making good of damage and removal of obstructions.	Section 135B of the Highways Act 1980.
5860. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.
5961. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
602. Duty to keep register of prescribed information with respect to applications under Section 53 (5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
613. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
624. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
635. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981.
646. Power to authorise stopping up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.
657. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
668. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.
679. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
6870. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
6971. Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
702. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
713. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
724. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
735. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.
746. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.
757. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
768. Power to make agreements for the execution of highways works.	Section 278 of the Highways Act 1980 substituted by the New Roads and Street Works Act 1991.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
779. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990.
<b>Various other functions</b>	
7880. Powers relating to the preservation of trees and dangerous trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976.
7981. Powers relating to the protection of important hedgerows.	The Hedgerow Regulations.
802. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981.
<p><b><i>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 him/her contained in Part F of Appendix 1 but subject to the Limits on Delegations.</i></b></p>	

## 9. DELEGATIONS TO LICENSING COMMITTEE

9.1 To exercise the Council's functions relating to the processing, determination and management of licensing matters including but not limited to:-

- Licensing functions set out in the Gambling Act 2005
- Licensing functions set out in the Licensing Act 2003, **as amended by the Police Reform and Social Responsibility Act 2011**
- Animal Welfare Act 2006
- Health Act 2005
- Gambling Act 2005
- Controlling the distribution of free printed material
- **Regulated entertainment**
- Hackney carriages and Private Hire Vehicles, drivers and operators
- Operation of minibuses; pleasure boats and pleasure vessels
- ~~Premises with amusement machines and amusements with prizes; pools promoters and track betting (Provision effective until 31 August 2007 – Superseded by Gambling Act 2005 on 1 September 2007)~~
- Cinema, (**where provisions of the Licensing Act 2003 do not apply**) theatre and sex establishment licences; hypnotism
- Street collection and house to house collections; societies lotteries
- Acupuncture, tattooing, ear piercing and electrolysis
- Caravan sites, moveable dwellings and camping sites
- Markets and street trading
- Provision of ~~late night refreshment and~~ take away food shops; food preparation premises and food business premises
- Sale of non-medicinal poisons
- Tables and chairs and A boards
- Storage of filling materials



- Scrap yards and motor salvage operators
  - Safety certificates for sports grounds and regulated stands; fire certificates
  - Dog breeding, animal boarding, pet shops, animal trainers and exhibitors, zoos, dangerous wild animals, guard dogs, knackers yards
  - Employment of children
  - Operation of loudspeakers
  - Anti-social behaviour – high hedges
  - Sale and movement of pigs and cattle
  - Meat, dairy, egg product and fish product establishments
- 9.2** To exercise the Council’s functions relating to Health, safety and welfare in connection with work and control of dangerous substances.
- 9.3** To exercise the Council’s functions relating to the Registration of Births, Deaths and Marriages and the approval of premises for the solemnisation of marriages.
- 9.4** To receive and approve annual reports on the administration and management of licensing matters.

**Statutory Powers and Duties**

The functions listed above are detailed in the Schedule to which may be added such other specific powers or duties which may be permitted or required to be delegated from time to time by Regulations made under the Local Government Act 2000.

**SCHEDULE**

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
<b><u>Licensing and registration functions</u></b>	
1. Licensing functions set out in the Licensing Act 2003.	Sections 5 to 8 <b>53A-C and 41A-D</b> of the Licensing Act 2003, <b>as amended by Sections 103-140 of the Police Reform and Social Responsibility Act 2011.</b> <del>Section 53A-C</del>
2. Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
3. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.
4. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.  (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license <b>drivers of</b> Hackney Carriage and <del>drivers of</del> private hire vehicles.	Sections 51, 53, 54, 57 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to license operators of private hire vehicles.	Sections 55, <b>56, 57, to 58</b> , 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
7. Power to register pool promoters.	<del>Schedule 2 to the Betting, Gaming and Lotteries Act 1963.</del> <b>Gambling Act 2005.</b>
8. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963.
9. Power to license inter-track betting schemes.	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963.
10. Power to grant permits in respect of premises with amusement machines.	<del>Schedule 9 to the Gaming Act 1968.</del> <b>Gambling Act 2005.</b>
11. Power to register societies wishing to promote lotteries.	<del>Schedule 1 to the Lotteries and Amusements Act 1976.</del> <b>Gambling Act 2005.</b>
12. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.
13. Power to license sex shops, <b>and</b> sex cinemas <b>and</b> <b>sexual entertainment venues.</b>	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3, <b>as amended by Section 27 of the Policing and Crime Act 2009.</b>

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
14. Power to license performances of hypnotism.	The Hypnotism Act 1952.
15. Power to license for acupuncture, tattooing, ear-piercing, electrolysis and semi-permanent skin colouring.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Local Government Act 2003.
16. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.
17. Power to grant permission for provision of, etc of services, amenities, recreation and refreshment facilities on highway and related powers e.g. tables and chairs and A boards.	Sections 115E, 115F, and 115K of the Highways Act 1980.
18. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
19. Power to license night cafes and take-away food shops.	Licensing Act 2003.
20. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
21. Authorise prosecution for wilful obstruction of the highway	Section 137 of the Highways Act 1980
22. Duty to publish notice in respect of proposal to grant permission under Section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980.
23. Enforcement of smoke free provisions including Sections 6(5), 7(4) and 8(4). Authorisation of <del>officers</del> <b>employees</b>	Health Act 2006 and Orders and Regulations thereunder
24. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.
25. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3 (1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
26. Power to register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.
27. Power to register scrap metal dealers and licence motor salvage operators.	Section 1 of the Scrap Metal Dealers Act 1964 and Part I of the Motor Vehicles (Crime) Act 2001.
28. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975.
29. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety Places of Sport Act 1987.
30. Power to issue fire certificates.	Regulatory Reform Fire Safety Order 2005.
31. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.
32. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
33. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
34. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.
35. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976.
36. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999.
37. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, byelaws made under the Part, and Part II of the Children and Young Persons Act 1963.
38. Power to license persons to collect	Section 5 of the Police, Factories etc

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
for charitable and other causes.	(Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.
39. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993.
40. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995.
41. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
42. Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
43. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998.
44. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994.
45. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995.
46. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995.
47. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993.
48. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995.
49. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
50. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
51. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
52. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
53. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
54. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991.
55. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
<del>56. Power to make closing order with respect to take-away food shops.</del>	<del>Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.</del>
<del>57</del> 6 Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922.
<del>58</del> 7 Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995. <b>Civil Partnership Act 2004, The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 and The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011.</b>
<del>59</del> 8 Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.
<del>61</del> 59 Licensing functions set out in the Gambling Act 2005 and order and regulations thereunder.	Gambling Act 2005.
<del>62</del> 0 Power to act when there is a threat of environmental damage and the carrying out of works in default	Environmental Damage (Prevention and Remedial) Regulations 2009
<b>Functions relating to the enforcement of byelaws</b>	Any provision of any enactment (including a local Act) whenever passed, and section 14 of the Interpretation Act 1978.
<b>Functions relating to health and safety at work</b>	
Functions under any of the “relevant statutory provisions” within the	Part I of the Health and Safety at Work etc. Act 1974.

**Function**

meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

**Provision of Act or Statutory Instrument**

**9.5 Terms of Reference of the Licensing Sub-Committee**

**~~As approved by the Licensing Committee~~**

~~Comprises~~ **The Sub-Committee will comprise** three elected ~~Members~~ **Councillors** appointed on a rota basis ~~form~~ **from** the Licensing Committee who will:-

1. consider and determine contentious applications in respect of licensed premises and Hackney Carriage and Private Hire Drivers/operators,
2. authorise the institution of legal proceedings in respect of various licensing and environmental matters.

## **10 DELEGATIONS TO APPEAL PANELS**

10.1 To hear and determine appeals against decisions of ~~officers~~ **employees**, the Cabinet and Cabinet Panels or ~~Standing Bodies~~ **Regulatory or other Committees** including but not limited to:-

(i) appeals against decisions affecting pupils/students (excluding admission and exclusion appeals which are dealt with by independent panels)

(ii) housing appeals

**10.2.** Appeals will be dealt with by a Panel drawn from eligible ~~Members~~ **Councillors**.

**10.3** Appeals will be heard by one or more panels appointed by the Council.

~~2.~~ (i) To hear and determine discipline, grievance and grading appeals from individual employees in accordance with national and local conditions of service.

**10.4** Appeals will be dealt with by a Panel drawn from eligible ~~Members~~ **Councillors**.

~~(ii)~~ (i) To determine individual appointments, dismissals and conditions of service matters which cannot be dealt with by the ~~Executive Cabinet~~ and which require ~~Member~~ **Councillor** involvement.



## **11 DELEGATIONS TO THE SUPERANNUATION COMMITTEE**

- 11.1 To exercise the functions of the Council in relation to the administration of the West Midlands Metropolitan Authorities' Pension Fund arising by virtue of the Local Government Re-organisation (Designated Councils) (Pensions) Order 1986 and the Local Government Pension Scheme Regulations 1997, and any subsequent related legislation.
- 11.2 To exercise all the general powers and duties of the Council granted to the Cabinet and Cabinet Panels and ~~Standing Bodies~~ **Regulatory or other Committees** provided that those parts of the Council's Financial Procedure Rules and Contracts Procedure Rules which relate to the acquisition and disposal of land. **Fund Investment transactions, custody of assets, appointment of advisors, approval of expenditure and their related activities** ~~and the approval of expenditure~~, shall not apply in relation to such acquisitions and disposals and expenditure in connection with the Pension Fund.
- 11.3 To ensure that equality issues are addressed in the development of policies and the provision of services and are appropriately monitored.
- 11.4 To ensure that consideration is given to the impact which the Committee's policies and provision of services have with regard to environmental matters.
- ~~5. To determine, in consultation with the Cabinet arrangements for the revision and delivery of services within the terms of the Best Value framework.~~

### **Investment Advisory Sub-Committee**

- ~~6.11.5~~ To advise on the establishing of policies in relation to investment management including the appointment and approval of terms of reference of independent advisers to the Fund.
- ~~7.11.6~~ To monitor investment activity and the performance of the Fund.
- ~~8.11.7~~ To oversee the administrative and investment management functions of the Pension Fund.

## 12. DELEGATIONS TO THE STANDARDS COMMITTEE

### 12.1 Standards Committee

- (a) **The Council will establish a Standards Committee and three Sub Committees:-**

**Assessment Sub-Committee;  
Review Sub-Committee, and  
Hearing Sub-Committees as and when required for particular  
hearings, comprising where possible, ~~Members~~ Councillors  
who have not been involved on the assessment or review of  
the particular matter.**

### 12.2 Composition

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

- **the Mayor, Deputy Mayor and four elected ~~Members of the~~ Councillors and;**
- **six persons (called “independent ~~members~~ persons”) who are appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001 and the Standards Committee (England) Regulations 2008.**

**The Sub-Committees set out in paragraph 13.6, 13.7 and 13.8 will be convened to deal with individual complaints. Membership will not be static.**

- **Each of the Sub-Committees will be comprised of 4 Members of the Standards Committee:**
- **A ~~member~~ Councillor who has considered a complaint as part of the Assessment Sub Committee will not ~~sit~~ serve on a Review Sub-Committee dealing with the same complaint.**

- (b) **Independent ~~Members~~ Persons. Independent ~~members~~ persons will be entitled to vote at meetings of the Standards Committee only when any of the matters set out in Article 9.3 are being considered of an ethical nature, referred to in the delegations of responsibilities to the Standards Committee set out in Appendix 1.**

- (c) **Chairing the Committee. A ~~member of the~~ Councillor may not chair the Standards Committee. An independent ~~member~~ person will chair the Standards Committee and all Sub-Committees.**

### 12.43 Ethical Role and Functions

The Standards Committee will have the following terms of reference:

- (a) to promote and maintain high standards of conduct by Councillors, Co-opted Members and Church and Parent Governor representatives;
- (b) to assist Councillors, Co-opted Members and Church and Parent Governor representatives to observe the **Members' Councillors'** Code of Conduct;
- (c) to receive, assess and refer complaints that a Councillor, Co-opted Member or Church and Parent Governor representative have failed to comply with the Council's Code of Conduct under local assessment arrangements through its Sub-Committees;
- ~~(d) to appoint a Hearing Sub-Committee where it has been agreed by a Sub-Committee that one is required;~~
- (ed) advising the **Full** Council on the adoption or revision of the **Members' Councillors'** Code of Conduct and **Members' Councillors'** Allowances Scheme;
- (fe) monitoring the operation of the **Members' Councillors'** Code of Conduct and **Members' Councillors'** Allowances Scheme;
- (gf) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the **Members' Councillors'** Code of Conduct;
- (hg) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the **Members' Councillors'** Code of Conduct;
- (ih) advising the Council generally on the revision of the Constitution and particularly the **Officers' Employees'** Code of Conduct and the Protocol on **Member/Officer Councillor/Employee** relationships;
- (ji) maintaining oversight of the Council's whistle blowing policy;
- (kj) maintaining oversight of the Council's Complaints and Compliments procedure.
- ~~(k)~~ ***maintaining oversight of the Local Code of Corporate Governance.***

## **12.24 Additional Role and Functions**

The Standards Committee will have the following additional terms of reference:-

- (a) to liaise between the Council and the Ombudsman;

- (b) to advise the Council on the conferment of the title of Honorary Alderman or Freedom of the City;
- (c) to advise the Council on the making, amendment, revocation or re-enactment of bylaws and the promotion of or opposition to local or personal Bills in Parliament.

### **12.35 Statutory Powers and Duties**

The additional roles and functions listed above are detailed in the Schedule to which may be added such other specific powers or duties which may be permitted or required to be delegated from time to time by Regulations made under the Local Government Act 2000.

#### **SCHEDULE**

<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>
<b>Functions relating to name and status of areas and individuals</b>	
1. Power to change the name of the district.	Section 74 of the Local Government Act 1972.
2. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
3. Power to make, amend, revoke or re-enact bylaws.	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
4. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
5. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.
6. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.
7. Duty to provide <del>staff etc</del> <b>employees</b> to person nominated by Monitoring Officer.	Sections 82A (4) and (5) of the Local Government Act 2000.
8. To administer local assessment arrangements of complaints that <del>members of the</del> <b>Councillors</b> have not	The Standards Committee (England) Regulation 2008

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>
complied with the Code of Conduct	

**12.6 ~~Terms of Reference of the~~ Assessment Sub-Committee**

**~~As approved by the Standards Committee~~**

**1. Terms of Reference**

- (a) The Assessment Sub-Committee is established to receive allegations that a **member Councillor, co-opted member or independent person** of the Authority has failed, or may have failed, to comply with the Authority’s Code of Conduct.
- (b) Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall **be convened within 28 days and will** make an initial assessment of the allegation and shall then do one of the following:
  - (i) refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
  - ~~(ii) refer the allegation to the Standards Board for England;~~
  - (iii) decide that no action should be taken in respect of the allegation; or
  - ~~(iv)~~ (i) where the allegation is in respect of a person who is no longer a **member Councillor, co-opted member or independent person** of the Authority, but is a **member Councillor, co-opted member or independent person** of another relevant authority (as defined in Section 49 of the Local government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;
- (c) ~~Upon~~ **Within 28 days of** completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
  - (i) it accepts the Monitoring Officer’s finding of no failure to observe the Code of Conduct;
  - (ii) the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or

(iii) the matter should be referred to the Adjudication Panel for determination.

(d) The Sub-Committee shall consider any application received from any ~~officer~~ **employee** of the Authority for exemption from political restriction under Section 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that ~~officer~~ **employee** and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.

(e) The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2.2 of the 1989 Act, and may direct the Authority Council to include a post in that list.

## 2. Composition of the Assessment Sub-Committee

The Assessment Sub-Committee shall comprise 4 members **of the Standards Committee**, of whom at least 1 shall be an independent ~~member~~ **person** of the Standards Committee (any one of whom shall chair the Sub-Committee) and at least 2 elected ~~members of the Authority~~ **Councillors**

## 3. Quorum

The quorum for the meeting of the Sub-Committee shall be 3 ~~members~~ with an independent ~~member~~ **person** as chairman and at least one elected ~~member of the Council~~ **Councillor**.

## 4. Frequency of Meetings

The Sub-Committee shall ~~agree~~ **approve** a programme of meetings including one meeting per calendar month but shall only meet where one or more allegations has been received which require to be assessed at that meeting.

## ~~12.7 Terms of Reference of the~~ **Review Sub-Committee**

~~As approved by the Standards Committee~~

### 1. Terms of Reference

(a) The Review Sub-Committee is established to review, upon the request of a person who has made an allegation that a member Councillor, co-opted member or independent person of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Assessment Sub-Committee that no action be taken in respect of that allegation.

- (b) Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall **be convened within 28 days and will** review the decision of the Assessment Sub-Committee and shall then do one of the following:
- (i) refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations;
  - ~~(ii) refer the allegation to the Standards Board for England;~~
  - (iii) decide that no action should be taken in respect of the allegation; or
  - ~~(iv)~~ (i) where the allegation is in respect of a person who is no longer a member Councillor, co-opted member or independent person of the Authority, but is a member Councillor, co-opted member or independent person of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;
- and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.
- (c) Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition ~~of the Review Sub-Committee~~

The Review Sub-Committee shall comprise 4 members **of the Standards Committee** of whom 1 at least shall be an independent ~~member person~~ of the Standards Committee, (and 1 of whom shall chair the Sub-Committee) and at least 2 shall be elected ~~members of the Council~~ **Councillors**.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 ~~members~~, with an independent ~~member person~~ as Chairman, and at least one elected ~~member of the Council~~. **Councillor**.

4. Frequency of Meetings

The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Assessment Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.

## **12.8 Monitoring Officer Protocol**

Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegation that a ~~member of~~ **Councillor** of the Authority has failed to comply with the Code of Conduct.

### 1. Receipt of Allegations

~~4.1(a)~~ The Monitoring Officer shall set up arrangements within the Authority to secure that any allegation made in writing that a ~~member~~ **Councillor** of the Authority has or may have failed to comply with the Authority's Code of Conduct is referred to him/her immediately upon receipt by the Authority.

~~4.2(b)~~ The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.

~~4.3(c)~~ Complaints shall only be entertained where they are signed by the complainant, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his/her opinion that would be in the public interest.

### 2. Notification of Receipt of Allegations

~~2.1(a)~~ All relevant allegations must be assessed by the Assessment Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant ~~member~~ **Councillor** to observe the Code of Conduct other than by reporting it to the Assessment Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he/she will ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an ~~officer~~ **employee** of the Authority.

~~2.2(b)~~ Following receipt of the allegation, and where the allegation ~~does~~ appears to be a complaint of misconduct against a relevant ~~member~~ **Councillor**, the Monitoring Officer will promptly, and in any case, in advance of the relevant meeting:

~~2.2.1(i)~~ acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;

~~2.2.2(ii)~~ notify the ~~member~~ **Councillor** against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Assessment Sub-



Committee, or in his/her absence the Chairman of the Standards Committee, and may then decide that no such advance notification shall be given;

**2.2.3(iii)** collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;

**2.2.4(iv)** seek local resolution of the matter where practicable, in accordance with Paragraph 3 below;

**2.2.5(v)** place a report, including a copy of the allegation, such readily available information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Assessment Sub-Committee.

### 3. Local Resolution

**3.1(a)** Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee, but can avoid the necessity of a formal local investigation.

**3.2(b)** Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she shall approach the ~~member~~ **Councillor** against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate, and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the ~~member~~ **Councillor** concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Assessment Sub-Committee as required, and at the same time report the response of the ~~member~~ **Councillor** concerned and of the complainant. The idea is that, where the ~~member~~ **Councillor** has acknowledged that his/her conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Assessment Sub-Committee might take that into account when considering whether the matter merits investigation.

### 4. Review of Decisions not to Investigate

**4.1(a)** Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and the complainant may then within 30 days of receipt of such notification request that the Review Sub-Committee review that decision.

**4.2(b)** Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Sub-Committee in respect of the matter, the summary of the Assessment Sub-Committee and any additional relevant information

which has become available prior to the meeting of the Review Sub-Committee.

5. Local Investigation

**5.1(a)** It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.

**5.2(b)** It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another experienced ~~officer~~ **employee** of the Authority, an experienced ~~officer~~ **employee** of another authority or an appropriately experienced consultant.

## 13. DELEGATIONS TO AUDIT COMMITTEE

### ~~134.1 Corporate Governance~~

- ~~(a) 1. To oversee the Council's corporate governance arrangements, the work of the Council's internal auditors and the Council's response to external audit and other external inspections that relate to the Committee's work.~~
- ~~(b) 2. To review the operation and compliance with the Authority's Code of Corporate Governance.~~
- ~~(c) 3. To report annually to the Council on the operation of the Code of Corporate Governance.~~
- ~~(d) 4. To make recommendations on the content of the Code of Corporate Governance.~~
- ~~(e) 5. To make Standing Orders as to contracts (Contracts Procedure Rules).~~

### ~~134..2 Annual Governance Statement~~

- ~~(a) To review and approve the Annual Governance Statement as required by the Accounts and Audit Regulations 2006. In doing so, the Committee will satisfy itself that it has obtained sufficient relevant and reliable evidence to support the disclosures made, in particular by:-~~
  - ~~▪ (i) Receiving reports on the monitoring and progress of action plans relating to corporate governance arrangements.~~
  - ~~▪ (ii) The receipt of a review at least once a year of the effectiveness of the system of internal controls.~~
  - ~~▪ (iii) Considering the progress and adequacy of management's response to these reviews.~~
  - ~~▪ (iv) Receiving reports on the monitoring and review of risk management.~~

### ~~134..3 Statement of Accounts~~

- ~~— To approve the annual Statement of Accounts, prior to submission to the external auditor.~~

### ~~134..4 Internal Audit~~

- ~~(a) To make decisions in respect of operational matters, and to make recommendations to the Council on policy matters. In particular, the Committee will:-~~

- ~~▪ (i) Receive any internal audit strategies, codes of practice, audit plans and progress against such plans as it considers necessary.~~
- ~~▪~~
- ~~▪ (ii) Receive the Annual Report on Internal Audit Activities.~~
- ~~▪ (iii) Review the progress and adequacy of management's response to internal audit recommendations and matters arising from the internal audit reports.~~
- ~~▪ (iv) Consider those internal audit reports which, in the view of either the Chief Executive, the Assistant Director (Corporate Services) or Head of Audit Services require to be brought to the attention of the Audit Committee.~~
- ~~▪ (v) Keep under review and make recommendations to the Council on the content and operation of the Council's Anti-Fraud and Corruption Policy.~~

#### **134..5 External Audit and Inspections**

- ~~(a) To make decisions in respect of operational matters and to make recommendations to the Council on policy matters. In particular, the Committee will:-~~
- ~~▪ (i) Receive the external auditor's review of the Council's Statement of Accounts, Annual Audit Letter, Audit Plans and any other reports and relevant matters referred by the external auditor.~~
  - ~~▪ Review the progress and adequacy of management's response to external audit recommendations and matters arising from other external inspection reports that relate to specifically to the Committee's purposes set out in 13.1 14. (This responsibility recognises the separate role of Scrutiny Panels in holding the Executive **Cabinet** to account for how they respond generally to inspection reports and is not intended to be a substitute for this role).~~

#### **134..6 Risk Register**

- ~~\_\_\_\_\_ To review on a regular basis the Council's risk register and arrangements for managing risk.~~

#### **134..7 Good Practice**

- ~~\_\_\_\_\_ In undertaking its role the Committee will have regard to good practice as exemplified in:~~

- ~~(a) 1. CIPFA/SOLAGE "Corporate Governance in Local Government".~~
- ~~(b) 2. National codes of conducts for members **Councillors** and officers **employees**.~~

~~(c) 3. CIPFA and Audit Commission statements.~~

~~(d) 4. Relevant aspects of the Turnbull Guidance on Internal Control in the private sector.~~

~~(e) 5. Advice given by the Assistant Director (Corporate Services).~~

### 13.1 Audit Activity

- (a) *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.*
- (b) *To consider summaries of specific Internal Audit reports as requested.*
- (c) *To consider reports dealing with the management and performance of the providers of Internal Audit Services.*
- (d) *To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.*
- (e) *To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance*
- (f) *To consider specific reports as agreed with the External Auditor*
- (g) *To comment on the scope and depth of external audit work and to ensure it gives value for money.*
- (h) *To liaise with the Audit Commission over the appointment of the Council's external auditor.*
- (i) *To commission work from Internal and External Audit.*

### 13.2 Regulatory Framework

- (a) *To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.*
- (b) *To review any issue referred to it by the Chief Executive or a Director, or any Council body.*
- (c) *To monitor the effective development and operation of risk management and corporate governance in the Council.*
- (d) *To monitor Council policies on 'Raising Concerns at Work' and the 'Anti fraud and corruption strategy' and the Council's complaints process.*
- (e) *To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.*
- (f) *The Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.*
- (g) *The Council's compliance with its own and other published standards and controls.*

### 13.3 Accounts

- (a) *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.*
- (b) *To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.*

### 13.4 Audit Committee Sub ~~Groups~~ Committees

Audit Committee has established the following two ~~s~~Sub groups **Committees** to facilitate the discharge of its responsibilities

- (a) ~~Sub Group 1~~ — Examination of Paid Accounts/Monitoring of Audit Investigations **Sub Committee**

Terms of Reference

- ~~1. (i) Receive audit services reports on selected paid accounts in respect of compliance with Financial and Contracts Procedure Rules, other relevant corporate policies and Value for Money.~~
  - ~~2. (ii) Monitor the progress of investigations undertaken by Audit Services.~~
  - ~~3. (iii) Refer significant issues arising from 1 and 2 above to the next scheduled meeting of the Audit Committee.~~
- *Monitor the progress of investigations undertaken by Audit Services.*
  - *Refer significant issues arising from the above to the next scheduled meeting of the Audit Committee.*

#### ~~Sub Group 2~~ — Final Accounts Monitoring and Review **Sub Committee**

Terms of Reference

- ~~1. (i)~~ Receive detailed training in respect of the process associated with the preparation, sign off, audit and publication of the Council's final accounts, including the Annual Governance Statement
- ~~2. (ii)~~ Monitor the ongoing progress towards publication of the Council's final accounts, ensuring that statutory deadlines are achieved
- ~~3. (iii)~~ To obtain explanations for all significant variances between planned and actual expenditure to the extent that it impacts on final accounts

- 4. (iv)** Monitor the preparation of the Annual Governance Statement and the resolution of key issues arising.
- 5. (v)** Refer significant issues arising from **2 (ii)** **3 (iii)** and **4 (iv)** to the next scheduled meeting of the Audit Committee

## **14 DELEGATIONS TO THE PETITIONS COMMITTEE**

**14.1** The Petitions Committee will have the following terms of reference:

- (a) To oversee and review the operation and compliance with the Council's petitioning arrangements and to approve and revise as necessary the Council's Petitioning Protocol.
- (b) To consider and deal with any petitions or e-petitions submitted to the Council in accordance with approved protocols.
- (c) To oversee and review the operation and compliance with the Council's arrangements for dealing with Councillor Call for Action and to approve and revise as necessary the Council's Councillor Call for Action Protocol.
- (d) Set objectives for monitoring and evaluating all petitions and Councillor Call for Action requests and where necessary, refer specific issues to the Scrutiny Board.
- (e) Through appropriate mechanisms to report to the Scrutiny Board on the work of the Committee.
- (f) The Petitions Committee will refer to Scrutiny Board, for final determination ~~and~~ **any** petition where petitioners have indicated their dissatisfaction with the outcome of ~~the a~~ **a** petition.
- (g) The Petitions Committee may invite petitioners to address it to speak in support of a petition, discuss issues of concern referred to in a petition and/or answer questions.

**14.2** The functions listed above are detailed in the Schedule to which may be added such other specific powers or duties which may be permitted or required to be delegated from time to time by Regulations made under the Local Government Act 2000.



**15. DELEGATIONS TO THE WEST MIDLANDS JOINT COMMITTEE**

**15.1** The Council is a member of the West Midlands Joint Committee which comprises the seven District Councils within the County of the West Midlands. The Joint Committee is a Joint Committee for the purposes of Part VI of the Local Government Act 1972. The appointment of Council**ors** ~~Members~~ to the Joint Committee and the proceedings of the Joint Committee are governed by the constitution of the Joint Committee. The Joint Committee represents the interests of the District Councils at a national level including joint bidding for resources.

**15.2** The Joint Committee exercises the following functions on behalf of the Council:

- (a) making appointments to the West Midlands Police Authority;
- (b) making nominations to the national Local Government Association as part of the West Midlands Electoral College;
- (c) making appointments to the West Midlands ~~Local Government Association;~~ **Councils**;
- (d) making appointments to the West Midlands Enterprise Board Limited;
- (e) appointing ~~members~~ **Councillors** to various outside bodies.

**15.3** In relation to the Birmingham International Airport Committee shall :

- (a) Determine the exercise of the Council's powers and rights as shareholders.
- (b) Determine the exercise of rights and performance of obligations, warranties, indemnities and covenants contained in the Investment Agreement and Taxation Deed relating to the restructuring of the airport.
- (c) Appoint and remove the District Council's Directors on the Main Board and Management Board, appoint and remove the Joint Deputy Chairman, and appoint appropriate ~~officers~~ **employees** as Districts' nominees to attend Board meetings and support the District Directors.
- (d) A decision of the Committee on any issue relating to Birmingham International Airport will only bind every District if it is passed by a simple majority of voting members and a simple majority of the Districts' total shareholding.
- (e) The voting arrangements in relation to Birmingham International Airport shall be reviewed at the request of shareholders holding 25% or more of the Districts' shares in the Airport or in the event of any Districts no longer being shareholders.

(f) Key decisions shall be submitted to the Joint Committee for consideration before they are presented to the Main Board or general meeting of shareholders. In the cases of urgency (the reason for which will be formally recorded) the Districts' nominees shall be authorised to make decisions in consultation with the Chair and Vice-Chair of the Joint Committee after liaison with the Chief Executive of each District in so far as this is reasonably practicable.

#### 15.4 West Midlands Planning and Transportation Sub-Committee

**4.(a)** To co-ordinate and, where appropriate, present the mutual views of the District Councils on the strategic planning and transportation issues affecting the West Midlands in the preparation, monitoring, implementation and review of planning guidance for the Metropolitan Area and the Region as a whole.

**2.(b)** In collaboration with the West Midlands **Passenger Integrated** Transport Authority, ~~Centro, and the Transport Strategy Coordination Board~~ to promote the integration of the transport system in the West Midlands and the integration of strategic land use and transport planning.

**3.(c)** To present, in conjunction with the **Passenger Integrated** Transport Authority where appropriate, the views of the West Midlands on planning, transportation, public transport and highways issues of a strategic nature to Government Departments, local, regional and national agencies (including ~~the LGA and West Midlands LGA, RDA and~~ West Midlands Regional Assembly), and local authorities.

**4.(d)** ~~In conjunction with the Transport Strategy Coordination Board~~ to advise and make recommendations to the Joint Committee on the preparation of the Local Transport Plan for the West Midlands and Annual Monitoring Reports.

**5.(e)** To monitor spending within the Local Transport Plan and approve the reallocation of resources as appropriate.

**6.(f)** To act as a forum to seek to resolve any conflicts of interest which might arise among the Districts on matters within these terms of reference.

**7.(g)** To ensure that in representing the views of the West Midlands to any outside body, it shall have consulted first, where appropriate, with the West Midlands Joint Committee, West Midlands **Passenger Integrated** Transport Authority ~~and the Transport Strategy Coordination Board~~.

**8.(h)** To consider any matter within these terms of reference referred to it by the West Midlands Joint Committee, by any constituent District Council, the West Midlands **Passenger Integrated** Transport Authority, ~~the Transport Strategy Coordination Board~~ or any agency including Government Departments.

**9.(i)** To engage consultants, subject to funds being available, to assist the Sub-Committee with research into major strategic issues when the need arises.

**10.(j)** To receive on behalf of the constituent Districts and the West Midlands ~~Passenger~~ **Integrated** Transport Authority progress/monitoring reports in respect of the contract for the West Midlands Joint Data Team and, in consultation with the Joint Committee ~~and the Transport Strategy Coordination Board~~ to be responsible for the tendering, award and monitoring of future contracts.

**11.(k)** To receive from the Planning and Transportation Officers Executive Group (PTOEG) reports and technical advice on strategic land use planning and transportation matters, and any other matter within the core business of PTOEG for which the Sub-Committee is responsible. The Chairman of PTOEG or his nominee to be present at meetings of the Sub-Committee.

**12.(l)** To promote best practice in all matters within these terms of reference.

**16. DELEGATIONS TO ~~AREA STRUCTURES~~ LOCAL NEIGHBOURHOOD PARTNERSHIPS**

The Council has approved protocols and criteria for the expenditure of budgets available to ~~Area Structures~~ **Local Neighbourhood Partnerships**. There are not currently any formal delegations of Council functions to ~~Area Structures~~ **Local Neighbourhood Partnerships**.

**17. TERMS OF REFERENCE – SPECIAL ADVISORY GROUP  
(~~CONSTITUTIONAL AND GOVERNANCE ARRANGEMENTS~~)**

- 17.1. The Special Advisory Group (~~SAG~~) shall be an advisory body, comprising **Councillors** ~~members of the Administration and opposition parties~~, dealing with governance and constitutional arrangements.
- 17.2. The ~~SAG~~ **Special Advisory Group** shall where appropriate consider and advise the ~~appropriate Council bodies~~ **Standards Committee** on matters relating to the Council's governance and Constitution, including standards of conduct, the timetable of meetings, the administrative and procedural arrangements for implementing new legislation and the terms of reference of or scheme of delegation to Council bodies.
- 17.3 The ~~SAG~~ **Special Advisory Group** shall consider and advise the ~~appropriate Council body~~ **Executive Cabinet** on elections and electoral arrangements, including boundary reviews.

**189. TERMS OF REFERENCE FOR THE CORPORATE PARENTING PANEL**

1. Provide clear strategic and political direction in relation to corporate parenting.
2. Ensure that all Councillors and Wolverhampton City Council Service Groups are all fulfilling their roles and responsibilities as corporate parents proactively.
3. Make a demonstrable commitment to prioritising the needs of looked after children and young people and their carers.
4. Show ambition and aspirations for all looked after children and care leavers.
5. Undertake regular monitoring of the outcomes associated with the above priorities as they are articulated in the 'Corporate Parenting Pledge'.
6. Set objectives for monitoring the work of and evaluating the progress of the Corporate Parenting Officers Group.
7. To receive regular reports on the level and quality of services to looked after children and care leavers from the Children and Young People's Service Group and other Service Groups and external organisations.
8. Ensure that **Members Councillors** undertake a programme of visits to children's homes.
9. Promote achievement and acknowledging the aspirations of children and young people looked after by supporting celebration events.
10. Champion the provision of Council based work placements and apprenticeships for looked after young people.
11. To determine ways in which the role of corporate parenting can be improved, using examples from other local authorities and countries.
12. To be responsible for ensuring that the views of children and young people and their carers are involved in the assessment, development and delivery of services.
13. Engaging with children and young people who are looked after or who have left care including inviting them to act as advisers to the Panel on a regular basis.
14. Meeting with Government inspectors where appropriate, for their input into overall inspections such as the Annual Performance Assessment (APA) and individual inspections of fostering/adoption services and children's homes.

15. ~~Agree~~ **Approve** a work plan, reviewing progress, membership of the Panel and attainment of its role and terms of reference.
16. Through appropriate mechanisms, to report ~~back~~ to Cabinet or other appropriate bodies on the work of the Panel.

## **20. TERMS OF REFERENCE SHADOW HEALTH AND WELL-BEING BOARD**

### **1. CORE MEMBERSHIP**

*Cabinet Member – Health and Well Being*  
*Cabinet Member – Children and Families*  
*Cabinet Member – Adults*  
*Opposition ~~Member~~ Councillor*  
*Director of Community*  
*Director of Education and Enterprise*  
*Director of Public Health*  
*Representative of LINKs / Local Health Watch*  
*GP Chair of Wolverhampton Commissioning Consortia*  
*GP Chair of Wolverhampton Primary Care Consortia*  
*(Membership to be reviewed with partner organisations)*

### **2. PURPOSE**

- (a) To oversee and implement the creation of the Wolverhampton Health and Well-Being Board in readiness to assume its statutory responsibilities from April 2013.*
- (b) To identify and act upon changes that may be required following the enactment of the NHS Health and Social Care Bill in order to establish the Statutory Health and Well Being Board to replace the Shadow Board.*

### **3. TERMS OF REFERENCE**

- (a) To provide leadership and democratic / public accountability to improve health and well being and reduce inequalities.*
- (b) To promote integration and partnership working between the NHS, social care, public health and other commissioning organisations.*
- (c) To assess the robustness of the Joint Strategic Needs Analysis (JSNA) Plan for the local population and to ensure that key commissioning decisions reflect local needs analysis.*
- (d) To receive the Annual Public Health Report and agree and performance manage the forward plan for Public Health priorities.*
- (e) To develop in the light of the JSNA, a joint Health and Well-Being Strategy, setting out how the health and well-being needs of the community will be addressed.*
- (f) To support joint commissioning and pooled budget arrangements as a means of delivering service priorities.*
- (g) To determine appropriate partnership structures required to deliver the Board's responsibilities.*



- (h) To oversee major partnership service transformation programmes and to monitor the QUIPP Programme as it impacts on all partners.**
- (i) To consider options for the development of Local Health Watch in Wolverhampton ensuring that appropriate engagement and involvement with patient and service user involvement groups takes place. To monitor the continued development of Local Health Watch.**
- (j) To oversee the governance and partnership arrangements for both Adults and Children's safeguarding.**
- (k) Lead on the Joint Strategic Needs Assessment and ensure coherent and co-ordinated commissioning.**
- (l) Produce a Health and Well Being Strategy and an Annual Health Improvement Plan.**
- (m) Ensure decisions of Clinical Consortia and other Commissioners fit with the Health Improvement Plan and hold them to account for delivery.**
- (n) Lead on health promotion and ill-health prevention campaigns as well as public health issues.**
- (o) Co-ordinate the delivery of 4.**
- (p) Oversee local Health Watch (the local advocacy, complaints resolution and public involvement service).**
- (q) Support local voice and patient choice by ensuring that the views of local people are used.**
- (r) Be the formal mechanism to oversee the Joint Commissioning Programme**

**1921. DELEGATIONS TO ~~OFFICERS~~ EMPLOYEES**

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**1. Introduction**

- A1 Sections 1-18 of ~~Part 3~~ **Appendix 1** of the Constitution set out how the Council's functions have been allocated between the Council, the ~~Executive Cabinet~~ and ~~Standing Bodies~~ **Regulatory or other Committees**. Those sections also indicate which functions are reserved to the Council and which functions have been delegated to the Cabinet, Cabinet Panels and various ~~Standing Bodies~~. **Regulatory or other Committees**.
- A2 This section of ~~Part 3~~ **Appendix 1** sets out which functions have been delegated to ~~Officers~~ **employees**. One of the main principles of the Constitution is the need to be able to ascertain who is responsible for any decision made by or on behalf of the Council and this is particularly so for ~~Officer~~ **employee** delegations which must be comprehensive.
- A3 The following tables set out the functions which are delegated to the Chief Executive and the Strategic Directors both generally and specifically. All delegations must be exercised in accordance with this Constitution, policies, procedures and Codes of Practice which are adopted from time to time by the Council and any specific limitations or restrictions which are included in the following tables.
- A4 Strategic Directors are required to maintain written delegations which prescribe the delegations which operate within each Business Unit. Business Unit delegations will indicate which ~~officers~~ **employees** are responsible for the management and delivery of services and will specify relevant operational and financial limits.
- A5 ~~Officers~~ **Employees** who are entitled to exercise delegated powers should always refer a complex or sensitive matter for decision by the Cabinet, or appropriate Cabinet Panel or ~~Standing Body~~ **Regulatory or other Committees**.

Complex or sensitive matters to include:-

1. One of significant financial or legal risk not previously brought before Cabinet.
  2. One which requires ~~Members~~ **Councillors** to be made aware of as it is of a significant political nature.
  3. One which affects the Councils reputation and needs to be brought to ~~Members~~ **Councillors'** attention.
  4. Matters that constitute a change to explicit policy statements.
- A6 References in the delegations to any statutory provision shall be deemed to include any statutory provisions which may from time to time replace, amend or revoke them and any orders, directions, regulations, codes of practice, byelaws or government guidance currently in force.

**B Delegations to Chief Executive and all Strategic Directors**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
B1 Financial administration.	In accordance with the Financial Procedure Rules.
B2 Contracts and tendering.	In accordance with the Contracts Procedure Rules.
B3 Management of Human Resources.	In accordance with the Council's Personnel Manual, the <del>Officer</del> <b>Employee</b> Employment Procedure Rules and the <b>attached</b> Schedule <del>attached hereto</del> .
B4 Day to day administration and operational management excluding key decisions as defined in the Access to Information Procedure Rules.	In accordance with the Constitution and any specific restrictions or limitation imposed by the <del>Executive Cabinet</del> or relevant <del>Standing Body</del> . <b>Regulatory or other Committee</b>
B5 Management of operational land and premises used for service delivery.	In accordance with the Financial Procedure Rules, the Contracts Procedure Rules and the Asset Management Plan.
B6 The administration of all fees and charges levied in respect of operational services including the waiving or remission of fees and charges.	In accordance with the Financial Procedure Rules.
B7 Compliance with the Health and Safety at Work etc Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.	In accordance with the Council's Health and Safety policies and procedures.
B8 Compliance with the Council's Equal Opportunities Policy and relevant legislation.	In accordance with the Council's Equal Opportunities policies and procedures.
B9 Compliance with the Human Rights Act 1998.	
B10 Compliance with the Data Protection Act 1998 and the Freedom of Information Act 2000.	

Function	Limits or restrictions on delegation
B11 To maintain written delegations for <del>officer</del> <b>employee</b> responsibility for their Business Units	
B12 Identification of “ <del>Officers</del> <b>Employees</b> responsible for the management of investigations” under the Regulation of Investigatory Powers Act 2000.	In accordance with policy agreed by Cabinet (Resources) Panel on 2 November 2010
B13 Discharge of functions under the Major Emergency Plan.	In accordance with the Major Emergency Plan.
B14 Compliance with the Local Code of Corporate Governance and production of an annual Assurance Statement.	In accordance with the Code.
B15 Compliance with Risk Management Strategy.	

**Schedule of Human Resources Delegations**

HR Topic/Procedure	Delegation	Controls	Report to <b>Members</b> Councillors
<p><b>1. Appointment of all <b>staff</b> employees below JNC (Chief Officer) level, excluding persons appointed as assistants for political groups</b></p>	<p><b>Strategic Directors or their nominee</b></p>	<p><b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b></p>	<p><b>Summary of establishment changes to be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources)</b></p>
<p><b>2. Dismissal of post holders below JNC (Chief Officer) level</b></p> <p><b>a) Retirement on the grounds of efficient exercise</b></p>	<p><b>Strategic Directors or their nominee</b></p>	<p><b>In consultation with Head of HR Operations or their nominee</b></p>	<p><b>Numbers to be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources) on a six monthly basis</b></p>
<p><b>b) Redundancies (Compulsory and Voluntary Redundancies)</b></p>	<p><b>Strategic Directors or their nominee</b></p>	<p><b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b></p>	<p><b>Numbers to be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources) on a six monthly basis</b></p>

HR Topic/Procedure	Delegation	Controls	Report to <b>Members</b> Councillors
<i>c) Other dismissals and disciplinary action</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations or their nominee</i>  <i>Appeals against dismissal are heard by <b>Members</b> Councillors.</i>	<i>Summary of Employment Tribunal case numbers to be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources) on a six monthly basis</i>
<i>3. Regrading of post holders below JNC (Chief Officer) level</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations and Section 151 Officer or their nominees</i>	<i>To be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources)</i>
<i>4. Establishment of new posts below JNC (Chief Officer) level</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations and Section 151 Officer or their nominees</i>	<i>To be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources)</i>
<i>5. Minor restructures below JNC (Chief Officer) level</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations and Section 151 Officer or their nominees</i>	<i>To be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources)</i>
<i>6. Establishment/renewal of fixed term temporary posts below JNC (Chief Officer) level</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations and Section 151 Officer or their nominees</i>	<i>To be reported for information in the regular Staffing Issues reports to Cabinet Panel (Resources)</i>
<i>7. Extension of full sick pay beyond entitlement under the national agreement</i>	<i>Strategic Directors or their nominee</i>	<i>In consultation with Head of HR Operations and Section 151 Officer or</i>	<i>N/A</i>

		<i>their nominees</i>	
<b>HR Topic/Procedure</b>	<b>Delegation</b>	<b>Controls</b>	<b>Report to <b>Members</b> Councillors</b>
<b>8. Approval of accelerated salary increments below JNC (Chief Officer) level</b>	<b>Strategic Directors or their nominee</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>9. Agreement of new essential car user allowances</b>	<b>Strategic Directors or their nominee</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>10. Extension of lodging allowances for up to 12 months in special cases</b>	<b>Strategic Directors or their nominee</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>11. Approval of attendance on all training courses including accommodation or subsistence</b>	<b>Strategic Directors or their nominee</b>	<b>N/A</b>	<b>N/A</b>
<b>12. Submission of HR1 Redundancy Notifications to Secretary of State</b>	<b>Head of Paid Service</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>13. Lead Counter - Signatory for Criminal Records Bureau (CRB) checks</b>	<b>Head of HR Operations</b>	<b>N/A</b>	<b>N/A</b>
<b>14. Role of Proper Officer in respect of appointment and dismissal of JNC (Chief) Officers including Chief Executive and</b>	<b>Head of HR and OD Strategy, and Head of HR Operations</b>	<b>N/A</b>	<b>N/A</b>



<b>Statutory Officers</b>			
<b>HR Topic/Procedure</b>	<b>Delegation</b>	<b>Controls</b>	<b>Report to <del>Members</del> Councillors</b>
<b>15. Terms and Conditions authorisations;</b> <ul style="list-style-type: none"> <li>• <b>Carry over of annual leave beyond 5 days,</b></li> <li>• <b>Recognition of previous public sector service for annual leave entitlement</b></li> <li>• <b>Time off for dependants beyond 5 days in 1 year</b></li> </ul>	<b>Strategic Directors or their nominee</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>16. Flexible retirement approvals</b>	<b>Strategic Directors or their nominee</b>	<b>In consultation with Head of HR Operations and Section 151 Officer or their nominees</b>	<b>N/A</b>
<b>17. Management of the Long Service Awards Scheme and voucher scheme</b>	<b>Head of HR Operations</b>	<b>N/A</b>	<b>N/A</b>

**C Delegations to the Chief Executive**

Function	Limits or restrictions on delegation
C1 Discharge of functions as Head of Paid Service.	In accordance with Article 12 of the Constitution
C2 To undertake any function delegated to any Strategic Director in the absence of that Director or due to his/her inability to act.	In accordance with any restriction on delegation specified in this Delegation Scheme.
C3 To undertake functions in respect of the West Midlands Metropolitan Authorities Pension Fund.	In accordance with the statutory provisions and any determinations of the Superannuation Committee.
C4 Discharge of functions in relation to the compilation and maintenance of the Register of Electors and the organisation and management of European, Parliamentary and local elections.	In accordance with the Representation of the People Acts and associated legislation.  <b>Note:</b> The day to day functions are within the remit of the Assistant Director (Governance) and therefore also referred to in the delegations to the Strategic Director for Delivery.
C5 To consent to dispersal of groups under section 30 of the Anti-Social Behaviour Act 2003.	In accordance with the report approved by Cabinet 24/01/07
C6 Communications and Customer Relations.	
C7 Performance Management.	
C8 Organisational planning; tactical planning.	
C9 To manage and administer the Council's central ICT resources, corporate ICT strategy and IEG statement.	

**D Delegations to the Strategic Director for Community**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<b>Play and Youth</b>	
D1 Operational management of the Youth Service including youth clubs, projects and programmes.	Senior Managers to prioritise need in accordance with the Service Plan.
D2 Operational management of Adventure Playgrounds and other developmental play provision.	In accordance with priorities set within the Service Plan.
<b>Children's Social Care</b>	
<b>D3 To act as the statutory Director of Children's Services</b>	
D3 4 The provision of financial assistance under the Children Act 1989 within the Council's agreed scheme of financial delegations in respect of each application.	
D4 5 In consultation with the Assistant Director (Governance) to authorise the institution of appropriate legal proceedings in respect of children.	
D5 6 To place children being looked after by the Council in suitable accommodation and pay appropriate fees, charges and allowances and grants.	
D6 7 To give any necessary consent, including consent to medical treatment, in respect of children looked after by the Council.	
D7 8 In conjunction with the Assistant Director (Governance) to instruct Solicitors to act on behalf of children looked after by the Council.	
D8 9 In conjunction with the Assistant Director (Governance) to make applications for Contribution Orders etc in respect of children looked after by the Council.	

**D Delegations to the Strategic Director for Community**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
D <del>9</del> <b>10</b> To give consent for holidays abroad for children looked after by the Council.	
D <del>10</del> <b>11</b> To act as Contract Administrator and perform the duties imposed thereon by building and engineering contracts.	
D <del>11</del> <b>12</b> To support and assist the Wolverhampton Leisure Gardens Association.	Smallholdings & Allotments Act 1908.
<b>Social Services</b>	
D <del>12</del> <b>13</b> The operational management of the provision by the Council of personal social services as permitted or required by the Local Authority Social Services Act 1970.	D12 - D25 accordance with the delegations approved by Cabinet 28/06/06
D <del>13</del> <b>14</b> To act as the statutory Director of Adult Services	
D <del>14</del> <b>15</b> The provision of improvements and adaptations under the Chronically Sick and Disabled Persons Act 1970 within the Council's agreed scheme of financial delegations in respect of each application.	
D <del>15</del> <b>16</b> In consultation with the Assistant Director (Governance) to authorise the institution of appropriate legal proceedings in respect of adults.	
D <del>16</del> <b>17</b> To make arrangements for the temporary protection of property of persons admitted to hospital or other accommodation.	
D <del>17</del> <b>18</b> To make application to act, and to act as receiver of property for persons who are incapable of managing their own affairs.	
D <del>18</del> <b>19</b> To make arrangements for the burial and cremation of persons dying in accommodation provided under Part III	

**D Delegations to the Strategic Director for Community**

Function	Limits or restrictions on delegation
<p>of the National Assistance Act 1948 and to recover the funeral expenses from the deceased's estate.</p>	
<p><del>D19</del> <b>20</b> To make arrangements for the burial or cremation of any person found dead in their area where no suitable arrangements have been made under Part III of Public Health (Control of Disease) Act 1984.</p>	
<p><del>D20</del> <b>21</b> The appointment of Proper Officers for social services functions.</p>	<p>In accordance with the Green Decision notice dated 8 April 2003 and reported to the Developing and Supporting the Organisation Cabinet Team 25 April 2003.</p>
<p><b>Housing Support Services</b></p>	
<p><del>D21</del> <b>22</b> To carry out the investigative and assessment duties of the Council under Part III of the Housing Act 1985 (Housing and Homelessness).</p>	
<p><del>D22</del> <b>23</b> To provide general and specific advice on housing in order to prevent homelessness and assist in maintaining existing tenancies.</p>	
<p><del>D23</del> <b>23</b> The nomination of tenants to Housing Associations schemes.</p>	
<p><del>D24</del> <b>25</b> The administration of the 24 Hour Control Centre and the Carelink alarm system.</p>	
<p><del>D25</del> <b>26</b> To make arrangements for asylum seekers.</p>	
<p><b>Cultural Services</b></p>	
<p><del>D26</del> <b>27</b> To undertake operational management of the Libraries and Information Service in accordance with the Public Libraries and Museums Act 1964.</p>	<p>Public Library Standards Statement.</p>

**D Delegations to the Strategic Director for Community**

Function	Limits or restrictions on delegation
<b>Sport and Recreation and Contracts</b>	
<p><b>D27</b> To develop and operate the Sport and Recreation service.</p>	<p>Sport &amp; Recreation Strategy (1999) Wolverhampton Swimming Strategy 2005 Wolverhampton Playing Pitch Strategy 2004</p>
<p><b>D28</b> To undertake the management of bars and licensed premises attached to Aldersley Leisure Village.</p>	<p>Licensing Acts 1964, 1988 and 2003 Food Safety Act 1990 Intoxicating Substances (Supply) Act 1985.</p>
<p><b>D29</b> To support and assist the Wolverhampton City Sports Advisory Council, the Wolverhampton Sports Development Trust, the Black Country Sports Board and the network of adopted Wolverhampton sport specific development groups.</p>	<p>Sport &amp; Recreation Strategy 1999 Wolverhampton Swimming Strategy 2005 Wolverhampton Playing Pitch Strategy 2004 Adopted sport specific development plans.</p>
<p><b>D30</b> To grant aid sports development projects, sports clubs and sporting events.</p>	<p>Sport and Recreation Strategy 1999 Wolverhampton Swimming Strategy 2005 Wolverhampton Playing Pitch Strategy 2004</p>
<p><b>D31</b> To develop and operate parks, open spaces, static play areas and allotment sites.</p>	<p>Parks &amp; Open Spaces Strategy 1999 and associated development plans:</p> <ul style="list-style-type: none"> <li>• Play Area Development Plan 2001</li> <li>• Allotments Development Plan 2001</li> <li>• Parks &amp; Open Spaces Community Safety Plan 1999</li> </ul> <p>Smallholdings &amp; Allotments Act 1908.</p>
<b>Community Centres</b>	
<p><b>D32</b> Assistance to management groups of Community Centres and management</p>	<p>In accordance with inter-agency plans and priorities.</p>

**D Delegations to the Strategic Director for Community**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
of all relevant support services provided by the Council.	
D <del>33</del> 34 Co-ordination of community development support and partnership.	In accordance with inter-agency plans and priorities
<b>Registration and Bereavement Services</b>	
D34 Discharge of functions as Proper Officer for the Registration of Births, Deaths and Marriages including powers under:-  Registration Services Act 1953 The Local Registration Scheme Registration of Births, Deaths and Marriages Regulations 1968 etc Marriage Act 1949, including authority to approve premises to be used as a venue for marriages in pursuance of section 26(i) (bb) of the Marriage Act 1949 (Marriages On Approved Premises) Regulations 1995. Civil Partnership Act 2004	In accordance with the statutory scheme.

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
E1 To approve “continuous service in the public sector” to be recognised for the purposes of annual leave entitlement.	In accordance with the Council’s Personnel Manual
E2 In consultation with the Section 151 Officer to determine the grade for posts below JNC for Chief Officers grading levels.	
E3 In consultation with the Section 151 Officer to deal with applications for discretionary added years for pension purposes with a maximum financial impact of £20,000	In accordance with report approved by Cabinet 15/11/06
E4 Discharge of functions as Proper Officer for the purposes of Section 100 of the Local Government Act 1972 and other provisions relating to admission to meetings and access to documents.	
E5 Scrutiny and Executive Support.	
E6 Democratic <i>and Members</i> Services	
<del>E7 To provide the client agency function for grounds maintenance.</del>	<del>In accordance with Council Procurement Strategy.</del>
<del>E8 To undertake the management of the Bereavement Centre including the provision and maintenance of cemeteries, crematorium and public mortuary facilities.</del>	



<b>Delegations to the Strategic Director for Delivery</b>	
<b>Function</b>	<b>Limits or restrictions on delegation</b>
	<p><b>Note:</b> The functions in E9 – E28 are formally delegated to the Assistant Director (Corporate Services) (Section 151 Officer who reports to the Strategic Director for Delivery</p>
E9 To administer the financial affairs of the Council in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations <del>2003</del> 2011.	This is a Section 151 Officer responsibility
E10 To administer and manage <b>or approve the management arrangements for</b> the Council’s payroll arrangements.	This is a Section 151 Officer responsibility
E11 To manage <b>or approve the management arrangements for</b> the Council’s tax liabilities including National Insurance, Value Added Tax etc.	This is a Section 151 Officer responsibility
E12 To opt to tax land and property transactions not affected by policy considerations.	This is a Section 151 Officer responsibility
E13 To administer and manage <b>or approve the management arrangements for</b> the Council’s creditor payment, telephone transfers and CHAPS payments etc arrangements.	This is a Section 151 Officer responsibility
E14 To collect non-domestic rates and Council Tax or any similar tax from those persons liable, to take such steps in relation to non-domestic rates and Council Tax as the Billing Authority are authorised or required to take and in particular, but without prejudice to the generality of the foregoing:-	This is a Section 151 Officer responsibility
(i) to institute, carry on or defend proceedings in relation to the collection or recovery of non-	

	<p>domestic rates, Council Tax and other charges;</p> <p>(ii) to authorise the institution or defence of any proceedings or the taking of any steps in relation to the valuation list or rating list which the Council are authorised or required to institute, carry on, defend or take;</p> <p>(iii) the imposition of penalties as provided for under the provisions of the Local Government Finance Acts 1988 and 1992;</p> <p>(iv) to take any necessary steps in representing the Billing Authority at Valuation Tribunals;</p> <p>(v) in respect of non-domestic rates, Council Tax and other charges to take any necessary steps in protection of the interests of the Council in connection with bankruptcies, receiverships and liquidations;</p> <p>(vi) to reduce or remit liability in accordance with sections 44A and 49 of the Local Government Finance Act 1988.</p> <p>(vii) to reduce or remit liability in accordance with S13A Local Government Act 1992.</p>	
E15	To administer the assessment and payment of Housing and Council Tax Benefit and the Sanctions Policy in respect of fraud.	Developing and Supporting the Organisation Cabinet Team 28.06.02. This is a Section 151 Officer responsibility
E16	To approve exceptional hardship payments.	This is a Section 151 Officer responsibility. Authority is further delegated to the Head of Benefits to approve Discretionary Housing Payments
E17	To determine the individual claims for Housing Benefit, Council Tax Benefit and rate relief and administer the relevant scheme and regulations.	This is a Section 151 Officer responsibility

**To represent the authority at Housing & Council Tax Benefit Appeals Tribunals.**

<p>E18 To administer, collect, recover or issue all monies due to or from the Council to approve arrangements for the same and the setting of interest rates for mortgage advances for house purchases, improvements and conversions.</p>	<p>This is a Section 151 Officer responsibility</p>
<p>E19 To manage, administer, monitor and report on day to day borrowing, investment or financing, in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities. To review and report on the Treasury Policy Statement.</p>	<p>This is a Section 151 Officer responsibility</p>
<p>E20 To deal with all risk management and insurance matters and settle all insurance claims in accordance with terms agreed from time to time with the Council's insurers.</p>	<p>This is a Section 151 Officer responsibility</p>
<p>E21 In consultation with the Assistant Director (Governance) to deal with ex-gratia claims up to £500.</p>	<p>This is a Section 151 Officer responsibility Developing and Supporting the Organisation Cabinet Team 22.03.02</p>
<p>E22 To make loans for vehicle purchase and to arrange leasing or contract hire as appropriate.</p>	<p>This is a Section 151 Officer responsibility</p>
<p>E23 To supervise and administer the Council's banking arrangements.</p>	<p>This is a Section 151 Officer responsibility</p>
<p>E24 To provide <b>or approve the arrangements for</b> financial advice and services on all matters relating to:-</p> <ul style="list-style-type: none"> <li>(i) the financial affairs of joint ventures, partnerships, companies and other arrangements in which the Council has an interest;</li> <li>(ii) delegations of a financial nature to other bodies e.g. School Governors.</li> </ul>	<p>This is a Section 151 Officer responsibility</p>
<p>E25 In conjunction with the Strategic Director for Education and Enterprise to</p>	<p>This is a Section 151 Officer responsibility In accordance</p>

agree to the application of monies recovered under the proceeds of Crime Act 2002 to a maximum of £30,000

with report approved by Cabinet 20/03/07

E26 To undertake functions in respect of the West Midlands Metropolitan Authorities Pension Fund.

This is a Section 151 Officer responsibility

E27 To administer and manage **or approve the management arrangements for** the Council's procurement arrangements.

This is a Section 151 Officer responsibility

***To deliver a full risk based internal audit service, based on the CIPFA Code of Practice for Internal Audit in Local Government.***

***To maintain a counter fraud service in order to promote raising fraud awareness and to investigate suspected cases of fraudulent activity, in partnership with the WM Police.***

***To develop an effective assurance framework based upon the Council's risk management and internal audit arrangements.***

~~E28 The operational management of the Document Centre.~~

### **Property Services**

~~E29 In respect of the Construction (Design and Management) Regulations 1994 (made under the Health and Safety at Work Act 1974):-~~

- ~~(i) to act as Agent for in-house clients in respect of duties defined for clients undertaking building constructions projects (including planned maintenance where applicable); and~~
- ~~(ii) to carry out the duties for Planning~~

~~Supervision in respect of building construction projects (including planned maintenance where applicable).~~

E30 To discharge the functions of Corporate Property Officer.

E31 To discharge valuation and estates services and deal with property acquisition/disposals.

In accordance with the Scheme of Delegations and Contract Procedure Rules agreed from time to time by the Council.

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
<p><del>E32 To manage and maintain the Civic Centre and to deal with applications for use of the Civic Centre by outside bodies.</del></p>	
<p><del>E33 Main Switchboard and Reception Services, City Direct.</del></p>	
<p><b>Legal Services</b></p>	
<p>E34 Discharge of functions as Monitoring Officer including the selection process by which Independent Members of the Standards Committee are recommended to the Council for appointment.</p>	<p>This is a Monitoring Officer responsibility.</p>
<p>E35 Discharge of functions as Proper Officer for the purposes of:-</p> <p>Section 83 of the Local Government Act 1972 (declaration of acceptance of office)</p> <p>Section 84 (resignation)</p> <p>Section 96 (general notices and recording of disclosures of interest)</p> <p>Section 225 (deposit of documents)</p>	<p><b>Note:</b> The functions in E35 – E45 are formally delegated to the Assistant Director (Governance) (Monitoring Officer)</p>

- Section 229 (photographic copies of documents)
- Section 232 (public notices)
- Section 233 (service of notices)
- Section 234 (authentication of documents)
- Section 238 (evidence of bylaws).
- E36 Discharge of any other Proper Officer functions which may be delegated from time to time by the Council.

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
E37 To undertake functions in respect of the West Midlands Metropolitan Authorities Pension Fund.	
E38 To affix the Common Seal of the Council and to execute by any other means any deed or document on behalf of the Council.	In accordance with the Constitution.
E39 To take all such action as is necessary to commence, prosecute, defend, appear in or discontinue any legal proceedings brought by or against the Council and to authorise <b>officers employees</b> in accordance with section 60 of the County Courts Act 1984 and section 223 of the Local Government Act 1972.	In accordance with the Constitution and any specific restrictions or limitations imposed by the Council, the <b>Executive Cabinet</b> or any <b>Standing Body. Regulatory or other Committee.</b>
E40 In consultation with the appropriate Strategic Director and the Section 151 Officer to institute proceedings for the recovery of possession of any land, premises or dwellings owned by the Council.	
E41 In consultation with the appropriate Strategic Director and the Section 151 Officer to institute proceedings for the recovery of rent, service charges, mortgage arrears and any other monies	

due to the Council.

- E42 In Consultation with the appropriate Strategic Director to authorise arrangements for the appointment of Education Appeals Panel Members and Chairs.
- E43 To make minor editorial and other amendments to the Councils Constitution consequential to legislative changes and subject to consultation with the 3 Group Leaders.

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
E44 Maintenance and operation of the Local Land Charges Register.	
E45 Discharge of functions in relation to the compilation and maintenance of the Register of Electors and the organisation and management of European, Parliamentary and local elections.	The Chief Executive is the Statutory Officer for these functions
<b>Birmingham International Airport</b>	
E46 In consultation with the Section 151 Officer to deal with any matters requiring the consent of the Council as a shareholder in Birmingham Airport, or in relation to matters falling under the Shareholders' Agreement, which have been recommended by the West Midlands Joint Committee, or the financial and legal advisors to the Joint Committee, and which have no adverse financial impact on the Council or do not prejudice the value of its shareholding in the Airport.	In accordance with the reports approved by Cabinet on 05.12.01 and 30.01.02.
<b>Transportation</b>	
E47 To implement the provisions of the New Roads and Street Works Act 1991 as respects Streets, Street Works and	E47–E54 In accordance with any restrictions or limitations imposed by the Executive

Undertakers.

**Cabinet** or relevant Standing Body **Regulatory or other Committee** through approved policies, procedures and service delivery programmes.

E48 To implement temporary and permanent traffic management measures and temporary prohibition of traffic on highways under the:

Road Traffic Regulation Act 1984  
Road Traffic Act 1991  
Road Traffic (Temporary Restrictions)

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
<p>Act 1991 Transport and Works Act 1992 Traffic Signs Regulations and General Direction 1994 and any associated legislation.</p>	
<p>E49 To exercise the Council's functions relating to highways in the Town Police Clauses Act 1847 and the West Midlands County Council Act 1980.</p>	
<p>E50 To exercise the Council's functions under the Road Traffic Act 1988.</p>	
<p>E51 To implement measures under the Traffic Calming Act 1992.</p>	
<p>E52 To undertake repair, maintenance, signage etc of paths under the:</p> <p>National Parks and Access to the Countryside Act 1949 Countryside Act 1968 Wildlife and Countryside Act 1981 Rights of Way Act 1990 Countryside and Rights of Way Act 2000</p>	



E53 To exercise the Council's functions under the Highways Act 1980 including:-

Section:

- 56 - repair of highways
- 59 - recovery of expenses due to extraordinary traffic
- 60 - liability for cost of alternative routes
- 79 - removal of obstructions
- 100 - laying and repair of drains
- 101 - filling ditches
- 102 - protection of highways
- 130 - rights of public to use highway

**E Delegations to the Strategic Director for Delivery**

Function	Limits or restrictions on delegation
132 - consent to display temporary signs	
133 - repairing damage to footways	
139 - placing of builders skips	
142 - planting in the highway	
144 - erection of flagpoles	
143, 149, 151-153 – removal of obstructions	
154 - removal of trees	
156 - activities of statutory undertakers	
163 - water from private land	
164 - removal of barbed wire	
165 - fencing of dangerous land	
166 - dangerous forecourts	
167 - retaining walls	
169 - erection of scaffolding	
171 - deposit of building materials	
172 - erection of hoardings	
176 - construction of bridges	
177 - construction of buildings	
178 - placing of cables etc.	
179 & 180 - construction of cellars	
181 & 182 - private apparatus	
184 - vehicle crossings	
193 & 194 - new streets	
205 & 212 - private street works schemes	
230 - urgent repair of private	

streets  
 286 - new buildings  
 287 - barriers  
 289 & 290 – surveys  
 291 & 294 – powers of entry  
 295 - disposal of materials  
 296 - execution of works  
 297 - information on to  
 ownership

E54 To implement the Council's functions under the Midland Metro Act 1989 and associated legislation.

**City Services**

**E55 The operational management of the Council's wholesale and retail markets including the provision of street trading activities.**

**E56 The authorisation of appropriately qualified and experienced ~~officers~~ employees to act as markets officers.**

**Markets officers and other duly authorised ~~officers~~ employees are empowered to undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices, (including suspension and compliance notices) notifications, waivers, transfer, authorisations, licensing registrations, legal proceedings and formal cautions under the following legislation thereto, and to exercise all other relevant powers including powers of entry provided under such legislation.**

**Markets and Fairs Clauses Act 1847  
 Fairs Act 1868  
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
 Food Act 1984**

**E57 In consultation with the Assistant Director (Governance) to authorise Legal Proceedings under Paragraphs F28, F33, F39, F41 and F44**

**Scheme of delegation in respect to allocation procedures and Market rules  
 Cabinet 17.04.07**

**E58 The operational and business management of the Council's functions relating to Building Cleaning, Catering and Public Toilets.**

**E59 The management of the Council's functions relating to waste management, including refuse collection, waste disposal, recycling waste minimisation.**

**E60 The operational and business management of the Council's functions relating to Fleet Management, Vehicle Compliance, Vehicle Maintenance and Passenger Transport Services.**

**E61 The operational and business management of the Council's Street Scene Services, including environmental cleansing, litter control, grounds maintenance, arboriculture and gully cleansing.**

**E62 Discharge of functions as Proper Officer for the Registration of Births, Deaths and Marriages including powers under:-**

**Registration Services Act 1953  
The Local Registration Scheme  
Registration of Births, Deaths and Marriages Regulations 1968 etc  
Marriage Act 1949, including authority to approve premises to be used as a venue for marriages in pursuance of section 26(i) (bb) of the Marriage Act 1949 (Marriages On Approved Premises) Regulations 1995. Civil Partnership Act 2004**

**E63 To provide the client agency function for grounds maintenance.**

**E64 To undertake the management of the Bereavement Centre including the provision and maintenance of cemeteries, crematorium and public mortuary facilities.**

**The Council's functions are to be discharged in accordance with the Waste Partnership**

**In accordance with the statutory scheme.**

**In accordance with Council Procurement Strategy.**

**E65 The operational management of the Document Centre.**

**E66 In respect of the Construction (Design and Management) Regulations 1994 (made under the Health and Safety at Work Act 1974):-**

**(ii) to act as Agent for in-house clients in respect of duties defined for clients undertaking building constructions projects (including planned maintenance where applicable); and**

**(ii) to carry out the duties for Planning Supervision in respect of building construction projects (including planned maintenance where applicable).**

**E67 To manage and maintain the Civic Centre and to deal with applications for use of the Civic Centre by outside bodies.**

**E68 Delivery of the Corporate Customer Services Strategy and operational management of City Direct, Main Switchboard and reception.**

**E69 Registration and Bereavement Services**

**Discharge of functions as Proper Officer for the Registration of Births, Deaths and Marriages including powers under:-**

**Registration Services Act 1953  
The Local Registration Scheme  
Registration of Births, Deaths and Marriages Regulations 1968 etc  
Marriage Act 1949, including authority to approve premises to be used as a venue for marriages in pursuance of section 26(i) (bb) of the Marriage Act 1949 (Marriages On Approved Premises) Regulations 1995. Civil Partnership Act 2004**

**In accordance with the statutory scheme.**

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
F1 Responding to applications for operating centres under the Good Vehicles (Licensing of Operators) Act 1995.	
F2 To exercise the Council's functions under the War Memorials (Local Authorities' Powers) Act 1923.	
<p>F3 In respect of the Construction (Design and Management) Regulations 1994 (made under the Health and Safety at Work Act 1974):-</p> <p>(i) to act as Agent for in-house clients in respect of duties defined for clients and undertaking highways and civil engineering projects; and</p> <p>(ii) to carry out the duties defined for Planning Supervision in respect of duties defined for clients undertaking highways and civil engineering projects.</p> <p><b>Building Control</b></p>	
<p>F4 To exercise the Council's functions under the Building Act 1984 including:-</p> <p>Section 16 - 25 - passing or rejection of plans  Section 35 - <b>contravention of building regulations</b>  Section 36 - removal of offending work  Section 55 - appeals  Section 77 and 78 - dangerous buildings  Section 80, 81 and 82 - demolition  Section 99 - requiring works  Section 102 - appeals.</p>	
F5 To administer the approved Scheme of Charges for Building Control.	In accordance with the Scheme approved by the Regenerating Wolverhampton Cabinet Team on 23.07.01.

**F Delegations to the Strategic Director for Education and Enterprise**

Function	Limits or restrictions on delegation
<p><b>Town and Country Planning etc. decisions</b></p> <p>F6 The responsibility for determining planning and other applications, planning enforcement and safety is exercised by the Planning Committee and the Strategic Director for Education and Enterprise</p> <p>F7 The Planning Committee will determine the classes of applications and related functions listed in the Schedule below which also sets out the conditions and exceptions under which decisions delegated to <del>officers</del> <b>employees</b> shall be carried out.</p> <p>F8 The Strategic Director for Education and Enterprise is authorised to exercise the powers of the Local Planning Authority in the area of Development Control, namely the determination of those planning and other applications, “including all requests for screening and scoping opinions made under the Town and Country Planning (Environmental Impact Assessment) (England &amp; Wales) Regulations 1999”, and including the drafting of conditions and of reasons for refusal on notices of decision, and the carrying out of planning enforcement and tree protection and safety functions, other than those listed in the Schedule and subject to the conditions and exceptions specified in the Schedule.</p> <p><del>F9 The Strategic Director for Education and Enterprise is authorised to deal with minor amendments to previously approved applications and approval of submissions in response to conditions.</del></p> <p><del>F10 The Strategic Director for Education and Enterprise authorised to issue Certificates of Lawful Development for</del></p>	<p><del>In accordance with the Scheme approved by Planning Committee on 30.11.04</del></p>

## F Delegations to the Strategic Director for Education and Enterprise

Function	Limits or restrictions on delegation
<p><del>small Care Homes</del></p> <p><b>Schedule Limits on Delegation</b></p> <p>F11 Where the applicant is <del>an member of staff</del> <b>employee</b> involved in the planning process, or a <del>Member</del> <b>Councillor</b>, a Chief Officer or (at the discretion of the Strategic Director for Education and Enterprise) a Senior <del>Officer</del> <b>employee</b> of the Council, the application shall be reported to Committee for decision.</p> <p>F12 Where the Strategic Director for Education and Enterprise or a nominated <del>Officer</del> <b>employee</b> so considers, either because of its potential controversy, significant public interest or environmental impact, the application shall be reported to Committee for decision.</p> <p>F13 All applications, other than prior determination applications (see 1 above), on which a petition, or six letters or more of unresolved objection or adverse comment with a legitimate planning basis e.g. excluding purely commercial objections or those simply about devaluation of property, have been received, either from residential or other neighbours or from statutory consultees, shall only be determined by Committee. (Applications subject to five or less objections may be granted or refused by the Strategic Director for Education and Enterprise or other nominated <del>Officer</del> <b>employee</b>.)</p> <p>For the avoidance of doubt the phrase “six letters or more of unresolved objection or adverse comment with a legitimate planning basis” shall be interpreted as being where there is a conflict between the <del>officer</del> <b>employee</b> recommendation and the views expressed as a result of public</p>	

**F Delegations to the Strategic Director for Education and Enterprise**

Function	Limits or restrictions on delegation
<p>consultation. Also, a petition shall be defined as a written document signed by ten or more persons from five or more identifiable households.</p>	
<p>F14 In respect of any application, where an objector or applicant indicates in writing within the appropriate timetables their desire to speak to Committee, such applications shall be determined by Committee.</p>	
<p>F15 <del>All applications which are contrary to the provisions of the Unitary Development Plan or other relevant Council policies and where the officer recommendation is in support of the application shall be determined by Planning Committee.</del>  <b>All applications which are advertised as a departure from the Development Plan and the employee recommendation is in support of the application, shall be determined by the Planning Committee.</b></p>	
<p>F16 <del>All “major” applications (largely but not entirely as defined by the Town and Country Planning (General Procedure) Order for statutory publicity purposes) shall be reported to Committee for decision. These presently comprise:-</del></p> <p><del>(i) residential development where the site area is 0.5 hectares or more;</del></p> <p><del>(ii) other development where the floorspace to be created is 1000 square metres or more, or (where floorspace is not known) the site area is 1 hectare or more;</del></p> <p><del>(iii) the winning and working of minerals or the use of land for mineral working deposits; and</del></p> <p><del>(iv) all waste development, meaning any development designed to be used</del></p>	



## F Delegations to the Strategic Director for Education and Enterprise

Function	Limits or restrictions on delegation
<p><del>wholly or mainly for the purpose of treating, storing, processing or disposing of refuse or waste materials</del>  <del>[Note the absence of any limit relating to the number of dwelling houses created]</del></p>	
<p>F17 All applications <i>apart from applications for Deeds of Variation</i> where it is proposed to enter into a planning agreement under Section 106 of the Town and Country Planning Act 1990 shall be reported to Committee for decision.</p>	
<p>F18 All applications for consent to fell more than five trees shall be reported to Committee for decision.</p>	
<p>F19 Confirmation of any tree preservation order where objections have been received shall be reported to Committee for decision.</p>	
<p><del>F20 All deemed applications arising from appeals against enforcement notices shall be reported to Committee for decision.</del></p>	
<p><del>F21 All applications for hazardous substances shall be reported to Committee for decision.</del></p>	
<p><del>F22 All prosecutions for non-compliance with planning enforcement notices, including stop notices (but not temporary stop notices) and breach of condition notices, and for unauthorised lopping, topping or felling of protected trees shall be reported to Committee for decision.</del></p>	
<p>F23 All applications for the installation of telecommunication equipment where approval is recommended shall be reported to Committee for decision.</p>	

**F Delegations to the Strategic Director for Education and Enterprise**

Function	Limits or restrictions on delegation
<p><del>F24 Council applications involving creation of new floor space for buildings other than schools shall be reported to Committee for decision.</del></p>	
<p>F25 Council's own applications for listed buildings and any applications that involve the demolition in whole or in part of a Locally Listed building shall be reported to Committee for decision.</p>	
<p><del>F26 All applications for care homes within the City shall be reported to the Committee for decisions.</del></p>	
<p><del>F27 The Strategic Director for Education and Enterprise is authorised to serve Temporary Stop Notices.</del></p>	<p><del>Planning Committee 31.10.06</del></p>
<p><del>F28 To exercise the Council's functions under:-</del></p> <ul style="list-style-type: none"> <li><del>• Planning (Listed buildings and Conservation Areas) Act 1990 Sections 88 (Right of Entry) and 88A (Warrant to Enter Land).</del></li> <li><del>• Town and Country Planning Act 1990 Sections 196A (Right of Entry) and 196B (Warrant to Enter Land).</del></li> <li><del>• Planning (Hazardous Substances) Act 1990 Sections 36 (Right of Entry) and 36A (Warrant to Enter Land).</del></li> <li><del>• Town and Country Planning Act 1990 Sections 215, 219, 224 and 225.</del></li> </ul> <p><b>Regeneration</b></p>	<p><del>Planning Committee 23.07.02</del></p> <p><del>Officer delegations in respect of the Town and Country Planning Act 1990 were approved by the Planning Committee on 3 May 2005</del></p>

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
F29 Management of non-operational investment property e.g. industrial units.	
<b>Strategic Housing and Neighbourhood Renewal</b>	
F30 The operational management of the Council's housing and neighbourhood renewal Strategies and Plans including Performance monitoring and effective delivery of housing management services by Wolverhampton Homes and any Tenant Management Organisations and Estate Management Boards.	In accordance with the Constitution and any specific restrictions or limitations imposed by the <del>Executive Cabinet</del> or relevant <del>Standing Body</del> <b>Regulatory or other Committee</b> through approved policies, procedures and service delivery programme.
F31 To implement the Crime Reduction Community Safety Strategy and Drug Strategy.	
F32 To manage the Anti-Social Behaviour Unit and, in conjunction with the Assistant Director (Governance) to institute proceedings to combat anti-social behaviour.	
F33 The authorisation of appropriately qualified and experienced <del>officers</del> <b>employees</b> to act as inspectors.  Inspectors and other duly authorised <del>officers</del> <b>employees</b> are empowered to undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices (including suspension and compliance notices), notifications, waivers, transfer, authorisations, licensing registrations and legal proceedings and formal cautions under the following legislation applicable thereto, and to exercise all other relevant powers, including powers of entry provided under such legislation.  Building Act 1984 Caravan Sites Act 1968 Chronically Sick and Disabled Persons	In accordance with the Scheme of Delegation approved by the former Housing Services Committee on 03.06.97.  Housing Act 2004 in accordance with reports to Cabinet (Resources) Panel 21.03.06 and Cabinet 06.06.06

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p>Act 1970                      Defective Premises Act 1972                      Environmental Protection Act 1990                      Health and Safety at Work etc Act 1974                      Housing Acts 1985, 1988, 1996 and 2004                      Housing and Building Control Act 1984                      Housing Grants, Construction and Regeneration Act 1996                      Housing and Planning Act 1986                      Landlord and Tenant Act 1985                      Local Government (Miscellaneous Provisions) Act 1976 and 1982                      Local Government and Housing Act 1989                      Public Health Acts 1936 and 1961                      Protection from Eviction Act 1977                      Rents Act 1974 and 1977                      Rent (Agriculture) Act 1976                      Rent (Agriculture) Amendment Act 1977                      Social Security and Housing Benefits Act 1982, Parts II and III                      Town Development Act 1952                      West Midlands County Council Act 1980 Ss 32 and 43</p> <p>Any orders or regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972.</p> <p>Any offence under any legislation or at Common Law which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling or procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.</p>	<p>Report approved by Cabinet 28.11.06 with response to legal proceedings pursuant to Sections 189, 352 and 376 of the Housing Act 1985</p>
<p>F34 To implement the Approved Development Programme for Housing Association newbuild.</p>	<p>In accordance with the Programme.</p>
<p>F35 To implement the annual investment programme identified for housing under the Major Repairs Allowance and Unitary Capital Pot.</p>	<p>In accordance with the Programme.</p>

**F Delegations to the Strategic Director for Education and Enterprise**

Function	Limits or restrictions on delegation
<p><b>Environmental Services</b></p> <p>F36 The appointment of Proper Officers for environmental health functions.</p> <p>F37 The operational management of the Council’s environmental health and trading standards and street trading services.</p> <p>F38 The authorisation of appropriate qualified and experienced <b>officers employees</b> to act as inspectors.</p> <p>F39 Inspectors and other duly authorised <b>officers employees</b> are empowered to undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices (including suspension and compliance notices), notifications, waivers, transfer, authorisations, licensing registrations and legal proceedings and simple cautions under the following legislation applicable thereto, and to exercise all other relevant powers, including powers of entry and authorisation of work in default provided under such legislation.</p> <p><b>Executive Cabinet functions</b>  <b>Food and Environmental Safety Service and Public Protection Service</b></p> <p>Agriculture (Miscellaneous Provisions) Act 1968            Animal Health Act 1981            Animal Health and Welfare Act 1984            Animal Welfare Act 2006            Anti-Social Behaviour Act 2003            Building Act 1984            Chronically Sick and Disabled Persons</p>	<p>In accordance with the Green Decision notice dated 8 April 2003 and reported to the Developing and Supporting the Organisation Cabinet Team 25 April 2003.</p> <p>In accordance with the Constitution and any specific restrictions or limitations imposed by the <b>Executive Cabinet</b> or relevant <b>Standing Body Regulatory or other Committee</b> through approved policies, procedures and service delivery programme.</p>

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
Act 1970 Clean Air Act 1993  Clean Neighbourhoods and Environment Act 2005 Control of Pollution Act 1974 Control of Pollution (Amendment) Act 1989 Cremation Acts 1902 and 1952 Criminal Attempts Act 1981 Criminal Justice & Public Order Act 1994 Criminal Justice and Police Act 2001 Dangerous Dogs Act 1991 Dogs Act 1906 Dogs (Fouling of Land) Act 1996 Environment Act 1995 Environmental Protection Act 1990 Environmental and Safety Information Act 1998 Food and Environmental Protection Act 1985 Food Safety Act 1990 Health Act 2006 Highways Act 1980 Home Safety Act 1961 Housing Act 1964 Local Government Acts 1972 and 1988 Local Government (Miscellaneous Provisions) Acts 1976 and 1982 Mines and Quarries (Tips) Act 1969 National Assistance Act 1948 National Assistance (Amendment) Act 1951 National Health Services (Amendment) Act 1986 Noise Act 1996 Noise and Statutory Nuisance Act 1993 Police and Criminal Evidence Act 1984 Pollution Prevention and Control Act 1999 Prevention of Damages by Pests Act 1949 Protection of Animals Act 1911 Protection of Badgers Act 1992 Public Health Acts 1875 to 1969 Public Health (Control of Diseases) Act 1984 Public Health (Recurring Nuisances) Act 1969 Refuse Disposal (Amenity) Act 1978 Regulation of Investigatory Powers Act	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p>2000  Sunday Trading Act 1994  Town and Country Planning Act 1990  Sections 224 and 225  Water Industry Act 1991  Weeds Act 1959  West Midlands County Council Act 1980  Wildlife and Countryside Act 1981  Wolverhampton Corporation Act 1969</p> <p>Any orders or regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972.</p> <p>Any offence under any legislation or at Common Law which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling or procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.</p> <p><b>Executive Cabinet Functions</b>  <b>Trading Standards Service</b></p> <p>Accommodation Agencies Act 1953  Administration of Justice Act 1970 &amp; 1972  Agriculture Act 1970  Animal Health Act 1981  Animal Health and Welfare Act 1984  Animal Welfare Act 2006  Anti-Social Behaviour Act 2003  Architects Act 1997  Auctions (Bidding Agreement) Acts 1922 &amp; 1969  Banking Act 1987  Business Names Act 1985  Cancer Act 1939  Children and Young Persons (Protection from Tobacco) Act 1991  Children and Young Persons Act 1933  Clean Neighbourhoods and Environment Act 2005  Companies Acts 1985 &amp; 2006  Consumer Credit Acts 1974 and 2006</p>	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
Consumer Protection Acts 1961,1971,1987 Control of Pollution Act 1974 Copyright, Designs and Patents Act 1988 Copyright and Trade Marks (Offences and Enforcement) Act 2002 Courts & Legal Services Act 1990 Criminal Attempts Act 1981 Criminal Justice Act 1988 Criminal Justice and Police Act 2001 Criminal Justice & Public Order Act 1994 Criminal Law Act 1977 Customs and Excise Management Act 1979 Development of Tourism Act 1969 Education Reform Act 1988 Energy Act 1976 Energy Conservation Act 1981 Enterprise Act 2002 Environmental Protection Act 1990 Estate Agents Act 1979 European Communities Act 1972 Fair Trading Act 1973 Food Safety Act 1990 Forgery and Counterfeiting Act 1981 & 1988 Fraud Act 2006 Hallmarking Act 1973 Health and Safety at Work etc Act 1974 Highways Act 1980 Insolvency Act 1986 Insurance Brokers Registration Act 1977 Intoxicating Substances (Supply) Act 1985 Knives Act 1997 Licensing Act 1964 (as amended) Licensing Act 2003 Local Government Acts 1972 and 1988 Malicious Communications Act 1988 Medicines Act 1968 Mock Auctions Act 1961 Motor Cycle Noise Act 1987 Motor Vehicles (Safety Equipment for Children) Act 1991 National Lottery etc Act 1993	



**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p>Offensive Weapons Act 1996  Olympic Symbol etc (Protection) Act 1995  Osteopaths Act 1993  Poisons Act 1972  Prices Acts 1974 and 1975  Proceeds of Crime Act 2002  Property Misdescriptions Act 1991  Protection from Harassment Act 1997  Protection of Children (Tobacco) Act 1986  Regulation of Investigatory Powers Act 2000  Road Traffic Acts 1988 and 1991  Road Traffic (Foreign Vehicles) Act 1972  Road Traffic Offenders Act 1988  Road Traffic Regulation Act 1984  Solicitors Act 1974  Telecommunications Act 1984  Theft Acts 1968 and 1978  Timeshare Act 1992  Trade Descriptions Act 1968  Trade Marks Act 1994  Trading Representations (Disabled Persons) Acts 1958 and 1972  Trading Stamps Act 1974  Unsolicited Goods and Services Acts 1971 and 1975  Vehicles (Crime) Act 2001  Video Recordings Acts 1984 and 1993  Weights and Measures Acts 1976 and 1985</p> <p>Any orders or regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972.  Any offence under any legislation or at Common Law which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling or procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.</p>	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p>F40 The operational management of the Council's licensing and health and safety at work functions.</p>	<p>In accordance with the Constitution and any specific restrictions or limitations imposed by the <b>Executive Cabinet</b> or relevant <b>Standing Body Regulatory or other Committee</b> through approved policies, procedures and service delivery programmes. <b>Officer employee</b> delegations relating to the Licensing Act 2003 were approved by the Licensing Committee 2 March 2005</p>
<p>F41 The authorisation of appropriately qualified and experienced <b>officers employees</b> to act as inspectors.</p> <p>Inspectors and other duly authorised <b>officers employees</b> are empowered to undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices (including suspension and compliance notices), notifications, waivers, transfer, authorisations, licensing registrations, legal proceedings and simple cautions under the following legislation applicable thereto and to exercise all other relevant powers, including powers of entry and authorisation of work in default provided under such legislation.</p> <p><b>Non-Executive Cabinet functions Food and Environmental Safety and Public Protection Divisions</b></p> <p>Agriculture (Miscellaneous Provisions) Act 1968 Animal Boarding Establishments Act 1963 Animal Health Act 1981 Animal Health and Welfare Act 1984 Animal Welfare Act 2006 Anti-Social Behaviour Act 2003</p>	

## F Delegations to the Strategic Director for Education and Enterprise

Function	Limits or restrictions on delegation
<p><del>Betting Gaming and Lotteries Act 1963</del>  Breeding of Dogs Act 1973/1991  Breeding and Sale of Dogs (Welfare) Act 1999  Caravan Sites and Control of Development Act 1960  Charities Acts 1992 and 1993  Cinemas Act 1985  Dangerous Wild Animals Act 1976  Deer Act 1991  Employment Agencies Act 1973  Entertainment (Increased Penalties) Act 1990  Factories Act 1961  Fire Safety and Safety of Places of Sport Act 1987  Food and Environmental Protection Act 1985  Food Safety Act 1990  <del>Game Act 1831</del>  Game Licensing Act 1860  Gambling Act 2005  <del>Gaming Act 1968</del>  Guard Dogs Act 1975  Health and Safety at Work etc Act 1974  Highways Act 1980  House to House Collections Act 1939  Hypnotism Act 1952  <del>Late Night Refreshment Houses Act 1969</del>  <del>Licensing Acts 1964</del>  Licensing Act 2003  Local Government Act 1972 and 1988  Local Government (Miscellaneous Provisions) Acts 1976 and 1982  <del>Lotteries and Amusements Act 1976</del>  Marriage Act <del>1994</del> <b>1949</b>  Offices Shops and Railway Premises Act 1963  Performing Animals (Regulation) Act 1925  Pet Animals Act 1951  Poisons Act 1972  Police, Factories etc (Miscellaneous Provisions) Act 1916  <del>Private Places of Entertainment (Licensing) Act 1967</del></p>	<p><del>Officer</del> <b>Employee</b> delegations relating to the Licensing Act 2003 were approved by the Licensing Committee 2 March 2005</p>

## F Delegations to the Strategic Director for Education and Enterprise

Function	Limits or restrictions on delegation
<p>Public Health (Control of Diseases) Act 1984  Public Health (Recurring Nuisances) Act 1969  Rag, Flock and other Filling Materials Act 1951  Registration Service Act 1953  Regulation of Investigatory Powers Act 2000  Riding Establishments Acts 1964 and 1970  Safety of Sports Grounds Act 1975  Scrap Metal Dealers Act 1964  Slaughter of Poultry Act 1967  Slaughterhouses Act 1974  Sunday Trading Act 1994  Theatres Act 1968  <b>Civil Partnership Act 2004</b>  <b>Policing and Crime Act 2009</b>  <b>The Police Reform and Social Responsibility Act 2011</b></p> <p>Town Police Clauses Acts 1847 and 1889  Town and Country Planning Act 1990 Sections 215, 219, 224 and 225  Tramways Act 1870  Transport Acts 1980-2000  Vehicle (Crime) Act 2001  War Charities Act 1940  Welfare of Animals and Slaughter Act 1991  Zoo Licensing Act 1981</p> <p>Any orders or regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972.  Any offence under any legislation or at Common Law which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling or procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.</p>	<p><del>Officer</del> <b>Employee</b> delegations in respect of the Town and Country Planning Act 1990 were approved by the Planning Committee on 3 May 2005</p>

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
F42 To exercise such functions of the Licensing Committee as may be delegated by the Committee from time to time.	Scheme of Delegation approved by the Licensing Committee 02.03.05.
<del>F43 The operational management of the Council's wholesale and retail markets including the provision of street trading activities.</del>	
<p data-bbox="229 701 911 808"><del>F44 The authorisation of appropriately qualified and experienced officers to act as markets officers.</del></p> <p data-bbox="325 846 911 1361"><del>Markets officers and other duly authorised officers are empowered to undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices, (including suspension and compliance notices) notifications, waivers, transfer, authorisations, licensing registrations, legal proceedings and formal cautions under the following legislation thereto, and to exercise all other relevant powers including powers of entry provided under such legislation.</del></p> <p data-bbox="325 1400 847 1579"><del>Markets and Fairs Clauses Act 1847 Fairs Act 1868 Local Government (Miscellaneous Provisions) Acts 1976 and 1982 Food Act 1984</del></p>	<p data-bbox="995 701 1410 846"><del>Scheme of delegation in respect to allocation procedures and Market rules Cabinet 17.04.07</del></p>
<p data-bbox="229 1619 863 1765"><del>F45 In consultation with the Assistant Director (Governance) to authorise Legal Proceedings under Paragraphs F28, F33, F39, F41 and F44</del></p> <p data-bbox="325 1803 655 1839"><b>Commercial Services</b></p>	
F46 The operational management of the Council's function relating to cleaning and catering.	
F47 The management of the Council's	The Council's functions are to

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p>functions relating to waste management, environmental cleansing, litter control, refuse collection and disposal, waste disposal, waste minimisation and recycling.</p>	<p>be discharged in accordance with the Waste Partnership</p>
<p>F48 To manage the Council's corporate transport service.</p>	
<p>F49 To manage the Council's Street Scene Services.</p>	
<p>F50 To submit planning applications:</p> <p>(i) for the development or redevelopment of surplus properties (where Development Briefs or Planning Briefs are not required) in order to maximise sales potential prior to offering the properties for disposal on the open market.</p> <p>(ii) for deemed applications for building works where funding is contained in approved Capital or Revenue budgets.</p> <p>(iii) Submit planning applications for Council owned properties</p>	<p>In accordance with Green Decision 04.05.05.</p> <p>In accordance with Green Decision 19.09.08</p>
<p><b>Education Services</b></p>	
<p>F51 To make Statements of Special Educational Need and to secure provision for pupils with special educational needs.</p>	<p>In accordance with the Special Education Plan.</p>
<p>F52 To make provision for pupils who are unable to attend school.</p>	
<p>F53 To ensure the attendance of pupils at school and, in consultation with the Assistant Director (Governance), authorise the institution of appropriate legal proceedings in respect of non-attendance.</p>	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
To issue Fixed Penalty Notices in relation to school attendance under the Anti-Social Behaviour Act 2003.	In accordance with the decision of Cabinet (Resources) Panel 9 November 2004.
F54 To deal with admissions to schools in accordance with the statutory Admissions Code of Practice and the Council's admission arrangements subject to consultation with the appropriate Cabinet Member(s) in cases of over-subscription.	
F55 To take action in relation to school improvement in accordance with the Education and Inspection Act 2006 and other relevant legislation.	
F56 To implement School Improvement Partnership Board initiatives including the implementation of the Standards Fund Local Delivery Plan.	
F57 To manage the arrangements for the payment of grants, loans and allowances to or in respect of pupils and students.	In accordance with the statutory provision and the scheme of delegation approved by the Lifelong Learning Cabinet Team on 30.05.02.
F58 To make provision for pupils to receive free school meals and to make arrangements for home-school transport where appropriate.	
F59 In consultation with the Section 151 Officer to manage the delegation arrangements for Schools' Budgets	
F60 To ensure that the health and safety of children is safeguarded at all times.	
F61 In consultation with the Assistant Director (Governance), authorise the service of notices and/or the institution of legal proceedings in accordance with Section 547 of the Education Act 1996 (nuisance or disturbance on school	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
premises).	
F62 To exercise such functions of the Licensing Committee relating to child employment as may be delegated by the Panel from time to time.	Scheme of Delegation approved by the former Licensing and Environmental Protection Panel on 26.02.03.
F63 To undertake operational management of the Arts and Museums Service in accordance with the Public Libraries and Museums Act 1964.	
F64 To collect and commission works of art for the Arts and Museums Service.	Wolverhampton Arts and Museums Service Acquisition and Disposal Policy (1999).
F65 To provide for the safekeeping of the City Council's documentary heritage and make it available for public consultation in accordance with the Local Government (Records) Act 1962.	Wolverhampton Archives and Local Studies Acquisition and Disposal Policy (2000).
F66 To accept items from Public Records under the terms of the Public Records Act 1958.	Wolverhampton Archives and Local Studies Acquisition and Disposal Policy (2000). Wolverhampton Arts and Museums Service Acquisition and Disposal Policy (2005)
F67 To accept other items on deposit which contribute to the understanding of the history of the City and its people and make such items available for public consultation.	Wolverhampton Archives and Local Studies Acquisition and Disposal Policy (2000).
F68 To undertake the operational management of the Civic Halls, arranging for a variety of programming and dealing with applications for use of the premises by outside bodies.	Hypnotism Act 1952 Licensing Act 2003 Cinemas Act 1985 Theatres Act 1968.
F69 To undertake the management of bars and licensed premises attached to the Civic Halls.	Food Safety Act 1990 Intoxicating Substances (Supply) Act 1985 Late Night Refreshment Houses Act 1988 Licensing Acts 1964 and 1988



**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
	Licensing Act 2003
<p>F70 To arrange outdoor events to take place throughout the City.</p>	<p>Performing Animals (Regulation) Act 1925            Food Safety Act 1990            Intoxicating Substances (Supply) Act 1985            Licensing Acts 1964 and 1988            Licensing Act 2003</p>
<p>F71 To grant aid a number of projects, companies and individuals in the furtherance and provision of cultural development in the City.</p>	
<p>F72 To provide information and services with regard to local places of interest, events, accommodation and travel in accordance with the Development of Tourism Act, 1969.</p>	
<p>F73 To seek additional funding for the above from a range of funding organisations.            Adult Education Services</p>	
<p>F74 To provide an adult education service.</p>	<p>In accordance with the Learning and Skills Council.</p>
<p><b><i>Transportation</i></b></p>	
<p><b><i>F75 To implement the provisions of the New Roads and Street Works Act 1991 as respects Streets, Street Works and Undertakers.</i></b></p>	<p><b><i>E47–E54 In accordance with any restrictions or limitations imposed by the Executive Cabinet or relevant Standing Body Regulatory or other Committee through approved policies, procedures and service delivery programmes.</i></b></p>
<p><b><i>F76 To implement temporary and permanent traffic management measures and temporary prohibition of traffic on highways under the:</i></b></p> <p><b><i>Road Traffic Regulation Act 1984</i></b></p>	

**F Delegations to the Strategic Director for Education and Enterprise**

<b>Function</b>	<b>Limits or restrictions on delegation</b>
<p><b>Road Traffic Act 1991 Road Traffic (Temporary Restrictions) Act 1991 Transport and Works Act 1992 Traffic Signs Regulations and General Direction 1994 and any associated legislation.</b></p>	
<p><b>F77 To exercise the Council's functions relating to highways in the Town Police Clauses Act 1847 and the West Midlands County Council Act 1980.</b></p>	
<p><b>F78 To exercise the Council's functions under the Road Traffic Act 1988.</b></p>	
<p><b>F79 To implement measures under the Traffic Calming Act 1992.</b></p>	
<p><b>F80 To undertake repair, maintenance, signage etc of paths under the:</b></p> <p><b>National Parks and Access to the Countryside Act 1949 Countryside Act 1968 Wildlife and Countryside Act 1981 Rights of Way Act 1990 Countryside and Rights of Way Act 2000</b></p>	
<p><b>F81 To exercise the Council's functions under the Highways Act 1980 including:-</b></p> <p><b>Section:</b></p> <p><b>56 - repair of highways</b></p> <p><b>59 - recovery of expenses due to extraordinary traffic</b></p> <p><b>60 - liability for cost of alternative routes</b></p> <p><b>79 - removal of obstructions</b></p> <p><b>100 - laying and repair of drains</b></p> <p><b>101 - filling ditches</b></p> <p><b>102 - protection of highways</b></p>	

## F Delegations to the Strategic Director for Education and Enterprise

Function	Limits or restrictions on delegation
<p>130 - <i>rights of public to use highway</i></p> <p>132 - <i>consent to display temporary signs</i></p> <p>133 - <i>repairing damage to footways</i></p> <p>139 - <i>placing of builders skips</i></p> <p>142 - <i>planting in the highway</i></p> <p>144 - <i>erection of flagpoles</i></p> <p>143, 149, 151-153 – <i>removal of obstructions</i></p> <p>154 - <i>removal of trees</i></p> <p>156 - <i>activities of statutory undertakers</i></p> <p>163 - <i>water from private land</i></p> <p>164 - <i>removal of barbed wire</i></p> <p>165 - <i>fencing of dangerous land</i></p> <p>166 - <i>dangerous forecourts</i></p> <p>167 - <i>retaining walls</i></p> <p>169 - <i>erection of scaffolding</i></p> <p>171 - <i>deposit of building materials</i></p> <p>172 - <i>erection of hoardings</i></p> <p>176 - <i>construction of bridges</i></p> <p>177 - <i>construction of buildings</i></p> <p>178 - <i>placing of cables etc.</i></p> <p>179 &amp; 180 - <i>construction of cellars</i></p> <p>181 &amp; 182 - <i>private apparatus</i></p> <p>184 - <i>vehicle crossings</i></p> <p>193 &amp; 194 - <i>new streets</i></p> <p>205 &amp; 212 - <i>private street works schemes</i></p> <p>230 - <i>urgent repair of private streets</i></p> <p>286 - <i>new buildings</i></p> <p>287 - <i>barriers</i></p> <p>289 &amp; 290 – <i>surveys</i></p> <p>291 &amp; 294 – <i>powers of entry</i></p> <p>295 - <i>disposal of materials</i></p> <p>296 - <i>execution of works</i></p> <p>297 - <i>information on to ownership</i></p>	
<p><b>F82</b> <i>To implement the Council's functions under the Midland Metro Act 1989 and associated legislation.</i></p>	

**G Delegation to the Director of Pensions Services**

Function	Limits or restriction on delegation
<p><b>West Midlands Metropolitan Authorities Pension Fund</b></p> <p>G1 The administrative management of matters in connection with <del>superannuation</del> <b>the Council's role as administering authority for the West Midlands Pension Fund.</b></p> <p>G2 The investment and general management of the Fund <b>in accordance with the Superannuation Committee's investment strategy set out in its policy statement.</b></p> <p>G3 To provide services to the West Midlands Integrated Transport Authority Pension Fund.</p> <p>G4 <b>The general delegations to Strategic Directors as they relate to the Council's role as administering body.</b></p>	<p>In accordance with the statutory provisions and any determinations of the Superannuation Committee.</p> <p>Consultation to take place with the Chairman of the Investment Advisory Sub-Committee prior to any major investment decision if it is possible to do so.</p> <p>In accordance with the agreement between the Council and the ITA.</p>



# WOLVERHAMPTON CITY COUNCIL

## SUPPORTING POLICIES, PROCEDURES AND CODES

*[This document forms part of the  
Constitution]*

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## Rules of Procedure

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## **COUNCIL PROCEDURE RULES**

## FULL COUNCIL MEETINGS PROCEDURE RULES

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## 1. DEFINITIONS AND APPLICATION OF RULES

1.1 In these Rules, unless the context otherwise demands the following terms shall have the meaning assigned to them:

“Cabinet” - ~~the members of the Executive. Leader and two or but not more than 9 other members of the Council~~ **Councillors appointed by the Council Leader acting together**

“Cabinet Panel” - a number of ~~members of the Executive~~ **Cabinet Members** acting together.

“Call-in Group” - 5 ~~members~~ **Councillors** of the Scrutiny Board

“Constitution” - the Constitution of the Council required by the 2000 Act.

“Council” - the Wolverhampton City Council acting by the Council.

~~“Executive” - Leader and two or but not more than 9 other members of the Council~~ **Councillors appointed by the Council Leader**

“Head of ~~p~~**Paid Service**” - the Chief Executive or other person designated as such under Article 12 of the Constitution.

~~“Leader~~” - the person elected by the Council to be the Leader of the Council.

“Meeting” - a meeting of the Council.

~~“member Councillor~~” - in relation to the Council **an elected** member of the Council; in relation to the Scrutiny Board or Scrutiny Panels or ~~Standing Body~~ **Regulatory or other Committee** a person appointed as a member of that Board, Panel or Body whether or not entitled to vote.

“Monitoring Officer” - the Assistant Director (Governance) or other person designated as such under Article 12 of the Constitution.

“Assistant Director (Corporate Services)” – the Council’s appointed Officer under section 151 of the Local Government Act 1972 and who is responsible for the proper administration of the Council’s financial affairs. Also referred to as the Section 151 Officer, the Assistant Director (Corporate Service)s role is independent and reports to Council. This role can also be fulfilled by another ~~officer~~ **employee** where authorised by the Assistant Director (Corporate Services) to act on their behalf.

“number of ~~members~~ **Councillors**” - in relation to the Council, the number of persons who may act at the time in question as ~~members of the Councillors~~, and in relation to the Scrutiny Board or a Scrutiny Panel or ~~Standing Body~~ **Regulatory or other Committee** the number of persons who may act at the time in question as voting members of that body.

“person presiding” - the person entitled, or appointed, to preside at any meeting.

**“Co-opted Member” – A person who is not an elected Councillor of the Council but who has been appointed to membership of a Council Scrutiny Panel. Statutory Co-opted Members are Church and Parent Governor representatives who have voting rights and serve on the Children and Young People Scrutiny Panel. Non-statutory Co-opted Members are Youth Council representatives serving on the Children and Young People Scrutiny Panel.**

**“Independent Person” – A person appointed in accordance with various legislation and regulations to serve on the Standards Committee.**

“political group” - a political group as defined in Regulations made under the ~~1989 Act~~ **Local Government and Housing Act 1989.**

“political balance rules” - the rules made under the ~~1989 Act~~ **Local Government and Housing Act 1989.**

“Scrutiny Board” - board comprising ~~members of the~~ Council**ors** who are not ~~members of the Executive~~ **Cabinet Members.**

“Scrutiny Panel” - panels comprising ~~members of the~~ Council**ors** who are not ~~members of the Executive~~ **Cabinet Members.**

**“~~Standing Body~~ Regulatory or other Committee”** - Committees or Panels comprising ~~members of the~~ Council**ors** or other persons established to deal with functions which are neither reserved to the Council nor are ~~executive~~ **Cabinet** functions.

“the 1972 Act” - the Local Government Act 1972.

“the 1989 Act” - the Local Government and Housing Act 1989.

“the 2000 Act” - the Local Government Act 2000.

~~1.2 Unless the context otherwise requires, the singular includes the plural and the plural includes the singular.~~

~~1.3 Any reference in any Rule to a numbered paragraph is, unless the context otherwise requires, a reference to the paragraphs of that Rule bearing that number.~~

1.4 Rules 1 to 20 apply to meetings of the **Full** Council.

1.5 The following Rules will apply to meetings of the Cabinet, Cabinet Panels, the Scrutiny Board or Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees:**

Rule 5 Time and Place of Meetings

- Rule 6 Notice of and Summons to meetings except that notice of and summons of meetings shall be sent only to **members Councillors** of the body in question.
- Rule 7 Quorum except that:  
(i) a Quorum shall be not less than 2;  
(ii) the Quorum of the Cabinet and the Cabinet Panels shall be in accordance with the **Executive Cabinet** Procedure Rules.
- Rule 11 (a) (b) (d) Motions without notice.  
(e) (f) (g) (n) (p)
- Rule 12 Rules of Debate.
- Rule 14 Voting.
- Rule 15 Minutes.
- Rule 16 Record of Attendance.
- Rule 17 Exclusion of public.
- Rule 18.2 – 18.5 **Members' Councillors'** conduct.
- Rule 19 Disturbance by public.
- Rule 20.1 Suspension of Council Procedure Rules.
- 1.6 Rule 21 will apply to **Standing Bodies Regulatory or other Committees** only.
- 1.7 *(i) Subject to (ii) below, filming, including the taking of photographs, video recording, the use of Tweeting, blogging or other forms of social media by the public and press will generally be allowed in respect of Part 1 (public) of the proceedings of Full Council, Cabinet, Scrutiny and **Standing—Body** Regulatory or other Committee meetings of the Council in accordance with the Protocol set out in this Appendix.*
- (ii) Individual Chairs of meetings may, in the interests of the good conduct of a meeting, refuse permission for such activity. Any decision to refuse permission will be explained at the meeting and will not be open to challenge.*

## **2. ANNUAL MEETINGS OF THE COUNCIL**

### **2.1 Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May. The annual meeting will:

- (i) elect a person to preside if the Mayor and the Deputy Mayor are not present;
- (ii) elect the Mayor;
- (iii) appoint the Deputy Mayor;
- (iv) approve the minutes of the last meeting;

- (v) receive any announcements from the Mayor;
- (vi) elect the **Leader of the Council**;
- (vii) receive the Leader's appointments to the Executive Cabinet;**
- ~~(vii)~~ **(viii)** appoint the Scrutiny Board and at least one Scrutiny Panel; a Standards Committee and such other **Standing Bodies Regulatory or other Committees** as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are **executive Cabinet** functions (as set out in **Part 3 Appendix 2** of the Constitution);
- ~~(viii)~~ **(ix)** Appoint Member Champions;
- (x) Appoint representatives to Outside Bodies unless the appointment is an executive Cabinet function or has been delegated by the Council.**
- ~~(ix)~~ **(xi)** approve the scheme of delegation or such part of it as the Constitution determines it is for the Council to **agree approve** (as set out in **Part 3 Appendix 1** of the Constitution);
- ~~(x)~~ **(xii)** approve a programme of ordinary meetings of the Council, the **Executive Cabinet**, the Scrutiny Board and Scrutiny Panels and **Standing Bodies Regulatory or other Committees** for the year; and
- ~~(xi)~~ **(xiii)** consider any business set out in the notice convening the meeting.

## 2.2 Appointments to the Scrutiny Board, Scrutiny Panels, **Standing Bodies Regulatory or other Committees** and Outside Bodies

At the Annual Meeting, the Council will:

- (i) decide which Scrutiny Panels and **Standing Bodies Regulatory or other Committees** to establish for the municipal year;
- (ii) decide the size and terms of reference for the Scrutiny Board, Scrutiny Panels and **Standing Bodies Regulatory or other Committees**;
- ~~(i)~~ **(iii)** decide the allocation of seats to political groups in accordance with the political balance rules set out in **paragraph 2.4** below
- ~~(iii)~~ **(iv)** appoint a Member Champion for Equalities
- ~~(iv)~~ **(v)** ~~receive nominations of Councillors to serve on the Scrutiny Board, Call-in Group and each Scrutiny Panel, Standing Body~~ **Regulatory or other Committees** and outside body;

~~(v)~~ **(vi)** appoint to the Scrutiny Board, Scrutiny Panels, Call-in Group, ~~Standing Bodies~~ **Regulatory or other Committees** and outside bodies except where appointment to those outside bodies has been delegated by the Council or is exercisable only by the ~~Executive Cabinet~~;

~~(vi)~~ **(vii)** consider whether to appoint non-voting co-optee **members** to the Scrutiny Board, ~~and~~ Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees**.

**Note:** Every Councillor who is not a ~~member of the Executive Cabinet Member~~ shall serve on at least two Scrutiny Panels or two ~~Standing Bodies~~ **Regulatory or other Committees** or on at least one of each such bodies. Appointment to the Scrutiny Board will count towards the requirement to sit on at least two bodies.

### 2.3 Appointment of Chairs to the Scrutiny Board, Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees**

(i) ~~The Full~~ Council ~~may~~ **will** appoint from among the voting ~~members~~ **Councillors** Chairs and Vice-Chairs of the Scrutiny Board, Scrutiny Panels and ~~Standing Bodies~~. **Regulatory or other Committees**

(ii) If any appointment possible under the previous paragraph is not made, the body at its first meeting after the annual meeting of the Council shall, from among its voting ~~members~~ **Councillors**, appoint a Chair and Vice-Chair.

(iii) If it is necessary for the body to appoint a person to preside, the Chief Executive shall call on a ~~member~~ **Councillor** of the body to move that a voting ~~member~~ **Councillor** of the body shall take the chair.

**Note:** The appointment of the Chair of the Standards Committee shall be in accordance with Article 9.2 of the Constitution.

### 2.4 Political Balance Rules

(i) The Local Government and Housing Act 1989 requires that the Council periodically reviews the political composition of the Council and how this is applied to appointments to Committees and Sub-Committees of the Council.

(ii) The rules for securing political balance on Committees and Sub-Committees appointed by local authorities are contained in sections 15 and 16 of the Act and the Local Government (Committees and Political Groups) Regulations 1990.

~~(i)~~ The Council is under a duty to:

- Ensure the membership of those Committees and Sub-Committees covered by the rules reflect the political composition of the Council as far as practicable;
  - To review the allocation of seats to political groups at or as soon as practical after the Annual Council meeting and at certain other specified times e.g. as a result of changes in political balance or an increase in the number of Committees established
  - To allocate seats on the Committees to the political groups in proportion to their numerical strength on the Council, as far as is practicable;
  - To accept nominations made by the groups for the filling of seat allocated to them
- (ii) In determining the allocation of seats, the Council must also apply the following four principles, as far as reasonably practicable;
- (a) Not all seats to be allocated to the same political group
  - (b) If a political group has a majority on the Council, it must have a majority of seats on the Committees
  - (c) Subject to (a) – (b) above, the total of all seats on ordinary Committees be allocated to the groups in proportion to their respective strengths on the Council and
  - (d) Subject to (a) – (c) the number of seats on ordinary Committees or Sub-Committees to be allocated to each political group in proportion to the number of all the seats on the Committee or Sub-Committee in proportion to their relative strengths on the Council
- (iii) Independent **Members Councillors** who have not formed a political group in accordance with Regulation 8 of the Local Government (Committees and Political Groups) Regulations are to be allocated seats in accordance with section 16 (3) of the Regulations. i.e. any seats not allocated according to the requirements in section 15 and section 16 of the Act, to be allocated to **Members Councillors** who are not Members of any political group
- (iv) Under Section 17 of the Local Government and Housing Act 1989 and Regulation 20 of the Local Government (Committee and Political Groups) Regulations 1990 certain bodies of the Council are exempt from the requirements relating to political balance as they are established under separate legislation. For this reason, the following meetings are not covered by these arrangements:-
- The **Executive-Cabinet**
  - All **Executive Cabinet** Panels
  - Standards Committee

- Standards (Hearings) Sub-Committee
- Standards (Assessment) Sub-Committee
- Licensing Sub-Committee

(v) Additionally, where meetings are (a) advisory in nature or (b) where the Council has determined otherwise and no ~~Member~~ **Councillor** has voted against, the political balance requirements need not apply.

### **3. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) Receive apologies for absence
- (iii) approve the minutes of the last meeting;
- (iv) receive any declarations of interest from ~~members~~ **Councillors**;
- (v) receive any announcements from the Mayor;
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the ~~Executive~~ **Cabinet**, the Scrutiny Board, Scrutiny Panels and ~~Standing—Bodies~~ **Regulatory or other Committees** and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations ;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting including consideration of proposals from the ~~Executive~~ **Cabinet** in relation to the Council's budget and policy framework and reports of the Scrutiny Board and Scrutiny Panels for debate.

### **4. EXTRAORDINARY MEETINGS OF THE COUNCIL**

#### **4.1 Calling extraordinary meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the **Full** Council by resolution;

- (ii) the Mayor, or if the office of Mayor is vacant, or if the Mayor is unable to act for any reason, the Deputy Mayor;
- (iii) the **Leader**;
- (iv) the Monitoring Officer; and
- (v) any five ~~members of the~~ **Councillors** if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition. A requisition may be presented to the Mayor by being left for him/her with the Chief Executive.
- (vi) ***the Chief Executive shall arrange for the additional meeting to be held within 21 days of the receipt of the request. If, after such a request has been made, and no meeting has been called within seven days, the Councillors concerned shall inform the Chief Executive of their intention to call an extraordinary meeting of the Council, the business to be transacted and the date and time of the meeting.***

#### **4.2 Business**

The business to be transacted at an Extraordinary Meeting of the Council shall be only the business which is specified in the summons.

#### **5. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Chief Executive in consultation with the person presiding and notified in the summons.

#### **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least ~~five~~ **seven** clear days before a meeting he/she will send a summons signed by him/her by post to every ~~member of the~~ **Councillor** or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **7. QUORUM**

The quorum of a meeting will be one quarter of the whole number of ~~members~~ **Councillors**. During any meeting if the person presiding counts the number of ~~members~~ **Councillors** present and declares there is not a quorum present, then the meeting will adjourn for fifteen minutes. If after that period there is still not a quorum present the meeting will end. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.



## **8. DURATION OF MEETING**

Unless the majority of **members Councillors** present vote for the meeting to continue, any meeting that has lasted for 3½ hours will adjourn immediately. A motion to continue the meeting shall be moved immediately before or immediately after the expiration of 3½ hours and before the person presiding declares the meeting closed. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. Provided that this shall not prevent:

- (a) statutory or other business which by law must be transacted at any such meeting;
- (b) the transaction of unopposed business, that is to say, business which can be transacted without the making of any speeches by any **member Councillor** other than proposing and seconding of the necessary motions. If any **member Councillor** indicates that he/she wishes to speak thereon, the business shall not be regarded as unopposed, but the person presiding shall rule it as standing adjourned.

## **9. QUESTIONS BY ~~MEMBERS~~ COUNCILLORS**

### **9.1 On reports of the ~~Executive Cabinet~~, Scrutiny Board, Scrutiny Panels or ~~Standing Bodies~~ Regulatory or other Committees**

A ~~member of the~~ Councillor may ask a **Cabinet** Member ~~of the Executive~~ or the Chair of the Scrutiny Board or a Scrutiny Panel or a ~~Standing Body~~ **Regulatory or other Committee** any question upon an item of a report of the ~~Executive Cabinet~~ or Board or Panel or ~~Standing Body~~ **Regulatory or other Committee** when that item is being received or under consideration by the Council.

### **9.2 Questions on notice at Council meetings**

Subject to Rule 9.4, a ~~member of the~~ Councillor may ask:

- (a) the person presiding;
- (b) a **Cabinet** Member ~~of the Executive~~;
- (c) the Chair of the Scrutiny Board or any Scrutiny Panel or ~~Standing Body~~ **Regulatory or other Committee**;
- (d) a **member Councillor** appointed as the Council's representative on any joint authority or Committee where the Council is a constituent member

a question on any matter in relation to which the Council has powers or duties or which affects the City.

### **9.3 Number of questions**

Subject to Rule 9.6 any ~~member of the~~ **Councillor** may ask no more than one question (except questions under Rule 9.1) at a meeting of the Council. The ~~Leader~~ **Leader** of the Council and the leader of the main opposition group on the Council, if any, may ask more than one question at a meeting of the Council.

### **9.4 Notice of questions**

A ~~member~~ **Councillor** may only ask a question under Rule 9.2 if either:

- (a) they have given at least seven clear days (excluding Saturday and Sunday) notice in writing of the question to the Chief Executive or
- (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Chief Executive three hours before the start of the meeting.

### **9.5 Response**

An answer may take the form of:

- (a) a direct oral answer by the person to whom the question was put or some other ~~member~~ **Councillor** nominated by him/her;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication, or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **9.6 Supplementary question**

A ~~member~~ **Councillor** asking a question under Rule 9.2 may ask one supplementary question without notice of the ~~member~~ **Councillor** to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## **10. MOTIONS ON NOTICE**

### **10.1 Notice**

- (a) Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least one ~~member~~ **Councillor**, must be delivered to the Chief Executive not later than seven clear days (excluding Saturday and Sunday) before the date

of the meeting. These will be entered in a book open to public inspection.

- (b) The Chief Executive shall not accept any notice of motion which, by reason of any enactment or provision in these Rules, could not be considered at the meeting for which it is given.

## **10.2 Motions set out ~~in~~ on Agenda**

- (a) Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the ~~member~~ **Councillor** giving notice states, in writing, that he/she withdraws it.
- (b) A motion shall only be moved by the ~~member~~ **Councillor** by whom notice has been given or by a ~~member~~ **Councillor** authorised in writing by ~~such a member~~ **that Councillor**.

## **10.3 Number of motions**

Any ~~member of the~~ **Councillor** may give notice of not more than one motion for consideration at any meeting of the Council. The ~~Leader~~ of the Council and the Leader of the Main Opposition Group on the Council, if any, may give notice of more than one motion for consideration at any meeting of the Council.

## **10.4 Scope of motions**

Motions must be about matters for which the Council has a responsibility or which affect the City.

## **11. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a person to preside at the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to receive reports or adoption of recommendations of the Scrutiny Board or Scrutiny Panels or ~~Standing Bodies~~ **Regulatory and other Committees** or ~~officers employees~~ and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;

- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3½ hours in duration;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (o) to not hear further a **member Councillor** named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4; and
- (p) to give the consent of the Council where its consent is required by the Constitution.

## **12. RULES OF DEBATE**

### **12.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **12.2 Right to require motion in writing**

When any motion of which notice has not been given, or any amendment has been moved and seconded, the person presiding may require the motion or any amendment to be written down and handed to him/her before it is further discussed.

### **12.3 Seconders' speech**

When seconding a motion or amendment, a **member Councillor** may reserve their speech until later in the debate.

### **12.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a point of information or point of order. No speech moving a motion may exceed **10 15** minutes and no other speech may exceed **5 10** minutes without the consent of the person presiding.

### **12.5 When a **member Councillor** may speak again**

A **member Councillor** who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another **member Councillor**;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another **member Councillor**, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply under Rule 12.9;
- (e) on a point of order under Rule 12.12; and
- (f) on a point of information under Rule 12.13.

## **12.6 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words;as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## **12.7 Alteration of motion**

- (a) A **member Councillor** may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

- (b) A **member Councillor** may alter a motion which he/she has moved without notice with the consent of the meeting.
- (c) Only alterations which could be made as an amendment may be made.

### **12.8 Withdrawal of motion**

A **member Councillor** may withdraw a motion which he/she has moved with the consent of the meeting. No **member Councillor** may speak on the motion after the mover has asked permission to withdraw it.

### **12.9 Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

### **12.10 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (i) to not hear further a **member Councillor** named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4.

### **12.11 Closure motions**

- (a) A **member Councillor** may move, without comment, the following motions at the end of a speech of another **member Councillor**.
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the person presiding thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the procedural motion is carried the original motion shall lapse.
- (c) If a motion that the question be now put is seconded and the person presiding thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the person presiding thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. The original motion or remaining business shall then stand over as uncompleted business until the next meeting of the Council.

### **12.12 Point of order**

A **member Councillor** may raise a point of order at any time. The person presiding will hear him/her immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The **member Councillor** must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the person presiding on the matter will be final.

### **12.13 Point of information**

A point of information may only relate to some material part of an earlier speech by the **member Councillor** which may appear to have been misunderstood in the present debate. The point of information may be given whilst another **member Councillor** is speaking but only if that **member Councillor** is willing to give way. The ruling of the person presiding on the admissibility of a point of information will be final.

## 12.14 Attendance at another body

A ~~member of the~~ Councillor who is not otherwise entitled to speak at a body may so attend and speak (but not vote) during consideration of any item which he/she has moved or seconded at Council and which has been referred to that body.

## 13. PREVIOUS DECISIONS AND MOTIONS

Except on the recommendation of the ~~Executive Cabinet~~, the Scrutiny Board or a Scrutiny Panel or a ~~Standing Body~~ **Regulatory or other Committee**, no matter which has been decided by the **Full** Council on a motion or otherwise shall again be submitted to the **Full** Council for further consideration until after the next annual meeting; and when any matter shall be so prohibited from being considered, the effect of this Rule shall not be evaded by substituting any motion differently worded but substantially the same in effect or in principle, and if any such attempt be made, the person presiding shall rule it out of order.

## 14. VOTING

### 14.1 Majority

Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those ~~members~~ **Councillors** voting and present in the room at the time the question was put. The method of voting shall be at the discretion of the person presiding.

### 14.2 Casting vote of person presiding

If there are equal numbers of votes for and against, the person presiding will have a second or casting vote exercised in accordance with the Protocol approved by the Council. ***The protocol governing the use of the Mayor's casting vote at meetings of the Full Council is set out in Appendix 2.***

### 14.3 Recorded vote

- (a) If ten ~~members~~ **Councillors** present at a meeting of the Council or one third of the ~~members~~ **Councillors** present at a meeting of the Scrutiny Board or a Scrutiny Panel or a ~~Standing Body~~ **Regulatory or other Committee** demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- (b) In relation to meetings of the **Full** Council only a division bell shall be rung allowing a period of 3 minutes to enable ~~members~~ **Councillors** to resume their places in the Chamber. Any ~~member~~ **Councillor** not then present shall not be permitted to vote on the issue in question.



#### **14.4 Right to require individual vote to be recorded**

Where any ~~member~~ **Councillor** requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

#### **14.5 Voting on appointments**

If there are two or more ~~members of the~~ **Councillors** nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **15. MINUTES**

#### **15.1 Signing the minutes**

The person presiding will sign the minutes of the proceedings at the next suitable meeting. The person presiding will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **15.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the 1972 Act (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of signing the minutes.

#### **15.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the person presiding put them.

### **16. RECORD OF ATTENDANCE**

A record will be made of all ~~members~~ **Councillors** present during the whole or part of a meeting.

### **17. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in ~~Part 4~~ **Appendix 2** of this Constitution or Rule 19 (Disturbance by Public).

### **18. ~~MEMBERS'~~ COUNCILLORS' CONDUCT**

#### **18.1 Standing to speak**

When a **member Councillor** speaks at a Council meeting he/she must stand unless disabled from doing so and address the meeting through the person presiding. If more than one **member Councillor** stands, the person presiding will ask one to speak and the others must sit. Other **members Councillors** must remain seated whilst a **member Councillor** is speaking unless they wish to make a point of order or a point of information.

## **18.2 Person presiding standing**

When the person presiding stands during a debate, any **member Councillor** speaking at the time must stop and sit down. The meeting must **then** be silent.

## **18.3 Member Councillor not to be heard further**

If a **member Councillor** persistently disregards the ruling of the person presiding by behaving improperly or offensively or deliberately obstructs business, the person presiding may direct that the **member Councillor** be not heard further.

## **18.4 Member Councillor to leave the meeting**

If the **member Councillor** continues to behave improperly after such a direction, the person presiding may direct that either the **member Councillor** leaves the meeting or that the **member Councillor** be removed from the meeting or that the meeting is adjourned for a specified period.

## **18.5 General disturbance**

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as he/she thinks necessary.

## **19. DISTURBANCE BY PUBLIC**

### **19.1 Removal of members of the public**

If a member of the public interrupts proceedings, the person presiding will warn the person concerned. If he/she continues to interrupt, the person presiding will order his/her removal from the meeting room.

### **19.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the person presiding may call for that part to be cleared.

## **20. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **20.1 Suspension**

All of these Council Procedure Rules except Rule 14 and 15.2 may be suspended by motion on notice or without notice if at least one half of the

whole number of ~~members of the~~ **Councillors** are present. Suspension can only be for the duration of the meeting. This Rule will apply to meetings of the ~~Executive~~ **Cabinet**, the Scrutiny Board, Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees** provided that one half of the whole number of voting ~~members~~ **Councillors** are present.

## **20.2 Amendment**

These Council Procedure Rules may only be amended by the **Full** Council after consideration by the Monitoring Officer, **the Constitution Review Group, the Special Advisory Group** and the Standards Committee.

## **~~21. STANDING BODIES~~**

### **~~21.1 Appointment of Sub-Committees~~**

~~Subject to any decision by the Council each Standing Body may appoint sub-committees of not fewer than three voting members for such purposes as they think fit and may make arrangements for a sub-committee to discharge any of its functions.~~

### **~~21.2 Attendance of the Mayor~~**

~~The Mayor shall, in addition to those Standing Bodies to which he/she has been specifically appointed, be entitled "ex-officio" to attend the meetings of all other Standing Bodies (but not of any sub-committee thereof) and to speak but not to vote thereat.~~

### **~~21.3 Attendance of the Chair and Vice-Chair~~**

~~The Chair and Vice-Chair of a Standing Body may attend and speak at a meeting of any sub-committee appointed by that Standing Body, but may not vote unless appointed as a voting member.~~

### **~~21.4 Urgent Business~~**

~~Delegated authority shall be given to the appropriate Chief Officer, in conjunction with the Chief Executive to take appropriate urgent action in respect of matters delegated to the Standing Body provided that the action shall first have been discussed with and approved in writing by the Chair (or in the Chair's absence the Vice-Chair) and Shadow Chair (or in the Shadow Chair's absence the Shadow Vice-Chair) of the Standing Body. The written authorisation must include details of the proposal and justification for using the expedited procedure. Expenditure must be within existing budgets. Any action taken under this Rule must be reported to the next available meeting of the Standing Body for information. A permanent record of all action under this delegation shall be maintained by the Chief Executive.~~

**221. CABINET MEMBER PORTFOLIO RESPONSIBILITIES**

***Councillor* Bilson (Economic  
Regeneration & Prosperity)**

***Councillor* Jones (City Services)**

***Councillor* Constable (Children &  
Families)**

***Councillor* Lawrence (Leader)**

***Councillor* S Evans (Adult Services)**

***Councillor* Mattu (Leisure & Communities)**

***Councillor* Jaspal (Governance &  
Performance)**

***Councillor* Page (Schools, Skills and Learning)**

***Councillor* Johnson (Resources)**

***Councillor* Reynolds (Health and Well Being)**

## 24.2 PROCEDURE FOR DECISION MAKING BY INDIVIDUAL EXECUTIVE CABINET MEMBERS (PORTFOLIO HOLDERS)

- 1 Individual **Executive Cabinet** Members are empowered ~~—with exceptions listed below—~~ to make **Executive Cabinet** Decisions in respect of their own ~~portfolio~~ areas of responsibility *as set out in Appendix 1 subject to the following exceptions :-*.

~~The exceptions are as follows—~~

- 1.1 Those decisions delegated to an ~~officer~~ **employee** unless the ~~officer~~ **employee** refers the decision to the **executive Cabinet** Member
- 1.2 Expenditure of over £~~200,000~~ **2100,000**
- 1.3 A decision or recommendation on strategy or policy
- 1.4 A decision that has significant cross-cutting implications in respect of other ~~portfolio~~ **Cabinet Member** responsibilities
- 1.5 A decision that has a significant impact on the way the Council operates or will operate
- 1.6 A decision that is a departure from any agreed Corporate objective or the approved Budget (other than by virement of up to £100,000)
- 1.7 Where the Leader (before a decision is either taken or implemented) requires the decision to be taken collectively by the **Executive Cabinet** \*
- 1.8 A decision which any **Executive Cabinet** Member has asked to be taken collectively by the **Executive Cabinet** (before a decision is taken)\*
- 1.9 A decision in which the **Executive Cabinet** Member has either a personal and prejudicial interest or a conflict of interest.

\*Notification of this by the Leader or an **Executive Cabinet** Member must be to the Assistant Director (Governance).

- 2 The **Executive Cabinet** may delegate any decision to an Individual **Executive Cabinet** Member who must then follow the procedure in this document in making that decision.

~~3 — The decisions must be made in consultation with one or more of the following as appropriate:~~

- ~~• Chief Executive or an **nominated** officer nominated by him~~
- ~~• The relevant Strategic Director or an **nominated** officer nominated by him~~
- ~~• Monitoring Officer~~
- ~~• S151 Officer~~
- ~~• Where there are cross-cutting implications — other appropriate portfolio holder(s) **Cabinet**~~

- 4 The **Executive Cabinet** Member must take into account professional, legal and financial implications and any advice given by ~~the~~ Officers ~~listed above~~.

- 5 If any of the ~~above~~ officers ~~referred to in 3 above~~ give advice that the decision would fall within one of the exceptions listed in 1 above then it shall be a decision for the ~~full Executive~~ **Cabinet**.
- 6 Where it is not clear ~~in~~ which ~~portfolio~~ **Cabinet Member** ~~an issue sits is responsible for any matter~~, the Leader shall decide. If the appropriate ~~portfolio holder~~ **Cabinet Member** is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

### **~~Notification and Publication~~**

~~NB. This will have to be also considered with the findings of the Review of Scrutiny.~~

~~Wherever possible, 5 clear working days notice of the intention to make a decision should be given to all Members of the Council/ors. Such notice to be sent electronically and published on the web site together with any supporting report.~~

~~Where 5 clear working days' notice is not practicable for operational reasons the Executive **Cabinet** Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.~~

~~The decision must be recorded on the appropriate form prepared and published by Democratic Services. The decision will be published and may not be implemented until after either the:~~

- ~~• the call-in period (3 working days after the date of publication) has expired; or~~
- ~~• a call-in process has been completed~~

~~Call-in, using the procedure in the Council Procedure Rules may be made within 3 days of the decision being published and the usual process shall be followed.~~

***Every Green Decision will be published on the Council's web site as soon as it is notified to the Assistant Director Governance. A schedule of Green decisions will be notified to the next meeting of the Cabinet (Resources) Panel for information. Copies of Green decision reports will be open for inspection in accordance with the Access to Information Rules in Appendix 2 of this Constitution. Cabinet Members must take into account professional, legal and financial implications and any advice given by Officers. If any Officer gives advice that a decision would fall within one of the exceptions listed in Part 6 (1.1 – 1.9) of Appendix 1 or that the matter should not be the subject of an individual Cabinet Member decision then the matter shall be a decision for the Cabinet.***

## **ACCESS TO INFORMATION PROCEDURE RULES**



## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE

These rules apply to all meetings of the **Full** Council, the Scrutiny Board, Scrutiny Panels, Area Structures, the Standards Committee, the Audit Committee, ~~Standing Bodies~~ **Regulatory or other Committees** and meetings of the **Executive Cabinet** ~~(together called meetings)~~.

### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions ~~in these rules~~ **referred to in paragraph 10**.

### 4. NOTICE OF MEETING

Except in cases of special urgency the ~~e~~Council will give at least ~~five~~ **seven** clear days notice of any meeting by posting details of the meeting at the Civic Centre, St Peter's Square, Wolverhampton, WV1 1RSH **and on the Council's website**.

### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Centre and on the Council's website, at least ~~five~~ **seven** clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to ~~members~~ **Councillors**).

### 6. SUPPLY OF COPIES

The Council will ~~supply~~ **make available** copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to ~~members~~ **Councillors** in connection with an item to any person on payment of a charge for postage and any other reasonable costs.

- (d) A copy of all agendas, minutes and reports will be made available on the Council's website at least five clear days before the meeting

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies including on the Council's website, of the following for **at least** six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the **Executive Cabinet**, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of **executive Cabinet** reports, the advice of a political advisor.

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting **including on the Council's Website** one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre, St Peter's Square, Wolverhampton WV1 1SH.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **10.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **10.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **10.4 Meaning of exempt information**

Exempt information is defined in the Local Government (Access to Information) (Variation) Order 2006 which amends Part 1 of Schedule 12A to the Local Government Act 1972.

The categories of exempt information are:-

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **Qualifications**

8. Information falling within categories 1 to 7 above is **not** exempt if it is required to be registered under:
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986;
  - (f) the Charities Act 1993.
9. Information is **not** exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which –
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as **in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

### **10.5 Exempt information relating to the Standards Committee only**

Additional categories of exempt information relating to the Standards Committee only are:

1. Information which is subject to any obligation of confidentiality.
2. Information which relates in any way to matters concerning national security.

3. The deliberations of the Standards Committee (or its Sub-Committee) in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE **EXECUTIVE CABINET****

- 12.1 Rules 13 – 24 apply to the **Executive Cabinet** ~~i.e. the Cabinet~~ and Cabinet Panels.

- 12.2 If the **Executive Cabinet** meet to take a **key decision, as defined in Article 13.3 of this Constitution**, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. ~~A key decision is as defined in Article 13.3 of this Constitution.~~

- 12.3 If the **Executive Cabinet** meet to discuss a **key decision** to be taken collectively, with an ~~officer~~ **employee** other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for ~~officers~~ **employees** to brief ~~members~~ **Councillors**.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a **key decision** may not be taken unless:

- (a) a ~~f~~**Forward** ~~p~~**Plan** has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the **Executive Cabinet**, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

***THE FORWARD PLAN***

## 14. THE FORWARD PLAN

### 14.1 Period of ~~the f~~Forward ~~p~~Plan

A Forward ~~p~~Plan will be prepared by the ~~!~~Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. The ~~f~~Forward ~~p~~Plan must be published at least 14 days before the start of the period covered.

### 14.2 Contents of ~~the f~~Forward ~~p~~Plan

The ~~f~~Forward ~~p~~Plan will contain matters which the ~~!~~Leader has reason to believe will be subject of a **key decision** to be taken by the ~~Executive Cabinet, officers employees~~, Area Committees or Forums or under joint arrangements in the course of the discharge of an ~~an executive Cabinet~~ function during the period covered by the ~~p~~Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained at the date of publication:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision maker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the ~~Executive Cabinet~~ or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision maker for consideration in relation to the matter.

### 14.3 Publicity in connection with key decisions

The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that **key decisions** are to be taken on behalf of the Council;

- (b) that a ~~f~~**Forward** ~~p~~**Plan** containing particulars of the matters on which **key decisions** are to be taken will be prepared on a monthly basis;
- (c) that the ~~p~~**Plan** will contain details of the **key decisions** to be made for the four month period following its publication;
- (d) that each ~~p~~**Plan** will be available for inspection at reasonable hours free of charge at the Council's offices **and on the Council's web site**;
- (e) that each ~~p~~**Plan** will contain a list of the documents submitted to the decision makers for consideration in relation to the **key decisions** in the ~~p~~**Plan**;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision makers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the year following publication of the notice on which each ~~f~~**Forward** ~~p~~**Plan** will be published and available to the public at the Council's offices.

Exempt information need not be included in a ~~f~~**Forward** ~~p~~**Plan** and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a **key decision** has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Chief Executive has informed the Chair of the Scrutiny Board or a relevant Scrutiny Panel, or if there is no such person, each member of that Scrutiny Panel in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since compliance with (a) and (b).



## 16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the ~~e~~Chair of the body making the decision, obtains the agreement of the Chair and ~~opposition~~ Vice-Chair of the Scrutiny Board or a relevant Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no such Chair, or if the Chair is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

## 17. REPORT TO COUNCIL

### 17.1 When the Scrutiny Board or a Scrutiny Panel can require a report

If the Scrutiny Board or a Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Chair, or the Mayor/Deputy Mayor of the Council under Rule 16;

the Board or Panel may require the ~~Executive~~ **Cabinet** to submit a report to the **Full** Council within such reasonable time as the Board or Panel specifies.

### 17.2 ~~Executive's~~ **Cabinet's** report to Council

The ~~Executive~~ **Cabinet** will prepare a report for submission to the next available meeting of the **Full** Council. However, if the next meeting of the **Full** Council is within 7 days of the decision of the Scrutiny Board or Panel, then the report may be submitted to the meeting after that. The report to **Full** Council will set out particulars of the decision, the individual or body making the decision, and if the ~~!~~Leader is of the opinion that it was not a key decision the reasons for that opinion.

### 17.3 Quarterly reports on special urgency decisions

In any event the ~~!~~Leader will submit quarterly reports to the Council on the ~~executive~~ **Cabinet** decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 18. RECORD OF DECISIONS

After any meeting of the ~~Executive~~ **Cabinet**, the Chief Executive will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each

decision and any alternative options considered and rejected at that meeting.

**19. EXECUTIVE CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

**19.1** *Cabinet* Members ~~of the Executive~~ will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

**19.2** Unless otherwise agreed by the members of the relevant Scrutiny Panel, the notice of the meeting and the agenda and reports will be sent to all members of the Panel.

**20. SCRUTINY BOARD AND SCRUTINY PANELS**

**20.1 Rights to copies of documents**

The Scrutiny Board and Scrutiny Panels will be entitled to copies of any document which is in the possession or control of the ~~Executive Cabinet~~ and which contains material relating to any business transacted at a meeting of the ~~Executive Cabinet~~, except any document which is in draft form or which contains the advice of a political adviser.

**21. ADDITIONAL RIGHTS OF ACCESS FOR ~~MEMBERS~~ COUNCILLORS**

**21.1 Material relating to previous business**

All ~~members~~ *Councillors* will be entitled to inspect any document which is in the possession or under the control of the ~~Executive Cabinet~~ and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies.

- (a) it appears to the ~~p~~**Proper** ~~e~~**Officer** that it discloses exempt information of a description falling within Part 1 of Schedule 12A
- (b) it contains the advice of a political adviser.

But a document referred to in (a) will be available for inspection if:

- the information relates to the financial and business affairs of any particular person (including the Council) except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract or
- the information reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.

## 21.2 Material relating to key decisions

All ~~members of the~~ **Councillors** will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the ~~Executive~~ **Cabinet** which relates to any key decision unless paragraph (a) or (b) above applies.

## 21.3 Nature of rights

These rights of a ~~member~~ **Councillor** are additional to any other right he/she may have.

**BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. Introduction**

- 1.1 In these Rules “the **Executive Cabinet**” means the Cabinet or Cabinet Panels as appropriate.
- 1.2 The Council will be responsible for the adoption of the budget and policy framework as defined in Article 4 of the Constitution.
- 1.3 The budget, plans and strategies defined in Article 4 will be developed and adopted by the Council at various times during each year. The Cabinet will determine the detailed timetable for the preparation of the budget to ensure compliance with statutory requirements. The role of the Cabinet in the preparation of the budget is set out in the Financial Procedure Rules contained in this Constitution.
- 1.4 The Cabinet will determine the detailed timetable for the preparation of the plans and strategies for which they are responsible.
- 1.5 Timetables will comply with the Access to Information Procedure Rules and notice of key decisions and consultation arrangements must be included in the Forward Plan.

### **2. Process for developing the budget and policy framework**

The process by which the budget and policy framework shall be developed is:

- 2.1 The **Executive Cabinet** will publish its initial proposals, having first canvassed the views of local stakeholders in an appropriate manner. Any representations made to the **Executive Cabinet** shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where the Scrutiny Board or a Scrutiny Panel has carried out a review of policy, then the outcome of that review shall be reported to the **Executive Cabinet** and considered in the preparation of initial proposals.
- 2.2 The **Executive's Cabinet's** initial proposals will then be referred to the relevant Scrutiny Panel for further advice and consideration. The Panel shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the **Executive Cabinet**. The **Executive Cabinet** will inform the Panel of the time for response when the proposals are referred to it.
- 2.3 Having considered the report of the Panel, the **Executive Cabinet**, if it considers it appropriate, may amend its initial proposals before submitting them to the **Full eCouncil** meeting for consideration. It will also report to **Full Council** on how it has taken into account any recommendations from the Panel.

- 2.4 The **Full** Council will consider the proposals of the **Executive Cabinet** and may:
- (a) approve or adopt them;
  - (b) amend them;
  - (c) refer them back to the **Executive Cabinet** for further consideration;
  - (d) substitute its own proposals in their place.

In considering the matter, the **Full** Council shall have before it the **Executive's Cabinet's** proposals and any report from any relevant Panel.

- 2.5 If the **Full** Council accepts the proposals of the **Executive Cabinet** without amendment the Council will approve the budget or plan with immediate effect. If the Council does not accept the proposals of the **Executive Cabinet** it may only make an in-principle decision.
- 2.6 The decision of the **Full** Council will be published and a copy of the decision notice shall be given to the Leader. An in-principle decision will automatically become effective five working days from the date of the Council's decision unless the **Leader** informs the Chief Executive in writing prior to the date on which the decision is to be effective that he objects to the decision becoming effective. The notification must state the reasons for the objection.
- 2.7 Where such notification is received, the Chief Executive shall convene a further meeting of the **Full** Council to reconsider its decision and the decision shall not be effective pending that meeting. The **Full** Council meeting must take place within 5 working days of the receipt of the **Leader's** written objection.
- 2.8 At that **Council** meeting the in-principle decision of the **Full** Council shall be reconsidered in the light of the **Leader's** written objection which shall be available to ~~members of the~~ **Councillors**. The **Full** Council may:
- (a) approve the proposals of the **Executive Cabinet** or
  - (b) approve a different decision which does not accord with the proposals of the **Executive Cabinet**.
- 2.9 The decision of the **Full** Council shall be published and shall become effective immediately.
- 2.10 Once the budget and policy framework is approved by the **Full** Council it will be the responsibility of the **Executive Cabinet** to implement it.
- 2.11 In approving the budget and policy framework, the **Full** Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the **Executive Cabinet**, in accordance with paragraphs 3 and 4 of these Rules

(virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the **Full Council**.

### **3. Virement**

The rules relating to virement are set out in the Financial Procedure Rules **set out in Appendix 2**.

### **4. In-year changes to policy framework**

The responsibility for ~~agreeing~~ **approving** the budget and policy framework lies with the **Full Council** and decisions by the ~~Executive Cabinet, officers employees~~, Local Neighbourhood Partnerships or Forums or joint arrangements must be in line with it. No changes to any plan which is part of the policy framework may be made by those bodies or individuals except those changes:

- (a) which are necessary to meet a budgetary constraint;
- (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) which are necessary to repair any omission in the plan;

### **5. Decisions outside the budget or policy framework**

5.1 Subject to the provisions of paragraph 3 (virement) and paragraph 4 (in year changes) the ~~Executive Cabinet, officers employees~~, Local Neighbourhood Partnerships or joint arrangements may only make decisions which are in line with the budget and policy framework.

5.2 If a decision maker wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the **Full Council**, subject to paragraph 6 (urgent decisions).

5.3 If the decision maker wishes to make such a decision, he/she shall first take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision he/she wishes to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget.

5.4 If the advice of either of those ~~officers employees~~ is that the decision would not be in line with the budget and/or policy framework, then the decision must be referred by the decision maker to the **Full Council** for decision unless the decision is urgent and the procedure set out in paragraph 6 is applied.

### **6. Urgent decisions outside the budget or policy framework**

6.1 A decision maker may make a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the

budget approved by the **Full** Council if the decision is a matter of urgency. However, the decision may only be made:

- (a) if it is not practical to convene a quorate meeting of the **Full** Council within the necessary timescale and
- (b) if the Chair of a relevant Scrutiny Panel agrees that the decision is a matter of urgency.

6.2 The reasons why it is not practical to convene a quorate meeting of the **Full** Council and the Chair's consent to the decision being made as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Scrutiny Panel the consent of the Mayor and in the absence of both, the Deputy Mayor will be sufficient.

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

## **7. Call-in of decisions outside the budget or policy framework**

7.1 Where a Scrutiny Panel is of the opinion that an ~~an executive~~ **Cabinet** decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the budget, then the Panel shall seek advice from the Monitoring Officer and/or Section 151 Officer.

7.2 The Monitoring Officer's and/or Section 151 Officer's advice shall be sent to the ~~Executive~~ **Cabinet** with a copy to every ~~member of the~~ Council ~~lor~~. The ~~Executive~~ **Cabinet** must meet to decide what action to take in respect of the advice. The ~~Executive~~ **Cabinet** must report to **Full** Council in the event that the Monitoring Officer and/or the Section 151 Officer advises that the decision is or would be a departure from the budget or policy framework.

The ~~Executive~~ **Cabinet** must report to the Scrutiny Panel in the event that the Monitoring Officer and/or Section 151 Officer advises that the decision is not or would not be a departure.

7.3 If the decision has yet to be made, or has been made but not yet implemented and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Panel may refer the matter to **Full** Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The **Full** Council shall meet within 10 days of the request by the Scrutiny Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or Section 151 Officer. The Council may either:

- (a) endorse a decision or proposal of the ~~executive decision maker~~ **Cabinet** as falling within the existing budget and policy framework.



In this case no further action is required, save that the decision of the **Full** Council will be published in the normal way;

Or

- (b) amend the Council's budget or policy framework to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the **Full** Council will be published in the normal way;

Or

- (c) where the **Full** Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing budget policy framework to accommodate it, the Council will require the **Executive Cabinet** to reconsider the matter in accordance with the advice of either the Monitoring Officer/ and/or Section 151 Officer.

**EXECUTIVE CABINET PROCEDURE RULES**

## **EXECUTIVE CABINET PROCEDURE RULES**

### **1. THE OPERATION OF THE EXECUTIVE CABINET**

#### **1.1 Who may make executive Cabinet decisions**

The arrangements for the discharge of **executive Cabinet** functions are set out in the **executive Cabinet** arrangements shown in Schedule 1 to the Articles. The arrangements provide for **executive Cabinet** functions to be discharged by:

- (a) ~~the Executive i.e.~~ the Cabinet or a Cabinet Panel.

These decisions are referred to in this Constitution as “Amber decisions” if they are delegated to the **Executive Cabinet**, and as “Red decisions” if they require the approval of the Full Council as set out in Article 4. Amber decisions **are those relating to the functions listed in the delegations to the Cabinet and Cabinet Panels referred to in Appendix 1.** ~~will generally relate to operational policy formulation and development issues.~~ Red decisions are those matters ~~relating to the budget and policy framework which this Constitution requires to be considered by the full Council referred to in Article 4 of Appendix 1 of the Constitution.~~

- (b) ~~a Designated Officer in consultation with an Individual Cabinet Member of the Executive relating to their individual portfolio responsibilities.~~ These decisions are referred to in this Constitution as “Green Decisions”, **the definition of which is set out in Rule 24 – Council Procedure Rules in Appendix 2, Green decisions include individual routine or operational matters which are within existing policy previously determined by the Executive or the Council.**

~~Designated Officer means the Chief Executive, a Director or other senior officer authorised by him/her for this purpose.~~

- (c) **an individual Cabinet Member in conjunction with a Designated Officer in respect of Amber Decisions which have been delegated to them by the Executive Cabinet providing a report detailing the decision made is submitted to the next meeting of the Executive Cabinet that delegated the matter**

- ~~(e)~~**d** an ~~officer~~ **employee**;
- ~~(d)~~**e** an Area Structure;
- ~~(e)~~**f** joint arrangements; or
- ~~(f)~~**g** another local authority.

## **1.2 Sub-delegation of ~~executive~~ Cabinet functions**

- (a) Where the ~~Executive~~ **Cabinet** is responsible for a function, it may delegate further to a Designated Officer in consultation with a ~~Cabinet m~~**Member of the Executive** or to an officer, an Area Structure, or joint arrangement.
- (b) Even where ~~executive~~ **Cabinet** functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated. This means that items of business classified as Green decisions may be referred by the ~~Designated Officer~~ **Cabinet Member** to the ~~Executive~~ **Cabinet** for decision.
- (c) The ~~Executive~~ **Cabinet** may, when sub-delegating a Green decision, require that an Opposition ~~member~~ **Councillor** from the relevant Scrutiny Panel be consulted prior to the decision being taken.
- (d) The ~~Executive~~ **Cabinet** may, when sub-delegating an Amber decision, require that an Opposition ~~member~~ **Councillor** from the relevant Scrutiny Panel be consulted prior to the decision being taken. In such a case the call-in rules will apply.

## **1.3 The Council's scheme of delegation and ~~executive~~ Cabinet functions**

The Council's scheme of delegation will be subject to adoption by the **Full** Council and may only be amended by the **Full** Council. It will contain the details required in Article 7 and is set out in ~~Part 3~~ **Appendix 1** of this Constitution.

## **1.4 Conflicts of Interest**

- (a) If every ~~member of the Executive~~ **Cabinet Member** has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for ~~Members~~ **Councillors** in ~~Part 5~~ **Appendix 2** of this Constitution.
- (b) If the exercise of an ~~executive~~ **Cabinet** function has been delegated to a Designated Officer (in consultation with a ~~member of the Executive~~ **Cabinet Member** or otherwise) and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for ~~Members~~ **Councillors** in ~~Part 5~~ **Appendix 2** of this Constitution.

## **1.5 Times and Locations of ~~Executive~~ Cabinet meetings**

The Council will approve a programme of ordinary meetings for the Cabinet and Cabinet Panels. In addition extraordinary meetings may be called from time to time as appropriate. Meetings shall take place at the Civic Centre or another location to be ~~agreed~~ **approved** by the Leader.

## **1.6 Quorum**

The quorum for a meeting of the Cabinet shall be 5 ~~members~~ **Councillors** and for a Cabinet Panel shall be 2 ~~members~~ **Councillors**.

## **1.7 How decisions are taken by the Executive Cabinet or by Designated Officers in consultation with a ~~member of the Executive Cabinet Member~~**

- (a) Red decisions – these are decisions relating to the budget and policy framework. The decision making process is set out in the Budget and Policy Framework Procedure Rules and the Access to Information Rules in **Part 4 Appendix 2** of this Constitution.
- (b) Amber decisions - these are decisions which have been delegated to the Cabinet or a Cabinet Panel and will be taken at a meeting convened in accordance with the Access to Information Rules in **Part 4 Appendix 2** of the Constitution.
- (c) Green decisions - the Designated Officer will meet regularly with the appropriate ~~member of the Executive Cabinet Member~~ to consider items of business. Items of business will be supported by written reports. If the ~~nominated Cabinet Member~~ is satisfied with the Designated Officer's recommendation then the ~~Designated Officer Cabinet Member~~ will make the decision which will be recorded by the Chief Executive as a Green decision. The decision can then be implemented immediately. **Every Green Decision will be published on the Council's web site as soon as it is notified to the Assistant Director Governance.** A schedule of Green decisions will be notified to the next meeting of the Cabinet ~~(Resources) Panel (Resources)~~ for information. Copies of Green decision reports will be open for inspection in accordance with the Access to Information Rules in **Part 4 Appendix 2** of this Constitution. ~~Every Green Decision will be published on the Council's web site as soon as it is notified to the Assistant Director Governance. A schedule of Green decisions will be notified to the next meeting of the Cabinet (Resources) Panel (Resources) for information. Copies of Green decision reports will be open for inspection in accordance with the Access to Information Rules in Part 4 Appendix 2 of this Constitution.~~ **Cabinet Members must take into account professional, legal and financial implications and any advice given by Officers. If any Officer gives advice that a decision would fall within one of the exceptions listed in Part 6 (1.1 – 1.9) of Appendix 1 or that the matter should not be the subject of an individual Cabinet Member decision then the matter shall be a decision for the Cabinet**

## **2. HOW EXECUTIVE CABINET MEETINGS ARE CONDUCTED**

### **2.1 Presiding at the meeting**

If the ~~L~~Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

## **2.2 Attendance at the meeting**

- (a) Members of the public may attend meetings of the **Executive Cabinet** unless they are excluded from all or part of the meeting because it is likely in view of the nature of the business to be transacted that exempt information would be disclosed.
- (b) All ~~Members of the~~ Council**ors** may attend the whole of the meeting unless the **Executive Cabinet** by resolution decides that they should be excluded from any part of the meeting during which exempt information may be disclosed.

## **2.3 Business conducted at the meeting**

At each meeting of the **Executive Cabinet** the following business will be conducted:

- (a) **apologies for absence;**
- ~~(a)~~(b) declarations of interest, if any;
- ~~(b)~~(c) consideration of the minutes of the last meeting;
- ~~(c)~~(d) matters referred to the **Executive Cabinet** (whether by the Scrutiny Board or a Scrutiny Panel or by the Council) for reconsideration by the **Executive Cabinet** in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in **Part 4 Appendix 2** of this Constitution;
- ~~(d)~~(e) consideration of reports from the Scrutiny Board or Scrutiny Panels; and
- ~~(e)~~(f) matters set out in the agenda for the meeting. The agenda shall indicate which are ~~k~~**Key** ~~d~~**Decisions** and which are not in accordance with the Access to Information Procedure rules set out in **Part 4 Appendix 2** of this Constitution.

Subject to any directions given by the person appointed to preside at the meeting the items of business shall be arranged in such order as the Chief Executive, in consultation with the relevant Designated Officer(s) thinks will best ensure the effective despatch of business.

## **2.4 Who can ~~put~~ include items on the **executive Cabinet** agenda**

- (a) **The Leader**
- ~~(a)~~(b) ~~The Chief Executive will ensure that an item is placed on the agenda of the next available meeting of the Executive w~~**Where the**

Scrutiny Board or a relevant Scrutiny Panel or the Full Council have resolved that an item be considered by the **Executive Cabinet the Chief Executive will ensure that an item is placed on the agenda of the next available meeting of the Executive Cabinet.**

- ~~(b)~~(c) The Head of Paid Service, the Monitoring Officer or the Section 151 Officer may include an item for consideration on the agenda of an **Executive Cabinet** meeting and may require such a meeting to be called in pursuance of their statutory duties.

## **2.5 Consultation**

All reports to the **Executive Cabinet** from any ~~member of the Executive Cabinet Member~~ or an ~~officer~~ **employee** on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Panels, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**



## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. The number and terms of reference of the Scrutiny Board and the Scrutiny Panels.

1.1 The Council will have a Scrutiny Board and the Scrutiny Panels set out in Article ~~6~~ 7 and will appoint to them as it considers appropriate from time to time. The Health Scrutiny Panel may make such joint arrangements with other bodies as are necessary to facilitate the overview and scrutiny of health functions.

1.2 The Panels set out in Article ~~6~~ 7 are:  
Children and Young People  
Adults and Community  
Sustainable Communities  
Safer Communities  
Performance, Governance and Support Services  
Health

1.3 The terms of reference of the Scrutiny Board are:

- (a) When scrutinising the work of the Cabinet the Board will have the same terms of reference as the six Panels set out in Rule 1.4.
- (b) To arrange for consideration of the Forward Plan published in accordance with the Access to Information Procedure Rules with a view to identifying issues for early discussion with the ~~Executive~~ **Cabinet** and/or scrutiny prior to decisions being made.
- (c) The Board will oversee the operation of the call-in mechanisms set out in Rule 12.
- (d) The Board will oversee the work programmes of Scrutiny Panels to avoid duplication of work and to ensure coherence of approach to cross-cutting policy themes. The Board may determine that one named Panel shall take lead responsibility for a cross-cutting policy theme or may determine that the work be shared between one or more named Panels.
- (e) The Board will ensure coherence between the policy development work of the named Panels and their role in the consideration of reports received from external auditors and external regulatory Inspectors.
- (f) The Board will make recommendations to the ~~Executive~~ **Cabinet** on the allocation of budgetary and ~~staff~~ **employee** resources held centrally for the purpose of supporting scrutiny work.

- (g) The Board will ensure that good practices and methods of working are shared between Panels and in particular will seek to optimise the inclusion of citizens, partners and stakeholders in the work of Panels.
- (h) The Board will review or scrutinise non-**executive Cabinet** business and may make reports or recommendations to the Council. The Board will consider policy and due process and will not scrutinise individual decisions made by **Standing Bodies Regulatory or other Committees** particularly those quasi-judicial decisions relating to development control, licensing etc which have been delegated by the Council. The Board will not act as an appeal body in respect of non-**executive Cabinet** functions.
- (i) The Board will consider and determine arrangements for the review and scrutiny of such Area Structures as the Council may establish under Article 10 of the Constitution.
- (j) The Board will oversee the work of any **Members of the Council/lors** appointed to act as lead members or 'champions' in respect of any specific priority tasks or areas of policy development identified by the Council.
- (k) The Board will consider any petition referred to it by the Petitions Committee where the petitioners have expressed dissatisfaction with the outcome of a petition.

1.4 The terms of reference of the Scrutiny Panels are:

- (a) to assist the Council and the **Executive Cabinet** in the development of its budget and policy framework by in-depth analysis of policy issues and by liaison and discussion with the **Executive Cabinet**;
- (b) to conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) to consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) to question **members of the Executive Cabinet Members** and/or Council **officers employees** about their views on issues and proposals affecting the area;
- (e) to liaise with individuals and external organisations operating in the area, whether national, regional or local, to ensure that the interests of the citizens of Wolverhampton are enhanced by collaborative working.
- (f) to review and scrutinise the decisions made by and performance of the **Executive Cabinet** and Council **officers employees** both in relation to individual decisions and over time;

- (g) to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and to receive and consider other reports received from external auditors and external regulatory Inspectors and to work with the **Executive Cabinet** to respond to recommendations from reviews and inspections;
- (h) To undertake reviews of the Councillors Call for Action where referred by the Petitions Committee
- (i) to question ~~members of the Executive~~ **Cabinet Members** and/or Council **officers employees** 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;
- (j) to make recommendations to the **Executive Cabinet** and/or appropriate ~~standing body or committee~~ **Regulatory or other Committee** and/or Council arising from the outcome of the scrutiny process;
- (k) to review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Panel and local people about their activities and performance;
- (l) to question and gather evidence from any person (with their consent);
- (m) to deal with any other matter which is by law required to be dealt with by an “overview and scrutiny committee”.

#### 1.5 Scrutiny Review Groups

- (i) Each Scrutiny Panel may appoint one or more Policy Review Groups. The Group(s) will have clearly defined aims, purpose, terms of reference, membership, start and end dates, methods of working, identified stakeholders/service users and evaluation procedures in place before the review begins.
- (ii) Membership of a Scrutiny Review Group will comprise **members Councillors** of the parent Scrutiny Panel and may include other non-**Executive members Cabinet Members** who have a special interest and expertise and other co-opted experts.
- (iii) Scrutiny Review Groups will report directly to their parent Scrutiny Panel.
- (iv) Scrutiny Review Groups will have the same access to information and to **Members Councillors** and **officers employees** as their parent Scrutiny Panel has under these Rules.

## 2. Who may ~~sit~~ serve on the Scrutiny Board and Scrutiny Panels

### 2.1 Councillors

All Councillors except ~~members of the Executive~~ **Cabinet Members** may be members of the Scrutiny Board or a Scrutiny Panel. However, no ~~member~~ **Councillor** may be involved in scrutinising a decision in which he/she has been directly involved.

### 2.2 Co-opted Members

The term Co-opted Members is restricted to Statutory Parent Governor and Church Diocesan Representatives and Youth Council representatives appointed to serve on the Children and Young People Scrutiny Panel by the Annual Council Meeting.

The membership of Scrutiny Panels and Scrutiny Review Groups by representatives of external organisations or individuals to be restricted to those 'co-opted members' appointed at Annual Council.

The Children and Young People Scrutiny Panel shall include in its membership the following representatives:

- (a) 1 voting Church of England diocese representative;
- (b) 1 voting Roman Catholic diocese representative;
- (c) 5 voting parent governor representatives.
- (d) 1 non voting Youth Council representative

When the Panel deals with matters other than those relating to education functions, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

### 2.3 Membership of Scrutiny Task and Finish Groups

Scrutiny Reviews and Task and Finish Groups may appoint representatives of external organisations to support their work as appropriate and may invite 'witnesses' to present evidence to meetings.

## 3. Times and locations of meetings of the Scrutiny Board and Scrutiny Panels

- 3.1 The Council will approve a programme of ordinary meetings for the Scrutiny Board and each Scrutiny Panel. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Board or Panel meeting may be called by the Chair or one quarter of the total number of voting ~~members~~ **Councillors** or by the Chief Executive if he/she considers it necessary or appropriate.

- 3.2 Meetings shall take place at the Civic Centre or such other location(s) as may be agreed.

**4. Quorum**

The quorum for a the Scrutiny Board and Scrutiny Panels shall be as set out for ~~Standing Bodies~~ **Regulatory or other Committees** in the Council Procedure Rules in Part 4 of this Constitution.

**5. The Chairs of the Scrutiny Board and Scrutiny Panels**

The Chair and Vice-Chair will be appointed by the Council from amongst ~~the e~~Councillors ~~members~~.

**6. Work programme**

Each Scrutiny Panel will, subject to guidance from the Scrutiny Board, be responsible for setting and reviewing their priorities and work programme for the year.

**7. Agenda items**

Any member of the Scrutiny Board or a Scrutiny Panel shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting of the Board or Panel. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

**8. Ensuring that overview and scrutiny reports are considered by the ~~Executive~~ Cabinet**

- 8.1 Once a Scrutiny Board or Scrutiny Panel report on any matter which is the responsibility of the ~~Executive~~ **Cabinet** has been completed, it shall be included on the agenda of the next available meeting of the ~~Executive~~ **Cabinet** or, by agreement with the Chair of the Board or Panel, the next meeting of the ~~Executive~~ **Cabinet** which is scheduled to consider the subject matter of the report. If for any reason the ~~Executive~~ **Cabinet** does not consider the Board or Panel report the matter will be referred to Council for review, and the Chief Executive will call a Council meeting to consider the report and make a recommendation to the ~~Executive~~ **Cabinet**.

- 8.2 The Scrutiny Board and Scrutiny Panels will have access to the ~~Executive's~~ **Cabinet's** Forward Plan and timetable for decisions and intentions for consultation. The Board and Panels may consider any item in the Forward Plan in advance of the decision by the ~~Executive~~ **Cabinet** and may require the ~~Executive~~ **Cabinet** to have regard to their views when considering the item. The Board and Panels will also use the Forward Plan to identify items for scrutiny prior to decision in accordance with Rule 12.

## 9. Rights of Scrutiny Board and Scrutiny Panel members to documents

9.1 In addition to their rights as Councillors, members of the Scrutiny Board and Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

9.2 Nothing in this paragraph prevents more detailed liaison between the **Executive Cabinet** and the Scrutiny Board and Scrutiny Panels as appropriate depending on the particular matter under consideration.

## 10. **Members Councillors and officers employees** giving account

The Scrutiny Board and Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any ~~member of the Executive Cabinet~~ **Member**, the Head of Paid Service and/or any Designated Officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance,

and it is the duty of those persons to attend if so required.

## 11. Attendance by others

The Scrutiny Board and Scrutiny Panels may invite people other than those people referred to in paragraph 10 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and **members Councillors** and **officers employees** in other parts of the public sector and shall invite such people to attend.

## 12. Scrutiny and Call-in

12.1 Scrutiny of **Executive Cabinet** decisions will be undertaken by the Scrutiny Board and Scrutiny Panels. It has two principal elements:

- (a) scrutiny of **executive Cabinet** decisions before they are implemented by means of a call-in mechanism
- (b) scrutiny of **executive Cabinet** decisions after they are implemented.

12.2 Although every **executive Cabinet** decision must be open to scrutiny it would be detrimental to efficient decision making if every individual decision has to be referred to the Scrutiny Board or a Panel before it can

be implemented. These Rules seek to achieve a reasonable balance by categorising decisions into:

- (a) those which can only be scrutinised **after** implementation i.e. **Green decisions** which are those decisions taken by a Designated Officer in consultation with a ~~member of the Executive~~ **Cabinet Member**;
- (b) those which may be called in to allow scrutiny **before** implementation i.e. **Amber**. Amber decisions are those decisions which are delegated to the Cabinet or a Cabinet Panel.

12.3 There will be five **Councillors members** drawn from the Scrutiny Board to be known as the Call-in Group. Political balance of Call-in Group will be in favour of the opposition. Any one Member of the Group may exercise the call-in and referral rights set out in paragraph 12.5. The role of the Call-in Group is to give consideration to decisions made by the ~~Executive~~ **Cabinet** and to decide whether to refer them to the Scrutiny Board or a Scrutiny Panel for detailed consideration and debate.

The Call-in Group will assist the Scrutiny Board and Scrutiny Panel to discharge its scrutiny function in two ways:

- (a) it will examine **Green decisions** after implementation and decide which, if any, should be referred to the Scrutiny Board or a Scrutiny Panel and whether written or oral justification for the decision is necessary
- (b) it will act as a filter by considering which Amber decisions need to be called in and scrutinised **before** implementation and which need only be scrutinised after implementation.

#### 12.4 **Green decisions ~~notices~~ and consideration by the Scrutiny Board and Scrutiny Panels**

A Schedule of **Green decision notices** is included for information on the agenda of the next available Cabinet (~~Resources~~) Panel. The reports referred to in the Schedule will be available in the Members' Room(s). The Call-in Group will consider the Schedule prior to the Cabinet Panel and decide whether to refer any Green decision for debate at the next Scrutiny Board or appropriate Scrutiny Panel. The Call-in Group will indicate whether additional oral or written justification for the decision should be provided by the Cabinet Member and Designated Officer(s).

**N.B.** A **Green decision** cannot be blocked and can be implemented in advance of any scrutiny consideration.

#### 12.5 **Amber decisions and consideration by the Call-in Group**

- (a) The Cabinet/Cabinet Panel will consider items identified on the agenda as Amber business.

The Cabinet/Cabinet Panel will then make decisions each of which will be recorded by the Chief Executive as an Amber decision.

- (b) The Call-in Group will consider the Cabinet/Cabinet Panel agenda prior to the meeting and consider each proposed Amber decision. The Call-in Group will notify the Chief Executive:
  - (i) of any issue which it wishes to be brought to the attention of the Cabinet/Cabinet Panel prior to its decision;
  - (ii) within 3 working days of any decision being made that it wishes to exercise the right to call-in of that report for scrutiny prior to the implementation of that decision giving reasons dot its decision to call-in. It is anticipated that call-in will be exercised rarely as it will delay implementation of the decision;
  - (iii) any proposed decision which it wishes to be referred for consideration by the Scrutiny Board or appropriate Scrutiny Panel after implementation the reason for the referral being given.
- (c) The Call-in Group may also attend meetings of the Cabinet/Cabinet Panel and, immediately following the meeting, may indicate to the Chief Executive that it wishes a decision to be called in prior to implementation or referred for consideration after implementation.
- (d) In each case the Call-in Group will indicate whether addition oral or written information should be provided by the Cabinet/Cabinet Panel and Designated Officer(s).
- (e) The Chief Executive will inform the Chair of the Cabinet/Cabinet Panel and appropriate Chief Officer(s) of any notification received from the Call-in Group.
- (f) If the Call-in Group does not exercise its rights under 12.5 (b) (ii) or 12.5 (c) then the decision may not be called in subsequently and may be implemented forthwith.
- (g) ***No Amber report which has been the subject of pre-decision scrutiny by any Scrutiny Panel, may be subsequently 'called in' for further consideration by the Scrutiny Board except where the decision of the Cabinet differs significantly from the recommendations of the Scrutiny Panel.***

#### **12.6 Consideration of Amber decisions by the Scrutiny Board or Scrutiny Panels and re-consideration by the Cabinet/Cabinet Panels**

- (a) If the decision has been formally called in under 12.5(b) (ii) or 12.5 (c) then the Scrutiny Board or appropriate Scrutiny Panel will consider all the information before it including receiving oral and written information from the appropriate Cabinet Members and



Directors or Chief Officers. The Board or Panel will exercise one of the following options:

- (i) note the decision which can then be implemented immediately
  - (ii) ask the Cabinet/Cabinet Panel to reconsider the decision (a decision can only be reconsidered once)
  - (iii) refer the decision to Full Council to see if it wishes the decision to be reconsidered.
- (b) If the decision has been referred for consideration under 12.5 (b) (iii) or 12.5 (c) then the Scrutiny Board or Panel will receive the Cabinet/Cabinet Panel's Amber decision for information and debate together with any further information sought on its behalf by the Call-in Group.
- (c) That when required relevant Cabinet Members and senior officers will attend the Scrutiny Board to present oral and written information relevant to the call-in.

## **12.7 Consideration of Amber decisions by the Council**

If the decision is referred to the Full Council and the Council does not object to the decision then it can be implemented immediately.

If the Council does object to the decision then it cannot substitute its own decision unless the decision is contrary to the policy framework or contrary to or not wholly consistent with the budget. Unless that is the case the Council will refer the matter back to the Cabinet/Cabinet Panel together with the Council's views on the decision.

The Cabinet/Cabinet Panel will then choose whether to amend the decision or not before reaching a final decision and implementing it.

## **12.8 Meeting of the Cabinet or a Cabinet Panel to consider items of Red business**

The Cabinet or Cabinet Panel will meet and consider items of Red business i.e. the budget and policy framework which requires consideration by the Full Council in accordance with Article 4 and Parts 3 and 4 of this Constitution. The procedure set out in the Budget and Policy Framework Procedure Rules will be followed.

## **13. CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by the **Executive Cabinet** is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and

therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

#### **14. Procedure at Scrutiny Board and Scrutiny Panel Meetings**

- (a) The Scrutiny Board and Scrutiny Panels shall consider the following business:
  - (i) consideration of the minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Board or Panel for a decision in relation to call in of a decision;
  - (iv) responses of the **Executive Cabinet** to reports of the Board or Panels and
  - (v) the business otherwise set out on the agenda for the meeting.
  
- (b) Where the Board or Panel conducts investigations (e.g. with a view to policy development), it may ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all **members Councillors** of the Board or Panel be given the opportunity ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Board or Panel by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  
- (c) Following any investigation or review the Board or Panel shall prepare a report, for submission to the **Executive Cabinet** and/or Council as appropriate and shall make its report and findings public.

**15. Substitution of ~~Members~~ **Councillors** at Scrutiny Board**

Any permanent ~~Member~~ **Councillor** of the Scrutiny Board may nominate another ~~Member of the~~ **Councillor** to attend a meeting of the Scrutiny Board where:

- (i) the permanent ~~Member~~ **Councillor** will be unable to attend for the entire duration of the meeting of the Board;
- (ii) the permanent ~~Member~~ **Councillor** will be unable to attend at the commencement of, or for any part of a meeting or;
- (iii) the permanent ~~Member~~ **Councillor** will be required to be absent from any part of a meeting or during consideration of a particular item as a result of the need to declare a prejudicial interest.

Where a substitute ~~Member~~ **Councillor** is nominated to attend a meeting of the Scrutiny Board:

- (i) The substitute ~~Member~~ **Councillor** will have all the powers and duties of a permanent ~~Member~~ **Councillor** of the Board whilst attending the meeting or part thereof in place of the permanent ~~Member~~ **Councillor** and may speak and vote.
- (ii) The substitute ~~Member~~ **Councillor** may be replaced during the course of a meeting by the permanent ~~Member~~ **Councillor** on the proviso that as far as is practically possible the substitute ~~Member~~ **Councillor** will be required to remain in the meeting for the duration that the items(s) for which they are substituting are under discussion.
- (iii) All substitutions to be notified to the Democratic Support Section by the permanent ~~Member~~ **Councillor** as soon as possible prior to the commencement of the meeting either in writing or via email.

**16. Matters within the remit of more than one Scrutiny Panel**

Where a matter for consideration by a Scrutiny Panel also falls within the remit of one or more other Panels the decision as to which Panel will consider it will be resolved by the Scrutiny Board.

## 17. Councillor Call for Action Protocol

### Introduction

The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act), and came into force on 1 April 2009. The statutory requirement to implement CCfA by 1 April 2009 applies to all Councils in England (with the exception of Parish Councils) regardless of their **Executive Cabinet** arrangements.

The Act enables any ~~Member of the~~ Councillor to refer to the Petitions Committee any local government matter or any crime and disorder matter which affects their Ward.

The power to refer a matter is available only where the matter is of direct concern to the Ward which the Councillor represents. A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for Councillors in multi-member Wards to agree – any of them can refer a matter.

### Limitations

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

### Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- Individual complaints concerning personal grievances or commercial issues.
- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
  - Planning and licensing applications and appeals
  - Council Tax/Housing Benefits complaints and queries
  - Issues currently under dispute in a court of law
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or any of its sub-committees.

In addition, the Council has determined that the following matters be also excluded from CCfA :

- (vi) CCfA should not seek to ask the Council to determine:-
- personal or commercial issues
  - specific or individual employee relations
  - Disciplinary or grievance matters
  - Matters which are subject to formal or statutory appeal processes or are sub-judice;
  - Individual appeal cases, for example, Planning, Licensing, Housing or Education applications or appeals;
  - Decisions of the Standards and Audit Committees or Regulatory Committees.
- (vii) CCfA should not contain:
- offensive, intemperate, inflammatory, sarcastic or provocative language or language to which those reading could reasonably take offence
  - false or defamatory statements
  - information which is protected by an interdict or court order
  - commercially sensitive or confidential material
  - the names of individuals, or information whereby they may be easily identified, in relation to criminal accusations.
- (viii) CCfA should be submitted in good faith and be decent, honest and respectful.
- (ix) CCfA will be rejected if defamatory, frivolous or offensive.
- (x) During politically sensitive periods, such as before an election, politically controversial material will be restricted.
- (xi) CCfA which do not follow these guidelines will be considered inadmissible, in which case you petitioners will be informed in writing of the reasons why.
- (xii) CCfA which are the same or substantially similar and which are lodged by or on behalf of the same person or organisation will be considered inadmissible unless more than a year has passed since the original CCfA was considered by the Petitions Committee. Advice on admissibility can be obtained from the Democratic Services Section whose contact details are

provided on the Web site. In cases of dispute, the Petitions Committee shall decide whether a petition is admissible.

A referral, provided it is not an excluded matter (see above) will ensure that the matter is included on the agenda of the Petitions Committee. It is then up to the **Members of the** Committee to decide whether or not to take the matter further. A referral made to the Petitions Committee is seen as being at the end of the CCfA process (**the last resort**) and not the first step.

### **Steps to be taken, prior to making a Councillor Call for Action referral**

Prior to a Councillor referring a matter as a CCfA to the Petitions Committee, a Councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Wolverhampton Safer Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with **officers employees** and/or **members Councillors**.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
- Ascertain whether or not any other form of local scrutiny is investigating the issue.

### **How to make a Councillor Call for Action referral**

If the issue/problem is still not resolved, a **Member Councillor** can refer it to the Petitions Committee as a "Councillor Call for Action". To do this the Councillor should:

- Complete a CCFA Request Form by hand or electronically, outlining what the issue is and what steps have been taken towards a resolution. The request for a CCfA should include:
  - The name of the Councillor and Ward they represent.
  - Title of the CCfA
  - Why they think the issue should be looked at by the Petitions Committee.
  - A brief synopsis of what the main areas of concern are.

- What evidence do you have in support of your CCfA?
  - Which areas or community groups are affected by the CCfA?
  - What prior action has been undertaken to try and resolve the issue prior to requesting a CCfA?
  - Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?
  - Are there any deadlines associated with the CCfA of which the Petitions Committee needs to be aware?
- The Democratic Services Section will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to scrutiny.
  - The Democratic Services Section will inform the Chair of the Petitions Committee that the item will be included on the next Committee agenda.
  - The Councillor submitting the CCfA will be invited to attend the meeting of the Petitions Committee to speak in connection with the issue.

A successful referral will ensure that the CCfA will be placed on the next agenda of the appropriate Scrutiny Panel. The Panel will then decide whether or not to take the matter further.

**Decision of the relevant Scrutiny Panel whether to take the matter further**

In deciding whether or not to take the matter further, the Scrutiny Panel will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers or by preparing a report setting out their views. Any reports prepared by Councillors would be circulated along with the agenda and other reports for the meeting). This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972.

The criteria the Committee will use to decide whether or not to take the matter further include:

Is the Scrutiny Panel satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? And do the responses received by the referring Councillor demonstrate that the matter is not being progressed?

- Has the Scrutiny Panel considered a similar issue recently – if yes, had the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community)?
- Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring **member's Councillor's** Ward?

In considering the CCfA, the Scrutiny Panel may invite the Chief Executive, Directors, Heads of Service or external organisation to discuss the issue with the Panel and answer any questions, if the Panel considers this relevant.

If the Scrutiny Panel decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Scrutiny Panel decides to accept the CCfA referral, it will decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

**Before holding a formal hearing:**

- Asking the service area(s)/partner organisation(s) to respond to the CCfA.
- Establishing a Task and Finish Group to undertake a more in depth review.

**At the formal hearing:**

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant service Committee/partner organisation.



### **Potential outcomes**

Following a formal hearing, there are a number of potential outcomes from the Scrutiny Panel meeting:

- The Scrutiny Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;
- The Scrutiny Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Scrutiny Panel could write a report and make recommendations on the CCfA to the relevant Cabinet Panel or partner organisation.

Once the Scrutiny Panel has completed its work on the CCfA referral, the ~~member~~ **Councillor** who made the CCfA referral will receive a copy of any report or recommendations made. The reply will also be printed on the Council's website (unless there are reasons why the Committee treats the matter as an exempt item and as a result the report will not be made public).

### **Timescales**

Once a CCfA has been assessed as not being a matter which is excluded from referring to scrutiny, the item will be included on the next available Petitions Committee agenda.

If the Petitions Committee agrees to take the matter forward, the matter will usually be placed as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in recommendations to the ~~Executive~~ **Cabinet** being made, a response to the recommendations, setting out any action it intends to take, within 28 days of the recommendations being placed on an agenda.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although it must be recognised they are under no legal obligation to do so.

### Councillor Call for Action Request Form

This form should be used by any Councillor who wishes to consider a Councillor Call for Action in their Ward.

**Your contact details:**

Name (print):

Address:

Contact number:

Email address:

**The Ward you represent:**
**Title of your Councillor Call for Action:**
**Date of Submission:**

Would you like the opportunity to speak to the Petitions Committee?

Yes

No

Have you approached the Petitions Committee on the same issue in the past six months?

Yes

No

Would you like your response by:

Email

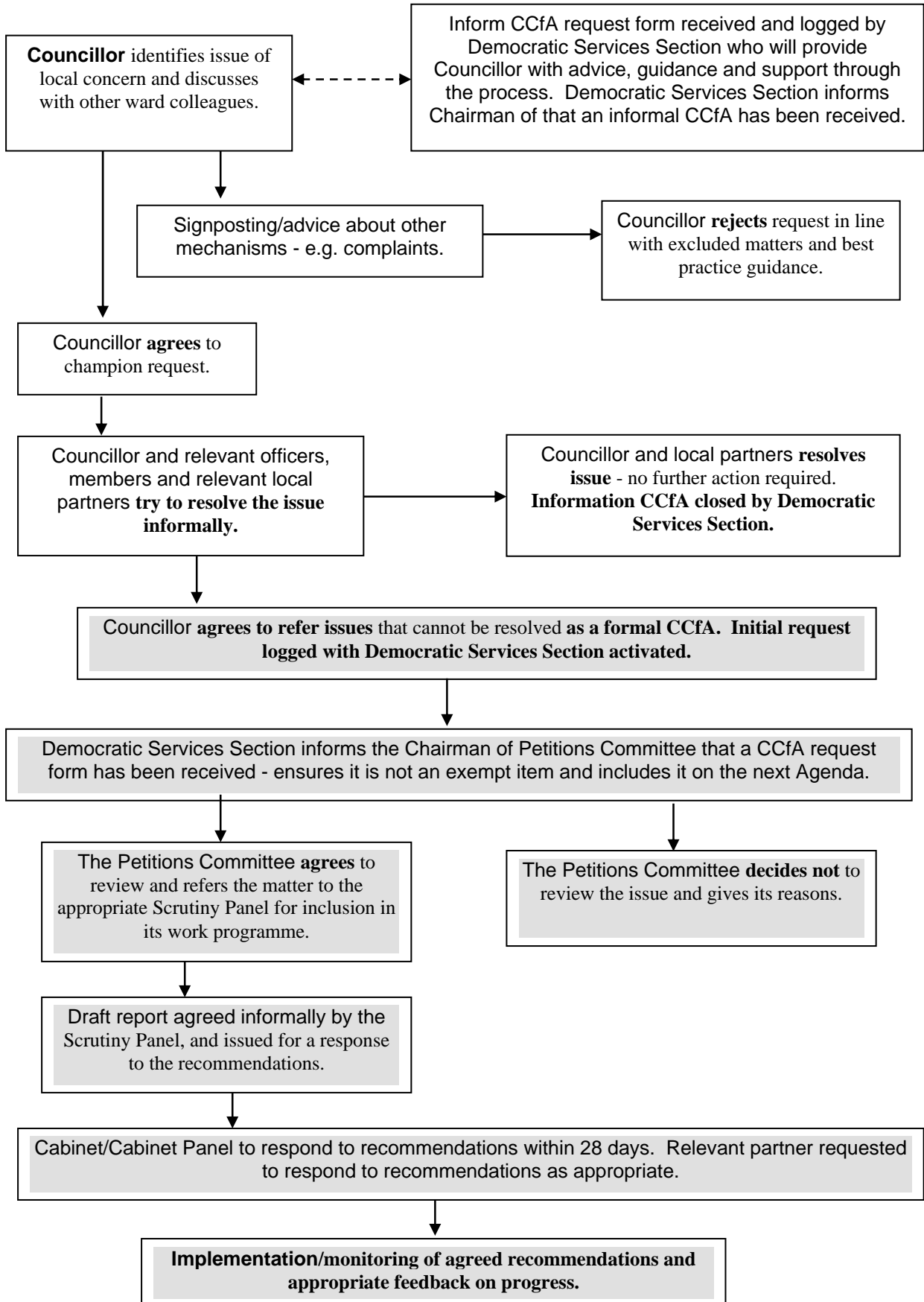
Letter

Why you think the issue should be looked at by the Petitions Committee:
Please give a brief synopsis of the main areas of concern are:
What evidence do you have in support of your CCfA:
Which areas or community groups are affected by the CCfA:
How have you tried to resolve the issue :
Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?
Are there any deadlines associated with the CCfA of which the Petitions Committee needs to be aware:

**Please complete and return the form to:**  
Democratic ~~Support~~ Services Section  
~~Office of the Chief Executive~~ **Delivery Directorate**  
Civic Centre  
Wolverhampton  
WV1 1SH

**Appendix 2**

**SUMMARY OF CCfA MECHANISM**



## Appendix 3

### Explanatory Notes

#### 1. Definition of a local government matter and a local crime and disorder matter

Local government matter For the purpose of the Act a local government matter, in relation to a **member Councillor** of a local authority is one which:

- relates to the discharge of any function of the authority;
- affects all or part of the electoral area for which the referring **member Councillor** is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- is not an excluded matter.

Local crime and disorder matter A local crime and disorder matter, in relation to a **member Councillor** of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the **member Councillor**, or the people who live or work in that area.

#### 2. Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Petitions Committee is to be excluded”.

##### Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some **members Councillors** may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor's requirements.

### Discriminatory

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

### Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

## **3. Structure of the CCfA hearing**

A CCfA hearing will be based on the Petitions Committees current structure for dealing with call-in hearings.

## **FINANCIAL PROCEDURE RULES**

## FINANCIAL PROCEDURE RULES

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## **A STATUS AND OVERVIEW**

The Council, as a publicly-funded organisation, must demonstrate the highest standards of financial control and stewardship of public resources. The Financial Procedure Rules, along with the budget framework and the Contracts Procedure Rules, are a set of procedures that everybody working for or on behalf of the Council must observe in order to achieve those high standards.

### **4. Status of the Financial Procedure Rules**

- 4.1 1** The Financial Procedure Rules are an essential part of the Council's financial control framework. They apply to all business carried out by or on behalf of the Council and the West Midlands Metropolitan Authorities Pension Fund, whether by **members Councillors, officers employees**, or third parties (including partnerships of which the Council is part) where appropriate (as determined by the Section 151 Officer ).
- 4.2 2** With regard to the West Midlands Metropolitan Authorities Pension Fund, in order to reflect the delegations to the Superannuation Committee under the Council's Constitution when applying these Rules the Superannuation Committee should be substituted for the Cabinet or the Cabinet (Resources) Panel. In addition, the Pension Fund investment activity is governed by the Pension Fund's Statement of Investment Principles and Investment Compliance Manual and therefore these Financial Procedure Rules do not apply to this activity **but any arrangements require approval of the Council's Section 151 Officer.**
- 4.3 3** Failure to comply with the Financial Procedure Rules may lead to disciplinary action in the case of **officers employees**, or investigation by the Monitoring Officer and/or the Standards Committee in the case of **members Councillors.**
- 4.4 4** It is the responsibility of Chief Officers to ensure that all **staff employees** reporting to them, directly or indirectly, are aware of and comply with the Financial Procedure Rules.
- 4.5 5** Chief Officers must notify the Section 151 Officer of any failures to comply with the Financial Procedure Rules as soon as they become aware of them.
- 4.6 6** Where any individual or group has a responsibility under the Financial Procedure Rules, that responsibility may not be delegated unless the Financial Procedure Rules explicitly allow it.
- 4.7 7** Nothing in these Rules absolves, or is intended to absolve, any person of any statutory responsibilities.
- 4.8 8** Over and above complying with these Rules, **officers employees** and **members Councillors** are expected at all times to demonstrate prudence and good stewardship of the Council's resources, and to act in the best interests of the Council at all times.

~~4.9~~ **9** ~~Officers~~ **Employees** must comply with all requests from the Section 151 Officer (or his/her delegate) for information required to discharge his/her statutory duties or fulfil his/her responsibilities under these Rules.

~~4.10~~ **10** These Rules should be read in conjunction with the Budget Policy and Framework Procedure Rules.

~~4.11~~ **11** You should contact your Head of Finance for advice if you are unclear about any part of these Rules.

## **2 Terminology**

~~4.12~~ **1** Throughout this document, the following words are used as set out below:

“Approved Budget” – the most recent budget for the current financial year that has been approved by the relevant person in accordance with the Financial Procedure Rules and the budget policy framework.

“Budget”– the Council’s plan for a given financial year, expressed in financial terms. This includes all revenue and capital expenditure of all funds, whether presented collectively or separately.

“Budget Holder” – an ~~officer~~ **employee** of the Council who is held responsible and accountable for a part of the Council’s expenditure (and, where applicable, income), and who has delegated authority to make certain decisions about expenditure as set out in these Rules.

“Capital Scheme” – a project or group of projects identified in the approved budget for the capital programme.

“Assistant Director (Corporate Services)” - the Council’s appointed Officer under section 151 of the Local Government Act 1972 and who is responsible for the proper administration of the Council’s financial affairs. Also referred to as the Section 151 Officer, the Assistant Director (Corporate Services)’s role is independent and reports to Council. This role can also be fulfilled by another ~~officer~~ **employee** where authorised by the Assistant Director (Corporate Services) to act on their behalf.

“Person” – a ~~member~~ **Councillor** or ~~officer~~ **employee** of the Council, or an individual acting as if they were an ~~officer~~ **employee** of the Council, or a group of ~~members~~ **Councillors**, ~~officers~~ **employees** or such individuals.

“Provision” – an amount of money set aside by the Council in respect of a future requirement to transfer resources, arising from one or more past events, where the timing or amount of that transfer is not known with certainty.

“Reserve” – an amount of money set aside voluntarily by the Council to fund or partially-fund future expenditure plans.

“Virement” – a transfer of budget from one service or capital scheme to another.

**3 Financial Administration and Control**

- 1.13 1** The Cabinet (Resources) Panel shall be responsible for overseeing the execution of financial policy, financial administration and control in the Council, and for supervising the provision of financial services, all subject to direction from the Council and Cabinet.
- 1.14 2** The Section 151 Officer shall be ~~the lead Officer with regard to~~ **responsible for** each of the following:
- (a) advising on the interpretation of and monitoring compliance with the Finance Procedure Rules;
  - (b) financial training for all ~~members~~ **Councillors** and ~~officers~~ **employees** in the Financial Procedure Rules and associated financial arrangements;
  - (c) overseeing professional financial training, standards and ethics;
  - (d) liaison with the Council’s external auditors on all matters relating to the Council’s financial arrangements.

## **B BUDGETS AND EXPENDITURE**

### **Expenditure**

- 1 No person shall commit the Council to any expenditure unless that expenditure is included in the approved budget.
- 2 No ~~member~~ **Councillor** shall commit the Council to any expenditure, except when acting as a group named within these Rules (or under appropriate delegation) and in accordance with these Rules.
- 3 No person shall commit the Council to expenditure on any of the following:
  - (a) a service or capital scheme not individually identified in the approved budget;
  - (b) grants to any outside organisation or individual not individually identified in the approved budget.
- 4 No person shall commit the Council to revenue expenditure in a year for which there is no approved budget without the prior approval of the Section 151 Officer.
- 5 Where the Council makes payment of one or more grants to a third party, the responsible Chief Officer shall ensure that procedures are in place regarding appropriate accounting records and delivery of agreed outputs. The Chief Officer shall make clear to the recipient that the Council retains the right to claw back monies where such procedures are not adequately observed.

### **Budget Preparation**

- 1 The budget shall be prepared in accordance with the Budget and Policy Framework Procedure Rules.
- 2 Each year, the Cabinet shall determine strategic guidelines for the following year's budget.
- 3 The budget shall be prepared in accordance with the cabinet's strategic guidelines, and any guidance issued by or on behalf of the Section 151 Officer.
- 4 The Cabinet shall determine a recommended budget, which it will report to the Council in accordance with statutory timescales, and no later than March of the preceding financial year. This will include recommendations on Council Tax, housing rents, and other equivalent items of income. ***In the case of capital budgets, recommended budgets may be put to Council by Cabinet (Resources) Panel.***
- 5 Before submitting its recommended budget to **Full** Council, the Cabinet shall refer it to the appropriate Scrutiny Panels and to consultation, allowing sufficient time to reconsider and if appropriate revise it prior to submitting it to **Full** Council.

- 6 Following approval of the budget by ~~the~~ **Full** Council, the Section 151 Officer shall prepare and issue a Budget Book, presenting the approved budget in a suitable format.

### **Budget Holders**

- 1 For each service and capital scheme ~~that~~ **for which** he/she is responsible ~~for~~, each Chief Officer shall nominate an individual named ~~officer~~ **employee** to be responsible and accountable for the expenditure and income of that service. This named ~~officer~~ **employee** shall be the 'Budget Holder' for that service.
- 2 Each Chief Officer shall notify the Section 151 Officer of the Budget Holder(s) for his/her services and capital schemes.
- 3 The Section 151 Officer (or his/her delegate) shall maintain the definitive register of Budget Holders.
- 4 In the event of a Budget Holder ceasing to be employed by the Council, the Chief Officer shall identify new Budget Holders for the services and capital schemes in question immediately. This, and all other changes in Budget Holder responsibilities shall be notified to the Section 151 Officer immediately.
- 5 The Budget Holder shall be delegated responsibility to incur expenditure within the limit set for that service or capital scheme in the approved budget; and be held responsible for the generation of the service or capital scheme's income included in the approved budget.
- 6 If, in a given financial year, the net expenditure for a revenue service is greater than that included in the approved budget, and the level of over spend exceeds a threshold determined by the Section 151 Officer, or the Section 151 Officer otherwise requests it, the Budget Holder for that service shall submit a report to the Cabinet (Resources) Panel explaining why the over spend has occurred and what actions have been or will be taken to prevent a recurrence of that over spend.
- 7 If the total expenditure for a capital scheme is greater than that included in the approved budget, and the level of over spend exceeds a threshold determined by the Section 151 Officer, or the Section 151 Officer otherwise requests it, the Budget Holder for that capital scheme shall submit a report to the Cabinet (Resources) Panel explaining why the over spend has occurred and what actions have been or will be taken to prevent similar over spends on other capital schemes.

### **Budget Monitoring**

- 1 Budget Holders, in liaison with the Section 151 Officer (or his/her delegate) shall monitor their expenditure and income, with reference to their budget, on an ongoing basis.

- 2 It shall be the responsibility of Budget Holders to obtain the appropriate information, in the appropriate timescales, to enable them to fulfil their responsibilities under these Rules.
- 3 If it appears that a Budget Holder is likely to exceed the budget of one of his/her services/capital schemes, he/she shall raise this with the Section 151 Officer (or his/her delegate) and take corrective action at the earliest opportunity.
- 4 If the Section 151 Officer considers that the consequences of any such forecast over spend are material to the finances of the Council, or any fund of the Council, he/she shall submit a report to the Cabinet explaining the circumstances.
- 5 Budget monitoring reports shall be submitted to the Cabinet (Resources) Panel, co-ordinated by the Section 151 Officer, on a regular basis. These shall include forecasts for the current year, and separate identification of, and explanation for, all forecast variances against the approved budget in excess of £100,000 (whether favourable or adverse).

### **Outturn**

- 1 The Section 151 Officer shall submit a report to the Cabinet (Resources) Panel setting out the Council's outturn within four months of the financial year end.
- 2 Carry forwards of unused revenue budget from one financial year to another shall only be made with the approval of the Section 151 Officer, and shall be reported to the Cabinet (Resources) Panel along with the outturn for the year in question.
- 3 The Section 151 Officer shall be responsible for determining the method of financing of capital schemes.

### **Emerging Financial Liabilities**

- 1 If a Chief Officer or Budget Holder believes that the Council may have a financial liability which is not provided for in the approved budget or an existing provision or reserve, he/she shall bring this to the attention of the Section 151 Officer immediately.

### **Virements**

- 1 Budget Holders shall be delegated the authority to action in-year virements of budget only where all of the following apply:
  - (a) the total value of the virement does not exceed £50,000\*;
  - (b) the virement is to an existing service or capital scheme identified in the approved budget;
  - (c) the Budget Holders of both services or capital schemes have approved the virement;

- (d) the Section 151 Officer (or his/her delegate) has approved the virement;
- (e) the virement would not result in an overall increase in the budget of the general fund, the housing revenue account or the capital programme;
- (f) in the case of revenue budgets, the virement is within one of the following groups of headings:
  - (i) Employees;
  - (ii) All other controllable expenditure.
- (g) the virement does not relate to the payment of grants to any outside organisation or individual
- (h) virements to or from the budget have not been disallowed under paragraph 8 below.**

\* This limit is to be applied to the full-year equivalent budget, to the increase in gross expenditure or income (whichever is greater), and at service or capital scheme level.

- 2 The Section 151 Officer shall be delegated the authority to action in-year virements of budget where the virement reflects a transfer of management responsibility, with no other changes in the objective or nature of the expenditure and income in question. In these circumstances, none of the conditions set out in paragraph 1 shall apply, except (d) and (e).
- 3 The Cabinet (Resources) Panel shall have delegated authority to approve the allocation of capital budgets to individual capital schemes, only where those budgets were originally approved on a non-specific basis and have not yet been allocated. **Any schemes to which budget is allocated in this way do not need to have been in the approved budget prior to the Panel granting such approval.**
- 4 **The Cabinet (Resources) Panel shall have delegated authority to approve the payment of grants to individual recipients, only where all of the following apply:**
  - (a) there is an appropriate heading in the approved budget;**
  - (b) such heading clearly refers to payment of grants, but not to specific recipients;**
  - (c) The total amount of grant payable to a recipient in any financial year does not exceed £50,000.**
- 5 All virements approved under paragraph 1 or 2 shall be reported to the Cabinet (Resources) Panel on a regular basis, in a format considered suitable by the Section 151 Officer.
- 6 All other virements must be approved by the Cabinet (Resources) Panel. Approval must be sought by submission of a written report to the Panel, setting out the amounts requested and the reason why the virement is required.

- 7 Virements made under paras 1, 2, 3 or 5 shall be regarded as having changed the approved budget accordingly.
- 8 ***Full Council, Cabinet or Cabinet (Resources) Panel may disallow virements to or from a budget heading for the purposes of paragraph 1 above.***

### **Supplementary Budgets**

- 1 An overall increase or decrease in the Council's total budget, or the budget of the general fund, housing revenue account, or capital programme when considered separately, must be approved by Full Council (***subject to paragraph 2 below***).

***Where all of the following apply, an overall increase or decrease in the Council's total budget may be approved by Cabinet (Resources) Panel, and not require the approval of Full Council:***

- (a) ***There is no increase or decrease in the net budget;***
- (b) ***New or additional external income has been identified which was not included in the approved budget;***
- (c) ***Such income has conditions attached by the person providing the income that severely constrain its possible range of uses;***
- (d) ***The Section 151 Officer agrees that approval may be granted by Cabinet (Resources) Panel.***

### **Fees and Charges**

- 1 All fees and charges within the Council's control, influenced by or associated with the Council, shall be approved by the Cabinet (Resources) Panel.
- 2 The Section 151 Officer shall prepare, not less than once in any twelve month period, a comprehensive fees and charges report to the Cabinet (Resources) Panel, which shall include recommendations on revisions to all fees and charges within the Council's control, influenced by or associated with the Council (with the exception of fees and charges relating solely to the Housing Revenue Account). This shall include reference to all relevant fees and charges for which no change is proposed.
- 3 All fees and charges shall take into account the full costs of the service in question, including recharges for support services and capital charges, subject to any approvals under paragraph 6.
- 4 All fees and charges shall be fully reviewed at least once in any twelve month period.
- 5 At the point of review, all fees and charges shall take into account the increase (expressed in percentage terms) in the estimated costs of the service in question (taken over the forthcoming twelve months), subject to any approvals under paragraph 6.



- 6 Any deviation from paragraphs 3 or 5 shall in itself require the approval, on an individual fee or charge basis, of Cabinet (resources) Panel.
- 7 In considering whether to grant an approval, the Cabinet (Resources) Panel shall consider the following factors: underlying cost and the extent of cost recovery and or subsidy, comparison with other providers of similar or equivalent services, affordability and effect on demand, as well as any other relevant considerations.
- 8 All fees and charges shall be approved on a VAT-exclusive basis.
- 9 The Section 151 Officer (or his/her delegate) shall maintain a register of all fees and charges currently receivable by, influenced by or associated with the Council.

### Accounting

- 1 The Section 151 Officer shall determine the Council's accounting policies, and, where appropriate, estimation techniques.
- 2 The Section 151 Officer shall prepare the Council's financial statements in accordance with statutory requirements and other proper practice.
- 3 The Audit Committee shall approve the Council's financial statements.
- 4 The Section 151 Officer shall ensure that the Council complies with relevant tax legislation, and that the Council maintains adequate accounting records in respect of its tax affairs.
- 5 ***No ~~officer~~ employee shall undertake accounting duties unless that ~~officer~~ employee falls within the span of control of the Section 151 Officer, according to the organisational structure in place at the time. For the purposes of this paragraph, '~~officer~~ employee' includes individuals acting as if they were an ~~officer~~ employee of the Council.***
- 6 ***For the purposes of paragraph 5 above, accounting duties shall be taken to include, but not be limited to: providing financial advice to ~~members~~ Councillors and ~~officers~~ employees; preparing budgets; preparing financial information to be used in budget monitoring; preparing financial forecasts (except where that ~~officer~~ employee is a budget holder and is acting in that role). It shall not be taken to include making entries in the accounts and is not intended to prevent budget holders discussing relevant financial matters with ~~members~~ Councillors when carrying out their service management responsibilities.***
- 7 ***The application of 5 and 6 do not apply to the Superannuation Committee activities, but any arrangements are subject to approval of the Council's Section 151 Officer.***

## **Revenue Contributions to Capital Outlay (RCCOs)**

- 1 No ~~Officer~~ **employee** shall commit to the use of revenue resources to finance capital expenditure, nor make an entry in the accounts to reflect such use, without the prior and specific approval of the Section 151 Officer.
- 2 In the above paragraph, 'revenue resources' include amounts that are held in reserves, having been previously transferred from a revenue account.

## **Accounting Records**

- 1 The Section 151 Officer will designate the software packages that shall be the Council's definitive accounting record.
- 2 For the purposes of this section, accounting record shall be taken to mean the record of all of the following: actual expenditure and income; commitments not yet settled; forecast expenditure; the approved budget; balances; cash flows.
- 3 No other accounting records shall be created or maintained, except with the approval of the Section 151 Officer.
- 4 Any person entering data into the definitive accounting record (whether directly or by way of one of its feeder systems) shall be responsible for ensuring the accuracy of that data, including the correct coding.
- 5 Coding of transactions shall always reflect the objective and nature of the expenditure or income in question.
- 6 All accounting records shall be retained for a period of no less than six years following the conclusion of the financial year to which they relate, or longer if instructed by the Section 151 Officer (or his/her delegate).
- 7 The Section 151 Officer (or his/her delegate) shall be responsible for ensuring that access to the accounting system is controlled and restricted appropriately.

## **Grants**

- 1 No person shall apply for a grant on behalf of the Council without the prior approval of the Section 151 Officer, nor commit the Council to any expenditure intended to be funded by grant until that grant has been formally confirmed by the grant provider.
- 2 Chief Officers shall be responsible for ensuring that grant conditions are met and appropriate records maintained in support of grant claims. The Section 151 Officer shall determine the format and contents of records to be maintained.

- 3 The Section 151 Officer (or his/her delegate) shall maintain a register of all grants receivable by the Council.

### **Leasing Arrangements**

- 1 No person shall enter into, or commit to enter into, a leasing arrangement or a lease-type arrangement without the prior approval of the Section 151 Officer.
- 2 The financial limits in the Contract Procedure Rules for approving and reporting on contracts apply to the approval and reporting of leases.

### **Treasury Management and Financing**

- 1 No person shall do, or commit to do, any of the following without the prior approval of the Section 151 Officer:
  - (i) lend or borrow funds under the control of or due to the Council;
  - (ii) enter into any credit agreement;
  - (iii) enter into an arrangement that is or may be classed as a loan at nil interest;
  - (iv) enter into a financial guarantee;
  - (v) enter into any transactions involving financial futures, swaps, options, hedging and other similar financial instruments;
  - (vi) take any course of action that would give rise to a financial asset or liability of the Council except where this is in the course of delivering services or capital schemes included in the approved budget and it is in accordance with the other requirements of this paragraph.
- 2 All investments of money under the Council's control shall be made in the name of the Council or the name of nominees approved by the Cabinet Panel (Resources) or Superannuation Committee as appropriate.
- 3 All securities and the title deeds of all property in the ownership or name of the Council or its nominees shall be held in custody of the Assistant Director (Governance).
- 4 All borrowing shall be carried out in the name of the Council by the Section 151 Officer and only he/she is authorised to invest any surplus funds under arrangements approved by the Cabinet Panel (Resources) or Superannuation Committee.
- 5 The Section 151 Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 6 All ~~officers~~ **employees** acting as trustees by virtue of their official position shall deposit all securities, etc., relating to the trust with the Assistant Director (Governance) unless the deed otherwise provides.

- 7 The Council has adopted the CIPFA Code on Treasury Management in the Public Services. In accordance with this, the Section 151 Officer shall submit to both the Full Council and Cabinet (Resources) Panel:
  - (i) an annual report on the strategy and plan to be pursued in the coming year;
  - (ii) a mid-year review;
  - (iii) an annual report on the performance of the treasury management function, on the effects of the decisions taken and the transactions executed in the past year, and on any circumstances of non-compliance with the Council's treasury management policy statement and treasury management practices.
  - (iv) regular monitoring reports on treasury management activities and risks.
- 8 The reports set out at paragraph 7 shall include reports on the Council's treasury management indicators and prudential indicators.
- 9 The Full Council shall approve the prudential indicators for the Council.
- 10 The Section 151 Officer shall prepare and maintain the Council's treasury management policy and practices.
- 11 The Audit Committee shall be responsible for scrutiny of the Council's treasury management policies and practices.

### **Provisions and Reserves**

- 1 The Section 151 Officer shall be responsible for advising **Members Councillors** on the Council's policy on provisions and reserves.
- 2 No provisions or reserves shall be established or dissolved without the prior agreement of the Section 151 Officer and approval by Cabinet **(Resources) Panel**.
- 3 No money shall be transferred to or from provisions or reserves without the prior agreement of the Section 151 Officer and approval by Cabinet **(Resources) Panel**.
- 4 Chief Officers, in conjunction with the Section 151 Officer (or his/her delegate) shall review all provisions and reserves relating to their services for adequacy and relevance, both at the financial year end and as part of the budget preparation process.
- 5 The Section 151 Officer shall determine, in conjunction with the Cabinet, an appropriate level of general reserves as part of the budget preparation process, and shall advise the Council on the adequacy of the proposed level of reserves (in accordance with the requirements of section 25 of the Local Government Act 2003).

## **Medium Term Financial Forecasts**

- 1 The Section 151 Officer, in conjunction with Chief Officers, shall prepare medium term financial forecasts, spanning a period of no less than three future financial years, at regular intervals. These shall be reported to the Cabinet.

## **Reporting to ~~Member Bodies~~ *Councillor Meetings***

- 1 All reports, with financial implications, to the following ~~member bodies~~ ***Councillor meetings*** must be submitted to the Section 151 Officer (or his/her delegate) prior to the meeting at which the report is to be received, allowing reasonable time for him/her to consider the report.
  - Council
  - Cabinet and Cabinet Panels
  - Scrutiny Board and Scrutiny Panels
  - Audit Committee
- 2 Any proposal included in a report to a ~~member body~~ ***Councillor meeting*** that has or could have financial implications must clearly state the actual financial implications if known; or a best estimate if not known; or an explanation of why an estimate cannot be provided.
- 3 All financial implications in any report to a ~~member body~~ ***Councillor meeting*** must be approved by the Section 151 Officer (or his/her delegate) prior to inclusion in the agenda papers.
- 4 The report must also include a statement of the headings within the approved budget on which those financial implications would impact. This should be clearly referenced to headings in the approved budget.
- 5 Financial implications must be evaluated in accordance with the budget guidelines (~~prepared under 5.3~~) existing at the time.
- 6 Reports with inadequate financial implications may be withdrawn from the agenda at the discretion of the Section 151 Officer.

## **Write Offs**

- 1 The Section 151 Officer shall have delegated authority to write off sums due to the Council only where one of the following applies:
  - (a) The sum due is less than £5,000 and the Section 151 Officer believes that there is negligible prospect of recovery because of inability to trace the debtor;
  - (b) The Section 151 Officer believes that there is negligible prospect of recovery because of bankruptcy or liquidation.
- 2 All write-offs under paragraph 1 shall be reported to the Cabinet (Resources) Panel on a regular basis, in a format determined by the Section 151 Officer.

- 3 All other write offs must be approved by the Cabinet (Resources) Panel on a regular basis throughout the year. Approval should be sought by submission of a written report to the Panel, setting out the amounts to be written off and the reason why writing off is considered to be an appropriate course of action, on an individual account basis.

## **C AUDIT**

- 1 The Section 151 Officer shall ensure that an adequate and effective internal audit of all Council activities is carried out in accordance with the most recent CIPFA Statements on Internal Audit Practice and relevant legislation.
- 2 For audit purposes, the Section 151 Officer or authorised representative shall be entitled, without necessarily giving prior notice, to require and receive:
  - (a) access to any records (both computer and manual), documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
  - (b) access at all times to any Council premises or land;
  - (c) the production or identification by any employee of any cash, stores, or other property belonging to the Council, under the employee's control;
  - (d) explanations concerning any matter under examination.
- 3 Wherever any matter arises which involves actual or potential financial irregularities, misappropriations or indications of corruption, the Section 151 Officer should be notified immediately and he/she shall take such action as he/she considers necessary by way of investigation, report and referral to the Police. The Section 151 Officer shall, where necessary, consult with the Assistant Director (Governance) concerning referral to the Police and notify the Chief Executive and the Council's external auditor in significant cases of fraud or corruption.
- 4 The Section 151 Officer shall produce audit reports as appropriate, and when an audit report is issued, the Chief Officer(s) concerned shall respond in writing on any recommendations made without delay.
- 5 A sample of accounts paid by the Council shall be presented to the Audit Committee on a basis determined by the Committee.

## **D OFFICIAL ORDERS**

- 1 Official orders shall be in a form agreed by the Section 151 Officer and Chief Officers shall control their use. This applies to both paper and computerised ordering systems.
- 2 Orders are to be signed in manuscript by authorised **officers employees** only unless the Section 151 Officer determines that an electronic authorisation is acceptable. Each Chief Officer shall determine the list of authorised **officers employees** to operate in his/her Service Group. Lists of specimen signatures of these **officers employees** shall be maintained in each directorate and updated immediately on a change in authorised **officers employees**.
- 3 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of utility services, for periodical payments such as rent and rates, for petty cash purchases and purchases made using a Council purchasing card, and other exceptions as the Section 151 Officer may approve individually.
- 4 Each order shall indicate clearly the nature and quantity of the work or services required, any related contract or agreed prices, together with the date the order is placed, the initial of the originating **officer employee**, the signature of the authorising **officer employee**, the invoice address, the delivery address and delivery or contract completion date. The office copy order (whether paper or computer record) should indicate the accounting code to which the expenditure is to be charged.
- 5 Official Orders shall not be issued unless there is provision for the expenditure in an approved budget or a supplementary estimate has been obtained, and the appropriate action taken to conform with these Rules and the Contracts Procedure Rules.
- 6 The Council's preference is to use central and co-ordinated purchasing arrangements where available. Any departure from these arrangements where a contract exists shall only be made where the appropriate Chief Officer in consultation with the Assistant Director (Governance) considers there are specific advantages to be obtained from using alternative arrangements.
- 7 Urgent orders may be given over the telephone, facsimile or other communication methods as appropriate provided they are confirmed by an official order issued no later than the next working day.
- 8 Copies of orders raised shall be retained for three years from the date the order is placed in document form if no computerised record is available.
- 9 Order amendments or cancellations shall be notified in writing to the contractor and a full record should be kept in either paper or computerised record form.

- 10 Period orders, requiring a number of deliveries or service calls over a period of time, shall be for a maximum duration of twelve months from the date the order is placed. If required, a new order shall be placed for each and every subsequent twelve month period.
- 11 Any unused ordering stationery shall be held securely under the control of the responsible ~~officer~~ **employee** when not actually in use.

## **E PAYMENT OF ACCOUNTS**

- 1 Where an order is required under ~~section 23 (Official Orders)~~ **D – Official Orders** and no such order has been raised, payment shall not be made.
- 2 Apart from petty cash and other special payments agreed by the Section 151 Officer, the normal method of payment of sums due from the Council shall be by cheque or other instrument or electronic means drawn on the Council's bank accounts by the Section 151 Officer.
- 3 Chief Officers issuing orders are responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources in their Service Groups. Such certification shall be in manuscript (or other means agreed with the Section 151 Officer) by or on behalf of the Chief Officer. The names of ~~officers~~ **employees** authorised to certify such records shall be sent to the Section 151 Officer by each Chief Officer together with specimen signatures and amendments notified on the occasion of any change.
- 4 Before certifying an account, the certifying ~~officer~~ **employee** shall be satisfied that:
  - (a) The account has been verified where appropriate against the original order and the account details annotated thereon;
  - (b) The work, goods or services to which the account relates have been received, carried out, examined and approved;
  - (c) The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - (d) The relevant expenditure has been properly incurred and is within the relevant estimate provision;
  - (e) Appropriate entries have been made in inventories, stores records or stock books as required;
  - (f) The account has not been previously passed for payment and is a proper liability of the Council;
  - (g) In the case of periodical charges, for example, gas, electricity, telephones and water, that any standing charges are correct and that the consumption recorded has been verified and is reasonable in the light of previous and current experience.



- 5 Duly certified accounts shall be passed without delay to the Section 151 Officer who shall examine them to the extent that is considered necessary, for which purpose the Section 151 Officer shall be entitled to make such enquiries and to receive such information and explanations as may be required.
- 6 Any amendment to a paper account shall be made in ink and initialled by the ~~officer~~ **employee** making it, stating briefly the reasons where they are not self-evident. Amendment to electronic accounts should be recorded to the same standard.
- 7 Approval of Discretionary Housing Benefit payments is delegated to the Head of Benefits.

## **F SALARIES, WAGES, PENSIONS AND ALLOWANCES**

- 1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council together with payments of pensions and other associated payments from the Pension Fund shall be made by, or under arrangements approved by the Section 151 Officer.
- 2 Each Assistant Director shall notify the Section 151 Officer without delay and in the form prescribed by him/her of all matters affecting the payment of such emoluments, and in particular:-
  - (a) Appointments, resignations, dismissals, suspensions, secondments and transfers;
  - (b) Absences from duty for sickness or other reasons, apart from approved leave;
  - (c) Changes in remuneration, other than normal increments and pay awards and agreements of general application;
  - (d) Information necessary to maintain records of service for pensions, income tax, national insurance and other relevant matters.
- 3 Appointments and promotions of all employees shall be made in accordance with approved policies and practices of the Council and the approved establishments, grades and rates of pay. In addition re-gradings shall be in accordance with the Council's established practices.
- 4 All time records or other pay documents, and all claims for payment of car allowances, subsistence allowances, travelling and incidental expenses, shall be in a form prescribed or approved by the Section 151 Officer. The names of ~~officers~~ **employees** authorised to sign such records shall be maintained by the Section 151 Officer using updates that Assistant Directors are responsible for providing as circumstances and responsible individuals change, together with specimen signatures.
- 5 Except with the approval of the Section 151 Officer all employees and pensioners will be paid by direct credit to a bank or building society account.
- 6 Such claims shall be made up to a specified day of each month. Late claims may be refused for payment unless the reason for the delay is exceptional.
- 7 The certification by or on behalf of the Assistant Director shall be taken to mean that the certifying ~~officer~~ **employee** is satisfied that the claims relate to authorised activities and any expenses claimed have been properly incurred.

## **G BANKING ARRANGEMENTS AND CHEQUES**

- 1 Under the general direction of the Cabinet Panel (Resources) all arrangements with the Council's bankers shall be made by or approved by the Section 151 Officer who shall be authorised to operate such bank accounts, including Girobank, as he/she may consider necessary. No new bank account shall be opened for Council purposes without the approval of the Section 151 Officer.
- 2 Supplies of all cheques, including Girobank payment forms and payment, debit or credit cards, but excluding cheques drawn on authorised imprest accounts, shall be ordered only by the Section 151 Officer (or his/her delegate) who shall also make proper arrangements for their safe custody.
- 3 Cheques drawn on any of the Council's bank accounts, including Girobank accounts, shall either bear the facsimile signature of the Section 151 Officer or be signed in manuscript by the Section 151 Officer or another ~~officer~~ **employee** authorised to do so by the Section 151 Officer.

## **H IMPREST AND PETTY CASH ACCOUNTS**

- 1 The Section 151 Officer shall provide imprest accounts if considered appropriate for **officers employees** of the Council who may need them for the purpose of defraying petty cash and other expenses. Proper records of account in a form prescribed by the Section 151 Officer must be maintained by the responsible **officer employee** and reconciliations must be carried out on a regular basis.
- 2 Where appropriate, the Section 151 Officer may open bank accounts for use by the imprest holders who shall ensure that such accounts do not become overdrawn. It shall be a standing instruction to the bank that duplicate copies of bank statements shall be submitted direct to the Section 151 Officer for monitoring purposes.
- 3 No income received on behalf of the Council may be paid into an imprest account, but must be banked or paid to the Council as provided elsewhere in these regulations. No personal cheques are to be encashed from imprest accounts.
- 4 Payments shall be limited to items of expenditure of low value.
- 5 VAT and other receipts for petty cash expenditure shall be obtained when possible and forwarded to the Section 151 Officer with claims for reimbursement at the required frequency. Chief Officers shall send a list of **officers employees** authorised to certify claims from petty cash together with specimen signatures to the Section 151 Officer and amendments notified on the occasion of any change.
- 6 An **officer employee** responsible for an imprest account shall, if so requested and in any event on 31 March each year provide to the Section 151 Officer a certificate as to the state of that account.
- 7 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, the imprest holder shall account to their Chief Officer for the amount originally advanced.

## **I FINANCIAL ARRANGEMENTS FOR CONTRACTS**

- 1 All contracts on behalf of the Council shall be arranged and executed in accordance with the Contracts Procedure Rules.
- 2 A Contract Register or Registers shall be maintained for all ~~Class II, III, IV and V~~ contracts as provided in Contracts Procedure Rules in a form that follows advice given by the Section 151 Officer which shows the state of the account for each contract with the Council, together with any other related payments and the associated professional fees.
- 3 Payments on account to contractors for works contracts shall be authorised only on a suitable Certificate signed by the Chief Officer or the duly authorised ~~officer~~ **employee** of the appropriate Service Group which shall show the total amount of the contract and value of the work executed to date, retention money, amounts paid to date, and the amounts now certified.
- 4 Every variation on a contract shall be authorised in writing by the duly authorised ~~officer~~ **employee**.
- 5 Where a contract provides for payments to be made by instalments, a cost plan shall be prepared by the appropriate Chief Officer for such contracts and payments monitored against that plan. If it appears at any time that any approved contract cost will be exceeded due either to significant variations of either specification or price, a report setting out the circumstances and the revised estimated contract cost shall be submitted to the Cabinet as soon as possible.
- 6 The final certificate for a contract (as determined in the Contract Procedure Rules) shall not be passed for payment until the responsible Chief Officer has prepared a summary statement and reconciliation of the contractor's final account and has notified the Section 151 Officer who may wish to examine it. In the event of an examination taking place, the Section 151 Officer shall be entitled to receive such further supporting documentation and explanation as may be necessary.
- 7 All contracts involving special financing arrangements shall be arranged by the Section 151 Officer in consultation with the Assistant Director (Governance).
- 8 All contracts for the supply or disposal of goods, materials or service shall be subject to the Council's standard conditions of contract unless otherwise agreed by the Section 151 Officer or the Assistant Director (Governance). The appropriate Chief Officer shall obtain the prior agreement of the Assistant Director (Governance) to use any amended or additional conditions of contract to meet specific requirements.
- 9 Before executing any contract which has been subject to the competitive quotation or tendering procedure, the appropriate Chief Officer shall ensure him/herself that a thorough quotation or tender evaluation exercise

has been carried out. Written records of the evaluation shall be retained for inspection for a period of twelve months from the expiry or final completion of the contract.

## **J INCOME**

- 1 The Section 151 Officer shall approve the arrangements for the collection and banking of all money due to the Council.
- 2 Each Chief Officer shall ensure the prompt rendering of debtor accounts for the recovery of income due in accordance with arrangements approved by the Section 151 Officer.
- 3 All receipts, tickets, debtor accounts and other such items of stationery used in connection with the collection and recording of income shall be ordered and supplied to Service Groups only by the Section 151 Officer, or under approved arrangements. The Section 151 Officer will determine the arrangements for their control.
- 4 Every sum received by a cashier or other authorised ~~officer~~ **employee** shall immediately be acknowledged by the issue of an official receipt, voucher or register entry. Cheques will be immediately crossed "Wolverhampton City Council - Account Payee only" and the name of the receiving service group establishment recorded on the reverse.
- 5 All money received on behalf of the Council shall without delay be paid to the Section 151 Officer or, directly into the relevant Council bank account. No deduction may be made from such money without the written approval of the Section 151 Officer. In accordance with the Accounts and Audit Regulations 2003 the amount of each cheque shall be recorded on bank paying in slips together with sufficient information to identify the debt e.g. receipt number or name of debtor.
- 6 Personal cheques shall not be encashed through the Council's bank accounts unless under a scheme approved by the Section 151 Officer.
- 7 Every transfer of official money from one ~~member of staff~~ **employee** to another will be evidenced in the records of the responsible Service Group(s) by the signature of the receiving ~~officer~~ **employee**.
- 8 The Council has established an Anti-Money Laundering Policy to ensure it is compliant with the requirements of the current Money Laundering Regulations. Therefore, all ~~Officers~~ **employees** receiving cash on behalf of the Council should ensure that they comply with this policy.
- 9 To monitor compliance with current Money Laundering Regulations all individual cash payments receipted by the Council, in excess of £10,000, shall be reported to the Assistant Director (Governance) and the Section 151 Officer.

- 10 All income streams in excess of £25,000 that were not included in the approved budget shall be reported to the Section 151 Officer at the earliest opportunity.

**K. STORES AND STORES ACCOUNTING**

- 1 It shall be the responsibility of Chief Officers to ensure that there is proper care and custody of the stocks and stores in their Service Groups and to ensure that all receipts and issues are properly recorded on the official records.
- 2 Stocks held shall not be in excess of normal operational requirements, except in special circumstances with the approval of the Cabinet (Resources) Panel.
- 3 Chief Officers shall, unless other arrangements are agreed with the Section 151 Officer, arrange for continuous or periodical physical stocktaking of stocks by persons independent of storekeeping or stores accounting and shall ensure that all stocks are checked at least once in every year. Any significant differences revealed on items of stock when a comparison is made between physical and book stock shall be reported by the Chief Officer to the Cabinet (Resources) Panel in order that the appropriate adjustment may be made in the accounts.
- 4 Stores deemed to be surplus to requirements and saleable old materials shall not be disposed of except on written authority of the responsible Chief Officer. Sales of such items shall be made in accordance with these Rules.
- 5 Chief Officers shall supply the Section 151 Officer with such information as is required in relation to stores for accounting and costing purposes and a certificate of the stock held, as at the 31 March each year.
- 6 Chief Officers shall instigate such systems of identification marking as practicable in order to deter theft and make recognition possible.

**L. INVENTORIES**

- 1 Inventories shall be kept in every service group in a form approved by the Section 151 Officer.
- 2 Inventories shall record all items of moveable furniture, equipment and vehicles and plant with a significant purchase price (or value in the case of gifts, bequests, etc). Where there are vulnerable items these should be recorded in inventories irrespective of price.
- 3 Inventory items should be recorded in inventories immediately on receipt, and where it is appropriate they shall be clearly and permanently marked as the property of the Council.
- 4 It shall be the responsibility of each Chief Officer to ensure that at least an annual verification of the inventory is made and the responsible ~~officer~~ **employee** shall certify the fact on the inventory record. Differences shall be dealt with as in the case of stores, and any action taken shall be recorded in the inventories.
- 5 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes, except in accordance with specific directions issued by the responsible Chief Officer. Sales of surplus or obsolete equipment shall be dealt with as in the case of stores.



## **M INSURANCES**

- 1 Under the direction of the Cabinet Panel (Resources), the Section 151 Officer shall effect all insurance cover and negotiate all claims in consultation with other Chief Officers where necessary.
- 2 Chief Officers shall give prompt notification to the Section 151 Officer of all new risks, properties, vehicles or major items of plant and equipment which require to be insured and of any alterations affecting existing insurances.
- 3 Chief Officers must as soon as possible notify the Section 151 Officer in writing of any loss, liability or damage or any event likely to lead to a claim and take such other action without delay as may be necessary to satisfy any policy conditions. In the case of fire claims likely to exceed £10,000 the Section 151 Officer should be notified immediately to arrange the appointment of a loss adjuster. The Council's approved procedures for handling insurance claims together with target times for completion should always be followed.
- 4 The Section 151 Officer shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Chief Officers as appropriate. Chief Officers should ensure that they have maintained accurate schedules of equipment to be insured.
- 5 Chief Officers shall consult the Section 151 Officer and the Assistant Director (Governance) regarding the terms of any indemnity which the Council is requested to give.
- 6 Chief Officers shall keep suitable records to ensure that the inspections of engineering plant under their control, which is normally inspected by an insurance company, are carried out by the Company within the periods prescribed by the relevant legislation. In the event of any failure by the insurance company to carry out the inspection within the prescribed periods, the Section 151 Officer shall be notified.

**N SECURITY**

- 1 Chief Officers are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under their control. Each Chief Officer shall consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 2 Maximum limits for cash holdings shall not be exceeded without the express permission of the Section 151 Officer.
- 3 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times; the loss of any such keys must be reported to the Section 151 Officer immediately.

## O SCHEDULE OF RESPONSIBILITIES

### Full Council

The Full Council shall:

- 1 Determine the Budget and Policy Framework Procedure Rules
- 2 Approve the following year's budget (both revenue and capital).
- 3 Approve the following year's levels of Council Tax and housing rents.
- 4 Approve expenditure over and above the total provided for in the current year's budget (supplementary budgets).
- 5 Receive a Treasury Management strategy and plan for the coming year, a mid-year review of these, regular monitoring reports on current Treasury Management activity, and a retrospective report on Treasury Management activity for a financial year.
- 6 Approve the Council's prudential indicators.
- 7 **Have the authority to disallow virements to or from a budget *hearing* heading.**

### Cabinet

The Cabinet shall:

- 1 Recommend an overall ~~following~~ year budget (both revenue and capital) to Council (**see also 15 under Cabinet (Resources) Panel**).
- 2 Recommend the levels of Council Tax and housing rents to the Council.
- 3 Determine strategic guidelines for the following year's budget.
- 4 Receive reports where there is a forecast over spend that is judged by the Section 151 Officer to be material to the finances of the Council.
- 5 Determine the Council's policy on provisions and reserves
- 6 Approve the establishment or disestablishment of provisions and reserves shall be established or dissolved
- ~~7 Approve the transfer to or from provisions or reserves~~
- 7 Receive reports setting out the medium term forecast.
- 8 **Have the authority to disallow virements to or from a budget *hearing* heading.**

### Cabinet (Resources) Panel

The Cabinet (Resources) Panel shall:

- 1 Be responsible for overseeing the execution of financial policy, financial administration and control in the Council, and for supervising the provision of financial services, all subject to direction from the Council and Cabinet.
- 2 Receive budget monitoring reports.
- 3 Receive outturn reports.
- 4 Receive notification of budget carry forwards approved by the Section 151 Officer.
- 5 Receive notification of virements approved by ~~officers~~ **employees**.
- 6 Approve virements exceeding the limit set by the Section 151 Officer.
- 7 Approve fees and charges.
- 8 Approve deviations from the Council's standard approach to calculating fees and charges.
- 9 Approve the list of names in which funds under the Council's control may be invested.

- 10 Receive a Treasury Management strategy and plan for the coming year, a mid-year review of these, regular monitoring reports on current Treasury Management activity including treasury management and prudential indicators, and a retrospective report on Treasury Management activity for a financial year.
- 11 Receive notification of write offs of sums due to the Council approved by the Section 151 Officer.
- 12 Approve the write off of sums due to the Council that the Section 151 Officer is not authorised to approve.
- 13 Approve the holding of stocks in excess of normal operational requirements.
- 14 Receive reports on significant differences between physical and book stock discovered in the course of a stock take or otherwise.
- 15 ***Make recommendations to Full Council concerning the approval of capital budgets.***
- 16 ***Have the authority to disallow virements to or from a budget heading.***
- 17 ***Have the authority to approve the payment of grants to individual recipients, where certain conditions apply.***
- 18 ***Approve an overall increase or decrease in the Council's total budget, where certain conditions apply.***
- 19 ***Approve the transfer to or from provisions or reserves***

#### Scrutiny Board and Panels

The Scrutiny Board and Panels shall:

- 1 Scrutinise the budget recommendations made by the Cabinet.

#### Audit Committee

The Audit Committee shall:

- 1 Approve the Council's financial statements.
- 2 Scrutinise the Council's treasury management policy and practices.
- 3 Receive a sample of accounts paid by the Council, on a basis determined by the Committee.

#### Assistant Director (Corporate Services)

The Section 151 Officer shall:

- 1 Approve commitments to expenditure in future financial years for which there is as yet no approved budget.
- 2 Prepare and issue a Budget Book.
- 3 Maintain the list of Budget Holders.
- 4 Submit reports to the Cabinet where an over spend on a service or capital scheme is forecast and is judged to be material to the finances of the Council.
- 5 Submit budget monitoring reports to the Cabinet (Resources) Panel.
- 6 Submit outturn report to the Cabinet (Resources) Panel.
- 7 Approve the carry forward of unused budgets.
- 8 Approve lower-value virements in accordance with the conditions set out in the relevant section below.

- 9 Specify the limit above which virements require ~~member~~ **Councillor** approval.
- 10 Maintain the fees and charges register.
- 11 Determine the Council's accounting policies and, where appropriate, estimation techniques.
- 12 Prepare the Council's financial statements in accordance with statutory requirements and other proper practice.
- 13 Ensure that the Council complies with relevant tax legislation, and that the Council maintains adequate accounting records in respect of its tax affairs.
- 14 Designate the software packages that shall be the Council's definitive accounting record.
- 15 Approve the use of any other accounting records.
- 16 Be responsible for ensuring that access to the definitive accounting record is controlled and restricted accordingly.
- 17 Approve grant applications.
- 18 Determine the format and content of records to be maintained in respect of grants.
- 19 Maintain a register of all grants receivable by the Council.
- 20 Approve commitments to enter into leasing or lease-type arrangements.
- 21 Approve lending and borrowing of Council funds, and other sophisticated financial transactions.
- 22 Be the registrar of stocks, bonds and mortgages and maintain records of all borrowing by the Council.
- 23 Submit to the Cabinet (Resources) Panel a Treasury Policy Statement, regular reports on current Treasury Management activity, and a retrospective report on Treasury Management activity for a financial year.
- 24 Be responsible for determining the Council's policy on provisions and reserves, and approve the establishment and dissolution of any provisions or reserves, and the transfers of money to or from provisions or reserves.
- 25 Assist Chief Officers in reviewing the provisions and reserves relating to their service.
- 26 Determine an appropriate level of general reserves as part of the budget preparation process, and advise the Council on the adequacy of the proposed level of reserves.
- 27 Prepare medium term financial forecasts in conjunction with Chief Officers, at regular intervals for reporting to the Cabinet.
- 28 Receive and consider all reports to certain ~~member-bodies~~ **Councillor meetings**.
- 29 Approve financial implications contained in any report to ~~member-bodies~~ **Councillor meetings**.
- 30 Withdraw reports with inadequate financial implications from the agenda of a ~~member~~ **Councillor** meeting.
- 31 Approve write offs of sums due to the Council in certain circumstances, as set out in the Financial Procedure Rules.
- 32 Determine the format of reports notifying the Cabinet (Resources) Panel of write offs approved by the Section 151 Officer.
- 33 Ensure that an adequate and effective internal audit of all Council activities is carried out.
- 34 Be entitled to require and receive certain information and rights in respect of internal audit.

- 35 Receive notification of actual or potential financial irregularities, misappropriations or indications of corruption, and take such action as he/she considers appropriate.
- 36 Notify the Chief Executive and the Council's external auditor in significant cases of fraud or corruption.
- 37 Produce audit reports as appropriate.
- 38 Approve the format of official orders.
- 39 Approve individual exceptions to the requirement to use official orders.
- 40 Approve the arrangements for making payment of salaries, wages, pensions, compensation and other emoluments.
- 41 Approve individual exceptions to the requirement for payment to employees to be made by direct credit.
- 42 Approve the Council's banking arrangements, including the opening of a bank account for Council purposes.
- 43 Order cheques, debit or credit cards for the Council, and make proper arrangements for their safe custody.
- 44 Sign all cheques drawn on the Council's accounts, or authorise other **officers employees** to do so.
- 45 Provide imprest accounts if considered appropriate, and prescribe the form of records required to be kept in respect of those accounts.
- 46 Open bank accounts for use by imprest holders, where appropriate, and receive bank statements for those accounts directly.
- 47 Maintain the list of **officers employees** authorised to certify claims from imprest accounts.
- 48 Approve the arrangements for the collection and banking of all money due to the Council.
- 49 Approve the arrangements for the issue of debtor accounts.
- 50 Approve the arrangements for the control of receipts, tickets, debtor accounts and other items of stationery connected with the collection and recording of income.
- 51 Receive notification of all individual cash payments in excess of £10,000.
- 52 Receive notification of all income streams in excess of £25,000 that were not included in the approved budget.
- 53 Receive notification of information required for stock accounting and a certificate of stocks held at each 31 March.
- 54 Approve the format of inventories.
- 55 Effect all insurance cover, and negotiate claims.
- 56 Receive notification of all matters that may impact on insurance cover, or be likely to lead to a claim.
- 57 Review all insurances in consultation with Chief Officers as appropriate.
- 58 Receive notification from a Chief Officer in the event of any failure by the insurance company to carry out an inspection of relevant engineering plant within the prescribed periods.
- 59 Approve the holding of cash in excess of the maximum limit.

Assistant Director (Governance)

The Assistant Director (Governance) shall:

- 1 Hold all securities and the title deeds of all property in the ownership of the Council or its nominees.
- 2 Receive notification of all individual cash payments in excess of £10,000.

~~Chief Human Resources Officer~~ **Head of Human Resources Strategy**

The ~~Chief Human Resources Officer~~ **Head of Human Resources Strategy** shall:

- 1 Receive notification of all relevant matters to enable accurate payment of salaries, wages etc to employees.
- 2 Approve the format of all time records and other pay documents, and maintain the list of ~~officers~~ **employees** authorised to sign such records.

Chief Officer

A Chief Officer shall:

- 1 Nominate Budget Holders for each service and capital scheme for which they are responsible, and notify the Section 151 Officer of all changes.
- 2 Notify the Section 151 Officer immediately of any emerging financial liabilities not provided for in the approved budget or an existing provision or reserve.
- 3 Be responsible for ensuring that grant conditions are met and appropriate records maintained in support of grant claims.
- 4 Review all provisions and reserves relating to their services, in conjunction with the Section 151 Officer.
- 5 Respond in writing on any recommendations made in an audit report without delay.
- 6 Control the use of official orders.
- 7 Determine the list of ~~officers~~ **employees** authorised to sign official orders and invoices for payment on behalf of his/her service.
- 8 Be responsible for examining, verifying and certifying invoices for payment, and passing these to the Section 151 Officer.
- 9 Notify the ~~Chief Human Resources Officer~~ **Head of Human Resources Strategy** of all relevant matters to enable accurate payment of salaries, wages etc to employees.
- 10 Notify the ~~Chief Human Resources Officer~~ **Head of Human Resources Strategy** of all ~~officers~~ **employees** authorised to sign time records and other pay documents for his/her service.
- 11 Approve individual overtime payments exceeding £500.
- 12 Notify the Section 151 Officer of all ~~officers~~ **employees** authorised to certify petty cash claims.
- 13 Ensure that there is proper care and custody of the stocks and stores in their service, and that all receipts and issues are properly recorded on the official records.
- 14 Arrange for stocktaking of the stocks in their service, and report any significant differences between physical and book stock to the Cabinet (Resources) Panel.
- 15 Approve (in writing) the disposal of stores deemed to be surplus to requirements and saleable old materials.
- 16 Provide the Section 151 Officer with such information as is required in relation to stores for accounting and costing purposes, and a certificate of the stock held at each 31 March.
- 17 Instigate such systems of identification marking of stock as practicable in order to detect theft and make recognition possible.
- 18 Ensure that a verification of the inventory is made no less than once per year, and deal with any discrepancies as for stores.

- 19 Notify the Section 151 Officer of all matters that may impact on insurance cover, or be likely to lead to a claim.
- 20 Maintain accurate schedules of equipment to be insured.
- 21 Consult with the Section 151 Officer and the Assistant Director (Governance) regarding the terms of any indemnity which the Council is required to give.
- 22 Keep suitable records to ensure that the inspections of engineering plant under their control, which is normally inspected by an insurance company, are carried out by the Company within the periods prescribed by the relevant legislation.
- 23 Notify the Section 151 Officer in the event of any failure by the insurance company to carry out the inspection within the prescribed periods.
- 24 Be responsible for maintaining proper security at all times for all assets under their control, and consult the Section 151 Officer where security is thought to be defective.

#### Budget Holder

A Budget Holder shall:

- 1 Be able to incur expenditure up to the limit set within the approved budget for each service or capital scheme for which they are responsible.
- 2 Be responsible for generating income for services or capital schemes for which they are responsible.
- 3 Submit reports to the Cabinet (Resources) Panel explaining over spends where required to do so by the Section 151 Officer.
- 4 Monitor expenditure and income, with reference to the budget and in liaison with the Section 151 Officer, on an ongoing basis.
- 5 Where he/she believes that it is likely that the budget will be exceeded for one of his/her services/capital schemes, raise it with the relevant Chief Officer immediately.
- 6 Notify the Section 151 Officer immediately of any emerging financial liabilities not provided for in the approved budget or an existing provision or reserve.
- 7 Approve lower-value virements in accordance with the conditions set out, and in conjunction with the Section 151 Officer.
- 8 Arrange for reports requesting higher-value virements to be prepared and submitted to the Cabinet (Resources) Panel.

#### Head of Benefits

The Head of Benefits shall:

- 1 Approve Discretionary Housing Benefit payments.



## P SCHEDULE OF FINANCIAL LIMITS

<b>Budget Monitoring Reports to the Cabinet (Resources) Panel</b>	
Minimum limit for variances requiring separate identification in report	£100,000
<b>Virements</b>	
Maximum limit for virements not requiring <del>member</del> <b>Councillor</b> approval	£50,000
<b>Commitment to incur expenditure on a capital scheme</b>	
Where expenditure can be met within the overall programme within any one year and the scheme has been approved by the Cabinet (Resources) Panel	n/a
<b>Write Offs</b>	
Maximum limit for individual write offs not requiring <del>member</del> <b>Councillor</b> approval (except in cases of bankruptcy and liquidation, for which no limit applies)	>£5,000
<b>Overtime Claims</b>	
Maximum limit for overtime claims not requiring sign off by Chief Officer	£500
<b>Income</b>	
Minimum limit for individual cash receipts to be notified to the Section 151 Officer	£10,000
<i>Minimum limit for unbudgeted income streams to be notified to the Section 151 Officer</i>	£25,000
<b>Leases</b>	
Financial limits for the approval and reporting of leases	As per the limits for contracts
<b>Insurance</b>	
Minimum limit for claims for fire damage to be notified to the Section 151 Officer	£10,000

## **CONTRACTS PROCEDURE RULES**

## CONTRACTS PROCEDURE RULES

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## **SECTION A**

1. Introduction
  - 1.1 These rules are the Council's Procedure Rules for buying for the Council ("the Rules"). They do not apply to internal purchases or service provision, only where you need to buy something from outside the Council.
  - 1.2 They are the rules by which we spend money on the supplies, services and works we need to deliver our services. The Rules are part of the Council's Constitution and have been produced as part of our approach to the way we buy things.
  - 1.3 The difference between supplies, works and services is explained in the Glossary of Terms at the end of the Rules.
  - 1.4 The Rules apply to any arrangement that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
  - 1.5 The Rules also apply to the disposal of surplus goods and to concession contracts.
  - 1.6 The Rules do not cover grants which the Council may receive or make (unless the grant is part of a contract for services).
  - 1.7 The Rules do not apply to the purchasing of property but there is a separate section that details the Council's procedures in this area.
  - 1.8 If you are in any doubt about whether the Rules apply, you **\*must\*** always check with the Corporate Procurement Manager.
  - 1.9 The Council's need to obtain value for money is very important. It means that we must always consider how each procurement is consistent with the Council's duty to secure continuous improvement in what we do having regard to economy, efficiency and effectiveness. We therefore need to question whether we should be buying anything at all and if we do, whether we can do it best ourselves, or jointly, or rely on someone else to get better value.
  - 1.10 Government and EU public procurement policy require that the Council must permit, and be seen to be permitting, freedom of opportunity to trade with the Council and to be open and transparent about how we do things.
  - 1.11 If we fail in this duty, a supplier or contractor may have cause for a complaint against us and in the worse case may be able to claim damages.
  - 1.12 The most important principles are transparency, openness and fair competition. Whenever we are buying things for the Council we must always act to promote competition.

1.13 Our Rules have three main purposes:

- to comply with the obligations that govern the spending of public money such as the EU procurement regime;
- to obtain Value for Money in the way we spend money, so that we may in turn offer better and more cost effective services to the public; and
- to protect people who follow the Rules.

1.14 The Rules are:

- written in plain English; and
- reflect the fact that some of our spending is carried out by front-line services so the Rules help decisions to be made by the right people at the right level in the Council.

1.15 This document contains rules and refers to guidance. The Rules should be read alongside the Council's Procurement Guidance.

1.16 In these Rules certain sections are marked in bold, underlined and with an “\*” symbol. These sections are compulsory and must always be followed whatever you are buying for the Council. Where there is no “\*” the Rules should be regarded as best practice and should be followed wherever possible (otherwise you may need permission not to follow them).

2. Context

2.1 The Corporate Procurement Manager is responsible for keeping the Rules under review and monitoring compliance.

2.2 The European Union sets down (through a Treaty) what the obligations are on us at the Council when we are buying things. The key principle is to ensure that everyone in the marketplace who could provide the goods, supplies, works or services to the Council is able to do so if they wish.

2.3 Our Rules also need to be flexible for the future. We all now need to think about, for example, e - auctions, e - tendering, Dynamic Purchasing Systems or setting up a framework. Increasingly Councils are collaborating through joint procurements (i.e. buying the things you need with another department or another Council or Councils and sometimes other public bodies).

2.4 If you are buying larger or costly goods, works or services, the Rules for higher value orders and contracts are more strict than for those of lower value. This is so that the benefits of a more thorough, complex process are not outweighed by cost relative to the value of the supplies, services or works in question.

2.5 At the highest end of the value scale, we **\*must\*** follow full EU Public Procurement Directives, requiring us to observe certain additional

procedures. In these cases you **must** consult with the Corporate Procurement Manager before you start buying what you need.

3. Compliance with Contract Procedure Rules
  - 3.1 (a) No goods or services shall be acquired or procured by the Council and no Council premises or facilities shall be made available to third party suppliers until the Council has entered into a legal contract in accordance with these Rules.
  - (b) Cabinet (**Resources**) Panel or the Council may authorise exceptions to this rule on the presentation of a report which details the circumstances and the risks and consequences of non compliance with these rules; and
  - (c) Every contract arrangement **must** comply with these rules unless the Cabinet (**Resources**) Panel or the Council has authorised non compliance.
- 3.2 For all Class 3 and 4 contracts where dispensation is required a report **must** be prepared specify the nature of the dispensation and the circumstances under which the departure has been justified and **must** be presented to a meeting the Cabinet (**Resources**) Panel or Council.
- 3.3 Any significant failure to comply with the requirements of these Rules **must** be:
  - (a) notified to the Chief Executive, Section 151 Officer, Monitoring Officer, Head of Audit and Corporate Procurement Manager;
  - (b) presented to the Cabinet (**Resources**) Panel as soon as possible and identify the circumstances.
- 3.4 These Rules **must** also apply where consultants or partner organisations have been instructed to invite tenders on behalf of the Council for any contract.
- 3.5 Failure to comply with the Contracts Procedure Rules may lead to disciplinary action in the case of **officers employees**, or investigation by the Monitoring Officer and/or the Standards Committee in the case of **members Councillors**.
- 3.6 It is the responsibility of Chief Officers to ensure that all **staff employees** reporting to them, directly or indirectly, are aware of and comply with the Contracts Procedure Rules.

## **B REQUIREMENTS FOR ALL CONTACTS**

### 1. The Competitive Process

- 1.1 EU law and Government policy says that we **\*must\*** always make sure that we are offering the opportunity to provide supplies works or services to the Council to the whole market to ensure competition. The assumption is that the Council will ensure that it achieves value for money by carrying out a competitive tendering exercise.
- 1.2 If your contract is a very high value one (i.e. with a value of more than the relevant threshold) then you **\*must\*** follow the section on Class 4 High Value Procurements.
- 1.3 The value of a contract means the estimated total monetary value over its full duration, including any extension options (**not the annual value**).
- 1.4 Where the duration of a contract is indeterminate, this should be taken to be the estimated value of the contract over a period of four years. Contracts should not be artificially split to avoid the values.
- 1.5 The thresholds at which the different rules apply are summarised in the Contracts Procedures Summary.

### 2. Who Can ~~Buy Things~~ Procure?

- 2.1 A Chief Officer should ensure that procurement is undertaken by their procurement professionals or, where departments or functions have no specialist capability, by authorised persons who can demonstrate skills and knowledge appropriate to the task.
- 2.2 Each Chief Officer **\*must\*** keep a list of authorised persons who can enter into Class 2,3 and 4 contracts on his/her behalf, specifying a maximum financial limit for each transaction against each name.
- 2.3 The list **\*must\*** be copied to the Corporate Procurement Manager.
- 2.4 Before starting a procurement process, we need to make sure that we have carefully identified the need and fully assessed the options for satisfying it. Before you start, you **\*must\*** consider:
  - what is important to the Council in this procurement? Do you just need the supplies, works or services? Or are there other things you want to bring about (for example, improved environmental performance or job creation). In certain cases the procurement regime could help achieve these objectives but you **\*must\*** consult with the Corporate Procurement Manager;
  - does a corporate contract already exist for the supplies, works or services being considered? The use of corporate contracts has the advantage of ensuring VFM, standard terms and conditions are used and compliance with EU procurement regulations are fully addressed.

- can you buy what you need with another department or another Council? If you think you could save the Council money or **achieve other advantages** if you bought what you need with someone else, consider if there is an existing framework arrangement or contract which you can use. This framework or contract could be one already set up by the Council, another Council, a joint purchasing body (Black Country Purchasing Consortium or ESPO) or run centrally by Government (such as ~~Buying Solutions or Catalyst~~ **Government Procurement Service**).
- alternatively, there may be some kind of recognised purchasing consortia in place whereby members of the consortia may utilise the purchasing arrangements in order to procure goods and/or services. Note that where there is a consortia in place, you do not have to comply with these Rules, however, strictly only the goods and/or services that are the subject matter of the consortia arrangements may be procured. Where the goods and/or services are outside the scope of the consortia arrangements you must utilise some other method of procurement in accordance with these Rules. The Corporate Procurement Manager can advise you further on this; and
- will you or your partners be buying the same thing more than once? If so, it might be better to create a framework agreement so you can set up suppliers to provide you with the supplies, works or services you need when you need them. Again, could you set up a framework with other departments or Councils or is there already a joint purchasing organisation which could supply your needs?

**2.5 If following consideration of alternative buying solutions, a joint procurement or other form of collaborative procurement is to be used with another Council, the conduct of the procurement should be on terms no less rigorous than the requirements of these Rules for any Council procurement. The Corporate Procurement Manager of the lead authority \*must\* certify in writing to all participating Councils and organisations that no less rigorous a process has been undertaken, prior to the contract start date.**

2.6 Should you decide that the goods and/or services are likely to be required in the future by the Council, it may be that the best way in which to buy the goods and/or services is by setting up a framework agreement. There are many types of contracts which will be suited to a framework arrangement and it is important that you see the Corporate Procurement Manager before commencing the procurement to ensure that the type of contract being used is most suitable.

2.7 For major, specialist, higher value or important contracts for example, those which involve the transfer of Council employees to a contractor under a PFI or PPP arrangement, Chief Officers \*must\* following consultation with the Corporate Procurement Manager:



- seek a decision from the Cabinet Panel (Resources) as to whether tenders are to be invited under the Chief Officer's recommended contract strategy;
  - once tenders have been evaluated, **\*must\*** seek a further decision from the Cabinet (**Resources**) Panel as to whether a contract is to be awarded and to whom; and
- 2.8 Chief Officers **\*must\*** always consult with the Corporate Procurement Manager to consider if **Members Councillors** should be involved in decisions during the tender process, for example by determining the contract award criteria. This will be more relevant for big purchases and procurements including a PFI project.
3. Defining the Need
- 3.1 As a minimum, you **\*must\*** clearly and carefully specify the supplies, services or works to be supplied, the agreed programme for delivery and the terms for payment together with all other terms and conditions that are agreed. You also need to ensure that you will have the funds in the budget to pay for them.
- 3.2 This means you **\*must\*** decide in advance of the competitive process the size, scope, and specification of the supplies, service or works required. If you are buying with someone else, you **\*must\*** decide this scope with your partners first.
- 3.3 *You should always consider the Procurement Guidance* and you **\*must\*** refer to and abide by any other Council policies which could apply to what you want to buy. If in doubt, you **\*must\*** check with the Corporate Procurement Manager.
4. Aggregation
- 4.1 You **\*must\*** never split the value of contracts.
- 4.2 Wherever possible, the Council should make its purchases in the form of a single large contract in preference to a series of smaller contracts. ***However, there may be circumstances where opening up contracts to Small and Medium Enterprises (SME) may overall offer better value.***
- 4.3 You **\*must\*** calculate the value of the separate contracts of the same type over a short period together for the purpose of determining if the value of the contract falls within the threshold. (See also 1.3 and 1.4 above).
5. Contract Strategy
- 5.1 Once the need is determined, you **\*must\*** determine a contract strategy by which the supplies, works or services will be acquired.
- 5.2 This means taking a step back from the traditional procurement process and assessing the options particularly to the provision of services.

5.3 To obtain value for money, you **\*must\*** consider options for the delivery of supplies, works or services. The options for supplies, works or services are:

- not buying the supplies, having the works done or providing the services at all;
- providing the goods, works or services ourselves (for example, by taking surplus supplies from another department or using their **staff employees**);
- getting someone else to provide the ongoing supplies, works or service (“outsourcing”/ provision by the private, voluntary, “third” sectors or another local authority or public body);
- providing the supplies, works or services in partnership with someone else (with the private, voluntary, “third” sectors or another local authority or public body);
- by commissioning jointly with another Council; and / or
- shared service delivery with another Council i.e. by delegating our functions to another Council, setting up a Joint Committee or setting up a new company to deliver the services for us or with other authorities jointly.

6. Conditions of Contract

6.1 All transactions **\*must\*** use an appropriate model form of contract approved by the Corporate Procurement Manager or a form determined by the Assistant Director (Governance).

6.2 For all contracts for services estimated at a value over £25,000 where the services are of an unusual or complex nature, including PFIs or PPPs, the ~~Head of Legal Services~~ **Assistant Director, Governance** **\*must\*** be consulted to produce a suitable set of conditions of contract (with external advisors if necessary) before inviting tenders.

6.3 Where a contract is considered to be of a strategically important or politically sensitive nature or where the extended **limitation period** would be of value, the contract **\*must\*** be in writing and executed under seal following.

6.4 The Corporate Procurement Manager **\*must\***:

- keep a record or list of all model sets of conditions of contract that gives details of when the conditions were last updated, who is responsible for their updating and contact references;
- review all current conditions of contract, at least every 2 years, or when new legislation is introduced;

- monitor and review conditions of contract issued by other organisations from time to time;
- keep a record of all framework arrangements and joint working arrangements with other departments Councils and other organisations and update this record on a regular basis and no less than twice per year;
- maintain the Council's records set out in the relevant section on the intranet;
- ensure that information is circulated to and appropriate access for Chief Officers is given to Catalist, local or joint framework arrangements and call-off contracts or any similar or replacement scheme.

7. Payment Terms

7.1 All contracts for the supply of goods or services **\*must\*** be subject to the Council's standard payment terms – **monthly in arrears**. Any contracts which require special financing arrangements these **\*must\*** be agreed by the Section 151 Officer.

7.2 Where a contract provides for payments to be made by instalments following the delivery of services or completion of work, a cost plan **\*must\*** be prepared for such contracts and payments monitored against that plan.

8. Parent Company Guarantees

8.1 The person buying for the Council **\*must\*** consult the Corporate Procurement Manager on all tenders where the total value exceeds £100,000 to determine if a bond, parent company guarantee or other security is required.

**C CONTRACT PROCEDURES SUMMARY**

1. Processes to be Used

<p><b>Class 1 Contracts - Low-value transactions</b></p>	<p>£0 - £5,000</p>	<p>At least one written quotation <b>*must*</b> be obtained from a supplier before a formal purchase order is issued.</p> <p>The purchase order <b>*must*</b> contain the standard form of terms and conditions of contract between the Council and the supplier.</p>
<p><b>Class 2 Contracts- Intermediate- value transactions</b></p>	<p>£5,001 - £50,000</p>	<p>At least three written quotations <b>*must*</b> be invited before a purchase order or contract is entered into, specifying the supplies, services or works and setting out prices, terms and conditions of contract and terms of payment.</p>
<p><b>Class 3 Contracts - Tender procedures for high value transactions (not over the EU thresholds)</b></p>	<p>£50,001 – EU threshold</p>	<p>A formal tender process <b>*must*</b> be conducted in the manner outlined in the requirements for Class 3 Contracts.</p>
<p><b>Class 4 - Procedures governed by the EU Directives</b></p>	<p>Over EU threshold</p>	<p>A formal tender process <b>*must*</b> be conducted in compliance with Public Contracts Regulations 2006.</p>

2. EU Thresholds

The thresholds are:-

	Euro	£
Public Supplies and Services Contracts	<del>193,000</del> <b>200,000</b>	<del>156,442</del> <b>173,934</b>
Works Contracts	<del>4,845,000</del> <b>5,000,000</b>	<del>3,927,260</del> <b>4,348,350</b>

These thresholds apply from 1 January 20~~10~~**12** to 31 December 20~~11~~**13**

3. Procedure for Letting Contracts

3.1 Provided expenditure is in respect of matters within budget and is equal to or less than budget estimates.

(a) A Chief Officer has authority to enter into all Class 1 contracts without reference to the ~~Executive~~ **Cabinet**.

(b) A Chief Officer has authority to enter into all Class 2 contracts provided the quotation procedure is followed without reference to the ~~Executive~~ **Cabinet**.

(c) A Chief Officer has authority to enter into all Class 3 contracts below £100,000 provided the tender procedure is followed without reference to the ~~Executive~~ **Cabinet**. Class 3 contracts above £100,000 shall only be entered into provided the Cabinet Panel (Resources) have approved the award of such contract.

(d) Class 4 contracts shall only be entered into provided:

(i) the tendering procedure and EU procurement procedure, where applicable, is followed in relation to such contracts;

(ii) the Cabinet (**Resources**) Panel have approved the award of such contract.

4. **Execution of Contracts**

4.1 **All contracts over £50,000 \*must\* only be awarded and ~~figured~~ signed by the Assistant Director (Governance).**

**D CLASS 1 CONTRACTS – LOW-VALUE TRANSACTIONS**

- 1.1 For contracts valued at or below £5,000 at least one written quotation **\*must\*** be obtained from a supplier before a formal purchase order is issued specifying the supplies, services or works and setting out prices and terms of payment unless a framework already exists. If a framework already exists then you **\*must\*** follow the procedure set out in that framework.
- 1.2 Your purchase order **\*must\*** contain the standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract. The purchase order is used to formalise the terms of the contract.
- 1.3 Emailed quotations are acceptable in these cases but copies **\*must\*** be retained on the relevant file. The file should also evidence that the quotation provides Value for money.

**E CLASS 2 CONTRACTS- INTERMEDIATE-VALUE TRANSACTIONS**

- 1.1 For contracts valued over £5,000 but at or below £50,000, at least three written quotations **\*must\*** be invited before a purchase order or contract is issued, specifying the supplies, services or works and setting out prices, terms and conditions of contract and terms of payment. For works, construction and civil engineering contracts please note the specific procedures included in section L - Selection of Tenderers for Works Contracts below the EU Threshold.
  - 1.2 Emailed quotations are acceptable in these cases but copies **\*must\*** be retained on the relevant file.
  - 1.3 If only one quotation is received you **\*must\*** to seek some more quotations or obtain an **exemption** from the Rules in accordance with section I. Receipt of two comparable quotations will be sufficient.
  - 1.4 Wherever possible the suppliers invited to provide the quotation should be found from the Council's e-tendering system or [www.finditinwolverhampton.co.uk](http://www.finditinwolverhampton.co.uk)
2. Receiving and Opening Quotes
- 2.1 Every response to an invitation to quote should be delivered:
    - no later than the time specified for submission of quotes in the invitation to quote (and addressed to the person at the place specified in the invitation to quote);
    - on hard copy with CD ROM (if required), or via the Council's e-tendering system; and
    - with no labelling or other markings on the packet that identifies the supplier.
3. Evaluating Quotes
- 3.1 Where written quotations are invited for contracts valued at or below £50,000 then the bidder submitting the lowest price compliant bid **\*must\*** be awarded any resulting contract, unless alternative pre-determined criteria are detailed in the document used to invite bids awarded on that basis.
4. Awarding Contracts and Audit Trails
- 4.1 The results of the quotation evaluation process **\*must\*** be recorded in writing.
  - 4.2 A contract **\*must\*** only be awarded and signed by a person authorised to do so, who **\*must\*** ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.

- 4.3 Chief Officers should ensure that proper records of all procurement activity are retained in electronic or hard-copy format as appropriate.
- 4.4 For all transactions valued at or over £25,000, brief details **\*must\*** be passed to the Corporate Procurement Manager.



**F CLASS 3 CONTRACTS – TENDER PROCEDURES FOR HIGH VALUE TRANSACTIONS (NOT OVER THE EU THRESHOLDS)**

- 1.1 For transactions valued at over £50,000 a formal tender process **must** be conducted in the manner outlined below.
- 1.2 For all transactions valued above £50,000, prior approval of the proposed tender process **must** be sought from the Corporate Procurement Manager.
- 1.3 Where tenders are to be invited for a high value contract (but not over EU procurement thresholds) the procedure to be followed **must** be determined prior to advertising and **must** be one of the following:
- open tender (all interested contractors submit a tender in response to an advertisement);
  - restricted procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to submit a tender);
  - where a Framework arrangement (including approved lists) exists in respect of the subject matter, tenders shall be invited using the Framework arrangement from capable contractors having regard to the principles of Value for Money.

For works, construction and civil engineering contracts please note the specific procedures included in section L - Selection of Tenderers for Works Contracts below the EU Threshold.

**2. Receiving and Opening Tenders**

- 2.1 Every response to an invitation to tender for a transaction valued over £50,000 should be delivered:
- no later than the time specified for submission of tenders in the invitation to tender and addressed to:  
Wolverhampton City Council  
~~Customer and Shared Services~~ **Delivery Directorate**  
~~Legal Services~~ (Reception 23)  
2<sup>nd</sup> Floor  
Civic Centre  
St Peters Square  
Wolverhampton WV1 1RG;
  - on hard copy with CD ROM (if required), or via the Council's e-tendering system; and
  - with no labelling or other markings on the packet that identifies the tenderer.

2.2 Where the tenders are being sought using the Council's e-tendering system the requirements of the system for openness and transparency must be complied with.

2.3 The opened tenders **\*must\*** be recorded on a list of tenders invited.

### 3. Evaluating Tenders

3.1 For contracts valued over £50,000 a more complex Value for Money tender evaluation procedure based on the identification of the Most Economically Advantageous Tender ("MEAT") **\*must\*** be used. There are some situations, however, where MEAT will not be an appropriate method of evaluation - usually where the only discerning factor between products and/or solutions will be that of price (e.g. where you are buying stationery or other standard items). It is unlikely that providers for Services or Works could be selected on price alone as these will often require more subjective evaluation techniques. While criteria for evaluation is at the discretion of the Council care needs to be taken that using a lowest price method of evaluation rather than using MEAT is appropriate for the procurement.

3.2 This evaluation involves scoring tenders objectively by a panel of three or more **officers employees** and/or independent experts using criteria which **\*must\***:

- be pre-determined and listed in the invitation to tender documentation in order of importance;
- be strictly observed at all times throughout the tender process;
- reflect the principles of Value for Money;
- include price;
- consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance, energy use, decommissioning and disposal should be taken into account;
- be capable of objective assessment;
- be weighted according to their respective importance;
- include, where applicable, the quality of the tenderers' proposals to accept a transfer of **staff employees** under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

3.3 Where this evaluation methodology is used, any resulting contract **\*must\*** be awarded to the tenderer which submits the most economically

advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.

4. Awarding Contracts and Audit Trails
  - 4.1 For Class 3 contracts under £100,000 the results of the tender evaluation process **\*must\*** be recorded in writing.
  - 4.2 For Class 3 contracts over £100,000 the results of the tender evaluation process **\*must\*** be recorded in writing and **\*must\*** be reported to a meeting the Cabinet Panel (Resources) for acceptance, this will ensure that correct process has been followed and the budget holder has the funds in place to sustain the contract prior to award.
  - 4.3 A contract **\*must\*** only be awarded and signed by the Assistant Director (Governance).
  - 4.4 Chief Officers should ensure that proper records of all procurement activity are retained in electronic or hard-copy format as appropriate.
  - 4.5 For all Class 3 contracts brief details of the contract awarded **\*must\*** be passed to the Corporate Procurement Manager.

**G CLASS 4 – PROCEDURES ABOVE THE EU THRESHOLD OR GOVERNED BY THE PUBLIC CONTRACTS REGULATIONS 2006**

1.1 Contract values above which procedures governed by the EU Directives apply are currently ~~(2010-12):~~ **1 January 2012 – 31 December 2013**

For supplies and services (including goods and consultancy services):	<del>£156,442</del> <b>£173,934</b>
For works:	<del>£3,927,260</del> <b>£4,348,350</b>

1.2 Please note that these thresholds are amended bi-annually in January and you **\*must\*** refer to the Corporate Procurement Manager to check the latest thresholds.

1.3 If the contract has a value over this threshold you **\*must\*** consider whether you **\*must\*** procure under the Public Contracts Regulations 2006.

1.4 The Regulations contain provisions relating to submitting of notices and other documents electronically.

1.5 The contract **\*must\*** be tendered under the Open, Restricted, Competitive Dialogue (for particularly complex contracts) or, in exceptional circumstances, the Negotiated procedure.

1.6 The EU Directives and UK Regulations are very long and only the principal requirements can be given here. If in doubt, refer to the Guidelines and advice should be sought from the Corporate Procurement Manager.

1.7 For each contract, except where indicated below, a Contract Notice **\*must\*** be published in the Supplement to the Official Journal of the European Union (OJEU). Advertisements published additional to this:

- **\*must\*** not appear in any form before a Contract Notice is transmitted to OJEU; and
- **\*must\*** not contain any information additional to that contained in the Contract Notice in OJEU.

1.8 All Contract Notices regarding contracts which name Wolverhampton City Council must be authorised by the Corporate Procurement Manager prior to publication.

1.9 Minimum timescales relating to tender procedures governed by the EU Directives and these **\*must\*** always be followed.

1.10 Where a Prior Information Notice (PIN) announcing a forthcoming Contract Notice has been sent to OJEU between 52 and 365 days before the Contract Notice is sent, reduced timescales may apply.

1.11 Advice **\*must\*** be sought from the Corporate Procurement Manager at the earliest opportunity before commencing a tender process governed by EU

Directives particularly when considering the use of either the Competitive Dialogue or the Negotiated Procedure.

2. Use of the Competitive Dialogue Procedure Governed by EU Directives

2.1 Under EU Directives, the Competitive Dialogue Procedure may be used for contracts valued at or over EU thresholds in certain circumstances where:

- we wish to award a particularly complex contract and think that the use of the open or restricted procedures will not allow the award of that contract; or
- the contract is for a service and the precise nature of the service required cannot be clearly specified or accurately priced (e.g. some PFI or PPP contracts, bespoke software applications, insurance services, intellectual and artistic services).

2.2 The Negotiated Procedure should not now be used (except in very specific circumstances) for the procurement of particularly complex projects.

2.3 If in doubt, you **\*must\*** contact the Corporate Procurement Manager.

3. Receiving and Opening Tenders

3.1 Every response to an invitation to tender for a transaction valued over the EU threshold should be delivered:

- no later than the time specified for submission of tenders in the invitation to tender and addressed to:

Wolverhampton City Council  
~~Customer and Shared Services~~ **Delivery Directorate**  
~~Legal Services~~ (Reception 23)  
2<sup>nd</sup> Floor  
Civic Centre  
St Peters Square  
Wolverhampton WV1 1RG;

- by hard copy(ies) with CD ROM (if required), or via the Council's e-tendering system; and
- with no labelling or other markings on the packet that identifies the tenderer.

3.2 Where the tenders are being sought using the Council's e-tendering system the requirements of the system for openness and transparency must be complied with.

3.3 The opened tenders **\*must\*** be recorded on a list of tenders invited.

4. Evaluating Tenders

4.1 For all contracts governed by EU Directives, a more complex Value for Money tender evaluation procedure based on the identification of the Most Economically Advantageous Tender (“MEAT”) **\*must\*** be used. There are some situations, however, where MEAT will not be an appropriate method of evaluation - usually where the only discerning factor between products and/or solutions will be that of price (e.g. where you are buying stationery or other standard items). It is unlikely that providers for Services or Works could be selected on price alone as these will often require more subjective evaluation techniques. While criteria for evaluation is at the discretion of the Council care needs to be taken that using a lowest price method of evaluation rather than using MEAT is appropriate for the procurement.

4.2 This evaluation involves scoring tenders objectively by a panel of three or more **officers employees** and/or independent experts using criteria which **\*must\***:

- be pre-determined and listed in the invitation to tender documentation in order of importance;
- be strictly observed at all times throughout the tender process;
- reflect the principles of Value for Money;
- include price;
- consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance, energy use, decommissioning and disposal should be taken into account;
- be capable of objective assessment;
- be weighted according to their respective importance;
- include, where applicable, the quality of the tenderers’ proposals to accept a transfer of **staff employees** under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council’s policies.

4.3 Where this evaluation methodology is used, any resulting contract **\*must\*** be awarded to the tenderer which submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.

5. Awarding Contracts and Audit Trails

5.1 The results of the tender evaluation process **\*must\*** be recorded in writing and **\*must\*** be reported to a meeting the Cabinet Panel (Resources) for

acceptance, this will ensure that correct process has been followed and the budget holder has the funds in place to sustain the contract prior to award.

5.2 A contract **\*must\*** only be awarded and signed by the Assistant Director (Governance).

5.3 Chief Officers should ensure that proper records of all procurement activity are retained in electronic or hard-copy format as appropriate.

5.4 For all Class 4 contracts brief details of the contract **\*must\*** be passed to the Corporate Procurement Manager.

6. Standstill Period

6.1 For **all** contracts with a total contract value in excess of £150,000 or tendered under EU Directives, a ten-day minimum 'standstill period' **\*must\*** be observed between the decision to accept the contract and contract conclusion. Once the decision to award a contract is made, each tenderer **\*must\*** be notified in writing on the outcome of the tender process. This notification **\*must\*** include:

- Award Criteria
- Name of successful tenderer
- Summary of reasons for decision:
  - Characteristics and relative advantages of successful bid
  - Successful tenderers score
  - Own score
- Precise statement of standstill period

6.2 There **\*must\*** be a minimum of 10 calendar days between the despatch of this notification and the conclusion of the contract. Special rules apply where a tenderer requests a debrief on the tender process. Even if a tenderer asks for a debrief outside of the standstill period we are still obliged to provide this.

6.3 In this instance, advice **\*must\*** be sought from the Corporate Procurement Manager at the earliest opportunity.

7. Contract Award Notice

~~6.4~~ **7.1** All contracts awarded above the EU thresholds, whether Part A or Part B Services, **\*must\*** be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of award.

## **H SPECIAL CONTRACT TYPES**

### **1. Framework Agreements**

- 1.1 Framework agreements for supplies and services **\*must\*** be used where they exist and provide value for money, regardless of value.
- 1.2 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period for estimated quantities against which orders may be placed if and when required during the contract period. They offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.
- 1.3 A framework agreement may have the option for you to hold a “mini - competition” with all of the suppliers on the framework when you come to buy for the Council.
- 1.4 You **\*must\*** investigate whether call-off contracts or frameworks are relevant in your own case as you could get better value for the Council by using an existing framework let by a “contracting authority”; other Council, Consortium (BCPC, ESPO, YPO etc.) or central government agency Buying Solutions and that you can properly use them.
- 1.5 If there is not a framework already in place (or if one does not exist with partners which you can use) then you **\*must\*** consider if it would be better value to set up a framework. This is likely where you are going to need to buy the same or similar things again in the future. Guidance on how to set up a framework is in the Procurement Guidance and you should liaise with the Corporate Procurement Manager.
- 1.6 Citywide arrangements for routine supplies and services and department-specific contracts, e.g. “block contracts” placed by Social Services with care providers, “term contracts” for property maintenance (such as gas servicing) and “term tenders” for highways maintenance would fall into this definition.

### **2. Consultancy Contracts**

- 2.1 Contracts for the supply of Consultancy services are fully covered by the Contracts Procedure Rules and these **\*must\*** be followed in the appointment of all consultants, failure to do so may result in disciplinary action being taken. If you have a query as to whether or not a potential appointment comes within the ambit of the Rules contact either the Assistant Director (Governance) or Corporate Procurement Manager.
- 2.2 For clarity a table highlighting the differences between Consultants and Interim Managers is included at the end of this section.
- 2.3 You **\*must\*** ensure the following are complied with:-



- Any consultancy contracts where the total contract value is over the EU threshold (presently ~~£156,442~~ **£173,934**) are subject to EU Procurement Rules and therefore you will need to consult with the Corporate Procurement Manager before any procurement process is undertaken.
- Where any extension to an existing contract is required the requirements of the Contracts Procedure Rules **\*must\*** be complied with. If you are in doubt contact the Corporate Procurement Manager.
- Where a consultancy contract initially below the EU threshold (presently ~~£156,442~~ **£173,934**) and not subject to an EU procurement process is extended and the value now exceeds the threshold a notice must be placed in the Official Journal of European Union. Therefore you will need to seek advice from the Corporate Procurement Manager who will administer the appropriate process.

2.4 Full details of the proposed contracts for all management consultants will need to be forwarded to the Assistant Director (Governance) in order that proper contract documentation can be drawn up and executed on behalf of the Council.

**WHAT'S THE DIFFERENCE BETWEEN AN INTERIM MANAGER & A MANAGEMENT CONSULTANT?**

*However closely they work with the client - management consultants are ultimately responsible & accountable to the consultancy company that supplies them or themselves if self employed. An Interim Manager becomes a full member of the management team within the Council occupying a vacant post in the establishment for the duration of the contract.*

*Consultants work in a rather more advisory capacity with **staff employees**, whereas Interim Managers take line responsibility.*

*An Interim Manager is involved in the day to day running of the business, making decisions, effecting change, managing **staff employees** etc, whilst a consultant will get involved in planning and advising the management team.*

*Contracts for Interim Managers are not subject to EU Procurement Regulations but if the contract is for above the EU threshold (presently ~~£140,000~~ **£173,934**) a contract award notice must be published.*

**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.**

**3.4. Concession Contracts**

**3.1 4.1A** Concession Contract is used where the Council wishes to engage a party to provide a service within the Council area, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided.

**3.2 4.2**The EU procurement rules do not apply to public works concessions for which the estimated value is under the relevant EU threshold and there are a number of exemptions where a public works concession contract is proposed.

**3.3 4.3**Where the concessionaire intends to sub-contract the performance of services the concessionaire may in certain circumstances fall within the scope of the EU procurement rules. In all cases, where the concessionaire is procuring goods and/or services as a part of the concession contract, any procurement should be carried out in accordance with these Rules.

**3.4 4.4**Advice from the Corporate Procurement Manager \*must\* be sought before engaging in any procurement relating to a concession contract.

## **I EXEMPTIONS, EXTENSIONS AND VARIATIONS**

1. Exemptions from the Rules
  - 1.1 Exemptions from these Rules **\*must\*** be obtained in advance in accordance with the following procedure.
  - 1.2 An exemption cannot be given for an EU procurement (for more information see Class 4).
  - 1.3 For Class 1 and Class 2 contracts an exemption may be agreed by the relevant Service Group Director following the consideration of a written report by the ~~Head of Audit~~ **Financial Controller** and the Corporate Procurement Manager that the exemption is justified because:
    - the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
    - the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
    - there are other circumstances which are genuinely exceptional.
  - 1.4 A record of the decision approving an exemption and the reasons for it **\*must\*** be kept and an entry made in the appropriate register.
  - 1.5 For Class 3 contracts an exemption may only be agreed following the submission of a report requesting a dispensation from following the rules by the Cabinet Panel (Resources) and it has approved the award of such contract.
  - 1.6 You **\*must\*** follow the Procurement Guidance if you do not follow the Rules. If you do not follow the Guidance and enter into a contract on behalf of the Council this could be a disciplinary offence.
  - 1.7 Individual placements for permanent Residential and/or Nursing Care for either Children or Adults are expressly excluded from the Competition Requirements of these Rules. Appropriate contracts must be put in place and agreed by the Assistant Director (Governance) to ensure that the Council's position is protected.
  - 1.8 Work carried out by "statutory undertakings" is excluded from the Competition Requirements of these Rules and payment in advance of the works being carried out is considered to be acceptable.
2. Transfers of Contracts
  - 2.1 In appropriate circumstances the Council may agree to transfer a contract.

- 2.2 This decision **\*must\*** be taken by the Cabinet Panel (Resources) for contracts of a value in excess of £250,000 (two hundred and fifty thousand), and by the relevant Service Group Director for contracts of a value up to £250,000 (two hundred and fifty thousand).
- 2.3 The Corporate Procurement Manager **\*must\*** hold a complete record of all exemptions and transfers and submit a quarterly report to the relevant **Executive Cabinet** /Committee meeting.
3. Conflicts of Interest
- 3.1 Any interest which may affect the award of a contract under these Rules **\*must\*** be declared. Every **officer employee** entitled to buy supplies services or works **\*must\*** make a written declaration of interests and update it immediately when an interest changes.
- 3.2 The Monitoring Officer **\*must\*** either certify such interests as being acceptable or take any necessary action in respect of potential conflicts of interest and the **officer employee** should take no part in the award of a contract by the Council.
- 3.3 No gifts or hospitality should be accepted from any tenderers to any contract being let by the Council and to do so is a disciplinary offence. You **\*must\*** inform the Corporate Procurement Manager if you are dealing with a contract for the Council and have been offered such a gift or hospitality.
4. Variations and Extensions
- 4.1 Subject to any statutory restrictions and compliance with these Rules, a Chief Officer may authorise the following extensions and variations to an existing Class 1 or 2 contract either:
- an extension for a particular period provided for within the terms and conditions of the contract (but subject to satisfactory outcomes of contract monitoring); or
  - a single extension of the contract by up to nine months, or half the contract term (whichever is less); and
  - any other variation, and if relevant a consequent change in price, determined in accordance with the contract terms.
- 4.2 In any other circumstances the Chief Officers may vary or extend a contract providing that to do so is consistent with the provisions of Financial Regulations.
- 4.3 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 **Head of Audit 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 (Resources) Panel.**

- 4.4 Contracts procured under the EU Regulations **\*must\*** not be extended or varied without consulting the Corporate Procurement Manager and the Guidance.

**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 (Resources) Panel before any changes are made.**

## **J DISPOSAL OF SURPLUS GOODS**

- 1.1 Chief Officers are responsible for the disposal of their own surplus goods.
- 1.2 The same competitive process for buying supplies, services and works **\*must\*** also be applied to the disposal of surplus goods.
- 1.3 In principle:
  - competitive bids need not be invited if the goods are valued at or below £5,000 but you can do so if you wish;
  - if the estimated value of the goods is greater than £5,000 and at or below £50,000 then a minimum of three bids **\*must\*** be invited; and
  - if the estimated value of the goods is greater than £50,000 then a minimum of four sealed bids **\*must\*** be invited.
- 1.4 If you are in any doubt, professional advice **\*must\*** be sought when making valuations.
- 1.5 For higher value items, you can consider sale by auction instead of sealed bids, but care should be taken to evaluate the full cost of the process and the commission payable.
- 1.6 The highest value unconditional bid received should usually be accepted unless, in the view of the Corporate Procurement Manager, a conditional bid offers better value to the Council.

## K GENERAL PROCEDURE FOR LAND CONTRACTS

- 1.1 These Rules apply only to the requirements to fix values for disposals and acquisitions of land and interests in land. All values for disposal and acquisition of land and interests in land **\*must\*** be fixed in order to secure the highest value in relation to disposal of land or any interest in land or the lowest value in relation to the acquisition of land or any interest in land.
- 1.2 The advice of the Head of ~~Property Services~~ **Commercial Development** **\*must\*** be sought for all land transactions. Whenever such advice is obtained it **\*must\*** be followed unless the Council determine otherwise and in any such case the reason therefore shall be recorded in the minutes of the appropriate Cabinet (**Resources**)Panel.

### 2. Scheme of Delegations for Property Transactions

The following scheme of delegation for property transactions **\*must\*** be followed for Property transactions:

#### 2.1 Delegation to Strategic Director for ~~Delivery~~ **Education and Enterprise**

- i) Disposal of land by leases/lettings up to 7 years and annual rent up to £50,000.
- ii) Agreement of rent reviews up to £50,000 pa
- iii) Agreement of compensation following Compulsory Purchase of land.
- iv) The grant or taking of annual wayleaves

Reported to Cabinet (**Resources**)Panel for information

#### 2.2 Delegation to Strategic Director for ~~Delivery~~ **Education and Enterprise** in consultation with a nominated Cabinet Member

- (i) Disposal of property by licence/lease of more than 7 years and up to 25 years and at an annual rent up to £100,000.
- (ii) Acquisition of property by licence/lease up to 25 years and annual rent up to £100,000, subject to agreed service requirement and provision in the budget.
- (iii) Minor disposals by freehold sale or long lease at a premium, easement, dedication, release of covenants or other legal interest up to a value of £40,000.
- (iv) Disposal of freehold sale, long lease, easement, dedication, release of covenants or other legal interest for a capital sum at a value not exceeding £350,000 where principle of disposal has been previously agreed by Cabinet.

- (v) Sales of freehold reversion under Leasehold Reform Act 1967.

(vi) Acquisition of property in accordance with agreed policy and subject to provision in budget.

(vii) Surrender of leases for Estate Management needs or where financial difficulty is demonstrated.

(viii) Variations to lease covenants/clauses, settling of rent above £50,000 pa under rent reviews, licence/lease renewals in excess of 7 years and variations to existing agreements where financial difficulty is demonstrated.

2.3 **Cabinet (*Resources*) Panel**

All other property acquisitions and disposals.



## L SELECTION OF TENDERERS FOR WORKS CONTRACTS BELOW THE EU THRESHOLD

- 1.1 For works, construction and civil engineering related contracts below EU level generally there will be no advertisement and firms will be invited to tender from those registered on Constructionline. However where contract is highly specialised or there may be a limited number of suppliers that can carry out the work required an advertisement maybe placed and a tendering exercise undertaken.
2. Health and Safety
  - 2.1 As part of the Council's wider commitment to promoting recognised health & safety standards in the construction industry the Council supports the use of ~~the Contractors Health and Safety Schemes (CHAS)~~ **in Procurement (SSIP)**.
  - 2.2 The **CHAS (SSIP)** assessment scheme provides a clear, fair, and transparent process for use in health and safety pre-qualification.
3. The Selection Process
  - 3.1 Firms **\*must\*** be registered with Constructionline for the work category required and are shown on Constructionline as being ~~CHAS Accredited~~ **SSIP registered** to be considered.
  - 3.2 Firms **\*must\*** have a Constructionline Contract Value of at least estimated value of the contract or the annual value for a term contract.
  - 3.3 A policy of rotation of firms invited to tender for projects operates on a scheme by scheme basis.
  - 3.4 The minimum number of firms invited to tender will be 6. This criterion applies provided there are a sufficient number of firms in the particular category, if not then all firms will be asked to tender.
  - 3.5 Each tender list will be formed on the basis of:
    - 2 firms based on previous good performance on contracts of similar scope and value
    - 2 firms selected based on concerns relevant to the scheme e.g. the size of firm, economic drivers, sustainability etc.
    - The remainder selected at random from the Constructionline list as being able to work on the contract as detailed above.
  - 3.6 All firms in the relevant category may be invited to respond to a questionnaire so that a tender list can be drawn up entirely on the basis of selection based on the marking of replies to the questionnaire.

## GLOSSARY

**Council** - means the Council, the **Executive Cabinet**, a **Standing Body** **Regulatory or other Committee** or person(s) acting in accordance with authority delegated by the Council.

**Contract** - means any agreement between the Council and a third party for the provision of any goods, materials, services or works for whatever value. All contract documentation shall be worded and in such form so as to protect the Council's interests, in accordance with advice from the Assistant Director (Governance) and standard contract documentation.

**Contract price in relation to all contracts** - means the aggregated cost (including fees) for the whole of the period of the contract. Where a Chief Officer knows that a similar service, supply or type of work is to be ordered during a twelve month period, this should be taken into account and used for the purposes of the estimated contract price.

Any transaction for the supply or disposal of goods or materials; provision of services or the execution of works which forms part of a larger transaction shall not be regarded as a separate contract but shall be included in the calculation of the contract price.

**Chief Officer**– is a **Strategic** Director or Assistant Director who has been delegated (specifically or generally) to deal with any matter in accordance with a scheme of delegations made by the Director.

**Budget** - means Revenue Budgets, Capital Budgets and other spending programmes approved by the Council.

**Term Contract** - is a contract for the continuous or periodic execution of works or the supply of goods or services over a defined period of time.

A **public supply contract** is a contract:  
For the purchase of "goods" ("Goods" do not include land "or the product of an activity" but does include installation), or  
The hire of "goods" with or without the sitting or installation of those "goods".

A **public works contract** is a contract:  
For the carrying out of a "work" or works, under which the authority engages a person to procure a work "by any means" (A further more detailed definition is included in the Guidance).

A "**work**" is defined as including:  
Building and civil engineering work  
Construction of office blocks, hospitals or other buildings;  
Civil engineering construction of roads, bridges, railways;  
Installation work of, for example, heating and electric equipment;  
Completion work such as tiling and papering;  
Maintenance of buildings.

The following activities may also be regarded as a **works contract**:

A contract where an authority engages a provider to act as agent for the authority in letting contracts.

An agreement where a developer constructs a building on its own land (according to an authority's needs) and undertakes to transfer the land and structure to the authority upon completion or at a later date.

A **public services contract** is one under which the authority "engages a person to provide services". The Services Regulation divides services into two categories: "Part A services" and "Part B services"

Part A services are listed in Part A of Schedule I to the Services Regulations. Contracts for Part A services are subject to the Regulations, including tendering procedural rules, specifications, pre-qualifications, etc.

"Part B services" are subject only to limited provisions - rules on technical specifications, contract award notices and submission of statistical reports. Part B services are all those services set out in Part B of Schedule I to the services Regulation. In addition they include all those services that fall outside of Part A.

Where a contract involves both Part A and Part B services, its classification is determined by the service that has the greatest value of the contracts. See the Guidance for detailed lists of Part A and Part B services

### **Open Procedure**

This means an advert will be placed in OJEU and the relevant press and trade journals. The tender will be open to anyone who expresses an interest.

### **Restricted Procedure**

This means an advert will be placed in OJEU the relevant press and trade journals.

Organisations which express an interest will be required to complete a Pre-Qualification Questionnaire (PQQ). The Council will evaluate the PQQs and produce a shortlist of suitable organisations which will then be invited to tender.

### **Competitive Dialogue Procedure**

This is used when the Council is unable to provide a precise specification and where there is scope to negotiate about what services they can provide. The purpose of this procedure is to negotiate on the specification of the project and not on the price.

An advert is placed in the relevant trade journals, press and where appropriate in the Official Journal of the European Union (OJEU). The advert contains details of the scheme and instructions for downloading the tender documents and Pre-Qualification Questionnaire (PQQ).

Organisations will then submit a completed tender and PQQ via the website or submit a hard copy in the envelope provided. Regardless of whether it is submitted electronically or in paper format, the tender and PQQ must be submitted before the deadline.

### **Electronic Procurement**

This means procurement using the internet including e-tendering on-line e-auctions and buying portals. You can take advantage of reduced minimum time periods when you procure your contract under the EU procurement regime and submit your documents electronically.

### **Catalist**

This means the online catalogue which is run by HM Government and provides a framework buying tool for local authorities and others in the public sector. The website address is <http://online.ogcbuyingsolutions.gov.uk/>

**OFFICER** *EMPLOYEE* EMPLOYMENT PROCEDURE RULES

## **OFFICER EMPLOYEE EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an **officer employee** to state in writing whether he/she is the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or **officer employee** of the Council; or of the partner of such persons.
- (b) No candidate so related to a Councillor or an **officer employee** will be appointed without the authority of the relevant Chief Officer or an **officer employee** nominated by him/her.

#### **1.2 Seeking support for appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) No Councillor will seek support for any person for any appointment with the Council.

### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing **officers employees**, the Council will:

#### **2.1 draw up a statement specifying:**

- (a) the duties of the **officer employee** concerned; and
- (b) any qualifications or qualities to be sought in the person to be appointed;

#### **2.2 make arrangements for the post to be advertised in such way as is likely to bring it to the attention of persons who are qualified to apply for it; and**

#### **2.3 make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.**

### **3. Appointment of Head of Paid Service**

#### **3.1 The Council will appoint the Head of Paid Service following the recommendation of a Special Appointment Committee of the Council.**

3.2 The Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any ~~member of the Executive~~ **Cabinet Member**.

#### 4. ~~Appointment of chief officers and deputy chief officers~~ **Strategic Directors and Assistant Directors**

4.1 A Special Appointment Committee of the Council will appoint ~~chief officers and deputy chief officers (i.e. JNC officers)~~ **Strategic Directors and Assistant Directors**

4.2 An offer of employment as ~~a chief officer or deputy chief officer~~ **an Assistant Director** shall only be made where no well-founded objection has been made by any ~~member of the Executive~~ **Cabinet Member**.

#### 5. **Special Appointment Committees**

~~The~~ **A** Special Appointment Committee ~~for~~ **will be established by Full Council to appoint** the Head of Paid Service and any **Strategic Director will be established** on a politically balanced basis and will usually comprise the Leader and Deputy Leader of the Council, any appropriate Cabinet Member, the Cabinet Member with lead responsibility for Human Resources and their opposition counterparts or their substitutes.

5.2 The Special Appointment Committee for any other ~~Chief Officer or Deputy Chief Officer~~ **Assistant Director** will be established on a politically balanced basis and will usually comprise the appropriate Cabinet Member, Opposition counterpart, Lead ~~Member~~ **Councillor** and Opposition Lead ~~Member~~ **Councillor** of the appropriate Scrutiny Panel or their substitutes.

5.3 Any Special Appointment Committee will be representative in terms of race, gender and disability wherever possible.

5.4 Any Special Appointment Committee will follow the procedure required by the Local Authorities (Standing Orders) (England) Regulations 2001 ("the Regulations").

5.5 The ~~Chief Human Resources Officer~~ **Assistant Director, Corporate Services** will be the Proper Officer for the purposes of the Regulations. If that post is vacant then the Head of Paid Service will be the Proper Officer.

#### 6. **Other appointments**

6.1 ~~Officers~~ **Employees below deputy chief officer** **Assistant Director**. Appointment of ~~officers employees~~ **employees** below ~~deputy chief officer~~ **Assistant Director** (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

6.2 **Assistants to political groups**. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

**7. Disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Officer**

- 7.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- 7.2 No further period of suspension or other disciplinary action may be taken in respect of any of those Officers except in accordance with a direction made by a designated independent person.
- 7.3 The appointment of the designated independent person and his/her powers are prescribed in the Regulations.

**8. Disciplinary action against other ~~officers~~ employees**

- 8.1 Councillors will not be involved in the disciplinary action against any ~~officer~~ **employee** below ~~deputy chief officer~~ **Assistant Director** except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to ~~members~~ **Councillors** in respect of disciplinary action.

**9. Dismissal of Head of Paid Service, ~~chief officers and deputy chief officers~~ Strategic Directors and Assistant Directors**

- 9.1 The Council will only dismiss the Head of Paid Service following the recommendation of a Special Committee. The Council may only approve the dismissal of the Head of Paid Service where no well founded objection has been made by any ~~member of the Executive~~ **Cabinet Member**.
- 9.2 A Special Committee will be responsible for the dismissal of all other ~~chief officers and deputy chief officers~~ **Strategic Directors and Assistant Directors**. A Special Committee may only dismiss ~~a chief officer or deputy chief officer~~ **Strategic Directors and Assistant Directors** where no well founded objection has been made by any ~~member of the Executive~~. **Cabinet Member**.
- 9.3 Special Committees will be established and their proceedings will be regulated as set out in paragraphs 5.1 to 5.4 of these Rules.
- 9.4 The ~~Chief Human Resources Officer~~ **Assistant Director, Corporate Services**, will be the Proper Officer for the purposes of the Regulations. If that Proper Officer is the subject of the proceedings then the Head of Paid Service will be the Proper Officer.

**10. Dismissal of other ~~officers~~ employees**

- 10.1 Councillors will not be involved in the dismissal of any ~~officer~~ **employee** below ~~deputy chief officer~~ **Assistant Director** except where such involvement is necessary for any investigation or inquiry into alleged



misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to ~~members~~ **Councillors** in respect of dismissals.

- 10.2 Paragraph 10.1 of these Rules will not apply to assistants to political groups.

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## **LOCAL CODE OF CORPORATE GOVERNANCE**

### **Introduction**

Wolverhampton City Council is committed to the principles of good corporate governance which reflects current best practice and wishes to confirm its ongoing commitment to these principles through its Local Code of Corporate Governance.

The Council first adopted a Local Code of Corporate Governance in April 2002. The code was based on the best practice CIPFA/SOLACE framework document entitled “Corporate Governance in Local Government – A Keystone for Community Governance”. This framework has now been updated by the CIPFA/SOLACE publication “Delivering Good Governance in Local Government: Framework” published in 2007. This “Local Code of Good Governance” is published to embody best practice set out in the updated framework.

### **Corporate Governance**

“Governance is about how Local Government bodies ensure they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and cultures and value, by which Local Government bodies are directed and controlled and through which they account to, engage with and, where appropriate lead their communities”. (CIPFA/SOLACE Framework June 2007).

Good governance is about running things properly. It is the means by which a public authority shows it is taking decisions for the good of the people of the area, in a fair, equitable and open way. It also requires standards of behaviour that support good decision making – collective and individual integrity, openness and honesty. It is the foundation for the delivery of good quality services that meet all local people’s needs. It is fundamental to showing public money is well spent. Without good governance councils will struggle to maintain and improve services.

The Corporate Governance framework brings together an underlying set of legislative requirements, governance principles and management processes.

The publication of an Annual Governance Statement will make the Council's adopted practice open and explicit.

To achieve good governance, the Council must be able to demonstrate the following in all its operations:

**Openness and inclusivity** are required to ensure that stakeholders can have confidence in the decision making and management processes, and in the approach of the individuals within them. Being open through genuine consultation with stakeholders and providing access to full, accurate and clear information leads to effective and timely action and lends itself to necessary scrutiny. Openness also requires an inclusive approach, which seeks to ensure that all stakeholders and potential stakeholders have the opportunity to engage effectively with the decision making processes and actions of Local Authorities. It requires an outward focus and a commitment to partnership working. It calls for innovative approaches to consultation and to service provision.

**Integrity** comprises both straightforward dealing and completeness. It is based upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of public funds and the management of the authority's affairs. It is dependent on the effectiveness of the control framework and on the personal standards and professionalism of the members and staff within the authority. It must be reflected in the authority's decision making procedures, in its service delivery and in the quality of its financial and performance monitoring.

**Accountability** is the process whereby Local Authorities and the members and staff within them, are responsible for their decision and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny. It is achieved by everyone having a clear understanding of those responsibilities and having clearly defined roles through a robust structure.

Through the application of the CIPFA/SOLACE "Guidance Note for English Authorities: Delivering Good Governance in Local Government", the Council aims

to develop a culture that is underpinned by the principles of good Corporate Governance.

The Council's Corporate Governance arrangements will be reviewed against the six core principles of Council business identified in the "Good Governance Standard for Public Services" drawn up by the Independent Commission on Good Governance in public services established by CIPFA and the Office for Public Management as adapted in the framework for the Local Government context.

To ensure that its Corporate Governance framework is effective the Council will:

- (a) — Review the existing governance arrangements against this code.
- (b) — Develop and maintain an up to date Local Code of Governance, including arrangements for ensuring its ongoing application and effectiveness.
- (c) — Prepare an Annual Governance Statement to report publicly on the extent to which the Council complies with the Code, including how the Council has monitored the effectiveness of governance arrangements in the year, and on any planned changes in the coming period.

### **Vision**

The CIPFA/Solace framework emphasises that the principle of leadership has been expanded to recognise the role of authorities in "leading their communities".

The Council's vision is set out in its Corporate Plan 2009-12 which contains six outward facing priorities.

- Improve educational attainment
- Safeguard children
- Improve community safety
- Safeguard vulnerable adults
- Develop skills and local businesses
- Regenerate City sites

To support the delivery of outward facing priorities, the final theme in the Corporate Plan focuses on how we work internally, to become an excellent Council.

The six outward facing priorities direct the Council to focus on its purpose and on outcomes for the community and on implementing its vision for the local area.

The Council will achieve its outward facing priorities in an open and transparent manner having due regard to equal opportunities and equalities impacts and the opportunities and benefits to be gained by innovative and flexible partnership working.

### **Corporate Governance Aims**

The Council is committed to developing its arrangements for Corporate Governance in order to ensure that procedures support the effective governance of its affairs and the stewardship of the resources at its disposal. The Council will:-

**Focus on the purpose of the authority and on outcomes for the community and create and implement a vision for the local area.**

Exercise strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users.

Ensure that users receive a high quality of service whether directly, or in partnership, or by commissioning.

Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

**Ensure that Members and Officers will work together to achieve a common purpose with clearly defined functions and roles**

Ensure effective leadership and governance throughout the authority with clear executive and non-executive functions and includes clear roles and responsibilities of the scrutiny function.

Ensuring that a constructive working relationship exists between Members and Officers and that the responsibilities of Members and Officers are carried out to a high standard.

Ensuring relationships between the Council and the public are clear so that each knows what to expect of the other.

**Promote values for the authority and demonstrate the values of good governance through upholding high standards of conduct and behaviour**

Ensuring authority Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.

Ensuring that organisational values are put into practice and are effective.

**Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

Being rigorous and transparent about how decisions are taken and responding to the outcome of scrutiny.

Having good quality information, advice and support to ensure that services are delivered effectively and take into account community wants/needs.

Ensuring that an effective risk management system is in place.

Using legal powers to the full benefit of the citizens and communities in the area.

**Develop the capacity and capability of Members and Officers to be effective.**

Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles.

Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.

Ensuring that best use can be made of individuals skills and resources in balancing continuity and renewal.

**Engage with local people and other stakeholders to ensure robust public accountability.**

Exercising leadership through a robust scrutiny function which effectively engages local people and local institutional stakeholders, including partnerships, and develops accountability relationships which are understood by all.

Taking an active and planned approach to dialogue with an accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning.

Develop and maintain the best use of human resources by taking an active and planned approach to meet responsibility to staff.

**Supporting Policies and Procedures**

**Key Documents/Processes**

Agendas and Minutes

Annual Accounting Statement

Annual External Audit and Inspection Letter

Annual Financial Report

Annual Governance Statement

Annual Internal Audit Reports



Anti-Fraud and Corruption Policy  
Audit Committee  
Business Continuity Plans  
The Constitution  
Communications Strategy  
Community Strategy  
Complaints Procedure  
Comprehensive Performance Assessment  
Use of Resources  
City People  
Corporate Plan  
Council Results  
Council Tax Information Booklet  
Induction Process (Officers and Members)  
Job Descriptions and Person Specifications  
Local Area Agreements  
Local Code of Good Governance  
Local Performance Plans  
Local Strategic Partnership  
Members Briefings  
Report Templates  
Partnership and Governance Protocol  
Pay Structure and Progression Guidelines  
EPRS  
Performance Management  
Procurement Strategy  
Project Management  
Risk Management Strategy  
Whistle Blowing Policy  
Standards Committee  
Tenant Participation  
Training and Development Programme (Members and Officers)  
Citizens Panel  
Protocol for Member/Officer Relationships

**Conclusion**

The Council will:

~~Monitor all arrangements in place for practical effectiveness.~~

~~Review practices, procedures and guidelines on a regular basis following completion of the Annual Governance Statement.~~

~~Develop an action plan to identify areas of the Code where further work is required.~~

**METHODOLOGY FOR ROTATING THE OFFICE OF MAYOR AND DEPUTY  
MAYOR**

## **METHODOLOGY FOR ROTATING THE OFFICE OF MAYOR AND DEPUTY MAYOR**

The Annual Meeting of the Council in May each year will elect a Mayor and appoint a Deputy Mayor from different political groups so as to ensure a dignified rotation of these offices between Senior ~~Members on the~~ **Councillors**. For the first Municipal year of this protocol (commencing at the Annual Meeting on 23 May 2001) the Deputy Mayor was selected from Category B. For all succeeding years the following methodology will apply.

### **Step 1**

After the municipal election in May and immediately before the Annual Meeting each year all ~~Members~~ **Councillors** will be placed into one of two categories -

Category A - Controlling Group

Category B - All other ~~Members~~ **Councillors**

### **Step 2**

Each category will list ~~Members~~ **Councillors** in order of seniority based on the number of years and part years service as a Councillor with Wolverhampton City Council or any of its predecessor authorities. ~~Members~~ **Councillors** with the same number of years and part years will be listed alphabetically. ~~Members~~ **Councillors** who have already held office as Mayor will be treated as if their years of service begin again.

### **Step 3**

1. The unopposed nomination for the post of Deputy Mayor for the next ensuing municipal year will be offered in strict order of seniority to ~~Members~~ **Councillors** within the same category as the sitting Mayor.
2. Where a ~~Member~~ **Councillor** is unable or unwilling to accept the nomination for whatever reason the offer will pass to the next most senior ~~Member~~ **Councillor** within that category and so on.

### **Step 4**

At the immediate following Annual Meeting the current Mayor will preside over the election of the current Deputy Mayor to the office of Mayor for the ensuing municipal year.

The newly elected Mayor will preside over the appointment of the new Deputy Mayor selected in accordance with steps 1 to 3.

**NOTE:** For the purpose of this procedure -

“Group” means a political group duly constituted in accordance with the provisions of the Local Government and Housing Act 1989.

“Controlling Group” means -

- (a) Any Group with 31 or more Members
- (b) If there is no such Group then the Group with the largest individual membership.

**PROTOCOL GOVERNING THE USE OF THE MAYORS CASTING VOTE**

## **PROTOCOL GOVERNING THE USE OF THE MAYOR'S CASTING VOTE**

### **Introduction**

1. The Local Government Act 1972 provides that the Mayor has a second or casting vote at Council Meetings in two specific circumstances.
  - (i) The out-going Mayor **must** exercise a second or casting vote if there is a tie for the election of a new Mayor (Section 23 Local Government Act 1972).
  - (ii) On all other occasions the Mayor **may** (but is not obliged) to exercise a second or casting vote (Local Government Act 1972 Schedule 12 Para 39(2)).
2. Under revised arrangements for the rotation of the Mayoralty adopted at the Annual Council Meeting in May 2001 there should be no call to exercise a second or casting vote on the election of a new Mayor. The vote should be unopposed
3. A tied vote at a Council Meeting in any other circumstances requires a clear and binding protocol governing the discretionary use of the second or casting vote which is –
  - (i) Based upon the principles set out in the Leader's speech to the Annual Council Meeting in May 2001 which established the arrangements for the rotation of the offices of Mayor and Deputy Mayor.
  - (ii) Strongly endorsed by the Leaders of all three political parties on Wolverhampton City Council on behalf of their groups and their nominees for the office of Mayor or Deputy Mayor.
  - (iii) Accepted as an essential pre-requisite of office by all **Members Councillors** who are nominated for and appointed to the office of Mayor or Deputy Mayor.

### **Protocol**

1. It is the duty of the **Executive Cabinet** to make decisions. It is also in the interests of the City that there is certainty of decision making.
2. In the event of a tied vote at a Council Meeting the Mayor [or in his or her absence the Deputy Mayor] shall not exercise the second or casting vote unless advised by Chief Executive; Section 151 Officer [as S151 Officer] or Assistant Director (Governance) [as Monitoring Officer] that it is necessary to do so.
3. In order to preserve the impartiality and dignity of the Office of Mayor whenever a vote is tied the Mayor shall obtain appropriate advice (if necessary by seeking a short adjournment) from the Chief Executive; Section 151 Officer [as S.151 Officer]; the Assistant Director (Governance) [as Monitoring Officer] on

- (i) Whether it is necessary to use a second or casting vote.
  - (ii) If it is so necessary, how it should be done.
4. On receipt of that advice the Mayor will reconvene the meeting, if adjourned, and inform the Council of the advice that has been received. The Mayor will then vote in accordance with that advice exercising one of the four options identified in the schedule attached to this protocol.

Councillor N G Davies OBE  
Leader of Labour Group

Councillor B K Carpenter  
Leader of Conservative Group

Councillor R Whitehouse  
Leader of Liberal  
Democrat Group

24.04.2002

25.04.2002

30.04.2002



OPTIONS AVAILABLE TO MAYOR IN THE EVENT OF TIED VOTE

ADVICE	ACTION	CONSEQUENCE
Only one decision is permissible for the Council to act lawfully	<u>Option 1</u> <ul style="list-style-type: none"> <li>◆ Reconvene meeting and report advice received</li> <li>◆ Vote in accordance with that advice</li> </ul>	<ul style="list-style-type: none"> <li>◆ Decision taken and actioned</li> </ul>
<p>A decision must be taken at the meeting to protect/preserve the Council's position in relation to -</p> <p>(a) Any application for or entitlement to any grant or subsidy</p> <p>(b) The securing of any income or other revenue</p> <p>(c) The avoidance of any penalty or other liability</p> <p>(d) Any other matter of a like nature relating to the proper and lawful discharge of the Council's functions</p>	<u>Option 2</u> <ul style="list-style-type: none"> <li>◆ Reconvene meeting and report advice received</li> <li>◆ Vote in a manner that protects/preserves the Council's interest</li> <li>◆ Where this can be limited to an interim step recall the Council to a special meeting to consider the matter afresh in accordance with Option 3</li> </ul>	<ul style="list-style-type: none"> <li>◆ Decision taken and actioned</li> <li>◆ If possible this be limited to interim decision and special meeting be called in accordance with Option 3</li> </ul>
A decision must be made but may be deferred to enable discussions between party groups	<u>Option 3</u> <ul style="list-style-type: none"> <li>◆ Reconvene meeting and report advice received</li> <li>◆ Adjourn item to a special meeting when it will be considered afresh</li> </ul>	<ul style="list-style-type: none"> <li>◆ Special meeting to be convened within 5 working days unless special reasons accepted by Monitoring Officer for shorter or longer period. Such reasons to be specified in Summons for special meeting</li> <li>◆ Advice of Monitoring Officer will be sought and followed in relation to any interim arrangements that may be necessary as a result of the adjournment. Such arrangements will, so far as possible, seek to maintain status quo pending a resolution of the issue</li> </ul>
No decision is required	<u>Option 4</u> <ul style="list-style-type: none"> <li>◆ Reconvene meeting and report advice received</li> <li>◆ Do not exercise casting vote</li> </ul>	<ul style="list-style-type: none"> <li>◆ Item not carried – eligible for re-submission to a subsequent Council Meeting</li> </ul>

**CODE OF CONDUCT FOR ~~MEMBERS~~ COUNCILLORS**

## CODE OF CONDUCT FOR ~~MEMBERS~~ COUNCILLORS

### PREAMBLE

The Council has resolved to include the Ten General Principles of Public Life as a preamble to the Code of Conduct *for ~~Members~~ Councillors which is set out in Appendix 2*. These principles define the standards that ~~members~~ **Councillors** should uphold and serve as a reminder of the purpose of the Code of Conduct.

### The Ten General Principles of Public Life

**Selflessness** - ~~members~~ **Councillors** should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** - ~~members~~ **Councillors** should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** - ~~members~~ **Councillors** should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** - ~~members~~ **Councillors** should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** - ~~members~~ **Councillors** should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal judgement** - ~~members~~ **Councillors** may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** - ~~members~~ **Councillors** should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's Statutory Officers and its other employees.

**Duty to uphold the law** - ~~members~~ **Councillors** should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** - ~~members~~ **Councillors** should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

**Leadership** - ~~members~~ **Councillors** should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**The Council has also introduced a Code of Conduct for ~~Officers~~ Employees which is set out in Appendix 2.**

- 1.1** *The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment.*
- 1.2** *The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. The Code is based upon a standard code approved by the local authority associations.*
- 1.3** *The Code applies to all local government employees in Wolverhampton.*

*Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within the Council, including office holders such as registrars.*

## PART 1: GENERAL PROVISIONS

### Introduction and interpretation

1. (1) This Code applies to **you** as **either a member Councillor, a Co-opted Member or an Independent Member** of Wolverhampton City Council.
  - (2) You should read this Code together with the general principles prescribed by the Secretary of State.
  - (3) It is your responsibility to comply with the provisions of this Code.
  - (4) In this Code -
    - “meeting” means any meeting of -
      - (a) the authority i.e. Wolverhampton City Council;
      - (b) the **executive Cabinet** of the authority;
      - (c) any of the authority’s or its **executive’s Cabinet’s** Committees, Sub-Committees, Joint Committees, Joint Sub-Committees, or Area Committees;
- ~~“member” includes a~~ **The Code applies to** co-opted **and independent** members of Wolverhampton City Council.

### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you -
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you

committed before the date you took office, but for which you are convicted after that date).

- (5) Where you act as a representative of your authority -
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

- 3. (1) You must treat other with respect.
  - (2) You must not -
    - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
    - (b) bully any person;
    - (c) intimidate or attempt to intimidate any person who is or is likely to be -
      - (i) a complainant,
      - (ii) a witness, or
      - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a ~~member~~ **Councillor** (including yourself) has failed to comply with ~~this or her authority's~~ code of conduct; or
    - (d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- 4. You must not -
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;

- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is -
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You -
  - (a) must not use or attempt to use your position as a ~~member~~ **Councillor** improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority -
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by -
  - (a) your authority's Section 151 Officer (currently the Assistant Director (Corporate Services)), or
  - (b) your authority's Monitoring Officer, (currently the Assistant Director (Governance))where that Officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## PART 2: INTERESTS

### Personal Interests

8. (1) You have a personal interest in any business of your authority where either -
- (a) it relates to or is likely to affect -
    - (i) 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 your authority;
    - (ii) any body -
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
  
of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
    - (ix) any land in your authority's area in which you have a beneficial interest;



- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the Ward, as the case may be, affected by the decision.
- (2) In sub-paragraph (1)(b), a relevant person is -
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of ~~members'~~ **Councillors'** interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an ~~executive~~ **Cabinet** decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "~~executive~~ **Cabinet** decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business -
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of -
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt, of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to ~~members~~ **Councillors**;

- (v) any ceremonial honour given to ~~members~~ **Councillors**; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

11. You also have a prejudicial interest in any business before an overview and scrutiny Committee of your authority (or of a Sub-Committee of such a Committee) where -
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's ~~executive~~ **Cabinet** or another of your authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
  - (b) at the time the decision was made or action was taken, you were a ~~member of the executive~~ **Cabinet Member**, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority -
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held -
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's Standards Committee;
  - (b) you must not exercise ~~executive~~ **Cabinet** functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny Committee of your authority or of a Sub-Committee of such a Committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## PART 3: REGISTRATION OF ~~MEMBERS'~~ COUNCILLORS' INTERESTS

### Registration of ~~members'~~ Councillors' interests

13. (1) Subject to paragraph 14, you must, within 28 days of -

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of ~~members'~~ **Councillors'** interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's Monitoring Officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's Monitoring Officer.

### Sensitive information

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in your authority's register of ~~members'~~ **Councillors'** interests.

- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**CODE OF CONDUCT FOR OFFICERS EMPLOYEES**

## **OFFICERS' CODE OF CONDUCT FOR OFFICERS EMPLOYEES**

### **1. INTRODUCTION**

- 1.1 The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment.
- 1.2 The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. The Code is based upon a standard code approved by the local authority associations.
- 1.3 The Code applies to all local government employees in Wolverhampton. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within the Council, including office holders such as registrars.

### **2. STANDARDS**

Local government employees are expected to give the highest possible standard of service to the public and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to a Senior Manager or Chief Officer any impropriety or breach of procedure.

### **3. DISCLOSURE OF INFORMATION**

- 3.1 It is accepted that open government is best. The law requires that certain types of information must be available to **members Councillors**, auditors, government departments, service users and the public, but recognises that information is confidential. Employees should ensure that confidentiality of information is maintained when required by the law and the Council.
- 3.2 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

#### **4. POLITICAL NEUTRALITY**

- 4.1 Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 4.2 It is recognised that political parties will wish to formulate their policies in private in some circumstances, yet require an ~~officer~~ **employee** input. Confidentiality should be maintained in these circumstances.
- 4.3 Employees (whether nor not politically restricted under the provisions of the Local Government and Housing Act 1989) must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 4.4 Political assistants appointed in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 4.1 and 4.3.

#### **5. RELATIONSHIPS**

##### **5.1 Councillors**

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

##### **5.2 The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

##### **5.3 Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to a senior manager. Orders and contracts must be awarded on merit, by fair competition against other tenderers, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 5.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Chief Officer.

## **6. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 6.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is improper for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 6.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

## **7. OUTSIDE COMMITMENTS**

- 7.1 All employees should be clear about their contractual obligations with the Council and should not take outside employment which conflicts with the Council's interests. Employees should declare to their senior manager outside commitments that could be considered as having some similarity with their Council duties or might cause conflict.
- 7.2 The Council retains ownership of intellectual property or copyright created during a person's employment.

## **8. PERSONAL INTERESTS**

- 8.1 The Assistant Director (Governance) will maintain a register of **officers' employees'** interests outside their contract of employment. All **officers employees** should, without delay, notify the Assistant Director (Governance) and their Chief Officer of outside interests which cover:-
- (a) Any non-financial interests that they consider could bring about conflict with the Council's interests;
  - (b) Any financial interests which could conflict with the Council's interests;
  - (c) Membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- 8.2 The register of **officers' employees'** interests will be kept on a confidential basis.



## **9. EQUALITY ISSUES**

- 9.1 All local government employees should ensure that policies relating to equality issues as set down by the Council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

## **10. SEPARATION OF ROLES DURING TENDERING**

- 10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contract roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers other contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 10.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the Chief Executive and withdraw from the contract awarding processes.
- 10.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **11. CORRUPTION**

- 11.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## **12. USE OF FINANCIAL RESOURCES**

- 12.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

### **13. HOSPITALITY**

- 13.1 Employees should **only** accept offers of hospitality **only** if there is a genuine need to impart or receive information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded.
- 13.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 13.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although employees can keep insignificant items of token value such as pens, diaries, etc.
- 13.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 13.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

### **14. SPONSORSHIP – GIVING AND RECEIVING**

- 14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts of hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to a Chief Officer of any interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

**15. SUPPORTING REGULATIONS, CODES AND PROCEDURES**

15.1 Supporting this general Code of Conduct are specified detailed regulations and procedure codes:-

- Contracts Procedure Rule
- Financial Procedure Rules
- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy
- Whistle Blowing Policy
- Hospitality Code
- Personnel Procedures
- National Scheme of Conditions of Service
- Equal Opportunities Policy
- Computer Security Policy
- Service Group Instructions and Codes

~~**CODE OF PRACTICE FOR EMPLOYEES – TRAVEL,  
SUBSISTENCE AND PROVISIONS OF HOSPITALITY**~~

- ~~1.—— Introduction~~
- ~~2.—— Subsistence Outside Wolverhampton within UK~~
- ~~3.—— Courses, Seminars and Conferences~~
- ~~4.—— Travelling Expenses~~
- ~~5.—— Subsistence in the City~~
- ~~6.—— Persons who are not Members or Employees~~
- ~~7.—— Foreign Travel~~
- ~~8.—— Provision of Meals and Hospitality~~

~~Code of Practice – Guidelines for Employees  
on Gifts and Hospitality~~

- ~~1.—— Introduction~~
- ~~2.—— Gifts~~
- ~~3.—— Hospitality Received~~

~~Revised Code:—— April 2006~~

**CODE OF PRACTICE FOR EMPLOYEES**  
**CONDITIONS OF SERVICE**

**TRAVEL, SUBSISTENCE AND PROVISIONS OF HOSPITALITY**

~~1. **INTRODUCTION**~~

~~1.1. The Officers' Code of Conduct (Part 5 of the Constitution) includes a section on hospitality and sponsorship. The purpose of this code of practice is to detail the arrangements for the reimbursement of travel and subsistence expenses, the provision of meals, refreshments and hospitality.~~

~~1.2. Claims for such expenditure should be made on the appropriate claim form and paid through payroll unless there are extenuating circumstances (e.g. hardship) where a chief officer may authorise payment through Petty Cash.~~

~~2. **SUBSISTENCE OUTSIDE WOLVERHAMPTON WITHIN UK**~~

~~2.1. Subsistence allowances at the rates circulated annually by the Strategic Director for Delivery may be claimed by all employees in connection with official duties undertaken outside the City, not involving an overnight stay. The specific meals for which a claim may be made should have regard to the period of absence, the cost of the meal, and whether any meals have been provided.~~

~~2.2. Where an employee necessarily purchases refreshment on a train, the actual cost of the refreshment shall be reimbursed on production of a receipt.~~

~~**Overnight Stays**~~

~~2.3. All employees will be reimbursed "approved expenses" for overnight stays which means reasonable actual expenses for overnight hotel accommodation as supported by VAT receipts but excluding personal expenditure on private telephone calls, newspapers and drinks, other than for refreshment or modest business purposes etc. In these circumstances, employees should try to obtain hotel accommodation at a reasonable cost and take advantage of any preferential rates to the authority, unless none are available within reasonable travelling distance or the employee is a member of a party and other arrangements are desirable, in which event stays in hotel of a higher standard are acceptable but should be agreed by the Chief Officer.~~

~~2.4. In appropriate and exceptional circumstances, and where agreement is obtained in advance, the Chief Officers may allow reimbursement of subsistence expenses on meals or accommodation to individual employees in excess of the rates referred to in paragraph 2.1., each case being treated on its merit.~~

### ~~3. COURSE SEMINARS AND CONFERENCES~~

- ~~3.1. For employees the normal subsistence allowances are payable in connection with short conferences/seminars etc. outside Wolverhampton. However, in some cases accommodation or meals costs are included in the conference fee or there is a 'conference' hotel where delegates are expected to stay and in this event the conference fee and actual accommodation etc. costs should be paid direct by the Council to the conference organisers or as required by the organisers.~~
- ~~3.2. In the case of residential training courses, employees may be entitled to claim 'out-of-pocket' up to the maximum rates circulated annually by the Strategic Director for Delivery.~~
- ~~3.3 For attendance at Seminars and Conferences see *Protocol for Member/Officer relationships* Section 21.~~

### ~~4. TRAVELLING EXPENSES~~

- ~~4.1. All employees regardless of their grade are required to travel standard class. It is the responsibility of every individual travelling for business to find the most effective and efficient way to travel and to try and take advantage of any special rates available.~~
- ~~4.2. With the removal of the rail warrant, a corporate travel scheme has been implemented and the use of a Purchasing Card (through the Government Procurement Card scheme) in conjunction with a Virgin Business Express account has been introduced.~~
- ~~4.3. Any employees not using the Purchasing Card will be required to claim their travel costs through expenses and will be reimbursed via Payroll Services through their monthly salary.~~
- ~~4.4. The use of taxis, hired vehicles, claim of car allowance (for long journeys) or travel by air, should only be considered where this can be justified in the interest of the Council or personal safety or in the avoidance of hardship. Such considerations might be that there is no appropriate public transport available; it can be justified financially e.g. where a group of employees/members travel together; or where it is otherwise justified by significant savings in employees' time or overnight stay costs. Wherever possible, the approval of the responsible Chief Officer should be obtained in advance.~~

### ~~5. SUBSISTENCE IN THE CITY~~

- ~~5.1. For employees the meal allowances described in paragraph 2.1. are payable when employees are "prevented by their duties from taking a meal at their home, administrative centre or establishment where they normally take their meals and thereby incur additional expenditure". It is recognised that Wolverhampton is geographically small and claims in this area are not normally accepted and should only be made in exceptional circumstances.~~

~~5.2. The meal allowances are also payable in lieu of overtime to employees above the salary limits for overtime payments who are working at their normal place of employment but outside normal working hours. In this case no additional expenditure need have been incurred but payments are subject to deduction of income tax and must, therefore, be claimed through the payroll system.~~

## ~~6. PERSONS WHO ARE NOT MEMBERS OR EMPLOYEES~~

~~6.1. Where an employee is accompanied on a personal basis by a person who is not a Member or employee, the additional costs arising from that person should not be met by the Council and unless there are special circumstances, all additional costs or an appropriate portion recovered if it results in a lower cost for the Council. This should be on an agreed basis in advance.~~

## ~~7. FOREIGN TRAVEL~~

~~7.1. In view of the wide range of costs of travel and accommodation in various countries, it is not considered practical to operate a standard allowance system for visits abroad. In these circumstances reasonable actual expenditure on accommodation, travel and subsistence will be funded/reimbursed subject to a number of conditions as detailed below:-~~

- ~~(i) Travel expenses are an issue which receives much scrutiny, and a public expectation exists that requires a demonstration of modesty, appropriateness and no personal financial benefit or gain.~~
- ~~(ii) All foreign travel must usually be fully funded from external sources (by grant etc) and there should be no cost to Council budgets.~~
- ~~(iii) Authorisation for the trip must be obtained in advance through a Green Decision report authorised by the responsible Service Director. The report must detail the costs of the trip and the source(s) of external funding. A copy of the report must be sent to the Banking Team within Operational Finance when it has been approved so that they have evidence of authority to make travel arrangements and provide foreign currency for the trip.~~
- ~~(iv) If, in exceptional circumstances, it is deemed necessary for the Council to fund or part-fund a foreign trip approval in advance must be obtained from the Cabinet (Resources) Panel.~~
- ~~(v) A detailed itinerary must be submitted in advance to the Service Director for every visit made. It should include a request by the officer travelling, for approval if they intend to be accompanied by a relative or friend and/or if they wish to extend the visit for personal reasons;~~

~~*Code of Practice for Employees – Travel, Subsistence, Hospitality and Gifts*~~

- ~~(vi) If the Council is required to book air travel and/or accommodation for the trip, this must be booked in advance through the Council's nominated travel agent unless there is a proven financial benefit to the taxpayer through making use of an alternative booking arrangement;~~
- ~~(vii) Priority should be given to purchasing travel tickets and accommodation that represent value for money to the taxpayer after taking into account factors such as the destination and duration/timing of flights;~~
- ~~(viii) In addition to the cost of accommodation, meals and internal travel, minor subsistence sums for 'out of pocket expenses' may be claimed but moderation must be exercised at all times when incurring expenditure during a trip;~~
- ~~(ix) Where an officer is accompanied by a relative or a friend there should be no additional cost to the taxpayer (including category of room), and the business element of the visit should not be compromised. Also, there must be no financial gain or benefit to the officer;~~
- ~~(x) If an officer extends their stay as a result of personal choice, there is a requirement to have an approach to apportioning the costs of the visit that balance the taxpayer's and officer's interests, and demonstrates that the officer is not receiving any benefit in kind. This is done by apportioning of costs based upon nights away, but allowing one night's flexibility for resolving travelling arrangements. By way of example – if someone is away for six nights on a business trip and they extend the trip for personal reasons to nine nights, then they would pay 2/9ths of the air fare and all of their expenses for the extended stay: hotel, meals, travel etc;~~
- ~~(xi) Special flight deals requiring longer stays, but offering cost savings should be cleared with the Service Director and justified on the basis of offering a significant cost saving;~~
- ~~(xii) The Council's Risk Management and Insurance Team must be contacted with regard to arranging travel insurance.~~
- ~~(xiii) Within seven days of returning the officer must complete a detailed financial summary for the trip and a reconciliation of the foreign currency advanced and expenditure incurred. The summary together with supporting receipts and surplus currency/travellers' cheques must be submitted to the Banking Team~~

~~7.2. Where foreign travel is extended for personal or pleasure reasons there should be no additional cost to the Council because of the arrangements and when the private time relative to the Council's~~



~~business time is significant, a contribution towards the Council's costs should be agreed with the Chief Officer and Audit Services.~~

## ~~8. PROVISIONS OF MEALS AND HOSPITALITY~~

### ~~8.1. Member Meetings~~

~~8.1.1. The provision of meals at Member meetings and pre-meetings should be seen as necessary to facilitate the progress of the business of this meeting. The situation where a meeting commences during the morning and carries on into the afternoon would appear to be a reasonable case where the provision of a meal may be justified. A further situation where it might be appropriate as a matter of courtesy to provide a meal is where a meeting ends or starts around the lunchtime period and the meeting is attended by guests. Catering at evening meetings may also be justified on a similar basis. In practice catering will only be arranged by Democratic Support following a specific request from the Chair of the Member meeting.~~

~~8.1.2. The standard of meal provided within the Civic Centre should be reasonable and appropriate to the circumstances. However, depending on the circumstances, for example when distinguished guests are present, it may be appropriate to provide a higher level of meal.~~

~~8.1.3. Where the meal is being provided at a non-Council establishment, the cost should be contained to demonstrate it is modest, reasonable with regard to the event and people attending and can be seen as in the Council's interests.~~

### ~~8.2. Other Occasions~~

~~8.2.1. Any hospitality provided by employees should be justified as in the public interest, for example where official visitors are invited to assist in or discuss the Council's affairs, and it would be courteous to provide a meal or refreshments. The hospitality given should be on a modest scale appropriate to the occasion and authorised by a Chief Officer.~~

~~8.2.2. On other occasions e.g. meetings with officers from other local authorities, or meetings of professional bodies; if these meetings are not directly connected with the Council's affairs but are of benefit to the public service generally, it may also be reasonable for the Council to provide hospitality when appropriate, subject to Chief Officer approval where large numbers (25 plus) are involved either for specific meetings or relating to the specific bodies involved.~~

~~8.2.3. Wherever possible hospitality should be provided within the Civic Centre, however, it may be appropriate to provide the hospitality elsewhere in exceptional circumstances, each case being considered on its merits.~~

## CODE OF PRACTICE

### GUIDELINES FOR EMPLOYEES - GIFTS AND HOSPITALITY

#### 1. INTRODUCTION

~~1.1. The following guidelines supplement the law, the Council's Procedure Rules and the Council's General Code of Conduct for Local Government Employees.~~

~~1.2. Employees are reminded that:~~

~~"The public is entitled to demand of local government employees conduct of the highest standard and public confidence in their integrity would be shaken were the least suspicion to arise that they could in any way be influenced by improper motives".~~

~~1.3. Employees are expected to use common sense in assessing any situation where undue influence could be construed and no individual should do anything in carrying out their duties which could give rise to accusations of improper conduct. These guidelines are intended to assist in making the right decision in any particular case when offers of gifts or hospitality are received.~~

#### 2. GIFTS

~~2.1. It is almost certain that the acceptance of gifts by employees from persons who have or who are seeking to have dealings with the Council would be viewed by the public with suspicion and would leave the individual concerned and the Council open to criticism. A gift offered to an employee or to his or her family should therefore be tactfully refused when it comes from a person or organisation with whom the Council has or is about to have dealings of any kind whatsoever or who has applied or may apply to the Council for any planning or other kind of decision.~~

~~2.2. The only exceptions to this rule are:-~~

~~(a) Gifts of little value often given by way of trade advertisement to a wide range of people and organisations, e.g. calendars, diaries, inexpensive pens and other similar articles for use in the office;~~

~~(b) Gifts of little value given on conclusion of a courtesy visit, e.g. to a factory or other premises;~~

~~(c) Gifts of little value given by the public to staff, e.g. box of chocolates;~~

~~(d) When it would be discourteous or reflect adversely on the Council if the gift of a modest nature was not accepted, but acceptance should be on the basis that it will be used to raise funds for charity, community groups, etc.~~

~~2.3. **In the event of any doubt whether a gift may be accepted, the gift should be politely and tactfully refused**~~

~~2.4. When an employee receives an unacceptable gift without warning, this should immediately be reported to his or her Chief Officer who will decide whether the gift should be returned or forwarded for some charitable or deserving cause. In such cases the Chief Officer should write to the donor to inform him or her of what has happened to the gift, and an explanation of the reasons for its disposal or return.~~

~~2.5. Except for gifts mentioned in (a) to (c) above, all offers of gifts either refused or accepted should be reported to an employee's immediate supervisor. These should be recorded in a services record, together with the manner of disposal of any gift.~~

~~2.6. Bequests to staff from members of the public who staff have served e.g. residents in homes, should be treated as gifts and not accepted. An employee's Chief Officer should be advised immediately of any bequests and if they cannot reasonably be refused, a suitable method of disposal agreed.~~

~~3. **HOSPITALITY RECEIVED**~~

~~3.1. There should be no cause for concern where an offer of hospitality is made by other non-commercial public bodies or one of its employees. However, caution is required when it is offered by any person or body having business with or seeking a decision from the Council. This is particularly the case when the offer is made to an individual employee who must refuse where any suggestion of improper influence is possible.~~

~~3.2. Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion, not extravagant, and where it is apparent that no cause could reasonable arise for adverse criticism about the acceptance of the hospitality.~~

~~3.3. Acceptance of offers of hospitality should be agreed in advance with an individual's Senior Officer whenever possible.~~

~~3.4. The following are examples of hospitality which are acceptable and those which are not:-~~

**Acceptable**

- ~~(a) — An offer of a drink following a site inspection;~~
- ~~(b) — Invitations to attend functions where the individual represents the Council e.g. dinners at which they are invited to speak, opening ceremonies, trade shows, non-commercial presentations and shows, charity type sponsorship, etc. or to functions which they attend by virtue of their professional position;~~
- ~~(c) — Hospitality offered by other non-commercial public bodies;~~
- ~~(d) — A working lunch of a modest standard provided to enable the parties to continue to discuss business;~~

**Unacceptable**

- ~~(a) — Cabarets and holidays;~~
- ~~(b) — Personal offers of theatre tickets or tickets for sporting events as opposed to attendance when the Officer is representing the Council;~~
- ~~(c) — Offers of hotel accommodation or use of company flats;~~
- ~~(d) — Specific personal invitations to having evenings or days out with representatives of a company or firm who have dealings with the Council;~~
- ~~(e) — Personal invitations to use any company facilities or vehicles etc.~~
- ~~(f) — Cash or items of significant value;~~
- ~~(g) — Personal works or items of equipment etc. at a discount.~~

**PROTOCOL FOR ~~MEMBER~~ COUNCILLOR/~~OFFICER~~ EMPLOYEE  
RELATIONS**

## PROTOCOL FOR ~~MEMBER COUNCILLOR/OFFICER~~ EMPLOYEE RELATIONSHIPS

### 1. Preamble

1.1 Mutual trust and respect between ~~members~~ **Councillors** and ~~officers~~ **employees** is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed. This protocol is a guide to the basic elements of the relationship between ~~members~~ **Councillors** and ~~officers~~ **employees**. Its purpose is:

- To promote trust, openness, fairness and honesty by establishing some ground rules;
- To define roles so as:
  - to clarify responsibilities
  - to avoid conflict, and
  - to prevent duplication or omission;
- To secure compliance with the law, codes of conduct and the Council's own practices; and
- To lay down procedures for dealing with concerns by ~~members~~ **Councillors** or ~~officers~~ **employees**.

1.2 The protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.

### 2. Definitions

2.1 Unless the context indicates otherwise, references to the term *Council* include the ~~Executive Cabinet~~, Scrutiny Board, Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees**.

2.2 Unless the context indicates otherwise, the terms ~~member~~ **Councillor** and ~~members~~ **Councillors** include non-elected (i.e. co-opted **or independent**) members as well as elected Councillors.

2.3 ~~Officers and staff~~ **Employees** mean all persons employed by the Council.

2.4 "*Designated Officer*" is defined in the ~~Executive Cabinet~~ Procedure Rules as the Chief Executive, a Director or other senior ~~officer~~ **employee** authorised by him/her for this purpose.

2.5 "*Assistant Director (Corporate Services)*" means the Assistant Director (Corporate Services) (as Section 151 Officer).

2.6 “Monitoring Officer” means the Assistant Director (Governance).

### 3. Principles

3.1 **Members Councillors** and **officers employees** must at all times observe this protocol.

3.2 The protocol is based on the model drawn up by the Association of Council Secretaries and Solicitors and has been approved by the Council’s Standards Committee who will monitor its operation.

3.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct. **Members Councillors** and **officers employees** must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

3.4 Whilst **members Councillors** and **officers employees** are indispensable to one another, their responsibilities are distinct. **Members Councillors** are accountable to the electorate and serve only as long as their term of office lasts. **Officers Employees** are accountable to the Council as a whole. Their job is to give advice to **members Councillors** (individually and collectively) and to carry out the Council’s work under the direction of the Council.

3.5 The Council has adopted codes of conduct for both **members Councillors** and **officers employees**. Both represent best practice. The **members’ Councillors’** code follows the national code which in turn is based on the general principles governing **members’ Councillors’** conduct enshrined in law. These principles underpin this protocol.

3.6 Breaches of this protocol by a **member Councillor** may result in a complaint to the Standards ~~Board for England~~ **Committee** if it appears the **members’ Councillors’** code has also been breached. Breaches by an **officer employee** may lead to disciplinary action.

### 4. The Role of **Members Councillors**

4.1 **Members Councillors** have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, **members Councillors** may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

4.2 Collectively, **members Councillors** are the ultimate policy-makers determining the core values of the Council and approving the authority’s policy framework, strategic plans and budget. **Members Councillors** represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in

partnership with other agencies. Every ~~elected member~~ **Councillor** represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.

4.3 As politicians, ~~members~~ **Councillors** may express the values and aspirations of the party political groups to which they belong, recognising that in their role as ~~members~~ **Councillors** they have a duty always to act in the public interest.

4.4 ~~Members~~ **Councillors** are not authorised to instruct ~~officers~~ **employees** other than:

- Through the formal decision making process;
- To request the provision of consumable resources provided by the Council for ~~members'~~ **Councillors'** use;
- Where ~~staff~~ **employees** have been specifically allocated to give support to a ~~member~~ **Councillor** or group of ~~members~~ **Councillors** and;
- In the case of political assistants.

4.5 ~~Members~~ **Councillors** are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. ~~Members~~ **Councillors** must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. ~~Members~~ **Councillors** have an obligation under their code of conduct to have regard when reaching decisions, to any advice provided by the Monitoring Officer or the Section 151 Officer.

4.6 ~~Members~~ **Councillors** must respect the impartiality of ~~officers~~ **employees** and do nothing to compromise it, ~~e.g. for example~~ by insisting that an ~~officer~~ **employee** change his/her professional advice.

## 5. ~~The Role of Officers~~ **Employees**

5.1 ~~Officers~~ **Employees** are responsible for giving advice to ~~members~~ **Councillors** to enable them to fulfil their roles. In doing so, ~~officers~~ **employees** will take into account all available relevant factors. Under the direction and control of the Council, ~~officers~~ **employees** manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues. ~~Officers~~ **Employees** have a duty to implement decisions of the Council, which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution.



- 5.2 ~~Officers~~ **Employees** have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views. ~~Officers~~ **Employees** must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions. ~~Officers~~ **Employees** must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for ~~members~~ **Councillors**, the media or other sections of the public.
- 5.3 ~~Officers~~ **Employees** have the right not to support ~~members~~ **Councillors** in any role other than that of ~~member-employee~~, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on ~~officers'~~ **employees'** involvement in political activities.
6. **The Relationship between ~~Members~~ Councillors and ~~Officers~~ Employees**
- 6.1 The conduct of ~~members~~ **Councillors** and ~~officers~~ **employees** should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 6.2 Informal and collaborative two-way contact between ~~members~~ **Councillors** and ~~officers~~ **employees** is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. ~~Members~~ **Councillors** and ~~officers~~ **employees** should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 6.3 It is not enough to avoid actual impropriety. ~~Members~~ **Councillors** and ~~officers~~ **employees** should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a ~~member~~ **Councillor** should not sit on a body or participate in any decision which directly affects the ~~officer~~ **employee** on a personal basis.
- 6.4 With the exception of political assistants, ~~officers~~ **employees** work to the instructions of their senior officers, not individual ~~members~~ **Councillors**. It follows that, whilst such ~~officers~~ **employees** will always seek to assist a ~~member~~ **Councillor**, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, ~~members~~ **Councillors** should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 6.5 ~~Officers~~ **Employees** will do their best to give timely responses to ~~members'~~ **Councillors'** enquiries. However, ~~officers~~ **employees** should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. ~~Members~~ **Councillors** should

avoid disrupting ~~officers'~~ **employees'** work by imposing their own priorities. ~~Members Councillors~~ will endeavour to give timely responses to enquiries from ~~officers~~ **employees**.

6.6 An ~~officer~~ **employee** shall not discuss with a ~~member~~ **Councillor** personal matters concerning him/herself or another individual employee. This does not prevent an ~~officer~~ **employee** raising on a personal basis, and in his/her own time, a matter which his/her Ward ~~member~~ **Councillor**.

6.7 ~~Members Councillors~~ and ~~officers~~ **employees** should respect each other's free (i.e. non-Council) time.

## 7. The Council as Employer

7.1 ~~Officers~~ **Employees** are employed by the Council as a whole.

7.2 ~~Members'~~ **Councillors'** roles are set out in the ~~Officer~~ **Employee** Employment Procedure Rules **set out in Appendix 2**. If participating in the appointment of ~~officers~~ **employees**, ~~members~~ **Councillors** should:

- Remember that the sole criterion is merit (other than in the case of political assistants where political consideration may apply);
- Never canvass support for a particular candidate;
- Never take part where one of the candidates is a close friend or relative;
- Not to be influenced by personal preferences, and
- Not favour a candidate by giving him/her information not available to the other candidates.

7.3 A ~~member~~ **Councillor** should not ~~sit~~ **serve** on an appeal hearing if the appellant is a friend, a relative, or an ~~officer~~ **employee** with whom the ~~member~~ **Councillor** has had a working relationship.

## 8. Mayor and ~~Officers~~-**Employees**

8.1 ~~Officers~~ **Employees** will respect the position of Mayor and provide appropriate support.

## 9. ~~Executive~~ **Cabinet** Members and ~~Officers~~-**Employees**

9.1 ~~Executive~~ **Cabinet** Members will take decisions in accordance with the Constitution and will not otherwise direct ~~staff~~-**employees**. Designated Officers will be responsible for instructing ~~staff~~ **employees** to implement the ~~Executive's~~ decisions **of the Cabinet**.

9.2 Designated ~~e~~Officers (including the ~~e~~Chief ~~e~~Executive, the Monitoring Officer and the Section 151 Officer) have the right to submit papers to the ~~Executive~~ **Cabinet** as a whole or to individual ~~Executive~~ **Cabinet** Members for consideration.

- 9.3 Designated Officers and ~~Executive Cabinet~~ Members shall agree mutually convenient methods of regular contact. Before taking any formal decision, the ~~Executive Cabinet~~ will seek appropriate professional advice.
- 9.4 Before any formal decisions with a financial implication are taken by the ~~Executive Cabinet~~, the Section 151 Officer and the Designated Officer(s) for the service(s) concerned must be consulted. This is to ensure that those ~~Officers employees~~ who are budget holders:
- Are aware of the proposed decision;
  - Have the opportunity to offer advice, and
  - Are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 9.5 An individual ~~Executive Cabinet~~ ~~m~~Member who is minded to write or commission a report or to make a decision about a matter within his/her ~~portfolio responsibility~~ must ensure that those other ~~members~~ ~~Councillors~~ and ~~officers employees~~ who need to know of the matter are so informed. There is a particular requirement to involve other ~~Executive Cabinet~~ ~~m~~Members on cross-cutting issues.
- 9.6 ~~Executive Cabinet~~ Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
- 9.7 ~~Officers Employees~~ taking decisions under their delegated powers must consider the advisability of informing the relevant ~~Executive Cabinet~~ Member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or have wider policy implications.
- 10. Overview and Scrutiny ~~Members Councillors~~ and ~~Officers Employees~~**
- 10.1 Chairs and other leading overview and scrutiny ~~members~~ ~~Councillors~~ shall maintain regular contact with the ~~officer(s)~~ ~~employees~~ providing the principal support to the overview and scrutiny function. In consultation with ~~e~~Chairs, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 10.2 The Scrutiny Board and Scrutiny Panels may require ~~officers employees~~ to attend before them in accordance with the Overview and Scrutiny Procedure Rules and any protocol ~~made thereunder~~.
- 11. Members of ~~Standing Bodies~~ ~~Regulatory or other Committees~~ and ~~Officers-Employees~~**

- 11.1 Designated Officers will offer to arrange regular informal meetings with ~~e~~Chairs, ~~v~~Vice-~~e~~Chairs and spokes~~men~~ ~~persons~~ of ~~Standing Bodies~~ **Regulatory or other Committees.**
- 11.2 Designated Officers (including the ~~e~~Chief ~~e~~Executive, Monitoring Officer and the Section 151 Officer) have the right to present reports and give advice to ~~Standing Bodies~~ **Regulatory or other Committee.**
- 11.3 Members of a ~~Standing Body~~ **Regulatory or other Committee** shall take decisions within the remit of that Body and will not otherwise instruct ~~officers~~ **employees** to act.
- 12. Party Groups and ~~Officers~~ Employees (Excluding Political Assistants)**
- 12.1 Designated Officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups. An ~~officer~~ **employee** who is not a Designated Officer shall not be invited to attend a party group meeting, but a Designated Officer may nominate another ~~officer~~ **employee** to attend on his/her behalf.
- 12.2 ~~Officers~~ **Employees** have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not ~~members of the~~ Councillors. If some of those present are not ~~members of the~~ Councillors, care must be taken not to divulge confidential information relating to Council business. Persons who are not ~~members~~ **Councillors** are not bound by the ~~members'~~ **Councillors'** code of conduct. They do not have the same rights to Council information as ~~members~~ **Councillors**. No ~~member~~ **Councillor** will refer in public or at meetings of the Council to advice or information given by ~~officers~~ **employees** to a party group meeting.
- 12.3 ~~Officer~~ **Employees** support will not extend beyond providing factual information or professional advice in relation to matters of Council business. ~~Officers~~ **Employees** must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed. The duration of an ~~officer's~~ **employee's** attendance at a party group meeting will be at the discretion of the group, but an ~~officer~~ **employee** may leave at any time if he/she feels it is no longer appropriate to be there.
- 12.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decision. The presence of an ~~officer~~ **employee** confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where ~~officers~~ **employees** provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

- 12.5 It must not be assumed that an ~~officer~~ **employee** is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting. An ~~officer~~ **employee** should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 12.6 ~~Officers~~ **Employees** will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by the party group, will not relay the content of such discussions to another party group or to any other ~~members~~ **Councillors**. This shall not prevent an ~~officer~~ **employee** providing feedback to other senior officers on a need to know basis.
- 12.7 In their dealing with party groups, ~~officers~~ **employees** must treat each group in a fair and even-handed manner. An ~~officer~~ **employee** accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 12.8 ~~Members~~ **Councillors** must not do anything which compromises or is likely to compromise ~~officers'~~ **employees'** impartiality.
- 12.9 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.
- 13. Political Assistants**
- 13.1 These ~~officers~~ **employees** have been appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned. This is in contrast to all other ~~staff~~ **employees** whose duty is to serve the Council as a whole.
- 13.2 Political assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the Council's ~~staff~~ **employees**. This includes the courtesy and consideration which the Council expects its ~~officers~~ **employees** to show to one another.
- 13.3 Except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other ~~staff~~ **employees**.
- 13.4 Political assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned.
- 13.5 The level of access to Council documents and information shall be that enjoyed by ~~members~~ **Councillors**.

#### 14. Ward ~~Members~~ Councillors and ~~Officers~~ Employees

14.1 To enable them to carry out their Ward role effectively, ~~members~~ **Councillors** need to be informed about matters affecting their Ward. Designated Officers must ensure that all relevant ~~staff~~ **employees** are aware of the requirement to keep local ~~members~~ **Councillors** informed, ~~thus~~ allowing ~~members~~ **Councillors** to contribute to the decision making process and develop their representative role. This requirement is particularly important:

- During the formative stages of policy development, where practicable;
- In relation to significant or sensitive operational matters;
- Whenever any form of public consultation exercise is undertaken and
- During an overview and scrutiny investigation.

14.2 Whenever a public meeting is organised by the Council to consider a local issue, all the ~~members~~ **Councillors** representing the Wards affected should be invited to attend the meeting as a matter of course. If a Ward ~~member~~ **Councillor** intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant ~~officer~~ **employee**. Provided the meeting has not been arranged on a party political basis:

- An ~~officer~~ **employee** may attend but is not obliged to do so, and
- The meeting may be held in Council-owned premises.

No such meetings should be arranged or held in the immediate run-up to Council elections.

14.3 Whilst support for ~~members'~~ **Councillors'** Ward work is legitimate, care should be taken if ~~staff~~ **employees** are used to accompany ~~members~~ **Councillors** to Ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- ~~Officers~~ **Employees** should not be requested to accompany ~~members~~ **Councillors** to surgeries held in the offices or premises of political parties.

14.4 ~~Officers~~ **Employees** must never be asked to attend Ward or constituency political party meetings.

14.5 It is acknowledged that some Council ~~staff~~ **employees** (e.g. those providing dedicated support to ~~Executive~~ **Cabinet** Members) may receive and handle messages for ~~members~~ **Councillors** on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

14.6 In seeking to deal with constituents' queries or concerns, ~~members~~ **Councillors** should not seek to jump the queue but should respect the Council's procedures. ~~Officers~~ **Employees** have many pressures on their time. They may not be able to carry out the work required by ~~members~~ **Councillors** in the requested timescale, and may need to seek instructions from their managers.

**15. ~~Members'~~ Councillors' Access to Documents and Information**

15.1 This part of the protocol should be read in conjunction with the Access to Information Rules ~~in the Council's Constitution~~ **set out in Appendix 2.**

15.2 ~~Members~~ **Councillors** may request Designated Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as ~~members~~ **Councillors**. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- It is in the public domains, and
- It is not barred by the Data Protection Act from being given.

15.3 Every ~~member of the Executive~~ **Member of the Cabinet**, the Scrutiny Board, Scrutiny Panels and ~~Standing Bodies~~ **Regulatory or other Committees** has a right to inspect documents about the business of that body. A ~~member~~ **Councillor** who is not a member of a particular body may have access to any document of that specific part of the Council provided:

- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a ~~member~~ **Councillor** (the "need to know" principle), and
- The documents do not contain "confidential" or "exempt" information as defined by the law.

15.4 Disputes as to the validity of a ~~member's~~ **Councillor's** request to see a document on a need to know basis will be determined by the Monitoring Officer. ~~Officers~~ **Employees** should seek his/her advice if in any doubt about the reasonableness of a ~~member's~~ **Councillor's** request.

15.5 A ~~member~~ **Councillor** should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:

- Where to do so is likely to be in breach of the Data Protection Act, or

- Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the **members' Councillors'** code of conduct.
- 15.6 Information given to a **member Councillor** must only be used for the purpose for which it was requested.
- 15.7 It is an accepted convention that a **member Councillor** of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 15.8 **Members Councillors** and **officers employees** must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, **officers employees** will keep confidential from other **members Councillors** advice requested by a **member Councillor**.
- 15.9 **Members Councillors** and **officers employees** must not prevent another person from gaining access to information to which that person is entitled by law.

## **16. Media Relations**

- 16.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
- 16.2 Press releases or statements made by **officers employees** must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 16.3 **Officers Employees** will keep relevant **members Councillors** informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 16.4 Before responding to enquiries from the media, **officers employees** shall ensure they are authorised to do so. Likewise, **officers employees** will inform the Council's press office (~~or similar~~) of issues likely to be of media interest, since that unit is often the media's first point of contact.
- 16.5 If a **member Councillor** is contacted by, or contacts, the media on an issue, he/she should:
- Indicate in what capacity he/she is speaking (e.g. as Ward **member Councillor**, in a personal capacity, as an **Executive Cabinet** Member, on behalf of the Council, or on behalf of a party group);
  - Be sure of what he/she wants to say or not to say;
  - If necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's press office and/or relevant



Designated Officer, except in relation to a statement which is partly political in nature;

- Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant ~~members~~ **Councillors**; and
- Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

## **17. Correspondence**

- 17.1 Correspondence between an individual ~~member~~ **Councillor** and an ~~officer~~ **employee** should not be copied to another ~~member~~ **Councillor** unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.
- 17.2 Official letters written on behalf of the Council should normally be in the name of the relevant ~~officer~~ **employee**. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an ~~Executive~~ **Cabinet** Member or the Chairs of the Scrutiny Board, Scrutiny Panel or ~~Standing Body~~ **Regulatory or other Committee**.
- 17.3 The Mayor may initiate correspondence in his/her own name.
- 17.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a ~~member~~ **Councillor**.
- 17.5 When writing in an individual capacity as a Ward ~~member~~ **Councillor** a ~~member~~ **Councillor** must make clear that fact.

## **18. Access to Premises**

- 18.1 ~~Officers~~ **Employees** have the right to enter Council land and premises to carry out their work. Some ~~officers~~ **employees** have the legal power to enter property in the ownership of others.
- 18.2 ~~Members~~ **Councillors** have a right of access to Council land and premises to fulfil their duties.

18.3 When making visits as individual ~~members~~ **Councillors**, ~~members~~ **they** should:

- Whenever practicable, notify and make advance arrangements with the appropriate ~~manager or officer~~ **employee** in charge;
- Comply with health and safety, security and other workplace rules;
- Not interfere with the services or activities being provided at the time of the visit.
- If outside his/her own Ward, notify the Ward ~~member~~ **Councillor(s)** beforehand; and
- Take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **19. Use of Council Resources**

19.1 The Council's Codes and protocols **set out in Appendix 2** must be observed.

20.1 This part of the protocol should be read in conjunction with the Council's "whistleblowing" policy.

20.2 ~~Members~~ **Councillors** or ~~officers~~ **employees** with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the ~~e~~**Chief e**~~Executive~~ or Monitoring Officer.

20.3 A ~~member~~ **Councillor** who is ~~unhappy~~ **dissatisfied** about the actions taken by, or conduct of, an ~~officer~~ **employee** should:

- Avoid personal attacks on, or abuse of, the ~~officer~~ **employee** at all times;
- Ensure that any criticism is well founded and constructive;
- Never make a criticism in public, and
- Take up the concern with the ~~officer~~ **employee** privately.

20.4 If direct discussion with the ~~officer~~ **employee** is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the ~~member~~ **Councillor** should raise the issue with the ~~officer's~~ **employee's** ~~m~~**Manager**.

20.5 A serious breach of this protocol by an ~~officer~~ **employee** may lead to an investigation under the Council's disciplinary procedure.

20.6 An ~~officer~~ **employee** who believes a ~~member~~ **Councillor** may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the ~~Leader~~ of the relevant party group. More serious complaints may involve alleged breaches of the ~~members'~~ **Councillors' Code of Conduct**, and may be referred to the Standards ~~Board for England~~ **Committee**.

## 21. Attendance at Seminars and Conferences

21.1 There is a presumption that only essential conferences will be attended. The term 'conference' is used to mean any paid for event, including seminars and workshops, attended by a ~~Member Councillor~~ or ~~Officer~~ **employee** of Wolverhampton City Council.

21.2 Essential conferences are to be defined as:

- (i) Those that meet identified ~~Member Councillor~~ or ~~Officer~~ **employee** development needs as defined by individual ~~Member Councillor~~ or ~~Officer~~ **Employee** Development Reviews that have been conducted in accordance with established procedures.
- (ii) Those for which the costs and benefits to the Council have been evaluated.

21.3 Attendance at paid for conferences will require prior approval by the responsible budget holder regardless of cost.

21.4 The maximum total number of ~~Members~~ **Councillors** and/or ~~Officers~~ **employees** attending any individual conference shall be three; but the presumption shall be for one.

21.5 One ~~officer~~ **employee** may accompany a ~~Member Councillor~~ or ~~Members~~ **Councillors** at any individual conference.

21.6 The presumption shall be that one ~~officer~~ **employee** representing Wolverhampton City Council may attend a conference.

21.7 Following attendance at any conference a written report shall be prepared by the ~~Member Councillor~~ or ~~Officer~~ **employee** attending and must include a summary of the key implications for the Council. The report shall be submitted, **in the case of Councillors** to a relevant Committee or Panel of the Council (~~Members~~) or, **in the case of employees**, Management Team (~~Officers~~)

**PROTOCOL FOR THE USE OF COUNCIL ICT FACILITIES BY ELECTED MEMBERS**

## PROTOCOL FOR USE OF COUNCIL ICT FACILITIES BY ELECTED MEMBERS COUNCILLORS

The following is a brief protocol to guide **Members Councillors** on the use of any ICT equipment/ resource provided by Wolverhampton City Council. It is intended to provide the broad principles governing the use of ICT and is supported by more detailed Guidelines referred to in the protocol.

1. ICT resources are provided for use by **Members Councillors** on Council business only.
2. Councillors' use of ICT resources shall be in accordance with the Council's Code of Conduct for **Members Councillors** (see 4 below) and the Guidelines for the Acceptable Use of Wolverhampton City Council's IT Services and Equipment, and the City Council's Website (see Appendices 1 and 2).
3. **Members Councillors** are reminded that the Council's ICT resources must not be used for the following:-
  - (a) To publish material some or all of which appears to be designed to affect public support for a political party (e.g. publishing material designed for conducting overtly political campaigns, or publicising activities intended to promote purely party political interests, such as constituency party meetings, Ward party meetings, or e-mails to ~~party members~~ **Councillors** collectively in their capacity as ~~party members~~ **Councillors**).
  - (b) To promote commercial ventures (except when there is a very clear public interest reason to do so, or where it directly arises from activity that has been agreed by the local authority).
  - (c) To conduct personal campaigns that may result in actions for libel, defamation, or other claims for damages.
  - (d) To capture personal data from visitors to a web site or from e-mails for any other purpose than that declared at the time of capture
4. As required by the Council's Code of Conduct for **Members Councillors**, Councillors' use of the authority's ICT resources, as with any other Council resources, should be such that they may reasonably be regarded as being likely to facilitate, or be conducive to, the discharge of the functions of the authority, or of the office to which the **Member Councillor** has been elected or appointed.
5. In the period leading up to local elections, **Members Councillors** should be particularly scrupulous about the use of these resources.
6. Upon ceasing to be a ~~Member of the~~ **Councillors**, equipment must be returned to the Council within a reasonable period, usually within 10 days of the date in question.

7. Any further advice on the protocol and guidelines may be sought from the Strategic Director for Delivery or the Assistant Director (Governance).

**Elected ~~Members~~ Councillors**

**Guidelines for the Acceptable Use of Wolverhampton City Council's IT services and equipment**

These guidelines have been produced specifically for ~~members of the~~ **Councillors** to outline their responsibilities in the use of the City Council's IT services and equipment and should be read in conjunction with the Internet, Email and Security Policies.

The City Council makes various IT facilities available for the use of ~~members~~ **Councillors** in connection with Council business. These facilities include desktop computers, laptops, printers, scanners, digital cameras as well as Internet and email.

Use of email is specifically covered in the main body of the Internet and Email Security Policy. However, ~~members~~ **Councillors** are reminded that all Wolverhampton City Council's IT equipment and systems must not be used for any purpose other than those directly concerned with official City Council business, or the work of Elected ~~Members~~ **Councillors**.

Council business' means matters relating to a ~~member's~~ **Councillor's** duties as an elected Councillor, as an ~~Executive Cabinet~~ or scrutiny member of a Committee or Scrutiny Panel, Sub-Committee, Working Party or as a Council representative on another body or organisation.

Matters for which Council facilities are available will include:

- Communications with individual members of the public, other ~~members~~ **Councillors**, ~~officers employees~~, government officials.
- Communications in connection with the formulation of policy and the decision making process of the Council or other organisations on which a ~~member~~ **Councillor** represents the Council.
- Material for discussion by a political group on the Council, so long as that relates mainly to the work of the Council and not the political party.

The following are not Council business and Council facilities will not be available:

- Communications for constituency party meetings, Ward party meetings, etc or emails to ~~party members~~ **Councillors** collectively in their capacity as ~~party members~~ **Councillors**.
- Documents relating to the policy and organisation of political parties, particularly regarding the conduct of elections.

It is generally inappropriate for ~~members~~ **Councillors** to use Council facilities for volume mailings, including sending out circulars and conducting wide-scale consultation exercises, even though these may involve Council business. If in an

exceptional case, a **member Councillor** feels that a volume mailing can be justified, a specific request should be submitted to the Strategic Director for Delivery.

All Elected **Members Councillors** are required to read and sign a copy of the policy before being granted access to the Internet and/or email facilities.

In general terms, any use of the Internet is unacceptable when it contravenes any legal Act (for example, The Data Protection Act 1998; The Computer Misuse Act 1990; The Copyrights, Designs and Patents Act 1988; The Obscene Publications Act 1959 and 1964); or any internal City Council policy.

Unacceptable uses include the following:

- illegal or malicious use, including downloading or transmitting copyright material;
- accessing, storing or transferring pornographic or obscene material
- the deliberate propagation of computer viruses
- use of the Internet or email for private purposes
- soliciting/obtaining personal information not in connection with the Council's business, (this could contravene the Data Protection Act and leave you, and the City Council, susceptible to legal action)
- access to, and use of, recreational games
- use of email for potentially libellous or defamatory purposes
- general surfing of the Internet for non-work related purposes.

To summarise, the City Council's Internet and email services are provided only to authorised users, for uses in connection with the City Council's legitimate business. All Internet use will be continually monitored and logged.

The City Council's email systems are provided to support its business activities. Access to email systems is granted to Elected **Members Councillors** expressly on this basis. Email is a form of publication. Individual Elected **members Councillors** as well as the Council are potentially open to action for libel, defamation or breach of trust. Email must not be used for potentially libellous or defamatory purposes. Email is not a secure communications medium and as such personal information should not be transmitted. In order to ensure compliance with the requirements of City Council policies and the contents of this guidance document, the City Council utilises monitoring software to check on the use of email services, as well as software to check the content of all email messages sent and received. These software tools are only used for the legitimate purposes of ensuring compliance with stated legal acts, policies and guidelines so as to protect the City Council against the risk of criminal and civil actions, as a result of the unauthorised actions of its employees, or elected **members Councillors** and in connection with the administration of the email service itself.



**Elected *Members* Councillors**

**Guidelines for the Acceptable Use of Wolverhampton City Council's Website**

These guidelines have been produced specifically for *Members—of the Councillors* who are enabled to author pages on the Council's website through the Content Management System (CMS). They outline the proper use of this facility and the *Member's Councillors* responsibilities in using it. They should be read in conjunction with the Internet, Email and Security Policies, the *Member Councillor* Guidelines for the Acceptable Use of Wolverhampton City Council's IT Services and Equipment, and the Council's Code of Conduct for *Members Councillors* – all of which also include relevant guidance and requirements.

The City Council makes the facilities of the CMS available for the use of *Members Councillors* in connection with Council business. Like all Wolverhampton City Council's ICT equipment and systems, they must not be used for any purpose other than those directly concerned with official City Council business, or the work of Elected *Members Councillors*.

'Official City Council business' means matters relating to a *Member's Councillor's* duties as an elected Councillor; as an *Executive Cabinet* or scrutiny member of a Committee or Scrutiny Panel, Sub-Committee or Working Party; or as a Council representative on another body or organisation.

The facility to author website pages through the CMS should be used by *Members Councillors* to provide their constituents, and the public in general, with factual information about them and their role, and to encourage citizens to contact them when appropriate. Suitable content would include:

- information about how citizens may contact the Councillor, and when and why they should do so;
- information about the Councillor's roles within the Council and as a Council representative on other bodies, including relevant website links within Council guidelines\*;
- information about the Councillor's proposals, decisions and recommendations related to their Council position and responsibilities, and the reasons for them;
- information about the Ward this Councillor represents, including current issues.

However, this content must not be party political, nor liable to misrepresentation as being so. Statements must not be made in party political terms, using political slogans, expressly advocating the policies of a particular political party, or directly attacking the policies and opinions of other parties, groups or individuals.

\* Links to other websites which contain party political material may be included, but must be made in such a way as to ensure an appropriate disclaimer is shown – instruction on how to do this will be included in the training provided for Councillors using the CMS.

During election periods, the Council may remove all or part of the content of Councillors' pages, as judged necessary to ensure compliance with the Representation of the People Act.

Where possible, access to material known to be of an offensive or undesirable nature will be prevented using appropriate security tools and filtering software. If any elected **member Councillor** unintentionally accesses an Internet site which contains material of an offensive or undesirable nature, they should immediately exit the site. In these instances elected **members Councillors** should report the incident to the ICTS Security Admin Team on Ext 4455 who will prevent future access to such sites by implementing preventative measures.

Action may be taken against any user of the City Council's Internet and email service that contravenes the requirements of these guidelines. **Members Councillors** who are unsure about any permissible uses of either the Internet or email facilities must seek clarification in the first instance from the member support officer.

Also, the Council website must not be used to:

- conduct personal campaigns;
- personalise issues (other than fairly reflecting individual responsibilities of Councillors holding specific Council positions);
- make public information which the Councillor has received as confidential;
- promote private interests unconnected with Council business;

All content to be published must also comply with the law, examples of uses which would be illegal include:

- reproducing copyright material without the permission of the copyright owner;
- publishing personal information about an individual without that individual's explicit permission for publication on the world-wide web;
- making libellous, defamatory, abusive or discriminatory comments;
- barring access to information by special user groups through failure to use the corporate production guidelines.

One or more Council **officers employees** will have a responsibility as "editor" to check content authored by **Members Councillors**, including checking compliance with these guidelines, and if necessary may prevent publication of pages which appear not to comply. However, this is provided only as assistance. It remains the responsibility of the authoring **Member Councillor** to ensure that the material they produce complies with the law and these guidelines. **Members Councillors**

***Protocol for use of Council ICT facilities by Elected Members***

who are unsure about any permissible uses of these facilities must seek clarification, in the first instance from the Member Support Officer.

# Wolverhampton City Council



Resources and Support

# ~~ICT~~ ~~Security~~ ~~Policy~~



~~December 2005 v1.4~~

## ICT Security Policy

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## ~~1. INTRODUCTION~~

~~1.1 The management of information and communication technology is an integral part of the Council's activities and is becoming a major strategic asset to any organisation. Investment in equipment such as personal computers (PCs) and the communications infrastructure is significant. Because this is essential to the provision of services and the delivery of a secure e-Government environment, policies and procedures need to be laid down and enforced in order to safeguard those services and the Council's interests.~~

~~1.2 This Policy covers the use of ICT equipment and ICT systems. It does not cover the actual use of data this will be addressed by an Information Security Policy to be developed in the future. For clarification this Policy includes:~~

~~The physical assets~~

~~Access to the information on those assets~~

~~Services continuity~~

~~Users of the systems and equipment~~

~~Compliance with legislation~~

~~1.3 Examples of ICT equipment include but are not restricted to:~~

~~— PCs, laptops, tablet PCs, PDAs, printers, faxes, telephones, fibres, routers, switches, hubs, firewalls, network servers, etc.~~

~~1.4 The correct processing of all information and of data management is the responsibility of the relevant Head of Service.~~

~~1.5 This Policy applies to all employees of the Council and elected members, its agents and contractors, employees of associated organisations, volunteers and all users having access to Wolverhampton City Council's systems and data.~~

~~1.6 Each Service Area will have ICT Co-ordinators who are responsible for the maintenance and monitoring of security procedures and compliance with this Policy as detailed in the approved Operational Management Group report of 5th June 2003. (see Appendix 1C for further information).~~

~~1.7 Copies of this Policy and other documents, including compliance notes and procedures can be found on the Council's intranet. The Policy may be modified to accommodate operational and legislative changes and users will be advised accordingly.~~

~~1.8 If you have any queries regarding this Policy or require copies of any other Council security-related documents please do not hesitate to contact the IGTS Service Desk on extension (55)8000.~~

~~1.9 This Policy takes account of the size and complexity of the Council and the equal treatment of all staff and elected members, the relevant codes of conduct for officers and members together with the public expectation of use of equipment and systems. Also the Council holds and uses much sensitive information and the policy therefore treats all information held and used as sensitive and requiring appropriate protection. To have two or more standards would present impracticable working arrangements.~~

~~1.10 The Policy makes reference to employees, line managers and the disciplinary process, the Policy applies to members and the comparable terms are elected members, Monitoring Officer and Standards Committee process.~~

~~1.11 Access to the Internet is made available to staff to assist directly in the delivery of Council services. Personal use is only permitted where Service Areas make available separate corporate networked devices specifically for this purpose and they comply with the conditions detailed in Appendix 3.~~

## ~~2. ENFORCEMENT~~

~~2.1 All users of the Council's ICT equipment and information are responsible for compliance with this Policy.~~

~~2.2 All users are required to complete the declaration found on page 15 to indicate their acceptance and agreement with this Policy. A user declaration form must be completed prior to any access to Council systems and data; this must be renewed annually.~~

~~2.3 In protecting the information assets, the Council will comply with all applicable laws and regulations and charges its employees to maintain the highest ethical standards. **The Council views security seriously and any breach of this Policy could lead to disciplinary action being taken against those who commit this breach.**~~

~~2.4 All user activity (with the exception of workstations made available for personal use) will be automatically logged and monitored and occasional checks will be undertaken by appropriate staff to ensure compliance with this Policy.~~

~~2.5 Violations may constitute acts of Gross Misconduct and, if proven, may lead to the dismissal of the employee or employees concerned.~~

- ~~• Violations can include but are not restricted to:~~
- ~~• The installation and use of unauthorised software and data~~
- ~~• The installation and use of any unauthorised computer equipment~~
- ~~• Unauthorised, illegal and/or inappropriate use of the Internet and email~~

- ~~The use of data for illicit purposes (including violation of any law, regulation or any reporting requirement of any law enforcement or government agency)~~
- ~~The copying of any materials protected under copyright or patent law or making material available to others for copying~~
- ~~The installation of unlicensed or personal software on the Council's hardware~~
- ~~Exposing the Council to actual or potential loss (monetary or otherwise) through the compromise of ICT security~~
- ~~The unauthorised disclosure of confidential or personal information or the unauthorised use of corporate information~~
- ~~Unauthorised personal use of equipment or changes to equipment configuration~~
- ~~Unauthorised deletion or alteration of files or data which are business critical or to which the user has no right of access~~
- ~~Avoidable damage to the Council's equipment~~
- ~~Insecure usage and storage of information~~
- ~~Frivolous use of computer resources which could overload and/or disrupt the Council's networks and/or storage limits~~
- ~~Malicious or vexatious statements made which damages the reputation of a person (or employer)~~

~~2.6 Any individual who has knowledge of a violation of this Policy (whoever has caused that violation) is responsible for reporting that violation immediately to his or her line manager. Line managers should inform the IGTS Security Administration Team as soon as possible.~~

~~2.7 The Council and all users/processors of information must comply with all relevant legislation and the Council's policies and procedures. Users may be personally liable for any breach of applicable legislation and anyone who is unsure of their responsibility should seek clarification from their line manager immediately. For examples of relevant legislation see Appendix 2.~~

### ~~3. USE OF COUNCIL ICT EQUIPMENT AND NETWORKS~~

~~3.1 Excluding the special conditions relating to personal use (see Appendix 3), the use of the Council's ICT equipment and network for purposes not directly concerned with authorised Council business will be regarded as a breach of discipline and appropriate action will be taken.~~

~~3.2 Systems will be configured to allow users access only to those applications, features and facilities they require to perform their day-to-day duties and where possible configuration will be standard across workgroups and locked to prevent unauthorised changes.~~



- ~~3.3~~ ICT Co-ordinators must ensure that adequate virus scanning facilities are operational on all non-networked equipment (e.g. stand-alone PCs, laptops and mobile data storage devices such as diskettes, CDs, DVDs).
- ~~3.4~~ Excluding the special conditions relating to personal use (see Appendix 3), the Council's Internet and email systems are to be used for Council purposes only and private use is strictly prohibited. All users must comply with the Council's Code of Practice relating to the use of Internet and Email (see Section 7).
- ~~3.5~~ The use of the Council's telephones for private purposes is only permitted in the following circumstances:
- ~~— Council Landlines:~~
- ~~• Occasional incoming calls allowed~~
  - ~~• Occasional short outgoing work-related calls allowed e.g. to inform a family member of working late~~
- ~~Council Mobile Phones:~~
- ~~• Occasional incoming calls allowed~~
  - ~~• Occasional short outgoing calls allowed, these calls are to be annotated by \* and paid for by the member of staff concerned~~
- ~~3.6~~ The use of private mobile phones should not cause any distraction at work and should normally be switched off unless an unusual circumstance requires a call to be answered straight away e.g. a sick close relative.
- ~~3.7~~ No equipment may be connected to the network or attached to any equipment connected to the network without prior recorded authorisation from ICT Services.
- ~~3.8~~ Only persons authorised by ICT Services will be allowed access into the computer suite which will be controlled by the use of identification authentication techniques and procedures.
- ~~3.9~~ No computer equipment or data should be removed from the Council's premises except with the authorisation of a Head of Service.
- ~~3.10~~ Heads of Services will ensure that all users receive adequate training in security procedures and the correct use of ICT facilities, so they are equipped to support this Policy in the course of their normal work.
- ~~3.11~~ ICT applications, upgrades and/or infrastructure must not be acquired or developed without the approval and consent of ICT Services. This is to ensure that appropriate software and equipment is used to the standard appropriate for the business needs, and to ensure compliance with the Council's ICT Strategy.
- ~~3.12~~ To test the confidentiality of Council systems and data, ICT Services will undertake periodic testing of the network to ensure its security and assess its vulnerability.

~~3.13 A code of practice for remote/home working will be developed shortly.~~

## ~~4. DATA AND PROGRAM OWNERSHIP~~

### ~~4.1 The Council's Data~~

- ~~(a) All computer programs and data are for the sole use of the Council in undertaking its business. Access by users is solely for this purpose.~~
- ~~(b) No expectation of privacy by users for anything they create, store, send and receive using the Council's computer equipment, should be accepted. As such, the user expressly waives the right of privacy rights.~~
- ~~(c) Copying, alteration or interference with computer programs is not permitted, without the recorded agreement of ICT Services.~~
- ~~(d) Data will be 'owned' by the Service Area responsible for its maintenance, accuracy and use, and will be the responsibility of Heads of Services relative to the functions of their respective Service Areas.~~
- ~~(e) ICT Services will be the 'custodian' of all data held on the network and will be responsible for the retention of the data at any particular stage in its processing, handling, storage etc.~~
- ~~(f) It is the responsibility of users to agree backup requirements with ICT Services. ICT Services has made provision for data stored on its networks to be backed up on a regular basis. Any data not stored on these networks e.g. small systems, stand-alone PCs etc. will not be backed up by ICT Services and will remain the responsibility of the individual user.~~

~~4.2 Software and data purchased or licensed from external sources must only be used in accordance with the terms of the acquisition, licence or other procurement documents.~~

~~4.3 The Council will extend to all data held on behalf of other individuals or organisations the same degree of security as it applies to its own data.~~

### ~~4.4 Data Protection Legislation~~

- ~~(a) Systems (manual or computer based), which process personal data about living persons, must comply with current Data Protection legislation. The person responsible for such a system must ensure that the Council's Data Protection Adviser has details of the system and how it will be operated.~~
- ~~(b) There must be no unauthorised disclosure of personal data. Personal data may only be disclosed when authorised by the officers who are responsible for the data in accordance with Data Protection legislation and Council policies and procedures.~~

~~Disclosures (and all forms of data processing) must only be made in accordance with the current Data Protection legislation.~~

- ~~(c) The Council adheres to a Data Protection Code of Practice developed together with other West Midlands Authorities.~~

## **5. ACCESS TO ICT SYSTEMS**

### **5.1 General**

~~The approval, implementation and control of all networks and systems are the responsibility of ICT Services, in conjunction with user Service Areas. The creation and allocation of user rights within a system is the responsibility of the relevant system administrator. The data contained within each system should be subjected to a risk analysis to determine its sensitivity and the impact of it being accessed by, or disclosed to, unauthorised persons. In the event that a significant risk is identified additional security measures will be implemented.~~

~~Systems containing personal or sensitive data accessed from public or unsecured areas should be positioned in such a way that information stored or processed cannot be viewed by unauthorised persons and should be configured with time-outs to ensure sessions are disconnected after a pre-determined period of inactivity.~~

~~Heads of Services will ensure that appropriate levels of security are operative and suitable to the sensitivity of the data held by their Service Area and the equipment they use.~~

~~Requests for access to ICT systems and facilities will only be accepted from authorised ICT Co-ordinators using the appropriate forms.~~

~~Access to Council ICT facilities by support companies, and applications managed by third parties, will be subject to special agreements and access will not be provided until the appropriate measures have been implemented and the agreement signed (Copies can be found on the Council's intranet with other compliance notes and procedures).~~

### **5.2 Logon Ids and Passwords**

- ~~(a) Each user must have a unique logon id approved by the ICTS Security Administration Team and the user will be responsible for any actions performed by their logon id. The use of another person's logon id is not permitted. Users will not disclose their passwords or visibly record them on or near equipment providing access to networks or systems.~~
- ~~(b) Where a default password is assigned to a user for first access, the user must change this initial password straight away.~~
- ~~(c) Passwords must be a minimum of six alphanumeric characters in length, must not contain elements of the logon id and must be changed regularly (a maximum duration period will be enforced). In~~

~~in addition, measures will be implemented to prevent the repeated use of frequently used passwords.~~

~~(d) Passwords will only be reset and logon ids released for use following an official request from an ICT Co-ordinator or ICT Services.~~

~~(e) Unattended PCs must be either locked or logged out.~~

### **5.3 System Management**

~~(a) Access rights for staff undertaking new roles and responsibilities should be assessed by ICT Co-ordinators and line managers to ensure that they are still relevant. ICT Co-ordinators and the ICT Security Administration Team must be notified immediately of any changes to system access requirements.~~

~~(b) The ICT Security Administration Team and relevant ICT Co-ordinators must be notified of staff intending to leave the employ of the Council. Staff must immediately have their access capabilities restricted as appropriate, and removed as soon as possible on leaving the Council. All persons leaving the employment of the Council must return all identity cards, access cards, keys, tokens, manuals, equipment and other property belonging to the Council by their last day of working.~~

## **6. PURCHASE AND DISPOSAL OF ICT EQUIPMENT AND SOFTWARE**

~~6.1 Users need to consult ICT Services early on in the process to ensure that any proposed purchases conform to standards. Purchases which ICT Services do not consider conform to standards will not be accepted into use. The process will comply with the Council's Contract Procedure Rules and the requirements of the EEC's public sector procurement policies.~~

~~6.2 Authority to purchase equipment is controlled within Service Areas, and by ICT Services. ICT Services will only act on authorisation from an approved officer. This must be evidenced through the submission of an authorised request form and official order. ICT Services will only place orders for equipment and software which comply with the Council's ICT Strategy and which are appropriate for the users' business needs. ICT Services will consult with the user Service Area to ensure that both these criteria are met.~~

~~6.3 Heads of Services are responsible for maintaining inventories for ICT equipment. ICT Services are responsible for maintaining the inventories for ICT infrastructure.~~

~~6.4 Connection, disconnection or relocation of any ICT equipment must be undertaken by ICT Services or agreed by them.~~

~~6.5 The disposal of all ICT equipment, software and data storage media must be in accordance with the Council's Financial Procedure Rules and disposal procedures.~~

~~6.6 Prior to disposal all data must be erased and over-written using specialist software (contact the ICTS Security Administration Team for current information).~~

~~6.7 The disposal process should be managed in such a way as to comply with current legislation in respect of Data Protection and the Waste from Electrical and Electronic Equipment (WEEE) directive.~~

## ~~7. INTERNET AND EMAIL CODE OF PRACTICE~~

~~7.1 This section outlines the Code of Practice adopted by the Council for the acceptable use of computer network facilities including the Internet and email.~~

~~7.2 Anyone authorised to use such facilities is required to abide by the conditions laid down in this Code of Practice. Any breach of these conditions could result in disciplinary action or in some cases a criminal prosecution.~~

~~7.3 For special conditions relating to personal use see Appendix 3.~~

~~7.4 All users are expected to demonstrate a responsible approach in the use of resources available to them, and to show consideration for other users, both those using the Council's facilities and those with whom they may come into contact on the Internet. Users are expected to behave in a legal, moral and ethical fashion that is consistent with Council policies and standards.~~

~~7.5 Communications on the Internet should not be considered as secure and private and confidential, personal or other sensitive information must not be transmitted. The Council's Secure Email facilities should be used for any sensitive or personal data communications with individual/business interests, organisations or companies etc.~~

~~7.6 Authorised users may use corporate visa cards for financial transactions over the Internet.~~

~~7.7 All user activity (with the exception of workstations made available for personal use) will be automatically logged and monitored and periodic checks will be undertaken by appropriate staff to ensure compliance with this Policy. Any unauthorised or unacceptable use could result in disciplinary measures and/or legal action.~~

### ~~7.8 Unacceptable Use~~

~~The following activities, whilst not an exhaustive list, are unacceptable:~~

- ~~The access to or creation, transmission or publication of any offensive, discriminatory, pornographic, obscene or indecent images, sounds, data or other material.~~
- ~~The access to or creation, transmission or publication of any data that may be considered to be offensive, discriminatory, pornographic, obscene or indecent images, sounds, data or other material.~~
- ~~The creation, transmission or publication of any material which is designed or likely to cause offence, inconvenience or needless anxiety, or which may intimidate or create an atmosphere of harassment.~~
- ~~The creation, transmission or publication of defamatory material.~~
- ~~The use of abusive, profane or offensive language in any transmission.~~
- ~~The transmission or intentional dealing with material that infringes the copyright of another person.~~
- ~~The loading of unauthorised software, including entertainment and games software on any ICT equipment.~~
- ~~The creation, transmission or publication of any material in violation of Data Protection legislation or any UK or International laws or regulations. Such activity may constitute a criminal offence.~~
- ~~The deliberate unauthorised access to facilities, services, data or resources within the Council or any other network or service accessible via the Internet, or attempts to gain such access.~~
- ~~Unauthorised access to the email of another person.~~
- ~~Each employee is responsible for the content of their emails and no work-related email or other electronic communications may be sent which hides the identity of the sender or represents the sender as someone else. All work-related messages must contain the employees name.~~
- ~~Work-related emails sent from the corporate network will have a disclaimer attached automatically, stand-alone users must attach the same disclaimer.~~
- ~~Deliberate activities with any of the following characteristics or by their nature could result in:
  - ~~wasting Council resources~~
  - ~~corrupting or destroying others users data~~
  - ~~violating the privacy of other users~~
  - ~~disrupting the work of other users~~
  - ~~continuing to use any item of software or to access any material after being requested to cease its use~~
  - ~~the introduction of propagation of viruses or malware~~~~
- ~~Any use of the Internet or other facilities that could damage the reputation of the Council.~~

**SUMMARY OF RESPONSIBILITIES: APPENDIX 1A  
HEADS OF SERVICES**

Head of Services responsibilities include:

- To ensure compliance with this policy in their area of responsibility.
- The correct processing of all information and of data management. (1.4)
- To ensure that they have officers in a position to perform the above duties and responsibilities under the overall guide of security staff in ICTS. (1.6)
- To consider the provision of facilities for personal use of the Internet according to the guidelines provided (1.10)
- To ensure no computer equipment or data is removed from the Council's premises without their authorisation. (3.9)
- To ensure that all users receive adequate training in security procedures and the correct use of ICT facilities, so they are equipped to support this Policy in the course of their normal work. (3.10)
- The maintenance, accuracy and use of the data in their Service Area. (4.1d)
- To ensure that appropriate levels of security are operative and suitable to the sensitivity of the data held by their Service Area and the equipment they use. (5.1)
- To maintain inventories of ICT equipment. (6.3)

**SUMMARY OF RESPONSIBILITIES: APPENDIX 1B**  
**ICT SERVICES**

ICT Services responsibilities include:

- ~~The provision of appropriate facilities to automatically log and monitor user activity as appropriate, and ensure compliance to this policy by undertaking occasional checks. (2.4)~~
- ~~To ensure that no equipment is connected to the network or attached to any equipment connected to the network without their prior recorded authorisation. (3.7)~~
- ~~To ensure only authorised persons are allowed access into the computer suite which will be controlled by the use of identification authentication techniques and procedures. (3.8)~~
- ~~Periodic testing of the network to ensure its security and assess its vulnerability. (3.12)~~
- ~~Being the 'custodian' of all data held on the network and being responsible for the retention of the data at any particular stage in its processing, handling, storage etc. (4.1e)~~
- ~~The provision of regular network backup facilities. (4.1f)~~
- ~~The approval, implementation and control of all networks and systems, in conjunction with user Service Areas. (5.1)~~
- ~~To place approved orders for equipment and software which comply with the Council's ICT Strategy and which are appropriate for the users' business needs. ICT Services will consult with the user Service Area to ensure that both these criteria are met. (6.2)~~
- ~~The connection, disconnection or relocation of any ICT equipment. (6.4)~~



**SUMMARY OF RESPONSIBILITIES: APPENDIX 1C**  
**ICT CO-ORDINATORS**

ICT Co-ordinators security responsibilities include: (1.6)

- The administration of password re-setting and file access permissions.
- To receive from ICT Services security staff periodic reports of Internet accesses for their Service Area users. On receipt of these, to assess and evaluate them, report to management and take appropriate action where applicable.
- To receive from ICT Services security staff incident reports of potential email misuse. On receipt of these, to assess and evaluate them, report to management and take appropriate action where applicable.
- To monitor and ensure users in their Service Area have signed and renewed their ICT Security Policy User Declarations.
- To ensure virus prevention/detection measures are operational and always up to date.
- To ensure that approved personal firewall and Internet filter software is installed and operational on stand-alone PCs having Internet connections.
- To ensure and assist with the Council's legal compliance regarding such legislation as Data Protection, Computer Misuse, Freedom of Information, and the Regulation of Investigatory Powers.
- To complete and return to ICT Services security staff appropriate Incident Report Forms detailing information of any breach or suspected breach of security together with any actions required or undertaken.
- To assist in regular compliance work to ensure adherence with corporate policies, standards and procedures.
- To ensure their users receive adequate and appropriate training or awareness of all security, and other ICT related matters.
- To ensure they themselves receive adequate and appropriate training in all relevant areas of security and other relevant ICT related areas of work and keep abreast of new developments and technologies.
- To assist where necessary ICT Services security staff with research and evaluation of new software and solutions.
- To assist with new or revised versions of corporate policies, standards, and procedures.
- To consult with ICT Services early in any acquisition process to ensure any proposed purchases of hardware or software conform to approved ICT standards.

**SUMMARY OF RESPONSIBILITIES: APPENDIX 1D**  
**ALL USERS**

All Users responsibilities include:

- ~~Compliance with this Policy. (2.1)~~
- ~~Completing the declaration found on page 15 to indicate their acceptance and agreement with this Policy. A user declaration form must be completed prior to any access to Council systems and data, this must be renewed annually. (2.2)~~
- ~~Reporting any violation immediately to his or her line manager. Line managers should inform the ICTS Security Administration Team as soon as possible. (2.6)~~
- ~~Compliance with all relevant legislation and the Council's policies and procedures. Users may be held personally responsible for any breach of applicable legislation and anyone who is unsure of their responsibility should seek clarification from their line manager immediately. For examples of relevant legislation see Appendix 2. (2.7)~~
- ~~All users must comply with the Council's Code of Practice relating to the use of Internet and Email. (3.4)~~
- ~~To ensure in consultation with the Chief ICT Officer, that appropriate back-up procedures are operated. ICT Services has made provision for data stored on its networks to be backed up on a regular basis. Any data not stored on these networks will not be backed up by ICT Services and will remain the responsibility of individual users. (4.1f)~~
- ~~To demonstrate a responsible approach in the use of resources available to them, and to show consideration for other users, both those using the Council's facilities and those with whom they may come into contact on the Internet. Users are expected to behave in a legal, moral and ethical fashion that is consistent with Council policies and standards. (7.4)~~

Current relevant legislation includes, but is not restricted to:

- ~~Data Protection Act 1998~~
- ~~Copyright, Designs and Patents Act 1988~~
- ~~Computer Misuse Act 1990~~
- ~~Electronic Communications Act 2000~~
- ~~Health & Safety Act (Display Screen Equipment) Regulations 1992~~
- ~~Trade Marks Act 1994~~
- ~~Human Rights Act 1998~~
- ~~Public Interest Disclosure Act 1998~~
- ~~Regulation of Investigatory Powers Act 2000~~
- ~~Obscene Publications Act 1959 & 1964~~
- ~~Freedom of Information Act 2000~~
- ~~Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000~~
- ~~Local Government Act 1972—2003~~
- ~~Local Government (Records) Act 1962~~
- ~~Public Records Act 1958 and 1967~~
- ~~Local Government (Access to Information) Act 1985~~
- ~~Waste from Electrical and Electronic Equipment (WEEE) directive.~~
- ~~Anti-terrorism, Crime and Security Act 2001.~~
- ~~Communications Act 2003.~~
- ~~Privacy and Electronics Communications Regulations 2003.~~

## **PERSONAL USE OF THE INTERNET** **APPENDIX 3**

~~Services may make dedicated corporate networked workstations available to allow their staff to make personal use of the Internet, for clarification this means: web browsing and access to web mail, it does not include using corporate email accounts for personal use. These workstations must not be used for any other purpose, will not provide any normal network facilities, must be located away from the normal work desk environment and will be funded by the Service Area concerned.~~

~~Users of the workstations made available for personal use are still subject to the terms and conditions of the ICT Security Policy, however, access to the Internet will be filtered at an 'Adult' level similar to that used by the public on the Libraries network and will include access to personal web mail accounts e.g. hotmail or yahoo. As stated in Section 7 of this Policy users must not consciously attempt to access inappropriate material e.g. pornography or illegal websites. Users are requested to keep their usage brief when other members of staff are waiting to use this facility.~~

~~User activity will not be monitored, and any logs will be treated as confidential. Logs will only be accessed in the event of a security incident or if criminal activity is suspected. There will be no regular monitoring of accesses, the only regular monitoring will relate to network performance, service availability etc.~~

~~The facilities will only be available for use during weekdays (Monday to Friday) from 7:30 until 18:00 excluding core time (Core hours: 9:30-12:00 and 14:00-16:00).~~

~~Anyone using the facilities must do so in their own time i.e. clocked out.~~

~~Heads of Services will be responsible for applying any necessary local administrative arrangements, this includes:~~

- ~~• the compulsory management of a booking system which requires users to document the start and finish times of their usage of these facilities~~
- ~~• printing arrangements~~
- ~~• location arrangements~~
- ~~• the use of headphones etc.~~

## USER DECLARATION

### User Declaration

I acknowledge receipt of Wolverhampton City Council's ICT Security Policy and agree to comply with it.

**Signature:**

**Name (Capitals):**

**Logonid:**

**Service Area:**

**Date:**

Please return your completed user declaration to your Service Area ICT Co-ordinator.

**Wolverhampton**  
City Council



Resources and Support

## **CODE OF PRACTICE FOR SERVICE ON OUTSIDE BODIES**

This Code of Practice is for elected members and officers serving on the management of outside bodies. This is a complex area of work and individuals have to have regard to their responsibilities and liabilities. This Code aims to encourage people to take appropriate constructive and proactive interest in outside bodies, and is part of the Council's commitment to working with all sectors, including public, voluntary and private sectors of the community.

It also aims to introduce greater clarity and consistency into relationships. The Council appoints people onto outside bodies where it is important to maintain good relationships between the two parties and or where the aims of the outside body are to the benefit of Wolverhampton. Outside bodies have a large variety of different forms and structure, which have implications for the roles, responsibilities and potential liabilities of those appointed to their managing body. These are set out in the Code.

Partnership working is also a frequent and recognised way of achieving shared objectives. Partnerships involve different organisations with a variety of legal structures. It is not the intention of this Code to define partnership or to set rules for their operation. However, it is important for all those involved in partnerships to be aware that this Code may bear on the way partnership members get involved in work which arises e.g., some of them may create a new project or organisation. It is important to be clear at all stages about the distinction between a partnership and any project or organisation it set ups.

If you require any further information about this Code, please contact the Section 151 Officer or Assistant Director (Governance).

## **1. PURPOSE OF THIS CODE**

~~1.1. The Council frequently appoints elected members, officers or others to serve on, or to attend the management board or committees of outside bodies. This Code is designed to:-~~

- ~~➤ Introduce clarity about the relationships between the Council and an outside body.~~
- ~~➤ Ensure that Council appointees understand the general duties, responsibilities and liabilities that arise when serving on various outside bodies.~~

~~1.2. This Code does not cover informal groups or partnerships that may convene to explore an idea to set up a new group and or project. However, when a group has attained a formality, clarity is needed on the roles of the people who were originally involved and their continuation as their roles and responsibilities would change.~~

## **2. YOUR CONDUCT**

~~2.1. In working with or for an outside body you should carry out your responsibilities to the highest standards of conduct and behaviour as you would when working for the Council i.e., with integrity, fairness, probity and honesty.~~

~~2.2. You will need to ensure that you declare any interest when issues concerning the body arise within the context of the Council, or when matters of concern to the Council are discussed by the outside body. You need to declare any interest at both formal and informal meetings. If you have any doubts about your position, it is important to take advice from the Assistant Director (Governance).~~

~~2.3. Where you take part in the work of an outside body in a personal capacity and in your own time, it is your responsibility to ensure that there is no conflict of interest, and that both parties are clear about their mutual expectations, roles and responsibilities. The rules about declarations of interest apply even when you are acting in a personal capacity.~~

~~2.4. This Code can not prescribe the precise roles and relationship, which are appropriate in every circumstance, because these are many and varied. It attempts to set out the most important rules to be followed, in situations that are likely to be encountered by Council appointees.~~

### **3. YOUR RESPONSIBILITY**

~~3.1. Before taking up an appointment on any outside body, you should ensure that you know and understand the answers to the following questions:-~~

- ~~i) What is the status of the body that you are being appointed to? The rules that will apply to you will be different for companies; trusts; bodies incorporated under statute or charter, incorporated and unincorporated associations. A brief description of the main types of outside bodies is given in the Appendix.~~
- ~~ii) In what capacity are you being appointed? If you are a company director, trustee, or a member of a committee of another local authority, then you must follow the rules for that office. It is also possible, especially for officers that you will be appointed as an observer. A brief description of the main roles and responsibilities of appointees serving on outside bodies is also contained in the Appendix.~~
- ~~iii) What are the internal and external rules governing the body, and how do they affect you? You need to be aware of all the rules that apply to the specific body and comply with them.~~
- ~~iv) What is the financial standing of the body? In some circumstances you will have personal responsibilities that require you to demonstrate your active responsible involvement in the financial management of the body (see later details).~~
- ~~v) How will your participation in an outside body affect your position as a Councillor or officer? It may mean that you need to declare an interest in both formal and informal meetings at the Council.~~

~~3.2. People formally appointed by the Council to outside bodies can expect, and are entitled to receive, support and advice from officers. However, the officers may not receive the same information and papers that are sent to appointees. An officer can advise you only if they know what the issues are, and when meetings are to take place. You will find it helpful to identify the senior officer who can support you when you are appointed, and to make sure that he or she has the information needed to brief you.~~

~~3.3. If you are a councillor, you have a duty under the national code of conduct; to conduct yourself at all times to avoid profiting personally from activities connected with your office as a councillor. The outside body may not have specific rules about the declaration of interests, but it is important that you do not appear to use your position for your own benefit or for that of the Council, without making your dual interests clear.~~



~~3.4. Involvement falls into three broad categories:-~~

- ~~(a) Observer to the organisation.~~
- ~~(b) Adviser.~~
- ~~(c) Part of the management of the organisation.~~

~~The key features are as follows:-~~

#### ~~**Category 1 – Observer**~~

~~The role of observer is the one of lowest risk, but such roles should always be clearly understood by all parties involved and be documented. The observer takes no part in the decision-making process of the organisation, does not offer advice or opinions, the observer merely notes and reports back to the Council. Even in this capacity it is important for organisations to understand that the presence of a Council Officer, when issues are being discussed and decided, can not be taken as validating their decision. Minutes of meetings should show your attendance is as “observer”.~~

#### ~~**Category 2 – Adviser**~~

~~An advisory role produces a greater degree of risk because it is reasonable for any advice given to be relied upon, and if this action causes a third party or the organisation receiving the advice to enter into commitments they would not otherwise have done or to suffer any loss, there is a potential claim against the Council. It is important, therefore, that the Officer only makes statements that commit the Council to any action or expenditure where authorised to do so and offers advice where he/she is qualified to give it. Officers should obviously not give professional advice outside his/her area of competence (legal, financial, architectural etc). Even where such advice is given it may be appropriate in certain circumstances for caveats to be imposed or the organisation recommended to seek appropriate independent professional advice. This is particularly relevant when the Council has a regulatory role e.g., as local planning authority.~~

#### ~~**Category 3 – Management of the Organisation or Company**~~

~~Involvement with the management of an organisation or company exposes an individual and therefore the Council to greater risk. Even in a limited liability company a director has some potential exposure to personal liability. Where an officer or member is, in effect, the Council’s nominee, the Council may itself be jointly liable. In these cases the Council will only indemnify individuals if they have operated within the brief given to them by Council and have carried out their role diligently and in accordance with the law.~~

~~For individuals involved in a **Category 3** activity, the principles summarised below must apply. If a person is not satisfied on these points they should immediately seek the advice of the Strategic Director for~~

~~Delivery or the Assistant Director (Governance). If the matters can not be resolved, their involvement should be questioned and, if necessary, should cease.~~

- ~~i) Obtain and understand the written constitution for the body (memorandum and articles of association for a company).~~
- ~~ii) Clearly identify the powers available to individuals and individual responsibility within the organisation and delegations made/obtained i.e., clearly understand how the organisation is managed and how decisions are taken and who is authorised to take them.~~
- ~~iii) Satisfy yourself that proper officers are appointed to manage the affairs of the body on a day-to-day basis and suitable guidelines are given to them in the form of written standing orders and financial regulations.~~
- ~~iv) Satisfy yourself that proper arrangements are made for financial management, accounting, production of accounts, assessment of tax liabilities, assessment of creditors and arrangements for entering into legal contracts.~~
- ~~v) Ensure meetings are held regularly, properly minuted, well attended and quorate where necessary.~~
- ~~vi) Continuous attention should be given to ensuring the organisation or company is a "going concern" i.e., its cash in-flows in the short and medium term will meet all cash out-flows.~~
- ~~vii) Satisfy yourself that all grants are only used for the purpose agreed by the grant giving body.~~
- ~~viii) Open and fair procedures are followed for tendering and procurement of services.~~
- ~~ix) Appropriate expert advice is sought when necessary.~~

~~The "going concern" issue is of major importance, although it may be difficult to ascertain unless there is access to internal information. The most obvious place to look will be to see whether the accounts are prepared on a going concern basis and whether the audit report is qualified or the auditors have expressed some reservations. A basic consideration will be whether the company or organisation appears able to meet its debts as they fall due. Regular budgetary reports and cash flow statements should be available at least quarterly and more regularly if there are difficulties.~~

**4. SUPPORTING INFORMATION**

4.1. The following supporting information is attached:-

- Appendix 1 — Type of Outside Body
- Appendix 2 — Roles of an Appointee
- Appendix 3 — Company Directors
- Appendix 4 — Trustees
- Appendix 5 — Relationship Checklist
- Appendix 6 — Financial Management Checklist

~~APPENDIX 1~~

~~TYPE OF OUTSIDE BODY~~

~~This Appendix describes the different types of outside bodies with which the Council is likely to be associated.~~

~~CORPORATIONS AND UNINCORPORATED BODIES~~

~~Bodies Corporate~~

~~1. Under English law only, individuals and corporations have a recognised legal identity. This allows them to:-~~

- ~~➤ Own property in their own name.~~
- ~~➤ Enter into contracts.~~
- ~~➤ Be legally responsible for their own actions.~~
- ~~➤ Make and answer claims at law.~~

~~2. Corporations are:-~~

- ~~➤ Companies registered under the Companies Act.~~
- ~~➤ Building, Friendly and Provident Societies registered under the relevant Acts.~~
- ~~➤ Bodies established by statute (e.g., the Council).~~
- ~~➤ Bodies established by royal charter.~~

~~COMPANIES~~

~~3. These are the corporate bodies with which members and officers of the Council are likely to be involved.~~

~~4. A company consists of members and directors. Members own shares or guarantee payment, if required (usually £10 or under). The Council itself maybe the member of the company and may have a right to appoint one or more directors. The code of practice describes directors' duties.~~

~~Limited Liability~~

~~5. Almost all companies have limited liability, and their full name will end in either "Limited", or "Ltd" or "PLC" (meaning Public Limited Company). Some charitable or public interest companies may have approval not to use this in their name.~~

~~6. Limited liability is the chief advantage of a company. It means that members and directors of the company are not personally liable for the debts and other obligations of the company provided they have not been negligent or acted outside the law. The obligations of members of the company are limited to payment of the face value of the shares that they hold or guarantees that they have given.~~

## Regulation

7. All companies must register at Companies House, must include their registered number and address on all their correspondence, and must comply with the law relating to companies. This includes an annual audit of accounts, and filing of the accounts at Companies House, where they are public documents.
8. Complex restrictions apply to some companies in which either members or directors appointed by, or employed by or having some association with local authorities hold 20% or more of the voting rights in the company or on the Board of Directors.
9. In addition to the general rules that apply to companies, each company has to abide by its own internal rules, which are contained in its Memorandum and Articles, which have to be registered at Companies House. The Assistant Director (Governance) and/or the company secretary will be able to advise on the rules that apply to individual companies.

## BODIES INCORPORATED BY STATUTE OR CHARTER

10. In addition to local authorities, Primary Care Trusts and School Governing bodies, these include creations of government such as QUANGO's and some national charities. The rules that govern them will be found in their founding law or charter.

## UNINCORPORATED BODIES

11. Generally, unincorporated bodies are not recognised in law, and are simply a number of individuals acting together. They do not have the benefit of any legal identity, or of limited liability.
12. The exception is partnerships, which are governed by the Partnership Act 1980 and the Limited Liability Partnership Act 2000. Mainly professional firms of solicitors, accountants and architects use this structure. Generally anyone who is a partner, or gives the impression of being a partner, is liable for the debts and obligations of any or all of the other partners. For this reason, we need to be careful how we use the word "partnership" in working with outside bodies, and to make clear that the Council is not a "partner" in this sense unless formally acknowledged.

## TRUSTS

13. Trusts are arrangements in which trustees are the legal owners of property that must be used for the benefit of other people, or in the case of charitable trusts, for a charitable purpose.
14. Trusts are regulated partly by statute and regulation, but there is also a huge body of case law. Non-charitable trusts are not required to register. Trustees do not have the benefit of limited liability.

- ~~15. Trusts have the legal identify of their trustees, and can only act in the names of their trustees.~~
- ~~16. Most trusts are unincorporated.~~
- ~~17. Details of the duties of trustees are contained in the code of practice.~~

### ~~**UN-INCORPORATED ASSOCIATIONS**~~

- ~~18. This is a term commonly applied to bodies that are not corporations or companies of any kind and are not legal partnerships.~~
- ~~19. They are not subject to any special body of law or regulation, and they are not registered anywhere. Common examples are clubs, local societies and pressure groups.~~
- ~~20. Unincorporated associations require the minimum of formality but they do not have the advantages of corporate bodies. This means that:-~~
  - ~~➤ Every individual member is liable for all the debts and liabilities of the body.~~
  - ~~➤ The body can not own property except through one or more of its members.~~
  - ~~➤ The body has no legal status to enter into contracts.~~

### ~~**CHARITIES**~~

- ~~21. A charity is property or funds which are held for charitable purposes. There is no simple definition of charitable purposes, but the most common relates to relieving poverty, sickness and disability; education; religion and other purposes beneficial to the community. Although the last looks all embracing, it has caused, and still causes, the considerable difficulty in interpretation. Charities may not act for political purposes.~~

#### ~~**Form of Charity**~~

- ~~22. A charity may take any form. It may be a company, often limited by guarantee. It may be a trust, it may be an unincorporated association. Whatever its form, all the members of its managing body will be charity trustees. If it is a company, the members of its managing body must obey the rules for directors and the rules for trustees.~~

#### ~~**Registration**~~

- ~~23. Most charities are registered by the Charity Commissioners. Some, which are mutual (Friendly and/or Provident Societies) are registered with the appropriate registrar. All these bodies have legal regulations that must be followed, including provisions for annual audit or inspection of accounts.~~

~~————~~ **Benefits**

~~24. Charities enjoy a number of benefits:-~~

- ~~➤ Charities receive tax concessions (except for VAT).~~
- ~~➤ A charitable trust (unlike an ordinary trust) can continue indefinitely.~~
- ~~➤ A charitable trust may be for the benefit of a purpose rather than for the benefit of identifiable people.~~

**APPENDIX 2**

**ROLES OF AN APPOINTEE**

**SUMMARY OF THE DIFFERENT ROLES THAT AN APPOINTEE  
MAY BE EXPECTED TO PERFORM**

**COMPANY DIRECTORS**

~~A Board of Directors controls a company. As a Director you must act in the best interests of the company (i.e., the shareholders or guarantors). You should also consider the interests of employees, customers, the public and creditors. Since your duty as Director is solely to the company you have no duty to report back to the Council and should preserve commercial confidentiality.~~

**TRUSTEES**

~~Trustees hold property (land, investments and money) for the benefit of someone else and take decisions on behalf of the trust. Trustees owe their trust a duty of 'utmost good faith'. Trustees have personal responsibility to the Trust and can not be indemnified by the Council and have no duty to report back to the Council. Legal Trustees must act unanimously, whilst Charity Trustees may act on a majority decision if the Trust Deed so allows.~~

**OBSERVERS**

- ~~1. You may be appointed as an observer to any kind of body. As an observer you will not have a right to speak or to vote.~~
- ~~2. Observers will normally act for the benefit of the Council. You may be invited to explain the Council's policy or views, but you can not insist on this. Again, it is important that you only explain the Council's policy if you are confident that you are fully conversant with it. As an observer you will have a duty to keep the relevant forum in the Council informed of the proceedings of the outside body.~~

**ADVISERS**

- ~~1. Anyone who gives advice to someone else, knowing that the recipient is likely to rely on that advice, must be prepared to take liability for advice that is given negligently. Advice is not negligent simply because it is wrong, but because it is given either carelessly or without the skill that can reasonably be expected from such a person in those circumstances. If officers of the Council give negligent advice, both they and the Council will be liable for any harm that is caused, although financial liabilities would normally fall on the Council. If members give negligent advice, they are likely to be personally liable for damage.~~
- ~~2. For these reasons, it is important to make sure that the outside body understands that it must form its own opinion, make its own decision and take independent advice when necessary.~~



- ~~3. When dealing with company directors meetings, there is a special need for care. Anyone who effectively guides the decision-making of company directors may be considered to be a shadow director and will then have the same responsibilities as an appointed director of the company. It is unlikely that insurance will be available for shadow directors.~~

~~**APPENDIX 3**~~

~~**COMPANY DIRECTORS**~~

~~This brief summary of a Directors' duties provides only general guidance. If you have any doubts or concerns over your role as a director, further advice should be sought from the Assistant Director (Governance) and/or the company secretary.~~

~~1. The role of the director is to:-~~

- ~~➤ Control what the company does. The state of mind of the directors is the state of mind of the company.~~
- ~~➤ Make decisions on behalf of the company at board meetings.~~
- ~~➤ Enter into contracts on the company's behalf.~~
- ~~➤ Prepare accounts.~~
- ~~➤ Make investments on behalf of the company members.~~

~~2. As a director your main duties are:-~~

- ~~➤ To act in the best interests of the company (except in situations where the company risks insolvency, the interests of the company are the interests of its members, not the interests of its business. The members of a company are its shareholders or, in the case of a company limited by guarantee, its guarantors).~~
- ~~➤ To act only within your powers as a director.~~
- ~~➤ To exercise the degree of skill which may reasonably be expected from a person with your knowledge and experience, as well as the degree of skill which an ordinary person might be expected to have (if you have specialist training in e.g., accountancy, or considerable business experience you will be expected to apply those skills in carrying out your duties).~~
- ~~➤ To exercise your powers as a director in good faith.~~
- ~~➤ Not to act dishonestly or fraudulently.~~
- ~~➤ To attend board meetings (it is not essential to attending every meeting, provided that you attend most of them and take care to keep yourself informed of company matters at all times).~~

~~3. In addition to the interests of company members, as a director you must consider:-~~

- ~~➤ The interests of employees of the company in general. A Director can be personally liable for breaks of the Health and Safety at Work Legislation.~~
  - ~~➤ The interests of customers and the general public.~~
  - ~~➤ The interests of the company's creditors (these will become more important than those of company members if the company is, or is likely to be, solvent).~~
- ~~4. As a director, you must disclose to the board of directors any direct or indirect interest you, or any person connected with you, may have in connection with any matter to be considered by the board.~~
  - ~~5. The company's Articles of Association will probably prohibit you from voting in respect of any matter in which you have an interest.~~
  - ~~6. Failure to disclose an interest in a contract is a criminal offence punishable by a fine.~~
  - ~~7. Your main duties as a director in relation to the financial matters of the company are:-~~
    - ~~➤ To ensure that accurate and detailed accounting records are kept.~~
    - ~~➤ To approve annual accounts which comply with legal requirements.~~
  - ~~8. To fulfil these duties you need to see regular accounts of the company's affairs, to make sure you understand them and to make sure that the company employs suitably qualified accountants and auditors.~~
  - ~~9. You should take care to preserve confidentiality on any discussions or business that is confidential to the company. This is likely to include commercial matters and staffing issues. Since your duty as a director is solely to the company, you have no duty to report back to the Council.~~
  - ~~10. A company may purchase insurance on behalf of its directors, indemnifying you against liability. Such insurance cannot, by law, cover all a directors' potential liabilities, in particular criminal penalties. The Council can not take out such insurance for you. This is something which you should satisfy yourself before you accept the appointment. The Council provides limited indemnity for certain positions associated directly with the delivery of its functions.~~
  - ~~11. Company directors have special responsibilities when a company is, or is likely to become, insolvent. A company is regarded as insolvent where either of the following applies:-~~
    - ~~➤ It can not pay its debts when they are due for payment.~~
    - ~~➤ Its liabilities are greater than its assets.~~

- ~~12. If as a director, you allow an insolvent company to trade when there is no reasonable expectation of the company paying its debts (wrongful trading), you may become personally liable for all the company debts. It is not a defence to say that you did not take part in the management of the company. If you suspect this is the case with the company, you should seek legal advice urgently about your personal position from the Section 151 Officer, Assistant Director (Governance) or your personal solicitor.~~
- ~~13. If a company continues to trade in these circumstances, you may be guilty of a criminal offence if you act deliberately to avoid the company paying its creditors.~~
- ~~14. A director can be disqualified from acting as a director on three grounds:-~~
- ~~➤ General misconduct in connection with companies.~~
  - ~~➤ Unfitness to be a director.~~
  - ~~➤ Participation in wrongful trading.~~
- ~~15. The period of disqualification will depend on the reason.~~
- ~~16. Disqualification is rare. The court decides it, almost always in relation to insolvent companies. It is a public matter, with considerable adverse publicity potential and is likely to affect the reputation and credit rating of the disqualified director indefinitely.~~
- ~~17. The following are useful statements describing the position of directors of companies taken from court decisions.~~
- ~~—— “A director is required to exhibit in the performance of his/her duties such a degree of skill as may reasonably be expected from a person with his/her knowledge and experience”.~~
  - ~~—— “A director has in the performance of his/her duties to take such care as an ordinary person might be expected to take on his/her own behalf”.~~
  - ~~—— “A director must exercise any power invested in him/her in good faith and in the interests of the company”.~~
  - ~~—— “A director should not ..... be entitled to hide behind ignorance of the company’s affairs which is of his/her own making or ..... has been contributed to by his/her failure to make further necessary enquiries. On the other hand, directors are not required to have omniscience. It is not yet assumed that directors shall apply themselves full-time to the company’s business. There is still a place for part-time and advisory directors. Directors are entitled to delegate to others the preparation of books and accounts and the carrying on the day-to-day affairs of the company. What each director is expected to do is to take a diligent and intelligent interest in the information either available to him/her of which he/she might,~~

~~with fairness, demand from the executives or other employees and agents of the company”.~~

- ~~— “Directors must act “bona fide” in what they consider — not what a court may consider — is in the interests of the company, and not for any collateral purpose”.~~
- ~~— “Directors have collective responsibility for accounts”.~~
- ~~— “Directors can be held criminally and personally liable for fraudulent or wrongful trading, by a creditor. — It is fraudulent to trade if a company is insolvent. — It is no defence for directors to say they did not know the company was insolvent”.~~

**APPENDIX 4**

**TRUSTEES**

~~There are two kinds of trusteeship to which you may be involved and it is important to be sure which kind you are concerned with. Legal Trustees must act unanimously, whilst Charity Trustees may act on a majority decision if the Trust Deed so allows.~~

- ~~1. A legal trustee holds property (land, investments, money) for the benefit of someone else, or for charitable purchases. Because legal trustees can only act unanimously they are usually limited to a small number, often four.~~
- ~~2. Trustees may make decisions on behalf of the trust, or if the trust has charity trustees, may be required to act as directed by them.~~
- ~~3. If the trust is charitable, the members of its managing body will be charity trustees, although they may not be called trustees. Charity trustees may act on the majority view. They are responsible for all decisions relating to the investment, use and expenditure of trust property. If there are legal trustees, the charity trustees direct them how to act. If there are no charity trustees, then the legal trustees have these responsibilities.~~
- ~~4. Local authorities and some banking companies may be single trustees. They take the place of legal trustees.~~
- ~~5. Trustees owe their trust a duty of the 'utmost faith'. This means that as a trustee, you must act at all times (and not only in trust meetings) in the best interests of the people or purpose for which the trust exists. It also means that, as a trustee you must:~~
  - ~~➤ Not put yourself in a position where you have a conflict of interest with the trust.~~
  - ~~➤ Never profit from your trust (you are not allowed to receive payment from the trust, except for strict reimbursement of expenditure for e.g., travel, either for your time or for any goods or services which you, or your business, may provide, although there are limited exceptions for professional services).~~
  - ~~➤ Act only within your powers as a trustee (which will depend in part on the constitution and rules of the trust).~~
  - ~~➤ Never act dishonestly or fraudulently.~~
  - ~~➤ Attend meetings of trustees: it is not essential to attend every meeting, provided that you attend most of them and take care to keep yourself informed of trust business at all times.~~

- ~~6. If you have a conflict of interest with the trust, it may not be enough to withdraw from meetings in which the conflict arises, because legal trustees must act unanimously. Trustees' responsibility is collective and personal. Before taking up your appointment you should clarify what obligations you have to declare interests at meetings of trustees. In general, you should not put yourself in a position where you will have a conflict of interest with your trust. This may mean that you have to resign either from the conflicting interest or as trustee. If you are in any doubt, you should consult the Assistant Director (Governance).~~
- ~~7. The main accounting and financial responsibilities of trustees are:-
  - ~~➤ To ensure that all actions taken by the trust are in accordance with its constitution of trust deed.~~
  - ~~➤ To safeguard trust property, to invest it prudently and to take professional advice where appropriate.~~
  - ~~➤ To ensure that accurate and detailed accounting records are kept.~~
  - ~~➤ To make sure that you understand the accounts and that suitably qualified accountants and auditors are employed by the trust.~~
  - ~~➤ To approve regular accounts for the trust.~~
  - ~~➤ If the trust is charitable, to make sure that the accounts are audited or inspected and registered with the appropriate registrar.~~~~
- ~~8. You should act to preserve confidentiality on any discussions or business that is confidential to the trust. This may include commercial matters and staffing issues. Since your duty as a trustee is solely to the trust, you have no duty to report back to the Council.~~
- ~~9. As a trustee you have a personal responsibility to the trust. The Council can not indemnify or insure you against any liability arising from trusteeship.~~
- ~~10. A trust may be able to purchase insurance on behalf of its trustees, indemnifying them against some liabilities. Such insurance can not, by law, cover all the trustees' potential liabilities. This may require an amendment of the trust's constitution or Trust Deed and charities will need to consult the Charity Commissioners.~~
- ~~11. Because the duty of a trustee is the highest in the English law (utmost good faith) a trustee is likely to be held responsible for any breach of trust arising from the neglect of trust business. As a trustee you are required to act with the same competence as might be expected of any other person, and with any special competence that you may possess. If you e.g., a solicitor, an accountant or businessman, you will be expected to show the same degree of ability as any other reasonably competent person with the same qualifications.~~

- ~~12. Since there is no registrar for trusts, they are, when necessary, regulated by the courts. If it appears to the court that you, as a trustee, are personally liable for any breach of trust, but that you have acted honestly and reasonably and ought fairly to be excused, then the court may not require any payment from you.~~



**APPENDIX 5**

**RELATIONSHIP STATEMENT CHECKLIST**  
**FOR APPOINTMENTS**

Member/Officer

1. Name of Outside Body: \_\_\_\_\_

2. Registered Number (if any): \_\_\_\_\_

3. Companies No: \_\_\_\_\_

Charity Registration No: \_\_\_\_\_

Communication Address  
Outside Body \_\_\_\_\_

Postcode: \_\_\_\_\_

Telephone and Fax No: \_\_\_\_\_

4. Registered Office Address:  
(Companies only) \_\_\_\_\_

Postcode: \_\_\_\_\_

Telephone and Fax No: \_\_\_\_\_

5. Status of Outside Body: \_\_\_\_\_

6. Is the Outside Body a Registered Charity? Yes  No

~~7. Appointment Details: \_\_\_\_\_~~

~~8. Relationship between the local authority and the Outside Body:~~

~~Funder:  Working in partnership:  Other please specify:~~

~~9. Purpose of Appointment:~~

~~Director:  Appointee (if not a member or officer):~~

~~Trustee:  Independent Member:~~

~~Adviser:  Member of Management Body:~~

~~Observer:  Representative of the Council:~~

~~10. Date of Appointment: \_\_\_\_\_~~

~~11. Date Appointment Notified  
to Outside Body: \_\_\_\_\_~~

~~12. Date appointment notified to, and copy of the outside body's government  
instrument supplied, to:~~

~~Members' Services:  Date: \_\_\_\_\_~~

~~Departmental Personnel:  Date: \_\_\_\_\_~~

~~13. (For appointees other than officers)~~

~~Name of supporting/contact officer: \_\_\_\_\_~~

~~Telephone No: \_\_\_\_\_~~

~~14. Date appointment notified  
to managing committee of  
Outside Body: \_\_\_\_\_~~

~~15. **Company Directors Only**~~

~~Confirm details as registered at Companies House:~~

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~~16. Period of Service: \_\_\_\_\_ (months/years)~~

~~17. Date of Termination: \_\_\_\_\_~~

~~18. Procedure for re-election, re-appointment or resignation:~~

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~~**JOB DESCRIPTION AND RECIPROCATION**~~

~~19. Duties and responsibilities of the appointee:~~

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~~20. Any special skills, knowledge or experience which you have held yourself out to have:~~

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~~20. Liability and indemnity cover to be provided by:  
(Details: name of insurer, policy and receipt for latest premium payment to be supplied)~~

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~~21. Ordinary frequency of meetings:~~

~~Monthly:  Six weekly:  Bi-monthly:  Quarterly:~~

~~Other:  (please specify)~~

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~~22. Attendance requirements:~~

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~~23. Date(s) of induction training and details of any other training received:~~


**REPORTING ARRANGEMENTS**

~~24. Nature and frequency of any formal reporting arrangements to the Council:~~

~~Annual report to a Council:~~

~~Verbal report to a Council:~~

~~Member's quarterly report:~~

~~Written report to line manager:  Verbal report to line manager:~~

~~25. Resources to be made available by the Council:~~

~~Time to attend meetings:  Travel expenses:~~

~~Resources: (paper and other materials) expenses:  Out of pocket:~~

~~Relevant and/or identified training:~~

~~26. Resources to be made available by Outside Body:~~

~~Travel expenses:~~

~~Out of pocket expenses:~~

~~Information about the body's affairs  
and all meetings of the management  
committee:~~

~~Resources: (paper and other materials)~~

~~Liability and indemnity insurance:~~

~~Expert financial and legal advice:~~

~~Relevant and/or identified training:~~

~~APPENDIX 6~~

~~FINANCIAL AND MANAGEMENT  
CHECKLIST~~

~~In any independent body, consideration of its management and financial officers is critical. Any person appointed to outside bodies should ensure the following are in place:-~~

- ~~(a) — Body is properly constituted.~~
- ~~(b) — Directors are responsible individuals.~~
- ~~(c) — Appropriate Directors liability insurance been arranged?~~
- ~~(d) — Proper arrangements have been put in place to manage the organisation e.g.,
  - ~~— Secretary appointed.~~
  - ~~— Auditors appointed.~~
  - ~~— Bankers appointed.~~
  - ~~— Financial and technical advisers appointed.~~
  - ~~— Standing orders and financial regulations formulated.~~
  - ~~— Regular financial and other statements submitted to the Board.~~~~
- ~~(e) — The organisation has a viable business plan which is regularly reviewed.~~
- ~~(f) — Who are the employees? Are their terms and conditions inappropriate?~~
- ~~(g) — Suitable arrangements are in place for day-to-day management of affairs but key/major decisions only taken by Board or group of Directors.~~
- ~~(h) — Who has taken responsibility for preparing the Directors report?~~
- ~~(i) — It should be established that sound arrangements are in place for letting and managing contracts:-
  - ~~— Public sector tender procedure.~~
  - ~~— Professional advisers appointed.~~
  - ~~— Professional contract manager appointed.~~
  - ~~— Appropriate long term interest in land secured before letting any building contract.~~
  - ~~— Any restrictions on the property/assets of the company addressed?~~~~

- ~~(j) There is a need for the appointed person to be alert to the warning signs of a problem:-~~
- ~~— Operating losses over the medium term.~~
  - ~~— Significant overdue debts.~~
  - ~~— Future income is not predictable.~~
  - ~~— Dependence on short-term finance for medium term cash-flows.~~
  - ~~— Shortage of working capital.~~
  - ~~— Little liquidity.~~
  - ~~— High or increasing debt.~~
  - ~~— Under capitalisation, in particular a deficiency on share capital and reserves.~~
  - ~~— Inter-group guarantees indicating a dependence on a holding company.~~
  - ~~— Major contingent liabilities.~~
- ~~None of these indications are ever conclusive, however, and you should look carefully at the positive aspects of a company as well, for example, the value of its assets and strength of its management.~~

## LIABILITY OF EMPLOYEES

### 1. Purpose

1.1. This note sets out the support which the Council gives to Employees if claims are made against them by third parties arising out of alleged acts or defaults by them whilst carrying out their duties and responsibilities as Employees of the Council.

### 2. Summary

2.1. The main points of the guidance note on Liability of Employees are as follows:-

2.1.1. Provided an Employee is not acting:-

- in a fraudulent or dishonest manner
- is not reckless or grossly negligent

— is not acting outside the scope or spirit of his/her normal duties

— then the Council will provide liability cover for any action taken against the Employee by third parties arising out of the normal course of carrying out his/her Council business. This cover does not prevent disciplinary action being taken where appropriate and cover cannot be provided for criminal, wilful or reckless acts.

### 3. Background Details

3.1. Claims may arise in a number of ways:-

- (i) As the result of a direct action by a third party against the Employee;
- (ii) As a result of the Employee being joined in an action by a third party against the Council;
- (iii) As a result of a direct action by the Council against the Employee;

— The general rule of law is that an employer is liable for the acts or defaults of his/her employee provided that the employee was acting within the scope of his/her employment. This can also extend to the situation where a third party reasonably believes the Employee had proper authority to do what he or she has done even if in reality this is not the case.

3.2. It is normal practice in the private and public sector for employing bodies to indemnify their Employees. Employees are currently covered by a Finance and General Purposes Committee Resolution of 13.4.87:-

— "That the Council shall indemnify in perpetuity all employees and former employees of the Council against all liability, professional or otherwise for negligence or negligent omission or breach of contractual or statutory duty arising out of the employee's



~~employment with the Council and that such indemnity shall extend to any such liability arising out of the employee's engagement of duties undertaken by the Council on behalf of any other authority or body.~~

~~Provided that such indemnity shall not extend to any liability arising as a result of fraud, dishonesty or other criminal activity or of wilful misconduct, gross negligence or gross dereliction of duty on the part of the employee".~~

~~3.3 The indemnity will not apply if any employee, without the authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this Resolution.~~

~~3.4 The indemnity does not extend to loss or damage directly or indirectly caused by or arising from:-~~

~~(a) Fraud, dishonesty or any other criminal act on the part of the employee;~~

~~(b) Actions outside his/her normal duties;~~

~~(c) Wilful misconduct, gross negligence or gross dereliction of duty, including liability in respect of surcharges made by the External Auditor.~~

~~3.5 Insurance cover for Employees is as follows:-~~

- ~~- Public and employers' liability~~
- ~~- Employees' indemnity (financial loss to third parties)~~
- ~~- Libel and slander~~
- ~~- Fidelity guarantee and special contingency for cheques~~
- ~~- Cash in transit~~
- ~~- Personal accident (assault)~~
- ~~- Travel cover on request for official journeys outside the U.K.~~

#### ~~4. External bodies~~

~~4.1. The situation becomes more complex, however, when consideration is given to the involvement of Employees with external bodies and companies. On 27.02.06 the Audit Committee approved a Code of Practice for Service on Outside Bodies. Employees who are appointed to serve on or to attend the management board or committee of an outside body should familiarise themselves with the code. This note summarises the key points.~~

~~4.2. Involvement falls into three categories:-~~

- ~~(a) Observer to the organisation~~
- ~~(b) Adviser~~
- ~~(c) Part of the management of the organisation~~

4.3. The key features are as follows:-

**Category 1 - Observer**

The role of observer is the one of lowest risk, but such roles should always be clearly understood by all parties involved and be documented. The observer takes no part in the decision-making process of the organisation, does not offer advice or opinions, the observer merely notes and reports back to the Council. Even in this capacity it is important for organisations to understand that the presence of a Council Employee, when issues are being discussed and decided, cannot be taken as validating their decision.

**Category 2 - Adviser**

An advisory role produces a greater degree of risk because it is reasonable for any advice given to be relied upon, and if this action causes a third party or the organisation receiving the advice to enter into commitments they would not otherwise have done or to suffer any loss, there is a potential claim against the Council. It is important, therefore, that the Employee only makes statements that commit the Council to any action or expenditure where authorised to do so and offers advice where he/she is qualified to give it. Employees should obviously not give professional advice outside his/her area of competence (legal, financial, architectural etc.), experience or training. Even where such advice is given it may be appropriate in certain circumstances for caveats to be imposed or the organisation recommended to seek appropriate independent professional advice.

**Category 3 - Management of the Organisation or Company**

Involvement with the management of an organisation or company exposes an individual and therefore the Council to greater risk. Even in a limited liability company a director has some potential exposure to personal liability. Where an Employee is, in effect, the Council's nominee the Council may itself be jointly liable. In these cases the Council will only indemnify individuals if they have operated within the brief given to them by Council and have carried out their role diligently and in accordance with the law. The Council will provide cover as well for Employees involved in positions where the activities are not directly related to Council business but the Employee is in a position approved by the Council.

4.4 In all cases, but more importantly with **Category 3** roles, the Employee involved with the organisation should establish that appropriate governance arrangements are in place, e.g.

- (a) A formal constitution (written format) exists
- (b) Responsibilities for management are delegated to responsible Employees of the organisation
- (c) Employees to manage the affairs of the organisation are properly appointed
- (d) Adequate arrangements are in place for financial management accounting and ensuring liabilities are met

- ~~— (e) Regular formal meetings are held~~
- ~~— (f) The organisation is a “going concern”~~
- ~~— (g) All grants are only used for the purposes agreed by the grant-giving body.~~

#### ~~4.5 Special Points for Complex Organisations where there is a Management Involvement~~

~~— In complex organisations there is a greater need for the Employee to be alert to the warning signs of a problem:-~~

- ~~— - Operating losses over the medium term~~
- ~~— - Significant overdue debts~~
- ~~— - Future income is not predictable~~
- ~~— - Dependence on short-term finance for medium term cash flows~~
- ~~— - Shortage of working capital~~
- ~~— - Little liquidity~~
- ~~— - High or increasing debt~~
- ~~— - Under capitalisation, in particular a deficiency on share capital and reserves~~
- ~~— - Inter-group guarantees indicating a dependence on a holding company~~
- ~~— - Major contingent liabilities~~

~~— None of these indications are ever conclusive, however, and you should look carefully at the positive aspects of a company as well, for example, the value of its assets and strength of its management.~~

~~4.6 Employees who are formally appointed as Company Directors or Trustees must understand the legal responsibilities attached to these appointments. Full information is contained in the Code of Practice for Service on Outside Bodies.~~

~~4.7. All Employees’ involvement should be authorised by their Director or Chief Executive and a clear indication given of their category of involvement. Their involvement should be registered in the register of interest.~~

~~4.8. If an Employee has any concerns or doubts they should immediately consult the Section 151 Officer or the Assistant Director (Governance).~~

~~4.9. Employees involved in profit making organisations should ensure those organisations have insurance cover for their directors and advisers.~~

**~~MEMBERS~~ COUNCILLORS' ALLOWANCES SCHEME**

**Wolverhampton City Council**

**MEMBERS' COUNCILLORS' ALLOWANCES SCHEME 2012/2013**

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## **1. Introduction**

- 1.1 This **Members' Councillors'** Allowances Scheme was made by the Council on 8 February 2012 in accordance with the statutory provisions in the Local Government and Housing Act 1989, the Local Government Act 2000 and the Local Authorities (Members' Allowances) (England) Regulations 2003.

The Council has had regard to the Guidance on Consolidated Regulations for Local Authority Allowances issued by the Office of the Deputy Prime Minister and the Inland Revenue in July 2003.

In November 2009 the Council established its own Independent Remuneration Panel under the Local Authorities (Members' Allowances) (England) Regulations 2003. Prior to this date the Council took advice from the Members Allowances Independent Panel established by the Black Country Boroughs.

The Council has had regard to the recommendations of the Panel in approving the levels of allowances set out in this scheme.

- 1.2 A copy of the Panel's report is available from Democratic Support, Civic Centre, St Peter's Square, Wolverhampton, WV1 1SH. Telephone: 01902 555048 and on the Council's web site.

### **1.3 Definitions**

"Regulations" means the Local Authorities (Members' Allowances) (England) Regulations 2003 and any Regulations which may from time to time replace, amend or revoke them.

**"~~Standing Body~~ Regulatory or other Committee"** means, in accordance with the Council's Constitution, Committees, Sub-Committee or Panels comprising ~~members of the~~ **Councillors** or other persons established to deal with functions which are neither reserved to the Council nor are **executive Cabinet** functions.

- 1.4 Sections 2 to 16 of this Scheme describe the types of allowances which may be paid to **members Councillors** and the arrangements for administering the Scheme.

- 1.5 Section 17 contains a Schedule of Allowances approved by the Council for the current year 2012/13. The Schedule will be re-issued annually when the annual adjustment has been made and at any time when the Scheme is amended.

## **2. Basic Allowance**

- 2.1 This is a basic, flat rate allowance payable to all ~~members of the Councillors~~. The allowance is the same for each ~~member~~ **Councillor** and is paid in instalments through the year.
- 2.2 Where the term of office of a ~~Member~~ **Councillor** begins or ends otherwise than at the beginning (1 April) or end of a year (i.e. 31 March), his/her entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office as ~~member~~ **Councillor** bears to the number of days in that year.
- 2.3 Basic allowance is intended to recognise the time commitment of all Councillors, including such inevitable calls on their time as meetings with ~~officers employees~~ and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the cost of telephone rental and calls and home office expenses such as postage, stationary and the use of their homes.

## **3. Special Responsibility Allowance**

- 3.1 Special Responsibility Allowances (SRA's) may be paid to those ~~members~~ **Councillors** who have significant responsibilities. The Regulations prescribe the categories of responsibility for which SRA's may be paid.
- 3.2 The Council has determined that SRA's be paid to ~~members~~ **Councillors** holding the following posts:-

Leader  
Deputy Leader  
Leader of the Main Opposition Group  
Deputy Leader of the Main Opposition Group  
~~Member of the Executive~~ **Cabinet Member**  
Chair – Scrutiny Board  
Chair – Scrutiny Panel  
Chair – Planning Committee  
Chair – Licensing Committee  
Chair – Superannuation Committee  
Chair – Audit Committee  
Chair – Petitions Committee  
Chair - Human Resources Appeals Panel  
Vice-Chair – Scrutiny Board and Panels  
Vice-Chair – Planning Committee  
Vice-Chair – Licensing Committee  
Vice-Chair – Superannuation Committee  
Vice-Chair – Audit Committee  
Vice-Chair – Petitions Committee  
Shadow Chair – Planning Committee  
Shadow Chair – Licensing Committee  
Shadow Chair - Superannuation Committee  
Shadow Chair – Audit Committee  
Shadow ~~Portfolio Holder~~ **Cabinet Member**/Spokesperson

Leader of a Minority Opposition Group \*  
Member Champions

“Special Responsibility Allowance for the Leader of a Minority Opposition Group to be paid only if a Minority Opposition Group comprises 5 or more **Members of the Councillors**”

- 3.3 Where a **member Councillor** undertakes duties which would entitle him/her to more than one Special Responsibility Allowance under this Scheme then he/she shall receive only the higher allowance.
- 3.4 Where a **member Councillor** does not have throughout the whole of a year any such responsibilities as entitle him/her to a SRA, his/her entitlement shall be to payment of such part of the SRA as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that year.

#### **4. Dependants' Carers' Allowance**

4.1 A dependants' carers' allowance is payable to those **members Councillors** who incur expenditure for the care of their children or other dependants whilst undertaking particular duties. These duties are specified in the Regulations and are as follows:

- attendance at a meeting of the **Executive Cabinet** or of a Committee of the **Executive Cabinet** (i.e. the Cabinet or a Cabinet **Team Panel**)
- attendance at a meeting of the **Full Council** or any **Standing Body Regulatory or other Committee** (i.e. a Committee or Sub-Committee or Panel of the Council)
- attendance at a meeting of some other body to which the Council make appointments or nominations, including attendance at a meeting of a Committee or Sub-Committee of the body
- attendance at a meeting which has both been authorised by the Council, or a **Standing Body Regulatory or other Committee** of the Council or a Joint Committee of the Council and one or more other authorities, or a Sub-Committee of a Joint Committee and to which representatives of more than one political group have been invited
- attendance at a meeting of a local authority association of which the Council is a member
- duties undertaken on behalf of the Council in pursuance of any standing order (Contracts Procedure Rules) requiring a **member Councillor** or **members Councillors** to be present while tender documents are opened



- duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- duties undertaken on behalf of the Council in connection with arrangements made by the Council for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools)
- any other duty approved by the Council in connection with discharging the duties of the Council or its ~~Standing Bodies~~ **Regulatory or other Committees** (i.e. Committees or Sub-Committees).

4.2 The amount of the dependants' carers' allowances payable in respect of the duties listed above will be the reasonable actual costs incurred up to a total annual maximum amount of 10% of the basic allowance.

## **5. Travelling and Subsistence Allowance**

5.1 Travel and subsistence allowance is payable in connection with undertaking duties specified by the Council. The duties specified are those set out in section 4.1 of this Scheme.

5.2 Travel and subsistence within the West Midlands County area

No separate amount will be payable for travel and subsistence. The basic allowance will be deemed to include an element for travel and subsistence.

5.3 Travel and subsistence outside the West Midlands County area

~~Members~~ **Councillors** required to travel outside the West Midlands County area in connection with the duties specified in section 4.1 of this Scheme are encouraged to travel by public transport. The costs of such travel if incurred directly by the ~~member~~ **Councillor** will be reimbursed. Alternatively the Council will obtain and pay for travel warrants or tickets etc for use by the ~~member~~ **Councillor**.

Where it is not possible to use public transport, mileage rates applicable to Council employees, equivalent to the cost of standard class rail fare, will be reimbursed.

Where ~~members~~ **Councillors** are unable to take main meals i.e. breakfast, lunch and dinner, in their normal place then the reasonable costs of purchasing a meal and beverage or appropriate refreshment will be reimbursed.

~~Members~~ **Councillors** should, as far as possible, obtain receipts when paying for transport and meals/refreshments. In the case of alcoholic

drinks, only expenditure for reasonable refreshment or business purposes will be reimbursed.

- 5.4 **Members Councillors** who are required to return to Wolverhampton to attend Council meetings or attend to other Council business while away from home on personal business or in connection with their employment will not normally be reimbursed any travel or subsistence costs by the Council. In exceptional personal, compassionate or other mitigating circumstances, the reimbursement of such travel costs will be considered by the Assistant Director Governance and Section 151 Officer following consultation with the Political Group Leaders.

## **6. Membership of the Local Government Pension Scheme**

- 6.1 The Council has determined that all ~~members of the~~ **Councillors** are entitled to a pension in accordance with the Local Government Pension Scheme Regulations.
- 6.2 The Council has determined that both the basic allowance and the special responsibility allowance shall be treated as amounts in respect of which such pensions are payable.

**Note:** Each ~~member~~ **Councillor** will need to decide whether he/she wishes to join the contributory Local Government Pension Scheme. The Scheme is the subject of Regulations made under Section 7 of the Superannuation Act 1972. Separate guidance has been issued by the West Midlands Pension Fund

## **7. Co-opted Members and Independent Persons Allowance**

- 7.1 The Council has determined not to pay any allowance to co-opted **Members or Independent Persons** (i.e. a person who, not being an elected ~~member of the~~ **Councillor**, has been appointed to membership of a ~~Standing Body~~ **Regulatory or other Committee** of the Council) or persons or representatives of external organisations (i.e. a person who, not being an ~~elected member of the~~ **Councillor**, has been invited to attend a ~~Standing Body~~ **Regulatory or other Committee** of the Council) in respect of attendance at meetings.
- 7.2 Co-optees and persons or representatives of external organisations will be entitled to travel and subsistence allowance.
- 7.3 Travel and subsistence within the West Midlands County area – co-optees and persons or representatives of external organisations will be paid on the same basis as that applying immediately before the coming into operation of this Scheme.
- 7.4 Travel and subsistence outside the West Midlands County area – co-optees and persons or representatives of external organisations will be paid allowances on the same basis as ~~elected members~~ **Councillors** as set out in section 5.3 of this Scheme.

## **8. Withholding Allowances**

- 8.1 If a **member Councillor** has been suspended from membership of the Council then his/her basic allowance, any SRA and all travel and subsistence allowances will be withheld during the period of suspension. If a **member Councillor** has been partially suspended e.g. prevented from exercising particular functions or having particular responsibilities, then his/her basic allowance will not be withheld but travel and subsistence allowances and any SRA related to the suspended duties and responsibilities will be withheld.
- 8.2 Where payment of any allowance has already been made in respect of any period during which the **member Councillor** concerned has been suspended or ceased to be a **member of the Councillor** or is in any other way not entitled to receive the allowance in respect of that period, then any such allowances will be repaid by the **member Councillor**.

**Note:** References to suspension and partial suspension refer to the provisions of Part III of the Local Government Act 2000 and any Regulations made thereunder.

## **9. Forgoing of Allowances**

- 9.1 A **Member Councillor** may forgo all or any part of any allowances to which he/she is entitled under this Scheme. Notice in writing must be given by the **Member Councillor** to the ~~Chief Legal and Procurement Officer~~ **Assistant Director, Governance**.

## **10. Backdating of Allowances**

- 10.1 If this Scheme is amended and any amendment is made which affects an allowance payable for the year in which the amendment is made then the entitlement to such allowance as amended may apply (if the Council so determines) with effect from the beginning of the year in which the amendment is made.

## **11. Annual Adjustments of Allowance Levels**

- 11.1 Basic and Special Responsibility Allowances for the period 1 April 2012 to 31 March 2013 will be paid as set out in the Schedule to this Scheme.

## **12. Tax and National Insurance Treatment of **Members' Councillors' Allowances****

- 12.1 For tax and national insurance purposes **members** (Councillors and non-Councillors) are treated in the same way as any other individual who holds an office or is an employee. Guidance received by the Council will be made available to **members Councillors** who should also contact their tax office for advice as necessary.

**13. Amendments and Revocation of the Scheme**

- 13.1 Before the beginning of each year the Council will make a Scheme as required by the Regulations for the payment of allowances in respect of the year.
- 13.2 The Scheme may be amended at any time but may only be revoked with effect from the beginning of a year.

**14. Claims and Payment**

- 14.1 Claims for dependants' carers' allowance, travelling and subsistence allowances must be claimed within one month of the date on which entitlement to the allowance arose.
- 14.2 Unless otherwise agreed payment of basic allowance and SRA's will be made monthly in advance.

**15. Records of Allowances**

- 15.1 The Council will keep a record of payments made by it in accordance with the Scheme. The record will contain the information required by the Regulations.
- 15.2 As soon as reasonably practicable after the end of a year to which the Scheme relates the Council will publish details in accordance with the Regulations of allowances paid.

**16. Publicity**

- 16.1 The Council will as soon as reasonably practicable after the making of this Scheme or any amendment thereto make arrangements for publication as required by the Regulations.

**17. Schedule of Basic and Special Responsibility Allowances.**

**Basic Allowance (All ~~Members~~ Councillors) – £8,980**

Description	From 01.04.12
<b>Special Responsibility Allowance (SRA)</b>	
Leader	25,320
Deputy Leader	21,100
Leader of the Main Opposition Group	16,880
Deputy Leader of the Main Opposition Group	5,570
<del>Member of the Executive</del> <b>Cabinet Member</b>	16,880
Chair – Scrutiny Board	16,880
Chair – Scrutiny Panel	12,660
Chair – Planning Committee	16,880
Chair – Licensing Committee	12,660
Chair – Petitions Committee	12,660

**Members' Councillors' Allowances Scheme**

Chair – Audit Committee	12,660
Chair – Superannuation Committee	12,660
Chair - Human Resources Appeals Panel	4,220
Vice-Chair – Scrutiny Board and Panels	5,570
Vice-Chair – Planning Committee	5,570
Vice-Chair – Licensing Committee	4,220
Vice-Chair – Audit Committee	4,220
Vice-Chair – Petitions Committee	4,220
Vice-Chair – Superannuation Committee	4,220
Shadow Chair – Planning Committee	4,220
Shadow Chair – Licensing Committee	4,220
Shadow Chair – Audit Committee	4,220
Shadow Chair - Superannuation Committee	4,220
Shadow <del>Portfolio Holder</del> <b>Cabinet Member</b> /Spokesperson	4,220
Member Champion	4,220
Ceremonial Mayor (inclusive of £2,500 clothing allowance)	18,880 <b>737</b>
Ceremonial Deputy Major (inclusive of £1,250 clothing allowance)	3,785 <b>14</b>

(Note: Where a **Member Councillor** undertakes duties which entitle him/her to more than one SRA under the Scheme, he/she will receive only the higher allowance)

**MANAGEMENT STRUCTURE**

## **MANAGEMENT STRUCTURE**

1. The Council's Business Model for service delivery was approved by **Full** Council on 15 December 2010.
2. The Business Model provides for front line service delivery to be shaped by a clear understanding of customer and service user demand and of people's individual needs.
3. All activity is based on intelligence – what data and other information gathered from residents, local businesses and other customers tells the Council what it needs to do.
4. The structure to support this Business Model comprises the Chief Executive and three Strategic Directors who form a Strategic Executive Board. One Assistant Chief Executive and ten Assistant Directors. The Assistant Chief Executive, Monitoring Officer and Section 151 Officer also attend the Strategic Board.
5. Each **d**Directorate has a specific focus:  
Delivery (including support and day to day services)  
Community (including **S**upport for vulnerable adults and children – this includes the statutory posts of **DASS Director for Adult Social Services** and **DCS-Director for Children's Services**)  
Education and Enterprise (including regeneration skills and learning)
6. To support the Strategic Directors, the Assistant Directors cover a range of activity areas that operate as separate business units.
7. The ten Assistant Directors cover the following specific areas:-
  - Corporate Services (Section 151 Officer)
  - Governance (Monitoring Officer)
  - City Services
  - Children and Family Support
  - Health and Wellbeing
  - Adult Social Care and Housing Support
  - Leisure and Communities
  - Prosperity
  - Promotions and Partnerships and,
  - Schools, Skills and Learning

The Assistant Directors **Portfolio of R**esponsibilities are:-

Corporate Services (Section 151 Officer)

- Financial Services (Deputy Section 151 Officer)
- **HR-Human Resources**
- Building Services
- Corporate Asset Management
- Document Centre & Graphics
- **Internal Audit**

- **ICT**

Governance (Monitoring Officer)

- Legal & Electoral services (Deputy Monitoring Officer)
- Democratic Services
- **Scrutiny**
- Member Services & Scrutiny
- Equalities
- Health and Safety
- Business Continuity & emergency planning

City Services

- City Direct (front office for **revs revenues** and benefits)
- Waste & Recycling
- Grounds Maintenance
- Catering, cleaning, facilities management
- Highways maintenance, Street care & cleaning
- Parking (permits, charges, fines, blue badges on and off street)
- Bereavement Services
- Fleet Services

Children and Family Support

- Children and Family Support
- Looked after children
- Child Protection
- Disabled Children
- Youth Offending
- Children's Centres
- Social Inclusion Services

Health and Wellbeing

- Care and Support Commissioning Strategy – Adults and Children
- Joint Commissioning and JSNA
- Safeguarding – Adults and Children
- Health and Wellbeing Board
- Contract Monitoring
- Regulation and Performance

Adult Social Care and Housing Support

- Homelessness, Asylum and Tenancy Support
- Adult Protection
- Self directed support, Personal budgets and reviews
- Welfare benefits and financial assessment
- Telecare equipment and adaptations
- Reablement
- Provider services – younger adults and older people

Leisure and Communities

- Libraries



- Community Centres and the development of community capacity
- Sport and recreation
- Parks Strategy
- Youth
- Play
- Community Initiatives

Prosperity

- Economic Development
- Regulatory Services
- Physical Regeneration and Utilising the Council's physical assets
- Transport Strategy & Development
- Strategic housing and housing market intervention
- Delivery of the Council's capital programme

~~Promotion and~~ Partnerships **Economy and Culture**

- Partnerships eg LSP, Wolverhampton Homes, Black Country Consortium
- Neighbourhood working
- Civic Halls/Museums
- Visitor economy/Marketing/City Centre Management

Schools Skills and Learning

- BSF
- Schools Service including admissions, SLA's etc
- Schools Improvement and enrichment activities
- Pupil Referral Units
- Adult Education
- SEN

Assistant Chief Executive

- Corporate Policy
- Programmes and Projects
- **Internal Audit**
- ~~Transformation~~
- **ICT**
- Performance Management
- Community Safety

8. The Assistant Directors provide operational leadership across all service areas and are accountable to the Strategic Executive Board for delivery.
9. The Director for Pensions arranges for the Council's responsibilities to manage the West Midlands Metropolitan Authorities Pension Fund to be discharged this includes the investment and general management of the fund and to provide services to the West Midlands Integrated Transport Authority Pension Fund.

***PROTOCOL FOR DEALING WITH PETITIONS AT FULL COUNCIL MEETINGS***

**PROTOCOL FOR DEALING WITH PETITIONS AT FULL COUNCIL  
MEETINGS**

- a. **Where a petition contains more than 2,500 signatures, the Council's Constitution provides for the matter to be debated by the Full Council.**
- b. **This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.**
- c. **The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.**
- d. **The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes.**
- e. **The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee.**
- f. **Where the issue is one on which the ~~Council executive~~ Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision.**
- g. **The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.**

**"Process for Handling Petitions at Full Council**

**(i) Democratic Support will have already invited representatives of the petitioners to attend the meeting and to give oral evidence to the Full Council meeting. Petitioners may also provide written evidence in support of their petition. The role of Full Council is to ensure that appropriate action is taken in respect of each admissible petition.**

**(ii) The relevant Cabinet Member, or nominated substitute, will be in attendance at the meeting.**

**(iii) If Petitioners do not wish to attend the meeting, they may ask someone else including a Councillor to speak and present the petition on their behalf. Alternatively, Full Council can deal with the petition in the absence of the petitioners.**

- (iv) Petitioners will be informed by Democratic Services of decisions taken at the Full Council meeting.*
- (v) Petitioners or their representatives will be seated near to the public gallery. At the appropriate juncture, their principal spokesperson will be shown to a seat at the front of the Council Chamber near to the dais.*
- (vi) The Petition will be considered as the first item of substantive business following consideration of formal Council business i.e. following consideration of Apologies for Absence, Declarations of Interest, Minutes and Mayor's Communications.*
- (vii) The Mayor will then announce that the Petition will be considered as the next item of business upon which a time limit of 15 minutes shall apply.*
- (viii) A report on the details of the Petition including background details and comments from the appropriate Service Group will have already been circulated to Full Council together with copies of the petition; a copy will also have been provided to the petitioners.*
- (ix) The Mayor will invite the Principal petitioner to address the Full Council for a period of up to five minutes explaining what the petition is requesting Full Council to do.*
- (x) The Mayor will then invite ~~Members of the~~ Councillors to ask any questions of the principal petitioner.*
- (xi) The Mayor will then invite the relevant Cabinet Member to respond to the petition and ask questions of the principal petitioner*
- (xii) The Mayor will then ask the petitioners to ask any questions of the Cabinet Member*
- (xiii) The Mayor will then ask ~~Members of the~~ Councillors to ask any questions of the Cabinet Member*
- (xiv) At the conclusion of consideration of the item, the Mayor will then ask Full Council to decide how they wish to respond to the petition. The Mayor will announce that Full Council may:*
  - (a) decide to take the action the petition requests;*
  - (b) decide not to take the action requested for reasons put forward in the debate;*

- (c) decide to commission further investigation into the matter, for example by a relevant Committee or*
- (d) where the issue is one on which the Cabinet is required to make the final decision, the Council must decide whether to make recommendations to Cabinet to inform that decision.*

*(xv) The Mayor will then ask for a motion to that effect to be moved and seconded and the usual Council procedure rules of debate will be applied*

*(xvi) Following the vote, the Mayor will explain the outcome of the debate to, and thank, the petitioners for their attendance at the meeting.*

*At this point the petitioners will be asked if they wish to either leave the meeting or if not return to their seats in the public gallery”*

***APPOINTMENTS TO OUTSIDE BODIES***

**APPOINTMENTS TO OUTSIDE BODIES**

REPRESENTATION ON WEST MIDLANDS JOINT  
AUTHORITIES/COMMITTEES  
(2011/2012)

<b>Serial No</b>	<b>Authority/Committee</b>	<b>2011/12 Representation</b>
1	West Midlands Fire and Rescue Authority	Councillors O'Neill* T Singh** Mrs Stevenson
2	West Midlands Integrated Transport Authority	Councillor Mattu** Mrs Mills Judith Rowley *
3	West Midlands Joint Committee	Leader (V) Deputy Leader N A Patten
4	West Midlands Planning and Transportation Sub-Committee	Councillors Bilson (V) Judith Rowley (or nominees)

- Notes: (i) These appointments are for the municipal year ~~2010/11~~~~2011/12~~ except in relation to items 1 and 2 which are "sine die".
- (ii) \*signifies nominated "lead member" for purposes of answering questions at Council meetings in relation to the Joint Authority concerned.
- (iii) \*\*signifies substitute nominated "lead member" for purpose of answering questions at Council meetings in relation to the Joint Authority concerned.
- (iv) (V) signifies voting member where this needs to be determined.
- (v) These appointments include the power for each representative to appoint a nominee except where the constitution of the body concerned precludes this arrangement.

REPRESENTATION ON OTHER BODIES  
(FOR MUNICIPAL YEAR 2011/2012)

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
5	ABCD Partnership	Councillors Dass Inston John Rowley
6	Association for Public Service Excellence	Councillor Mattu
7	Association of Black Country Authorities	Leader Chief Executive
8	Birmingham Airport Holdings Ltd	Councillor Lawrence
9	Birmingham International Airport Consultative Committee	Councillor Banger
10	Black Country Consortium	Leader Chief Executive
11	Black Country Museum Trust	Cabinet Member for Leisure and Communities
12	Black Country SRG Post -16	Cabinet Member for Children and Families
13	Care and Repair (Wolverhampton) Limited Management Committee	Cabinet Member for Economic Regeneration and Prosperity
14	Convocation of the University of Aston	The Mayor Councillor Reynolds
15	Environmental Protection UK	Councillors B Findlay Inston Reynolds
16	Federation of British Cremation Authorities	Cabinet Member for City Services
17	Grand Theatre Board	Councillor Mrs Stevenson (Non-Voting Observer – Councillor Mattu) <b>NB: Councillor Bilson and Mr M Tomlinson, The Chief Cultural Service Officer (Non-Voting Observer) 3 years expiring November 2012</b>
18	i 54 Member Reference Group	Councillors Bilson N A Patten
19	Learning Partnership Board	Cabinet Member for Schools, Skills and Learning



**Appointments to Outside Bodies**

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
20	Local Government Association	Councillors Bilson B Findlay Lawrence (Voting Member) N A Patten
21	Long Term Impairment Partnership	Cabinet Member for Children and Families
22	Midlands Joint Advisory Council for Environmental Protection	Councillors Bilston Inston
23	National Association of British Market Authorities	Councillor Jones
24	PATROL Adjudication Joint Committee	Councillor Inston (Deputy: Councillor N A Patten)
25	Penn Almshouses	Councillor Mrs P A Patten
26	Roger Hinton's Charity	The Mayor Deputy Mayor Councillor Mrs Mills
27	Royal Wolverhampton Hospitals Trust	Councillor Claymore
28	Safer Wolverhampton Partnership	Cabinet Member for Leisure and Communities
30	Staffordshire, Stoke-on-Trent and Wolverhampton Joint Local Access Forum	Councillor John Rowley
31	Urban Commission (Local Government Association)	Councillors Heap John Rowley (5 Votes)
32	Wednesfield Library Management Committee	Councillor Potter
33	West Midlands Leader's Board	Leader (Alternate – Deputy Leader)
34	West Midlands Local Government Association Member Development Group	Councillor Gibson
35	West Midlands Road Safety Partnership Board	Councillor Potter
36	Wolverhampton and Bilston Athletic Club	Councillors Hall Leach Cabinet Member for Leisure and Communities
37	Wolverhampton Business Airport-South Staffordshire Consultative Committee	Councillor Page Dudley has been allocated the place

**Appointments to Outside Bodies**

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
38	Wolverhampton Children's Trust Board	Cabinet Member for Children and Families Councillor Mrs Mills
39	Wolverhampton City Centre Company Board	Councillors Bilson Lawrence Mrs Stevenson
40	Wolverhampton Economic Partnership Board	Cabinet Member for Economic Regeneration and Prosperity Councillor Mrs Bradley (observer)
41	Wolverhampton Health and Well-Being Partnership Board	Cabinet Member for Health and Well Being Cabinet Member for Adult Services Councillor P Singh
42	Wolverhampton Health and Well Being Partnership Board - Joint Governance Group	Cabinet Member for Health and Well Being Cabinet Member for Adult Services Cabinet Member for Resources Councillor P Singh
43	Wolverhampton Homes Board	Councillors Constable S Evans Keirle, T Singh Wilson
44	Wolverhampton Learning Disability Partnership	Cabinet Member for Adult Services
45	Wolverhampton Local Strategic Partnership Stakeholder Board	Councillors Leader* (or nominee) Bilson N A Patten * Also serves on the Executive Board
46	Wolverhampton Network Consortium	Councillors Banger Gakhal Pask Shah
47	Wolverhampton Older People's Partnership Board	Cabinet Member for Adult Services
48	Wolverhampton Primary Care Trust	Chair of the Health Scrutiny Panel
49	Wolverhampton Ring and Ride – District Advisory Group	Councillor Judith Rowley
50	Wolverhampton Schools Admissions Forum	Cabinet Member for Schools, Skills and Learning

*Appointments to Outside Bodies*

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
51	Wolverhampton Sports Advisory Council	Councillors Angus Claymore Hall Shah
52	Wolverhampton Strategic Housing Partnership	Cabinet Member for Economic Regeneration and Prosperity

OBSERVER STATUS APPOINTMENTS

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
53	Age Concern	Councillor Claymore
54	Aquarius	Councillor Claymore
55	City-wide BME Forum	Leader (or nominee)
56	Haven Wolverhampton	Councillor Constable
57	Heath Town Senior Citizens Welfare Project	Councillor Jaspal
58	One Voice (Disability Forum)	Councillor Darke
59	Wolverhampton Citizens Advice Bureau – Committee of Management	Councillor Claymore
60	Wolverhampton City Credit Unions	Councillor O'Neill
61	Wolverhampton Civic Choir	Councillors Claymore Mrs Stevenson
62	Wolverhampton Community Transport	Councillor Claymore
63	Wolverhampton Domestic Violence Forum	Councillor Constable
64	Wolverhampton Family Information Service	Councillor Hodgkiss
65	Wolverhampton Multi-Handicap Care and Relief Group	Councillor Steve Evans
66	Wolverhampton Voluntary Sector Council	Councillor Claymore

Note: These appointments include the power for each representative to appoint a nominee except where the constitution of the body concerned precludes this arrangement.

AD HOC BODIES/ INTERNAL FORA

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
67	Adoption Panel	Cabinet Member for Children and Families
68	Building Schools for the Future Member Steering Group	Cabinet Member for Children and Families Cabinet Member for Schools, Skills and Learning Cabinet Member for Resources, Cabinet Member for Governance and Performance Cabinet Member for Economic Regeneration and Prosperity Councillors Mrs Bradley Mrs Mills
69	City of Wolverhampton Building Preservation Trust	Councillor John Rowley Honorary Alderman Carpenter
70	Equalities Project Board	Councillors Constable Darke (Chair) Gibson Mrs Keirle Lawrence P Singh Mrs Stevenson
71	Fostering Panel	Councillor Constable
72	Health and Well Being Member Reference Group	Cabinet Member for Health and Well Being Cabinet Member for Adult Services Cabinet Member for Resources Councillor P Singh
73	Joint Negotiating Forum – Single Status	Leader Cabinet Member for Governance and Performance Councillors Mrs Stevenson Mrs Thompson (substitute)
74	Leisure Trust Special Advisory Group	Councillors Gibson Gwinnett Holdcroft Johnson Mattu Reynolds Wilson

**Appointments to Outside Bodies**

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
75	Local Housing Company Member Reference Group	Leader, Cabinet Member for Resources, Cabinet Member for Economic Regeneration and Prosperity Leader of the Main Opposition Group, Shadow Cabinet Member for Economic Regeneration and Prosperity
76	Member Development Working Group	Councillors Gibson Lawrence Mrs P A Patten Reynolds Mrs Stevenson Sweet Mrs Thompson
77	Member Property Group	Councillors Bilson Mrs Bradley Johnson Lawrence Mrs Thompson
78	Schools Joint Consultative Panel	Cabinet Member for Schools, Skills and Learning Councillors Constable Mrs Mills Mrs P Patten Potter (or nominees)
79	Shared Services Transition Programme	Leader (Chair) Cabinet Member for Resources Cabinet Member for Governance and Performance Leader of the Main Opposition Group Councillors Reynolds Mrs Stevenson Mrs Thompson
80	Small Casino Licence – Member Reference Group	Leader Cabinet Member for Economic Regeneration and Prosperity Cabinet Member for Health and Well Being Councillors Mrs Bradley, B Findlay Heap
81	Summer Row Member Steering Group	Leader, Cabinet Member for Economic Regeneration and Prosperity Councillor N A Patten

**Appointments to Outside Bodies**

<b>Serial No</b>	<b>Body</b>	<b>Representation</b>
82	Transportation and Highways Board	Cabinet Member for Economic Regeneration and Prosperity Cabinet Member for City Services Councillor Mrs Bradley
83	Waste and Street Scene Partnership Management Board	Cabinet Member for City Services Cabinet Member for Resources Councillor B Findlay
84	Wolverhampton Festival of Remembrance Working Party	Councillors Davis, Hardacre Leach (Chair)
85	Wolverhampton – India Initiative Steering Group	Cabinet Member for Economic Regeneration and Prosperity
86	Wolverhampton Interchange Project Member Reference Group	Leader Cabinet Member for Economic Regeneration and Prosperity Councillor N A Patten

***PROTOCOL FOR THE RECORDING AND FILMING OF MEETINGS***



## **PROTOCOL FOR THE RECORDING AND FILMING OF MEETINGS**

**Audio, video/visual recording, photography, blogging, twittering or use of social media at Council meetings is allowed subject to the following restrictions:**

- (i) All audio/video visual recording/ photography blogging, tweeting or use of social media may take place from the public gallery in the meeting room. The activity should normally record the actions of the Council not the reactions of individual members of the public**
- (ii) Anyone undertaking audio/video visual recording/ photography blogging, tweeting or use of social media must notify the Democratic Services Officer prior to the commencement of the meeting and comply with any instructions given by the Chair of the meeting;**
- (iii) The use of flash photography or additional lighting (i.e. by recognised media groups or for educational purposes) in connection with audio/visual recording at meetings will not be permitted without prior permission.**
- (iv) Where the Chair of a meeting considers the audio/video visual recording/ photography blogging, tweeting or use of social media is disrupting the meeting, the operator of the equipment will be required to stop.**
- (v) Members of the public and press must agree to ensure the audio/video visual recording/ photography blogging, tweeting or use of social media will not be edited in a way that could lead to misinterpretation of the proceedings of a meeting. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/ recorded/ photographed;**
- (vi) The Democratic Services Team will ensure signs are prominently displayed at meetings to remind attendees that filming/ recording/ photography audio/video visual recording/ blogging, tweeting or use of social media may be undertaken and that the Council has no control over where it may appear (for example posted on the internet) and to remind the public of their right not to be filmed, recorded or photographed. Meeting agendas will also carry this message.**
- (vii) Anyone seated in the public area or anyone attending the meeting to speak will have the opportunity to express to the Chair at any point in the proceedings their wish not to be**

**filmed/ recorded/ photographed. [Councillors are excluded from this provision]**

- (viii) The Chair can suspend filming when someone who wishes to speak does not wish to be filmed/recorded/ photographed.**
- (ix) If the Chair reasonably believes the audio/video visual recording/ photography blogging, tweeting or use of social media is disrupting the meeting in any way the operator of the equipment will be required to stop.**
- (xx) Anyone refusing to stop when requested to do so, may be requested by the Chair to leave the meeting. If the person refuses to leave then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the constitution.**
- (xxi) At the commencement of a meeting, the Chair will announce if any requests to record etc have been made.**
- (xxii) Anyone asked to leave a meeting because they have refused to comply with the Chair's requests may be refused permission to film, record, and photograph blogging, twittering or use of social media at future Council meetings.**
- (xxiii) Any decision taken by the Chair on the interpretation of this protocol is final.**
- (xxiv) The media and public may only be excluded from a meeting in respect of business relating to confidential or exempt information if a resolution is passed under Section 100A of the Local Government Act 1972. The media and public will be told about the nature of the exclusion relating to the business to be discussed. No filming/ recording/ photography will be permitted during this exclusion. All cameras, recording and sound equipment must then be removed from the meeting room.**
- (xxv) Recognised media organisations and educational institutions may be given greater flexibility to record/film meetings for the purposes of news bulletins, programmes and education; These requests must be directed through the Council's Communications Team and approved by the Leader and Mayor (in the case of meetings of the full Council) or Chair of the meeting.**