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**Report to**

Cabinet  
Council

11<sup>th</sup> September 2007

18<sup>th</sup> September 2007

**Report of**

Chief Executive

**Title**

Amendments to the Constitution and Appointments of Proper Officers

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### 1 Purpose of the Report

- 1.1 This report asks Cabinet and Council to agree changes to the City Council's Constitution to reflect the recent changes in the City Council's organisational structure and to appoint Proper Officers to carry out the functions formerly undertaken by the Director of Legal and Democratic Services.

### 2 Recommendations

The Cabinet are asked to recommend the City Council, at their meeting on the 18th September 2007:

- 2.1 To appoint the Chief Executive as the City Council's Returning Officer for the relevant elections.
- 2.2 To appoint the Chief Executive as the City Council's Electoral Registration Officer and to appoint the Head of Democratic Services and the Manager (Electoral Services) as Deputy Electoral Registration Officers.
- 2.3 To approve the revised Scheme of Functions Delegated to Employees as set out at Appendix 1.
- 2.4 To approve the revised Rules of Procedure as set out at Appendix 2.
- 2.5 To appoint the Head of Legal Services as the City Council's Monitoring Officer.

### 3 Information/Background

- 3.1 On 27<sup>th</sup> February 2007, Council approved a number of changes to the City Council's organisational structure. Amongst these changes were the creation of the new Directorates of Finance and Legal Services and Customer and Workforce Services. Following the City Council's decision, work has been undertaken on establishing these Directorates and making the relevant appointments. As a result of the organisational changes, it is now necessary to reallocate the "Proper Officer" functions previously held by the Director of Legal and Democratic Services. In addition, the opportunity has been taken to review the Scheme of Delegation contained in the City Council's Constitution, together with the Council's Procedure Rules to ensure that they reflect the Council's organisational structure.

- 3.2 Under the legislation governing elections, the City Council has to appoint both an Electoral Registration Officer to be responsible for the electoral rolls and also a Returning Officer who is responsible for the conduct of local elections. The City Council is also being asked to appoint Deputy Electoral Registration Officers, as these have to be appointed by the City Council unlike Deputy Returning Officers, who may be appointed by the Returning Officer her/himself.
- 3.3 The Council's current Constitution contains a large number of functions which have been delegated by the City Council to employees. These have all been reviewed by the City Council's Legal Services Division and have been amended to reflect the current organisational structure within the City Council. The City Council is recommended to approve these.
- 3.4 At the same time, the opportunity has been taken to review the Rules of Procedure which are also contained in the Constitution. These have again been updated to reflect the changed organisational arrangements which the City Council has adopted.
- 3.5 Under the Local Government and Housing Act 1989, the City Council is also under a duty to appoint one of its staff as the City Council's Monitoring Officer. It is recommended that this function should be carried out by the Head of Legal Services.

**4 Proposal and other Options to be considered**

- 4.1 The Cabinet are asked to approve the recommendations and to recommend to Council that the relevant appointments and changes to the Constitution be made.

**5 Other specific implications**

5.1

	<b>Implications (See below)</b>	<b>No Implications</b>
Best Value		√
Children and Young People		√
Comparable Benchmark Data		√
Corporate Parenting		√
Coventry Community Plan		√
Crime and Disorder		√
Equal Opportunities		√
Finance		√
Health and Safety		√
Human Resources		√
Human Rights Act		√
Impact on Partner Organisations		√
Information and Communications Technology		√
Legal Implications	√	
Neighbourhood Management		√

	<b>Implications (See below)</b>	<b>No Implications</b>
Property Implications		√
Race Equality Scheme		√
Risk Management		√
Sustainable Development		√
Trade Union Consultation		√
Voluntary Sector – The Coventry Compact		√

## 5.2 Legal Implications

The changes to the Constitution proposed in this report will ensure that the City Council is able to discharge its legal responsibilities.

## 6. **Monitoring**

- 6.1 The Constitution is kept under constant review to ensure that it meets the requirements of the City Council.

## 7. **Timescale and Expected Outcomes**

- 7.1 It is recommended that the City Council agree the proposed changes at its meeting on 18<sup>th</sup> September and that they come into effect immediately.

	<b>Yes</b>	<b>No</b>
<b>Key Decision</b>		√
<b>Scrutiny Consideration (if yes, which Scrutiny meeting and date)</b>		√
<b>Council Consideration (if yes, date of Council meeting)</b>	√ (18 <sup>th</sup> September 2007)	

List of background papers

Proper officer: Chief Executive

Author: Kathy Rice

Telephone 024 7683 3189

(Any enquiries should be directed to the above.)

Other contributors:

Richard Brankowski, Principal Committee Officer, extension 3077

Papers open to Public Inspection

**Description of paper**

**Location**

NIL

## **PART 3**

### Scheme of Delegation

**3.1 Introduction**

In this part "functions of the Executive" will mean functions of the Leader and "Cabinet and Council functions" shall mean functions of the full Council of the City of Coventry comprising its elected members and chairperson.

Section 13 of the Local Government Act 2000 provides that all functions of a local authority shall be functions of the Executive of that authority except in so far as they are reserved to Council by the Local Government Act 2000, by subsequent legislation or by regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities) (England) Regulations sets out those functions:

- a) which must not be discharged by the Executive and are therefore reserved as Council functions;
- b) which may be the responsibility of the Executive subject to the Council's discretion;
- c) which may not be the sole responsibility of the executive, where the Council exercises a confirmatory function; and
- d) those circumstances in which functions that would otherwise be Executive functions fall to be discharged other than by the Executive, that is when they become Council functions.

The Council may make arrangements under section 101 of the Local Government Act 1972 for the discharge of certain of its functions by:

- a Committee;
- a Sub-Committee;
- a Joint Committee;
- another local authority;
- an employee.

Under section 15 of the Local Government Act 2000, the Council or where applicable the Executive may make provision that specific Executive functions shall be allocated to, and discharged by,

- the Executive as a body;
- an individual member of the Executive;
- a Committee of the Executive; or
- an employee.

This Part 3 gives details of the split of functions adopted by the City Council in accordance with the statutory regime.

**3.2 Functions Of Cabinet**

**3.2.1 Functions**

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council.

**3.2.2 Terms of Reference**

The Cabinet will specifically be responsible for:

3.2.2.1 Maintaining and improving governance of the City.

3.2.2.2 The financial management of the City Council in accordance with the Financial Procedure Rules, the Budget and Policy Framework Procedure Rules and any other relevant rules in Part 4.

3.2.2.3 Recommendations to the Council in respect of annual Policy Priorities and Resources allocation process and the resulting revenue and capital budgets or other aspects of the Budget and Policy Framework.

3.2.2.4 Decisions on resources and priorities within the Budget and Policy Framework agreed by the City Council.

3.2.2.5 Approval of the Council Tax Base and Recommendations to the Council in respect of the level of Council Tax to be levied each year, and approval of the Council's Statement of Accounts.

3.2.2.6 Recommendations to the Council in respect of statutory plans, the Coventry Community Plan and other plans forming component parts of the Budget and Policy Framework.

3.2.2.7 Obtaining views within the Council and with other stakeholders, agencies and the business, voluntary and community sectors to identify and address local needs.

3.2.2.8 Obtaining views from Scrutiny, other Council Committees, appropriate employees and any other person or body necessary to ensure that proposals of the Cabinet are put forward on a properly informed basis.

3.2.2.9 Leading preparation of the Best Value Local Performance Plan and ensuring the implementation of that Plan and the duty of Best Value and continuous improvement.

3.2.2.10 Executive proposals/recommendations and effective implementation of Council policies and the setting and delivery of service standards in line with the approved Budget and Policy Framework.

3.2.2.11 Forming partnerships with other agencies and the business, voluntary and community sectors.

3.2.2.12 Holding Members of the Management Board accountable for their strategic and management responsibilities.

- 3.2.2.13 Recommendations to the Council on matters which are Cabinet functions but in relation to which by virtue of the significance or importance of the matter, the Cabinet decides to seek the confirmation of the Council.
- 3.2.2.14 Agreement of responses, following consideration by the appropriate Scrutiny Board where this is practicable within the timescale of the relevant consultation to Government or other consultation papers having significant policy or financial implications for the City Council or the City of Coventry.
- 3.2.2.15 Recommendations to the Council on matters which by virtue of financial significance must be referred to Council for confirmation in accordance with the Council's Financial Procedure Rules in Part 4.
- 3.2.2.16 To consider (where appropriate) recommendations from Scrutiny on matters considered under the Call-In arrangements, as part of a scrutiny review or any Best Value Review.
- 3.2.2.17 To consider:-
- Motions referred from Full Council.
  - Petitions referred to them.
- 3.2.2.18 To make proposals to the Council from time to time as to the delineation of boundaries of Wards and Parliamentary Constituencies and any other matters relating to the administrative arrangements for local elections and electoral registration.
- 3.2.2.19 To take any urgent action in the name of the Council where it is impracticable to convene a meeting of the Council (other than decisions as to levying or issuing a precept for a rate or borrowing money or any matter statutorily requiring a decision of the Council). In such circumstances, the decision of the Cabinet will contain a statement justifying the grounds upon which the urgent action was taken.
- 3.2.2.20 The Cabinet may reallocate monies within the overall budget in response to new pressures or changing circumstances. However, the Cabinet is not empowered to incur additional expenditure which cannot be offset by additional income, contingency funds or one off resources without reference to the full Council.

### **3.2.3 Leader of the Council**

- 3.2.3.1 The Leader of the Council will be the Leader elected by the Council.

### **3.2.4 Responsibilities of the Leader of the Council**

- 3.2.4.1 To lead the Council and the Cabinet in the governance of the City of Coventry and the strategic management of the Council in order to achieve the Council's vision. Within this overall role, the Leader of the Council will:-
- Represent and promote the City and the interests of its citizens to the outside world, in conjunction with the Lord Mayor.
  - Make statements, or nominate another Member to make statements, on issues or matters at Council Meetings.

- Head, or nominate another Member to head delegations of Members and appropriate Employees from the Council to meet Ministers or other representatives of central government.
- Co-ordinate working arrangements/relationships with the Council's partners and other agencies within the City in the achievement of the best possible standards of living for its citizens.
- Chair meetings of the Coventry Partnership whilst that body's constitution calls for it.
- Take action needed, including the authorisation of financial and other resources, in response to any incidents which result in the City Council's Emergency Planning Procedures being activated.

### **3.2.5 Allocation of Cabinet Portfolios**

- 3.2.5.1 The Council will decide the number of Cabinet Members who together with the Leader and Deputy Leader will form the Cabinet.
- 3.2.5.2 The Council will determine the content of each Cabinet portfolio so as to ensure the powers and duties of the Council are properly and effectively discharged in relation to each portfolio.
- 3.2.5.3 The Council will determine the portfolios and allocate individual portfolios to individual Members of the Cabinet.
- 3.2.5.4 If at any time during the Council year, the Cabinet determines that any minor changes to portfolios are needed, the Cabinet may make those minor changes and may determine how to allocate those changed portfolios to each Member of the Cabinet.

### **3.2.6 Cabinet Portfolios**

- 3.2.6.1 The Cabinet Member responsible for each portfolio will be required to advise the Cabinet on the matters relating to his/her portfolio when the Cabinet is acting collectively.
- 3.2.6.2 The Cabinet Member responsible for each portfolio will take decisions on behalf of the City Council relevant to the portfolio other than those matters which:-
  - Require approval by the Council;
  - Are delegated to Employees;
  - Are reserved to Scrutiny;
  - Are reserved to the Standards Committee;
  - Are reserved to the Cabinet; or
  - Are delegated to other City Council Committees;



- Are significant in financial terms as specified in the Financial Procedure Rules;
- Are key decisions as defined in Article 7.
- Are decisions which have an impact on any other Cabinet portfolio or portfolios and should be taken by Cabinet collectively or by the relevant Cabinet Members jointly.
- Notwithstanding 3.2.6.1 above, the Cabinet Member responsible for each portfolio may refer any matter which she/he considers should be dealt with by the Cabinet collectively because of its significance or importance.
- The Director of Customer and Workforce Services or his/her representative will be present at any Meeting where a Cabinet Member responsible for a portfolio makes a decision to advise and record that decision and, if the Director of Customer and Workforce Services or her/his representative is not present, no decision will be deemed to have been taken.
- Decisions of the Cabinet and Cabinet Members are subject to the Call-In arrangements.
- In any case where a Cabinet Member determines an urgent matter, the recorded decision will include the reason for the urgency and the Cabinet Member may be required by Scrutiny to justify why the matter was considered as urgent. Matters determined on this basis are not subject to the Call-In arrangements. In such circumstances, the Chair of the Scrutiny Co-ordination Committee, or her/his nominee, must attend meetings where urgent decisions are taken and agree the reasons for urgency.
- Any reports on which urgent decisions have been made are to be referred to Scrutiny Co-ordination Committee for them to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

**CABINET PORTFOLIOS**

<b>Member</b>	<b>Portfolio</b>
The Leader (Policy, Leadership and Governance) Chair	Sustainable Communities Plan and Local Area Agreement Local Strategic Partnership Corporate Plan Scrutiny Corporate and Service Performance, Policy and Quality Area Performance Assessment External Relations/Public Relations Image and Reputation Partnership Companies Liaison with Management Board Emergency Planning Regional Matters

<p>The Deputy Leader Cabinet Member (Finance, Procurement and Value for Money) Deputy Chair</p>	<p>Deputising on Leader Items Strategic Finance including budget setting External Resources Operational Finance including Revenues and Benefits Value for Money and Efficiency Community Cohesion Equalities Procurement Risk Management</p>
<p>Cabinet Member (Customer Workforce and Legal Services)</p>	<p>Customer Services Democratic Services e-Government Information, Communication and Technology Health and Safety Human Resources Legal Services Training</p>
<p>Cabinet Member (Children, Learning and Young People)</p>	<p>Children and Families Children and Young People's Social Care Early Years Post 16 Education and Training Schools Young People Young Offending Service Youth Service</p>
<p>Cabinet Member (City Development)</p>	<p>Community Economic Development City Centre Facilities Management International Liaison (except Lord Mayor's) New Deal for Communities Property and Building Services Regional Planning Transportation Urban Regeneration Local Development Framework/Local Planning</p>
<p>Cabinet Member (City Services)</p>	<p>Building Cleaning Catering Highways and Lighting Liveability Public Protection Street Services (including Grounds Maintenance, Refuse, Street Cleansing) Waste Management</p>

<p>Cabinet Member (Climate Change, Housing and Sustainability)</p>	<p>Agenda 21  Climate Change Strategy  Carbon Footprint  Conservation  Energy, Conservation and Renewal  Green Travel  Housing Strategy  Nottingham Declaration  Sustainability</p>
<p>Cabinet Member (Community Services)</p>	<p>Social Care for Adults, Older People and Disabled People  Carers  Health Strategy and Policy  Health Inequalities  Public Health Aspects of Public Protection</p>
<p>Cabinet Member (Culture, Leisure and Libraries)</p>	<p>Adult Education  Archives  Arts  Heritage  Libraries  Museums  Parks  Sport  Tourism</p>
<p>Cabinet Member (Neighbourhoods and Community Safety)</p>	<p>Community Centres  Community Safety  Neighbourhood Management  Refugees and Asylum Seekers  Voluntary Sector  Ward Forums  Welfare Advice Services</p>

3.3 **Functions of Council**

3.3.1 **The following functions will be the responsibility of the Council:-**

<b>Functions</b>	<b>Statutory Reference</b>
Adopting and changing the Constitution	Part II Local Government Act 2000 and subordinate Legislation
Approving or adopting the Policy Framework and the Budget	Sections 13 and 105 Local Government Act 2000; Regulation 4 and Schedule 3 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000
Making executive decisions which are contrary to the policy framework or executive decisions which are contrary to or not wholly in accordance with the budget	Sections 13 and 105 Local Government Act 2000; Regulation 5 and Schedule 4 of The Local Authorities (Functions and Responsibilities) (England) Regulations
Appointing the leader and members of the Cabinet	Sections 15 Local Government Act 2000
Determining the allocation of Cabinet function to the Cabinet	Sections 15 Local Government Act 2000
In relation to functions which are not the responsibility of the Cabinet agreeing and/or amending the terms of reference for committees, or joint committees except where such function is a specified function of the Cabinet, deciding on their composition and making appointments to them	Sections 101 and 102 Local Government Act 1972 Section 21 and 53 Local Government Act 2000
Appointing the independent Members of the Standards Committee and if it thinks fit, the Chair of that Committee	Sections 53 Local Government Act 2000 and any regulations made thereunder
Appointing representatives to outside bodies unless the appointment is an executive function or has been otherwise delegated by the Council	Sections 101 and 102 Local Government Act 1972 and any other enactment conferring powers on the Council

Adopting an allowances scheme under Article 2 and Part 6	Section 173 to 175 Local Government Act 1972; Section 18 Local Government and Housing Act 1989 and Local Authorities (Standing Orders) Regulations 1993 (SI 1993/202) as amended by the Local Authority's (Standing Orders) (England) Regulations 2001 (SI 2001/3384) and any other regulations thereunder
Changing the name of the area	Section 74 Local Government Act 1972
Making, amending or revoking standing orders	Sections 106, 135, paragraph 42 Schedule 12 Local Government Act 1972; Sections 8 and 20 Local Government and Housing Act 1989 and the Local Authorities (Standing Orders) Regulations 1993 (SI 1993/202) as amended by the Local Authority's (Standing Orders) (England) Regulations 2001 (SI 2001/3384) and any other regulations thereunder
Confirming the appointment of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer	Sections 151 Local Government Act 1972; Sections 4, 5 Local Government and Housing Act 1989 and Local Authorities (Standing Orders) Regulations 1993 (SI 1993/202) as amended by the Local Authority's (Standing Orders) (England) Regulations 2001 (SI 2001/3384)
Duty to provide staff etc, to person nominated by Monitoring Officer	Sections 82a (4) and (5) of the Local Government Act 2000 (a)
Powers relating to overview and Scrutiny Committees (voting right of co-opted Members)	Paragraph 12 and 14 of Schedule 1 to the Local Government Act 2000
Making, amending revoking, re-enacting or adopting bylaws	Any provision or any enactment (including a local Act) whenever passed; Section 14 Interpretation Act 1978
Promoting or opposing the making of local legislation or personal Bills	Sections 239 Local Government Act 1972
All local choice functions which the Council decide should be undertaken by itself rather than any other person or body or other matters reserved to full Council by this Constitution including the following: <ul style="list-style-type: none"> <li>• Appointing the Members Chairs and Deputy Chairs of the Scrutiny Boards and Scrutiny Co-ordination Committee</li> <li>• Electing the Lord Mayor and Deputy Lord Mayor</li> </ul>	Sections 13 105 Local Government Act 2000; Regulation 3 (1) and Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853

Determining whether or not to accept the delegation of any functions from another local authority	Sections 101 and 102 Local Government Act 1972
Appointing proper officers for the purposes of any particular functions	Section 270(3) Local Government Act 1972
Approval for the purposes of public consultation draft proposals associated with the preparation of alterations to, or the replacement of, a development plan (but excluding any SPG or development brief prepared under the Development Plan)	Regulation 10 or 22 Town and Country Planning (Development Plans) (England) Regulations 1999 (as amended by the Town and Country Planning (Transitional Arrangements) (England) Regulations 2004 (SI 2004/2205)
All other matters which, by law, must be reserved to the Council	Any provision of any enactment (including a local Act) whenever passed
Power to change the name of a parish	Section 75 of the Local Government Act 1972
Power to confer title of honorary alderman or to admit to be an honorary freeman	Section 249 of the Local Government Act 1972 (ss(5), (6) amended by the Local Government, Planning and Land Act 1980 Section 180)
Functions relating to local government pensions etc	Regulations under section 7, 12 or 24 Superannuation Act 1972 (as amended by the Police Pensions Act 1976 s13(1))
Functions under the Fireman's Pension Scheme relating to pensions etc. to persons employed as members of fire brigades maintained pursuant to the Fire Services Act 1947	Section 26 Fire Services Act 1947 (most of this Act has been repealed by the Fire and Rescue Services Act 2004, Section 26 of this Act still has effect as it has been preserved by Section 36 of the new Act and the Firefighters' Pension Scheme (England and Scotland) Order (SI 1992/129), and the Firefighters' Pension Scheme (England and Scotland) Order 2004 (SI 2004/2306), the Firefighters' Pension Scheme (Amendment) (England) Order 2006 (SI 2006/1810) and the Firefighters' Compensation Scheme (England) Order 2006 (SI 2006/1811)
Power to make payments or provide other benefits in cases of maladministration	Section 92 of the Local Government Act 2000

<p>All functions relating to local, parliamentary and European elections</p>	<p>Sections 86 &amp; 87 of the Local Government Act 1972, Sections 8(2), 18, 21, 31, 39(4), 52(4), 54 of the Representation of People Act 1983 for Section 8(2) refer to the Representation of the People (England and Wales) (Amendment) (No. 2) Regulations (SI 2006/341) further amended by (SI 2006/2910), Section 18 of the Representation of People Act 1983 substituted by the Electoral Administration Act 2006 Sections 16(1) and 74(2). Also refer to the review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, (SI 2006/2965), Sections 21, 52 (4) and Sections 54 part repealed and substituted by the Representation of People Act 1985, Section 31 sub-sections 4 and 5 (repealed by the Local Government Act 1985 Sections 102(2) Sch. 17, Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 amended by the Local Elections (Principal Areas) (Amendment) (England and Wales) Rules 2004, (SI 2004/223) and the Local Elections (Principal Areas) (England and Wales) Rules 2006, (SI 2006/3304) Section 54 part amended by the Representation of People Act 1985, ss24, sch 4, para 14</p>
<p>Duty to declare vacancy in office in certain cases</p>	<p>Section 86 of the Local Government Act 1972 as amended by the Local Government Act 1985 Section 84, Sch 14, Pt 1, para 8</p>
<p>Duty to give public notice of a casual vacancy</p>	<p>Section 87 of the Local Government Act 1972</p>

**3.3.2 The Policy Framework Will Include the Following Plans and Strategies**

- Best Value Performance Plan
- Community Strategy
- Housing Strategy
- Coventry Development Plan
- Children and Young People's Plan
- Local Transport Plan
- Civil Contingencies Plan
- Air Quality Action Plan (only required where poor air quality is not due to transport)
- Municipal Waste Strategies (only required in two tier areas under arrangements introduced through the Waste and Emissions Trading Act 2003)
- Emergency Related Plans (Pipeline safety and off site emergencies where not integrated in the main civil contingencies plan)
- Youth Justice Plan (should be aligned with the Children's and Young Peoples Plan)
- Crime and Disorder Reduction Partnership/Drug Action Team Strategy
- Connexions Business Plan
- Child and Adolescent Mental Health Plan
- Refugee and Asylum Strategy
- Older People Strategy

- Coventry Community Plan
- Local Area Agreement
- Local Public Service Agreement (if applicable)

3.3.3 **Budget** The budget includes the allocation of capital and revenue resources, the precept level, the council tax, the planned use of reserves, the Council's borrowing limit and the virement limits. The approval of the Council Tax base will be determined by Cabinet.

NB: Whilst the Cabinet will have responsibility for the formulation of such plans and strategies the formal approval or adoption of any such plan or strategy will be a matter for full Council to determine.



**3.4 Functions of Scrutiny**

3.4.1 Scrutiny Boards will carry out the functions of scrutiny and overview as conferred by Section 21 of the Local Government Act 2000 to review or scrutinise decisions made or other actions taken in connection with the discharge of any functions which are the responsibility of the Cabinet (whether or not delegated to an employee) and to make reports or recommendations to the Cabinet or the Council with respect to the discharge of those functions.

3.4.2 Scrutiny Boards may also review or scrutinise decisions made or other action taken in connection with the discharge of any functions which are not the responsibility of Cabinet (subject to the limitations in paragraph 3.4.8 below) and may make reports or recommendations to the Council, the Cabinet, any Cabinet Member, other Committee or Area Forum in relation to those functions.

3.4.3 Scrutiny Boards may also make recommendations to the Council or to Cabinet on any other matters which affect the City or any inhabitants of the City.

3.4.4 Scrutiny Boards will also have responsibility for the initial consideration of responses to Government or other consultation papers that have significant policy or financial implications for the City Council or the City and where such consideration is practicable within the timescale of the relevant consultation.

3.4.5 The Scrutiny Boards will carry out those functions having regard to Article 6, the Scrutiny Procedure Rules and the terms of reference for Scrutiny.

3.4.6 The Council will appoint Scrutiny Co-ordination Committee and Scrutiny Boards and will allocate remits to each based largely on the Cabinet Members' portfolios.

One of the Scrutiny Boards will also be responsible for the scrutiny of the Council's internal and external audit activity.

3.4.7 The current Scrutiny remits are as follows:-

- Scrutiny Co-ordination Committee - Policy, Leadership & Governance Strategic Overview, including overall Scrutiny Management and Call-in Corporate Cross Cutting Issues
- Scrutiny Board 1 - Culture, Leisure and Libraries, Finance, Procurement and Value for Money, Human Resources, Corporate and Customer Services, Audit Committee
- Scrutiny Board 2 - Children, Learning and Young People
- Scrutiny Board 3 - Urban Regeneration and Regional Planning and City Services
- Scrutiny Board 4 - Community Services and Housing Neighbourhoods Equalities and Health

3.4.7 Scrutiny Boards may review the work of another Committee or Panel but Scrutiny Boards are not permitted to call-in or review individual or particular decisions in respect of development control, licensing, regulation, consents or other permissions, or where an alternative appeal or dispute resolution procedure applies or where the rules of natural justice or human rights requirements would be compromised by such call-in or review.

3.5 **Licensing and Regulatory Committee**

Reference should also be made to **Part 4.12** – Licensing and Regulatory Committee Procedure Rules

3.5.1 **Functions Delegated to the Licensing and Regulatory Committee**

The Committee will have responsibility for the following delegated functions **except** where specific functions have been delegated to an employee of the Council by virtue of Part 3.8 of this Constitution and subject to those provisions regarding legal proceedings.

	<b>Function</b>	<b>Statutory Reference</b>
1.	Power to license scrap yards	Section 1 of the Scrap Metal Dealers Act 1964
2.	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
3.	Power to issue licences for the movement of pigs	The Pigs (Records, Identification and Movement) Order 2007 (SI 2007/642)
4.	Power to license the sale of pigs	The Pigs (Records, Identification and Movement) Order 2007 (SI 2007/642)
5.	Power to license collecting centres for the movement of pigs	The Pigs (Records, Identification and Movement) Order 2007 (SI 2007/642)
6.	Power to issue a licence to move cattle from a market	The Cattle Identification Regulations 2007 (SI 2007/529)
7.	Power to approve meat product premises	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 Food Hygiene (England) Regulations 2005 (SI 2005/2059)
8.	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 (SI 1995/3205) Food Hygiene (England) Regulations 2005 (SI 2005/2059)
9.	Power to approve dairy establishments	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (SI 1995/1086) Food Hygiene (England) Regulations 2005 – (SI 2005/2059)
10.	Functions under any of the "relevant statutory provisions" for health, safety and welfare in connection with work, and control of dangerous substances	Within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than in the authority's capacity as an employer

**Part 3.5 Licensing and Regulatory Committee**

11.	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975 as amended by the Fire Safety and Safety of Places of Sport Act 1987
12.	Power to issue, cancel amend or replace safety certificates for regulated stands at sports grounds	Part III of the Fire Safety and Safety of Places of Sport Act 1987
13.	Power to issue licences authorising the use of land as a caravan site ("site licence")	Section 3(3) Caravan Sites and Control of Development Act 1960
14.	Power to license the use of moveable dwellings and camping sites	Section 269(1) of the Public Health Act 1936 as amended by the Caravan Sites and Control of Development Act 1960
15.	Power to license hackney carriages and private hire vehicles	Town Police Clauses Act 1847 as extended by s.171 of the Public Health Act 1875 and amended and section 15 of the Transport Act 1985 and Part II of the Local Government (Miscellaneous Provisions) Act 1976
16.	Power to license drivers of hackney carriages and private hire vehicles	(-")
17.	Power to license operators of private hire vehicles	Part II of the Local Government (Miscellaneous Provisions) Act 1976
18.	Power to register pool promoters	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as amended by relevant enactments. Refer to the Gambling Act 2005 which will repeal the Betting, Gaming and Lotteries Act 1963 fully as from 1st September 2007
19.	Power to grant track betting licences	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as amended by relevant enactments. Refer to the Gambling Act 2005 which will repeal the Betting, Gaming and Lotteries Act 1963 fully as from 1st September 2007
20.	Power to license inter-track betting schemes	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963 as amended by relevant enactments. Refer to the Gambling Act 2005 which will repeal the Betting, Gaming and Lotteries Act 1963 fully as from 1st September 2007
21.	Power to grant permits in respect of premises with amusement machines	Schedule 9 to the Gaming Act 1968 as amended

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22.	Power to register societies wishing to promote lotteries	Schedule 1 to the Lotteries Amusements Act 1976 as amended by the National Lottery etc Act 1993
23.	Power to grant permits in respect of premises where amusements with prizes are provided	Schedule 3 to the Lotteries and Amusements Act 1976 as amended by the Licensing Act 2003
24.	Licensing the supply of alcohol, regulated entertainment and late night refreshment	All licensing functions under the Licensing Act 2003
25.	Power to license sex-shops and sex cinemas	Licensing Act 2003, ss198(1), 199, Sch 6, paras 82.83, Sch 7 (Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended)
26.	Power to license performances of hypnotism	The Hypnotism Act 1952 as amended by Licensing Act 2003
27.	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
28.	Power to license pleasure boats and pleasure vessels	Section 94 of the Public Health Acts Amendment Act 1907 as amended by Local Government (Miscellaneous Provisions) Act 1976
29.	Power to license market and street trading	Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982
30.	Power to license dealers in game and the killing and selling of game	Sections 5,6,17,18 and 21 to 23 of the Games Act 1831. Sections 2 to 16 of the Game Licences Act 1860, as amended Section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874 and section 213 of the Local Government Act 1972
31.	Power to register and license premises for the preparation of food	Section 19 of the Food Safety Act 1990 and Food Standards Act 1991 section 40(1)
32.	Power to license premises for the breeding of dogs	Section 1 of the Breeding of Dogs Act 1973 and Section 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999 There will be the power to repeal licensing activities under the Animal Welfare Act of 2006 section 13(8) but this is not yet in force
33.	Power to license pet shops and other establishments where animals are bred or kept for the carrying on of a business	Section 1 of the Pet Animals Act 1951, section 1 of the Animal Boarding Establishments 1963, the Riding Establishments Acts 1964 and 1970. Note there will also be the power to repeal licensing activities under the Animal Welfare Act 2006 section 13(8) but note this is not yet in force

**Part 3.5 Licensing and Regulatory Committee**

34.	Power to register animal trainers and exhibitions	Section 1 of the Performing Animals (Regulation) Act 1925 and Animal Welfare Act 2006 when in force)
35.	Power to license dogs and dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976
36.	Power to license Zoos	Section 1 of the Zoo Licensing Act 1981
37.	Power to license the employment of children	Part II of the Children and Young Persons Act 1933, byelaws made under that Part and Part II of the Children and Young Persons Act 1963
38.	Power to license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and Sections 2 of the House to House Collections Act 1939 (amended by the Charities Act 2006 section 75(1) and (2), sch 8 sch 9 but note not yet in force
39.	Power to grant consent for the operation of a loud speaker	Schedule 2 of the Noise and Statutory Nuisance Act 1993
40.	Power to grant a street works licence	Section 50 of the New Roads and Street Works Act 1991
41.	Power to approve egg product establishments	The Food Hygiene (England) Regulations 2005 (SI 2005/2059)
42.	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and supplying or selling both raw meat and ready to eat foods	The Food Hygiene (England) Regulations 2005 (SI 2005/2059)
43.	Power to register and duty to keep register of food business premises	Regulations 5 and 9 of the Food premises (Registration) Regulations 1991 (SI 1991/2828)
44.	Duty to appoint an electoral registration officer and returning officer for local government elections	Sections 8(2) and 35 of the Representation of the Peoples Act 1983
45.	Power to divide electoral divisions into polling districts at local government elections	Section 31 of the Representation of the People Act 1983 (as amended by the Local Government Act 1985)
46.	Power to determine fees and conditions for supply of copies of, or extracts from, elections documents	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (SI 1986/2214) and any other regulations made thereunder

**Part 3.5 Licensing and Regulatory Committee**

47.	Power to license knackers' yard	The Animal By-Products Order 1999 (SI 1999/646) and the Animal By-Products Regulations 2005 (SI 2005/2347) Reg 54(1)(a)(E)
48.	Power to approve fish products premises	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I 1998/994), The Food Hygiene (England) Regulations 2005 (SI 2005/2059)
49.	Power to approve dispatch or purification centres	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998, The Food Hygiene (England) Regulations 2005 (SI 2005/2059)
50.	Power to register auction and wholesale markets	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998, The Food Hygiene (England) Regulations 2005 (SI 2005/2059)
51.	Power to make payments or provide other benefits in cases of maladministration	Section 92 of the Local Government Act 2000
52.	Guard Dogs Act 1975 Transport Act 1985, Section 19 (Licensing of Minibuses) Clean Air Act 1983 Environmental Protection Act 1990 (Part 1) (Pollution Control) as modified by the Waste Management Licensing Regulations 1994 (SI 1994/1056) Pollution Prevention & Control Act 1999	"statutory provisions as listed"
53.	Power to issue Premises Licenses and Permits; powers in respect of temporary use notices and occasional use notices; powers in respect of small society lotteries; power to set fees; power to authorise prosecutions; powers of entry/inspection	Gambling Act 2005: Section 39, Part 8, Part 9, Part 15, Section 3, 4, 6, Schedules 10, 11, 12, 13, 14

**Matters incidental to the exercise of the Committee's delegated functions.**

3.5.2 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to impose any condition limitation or other restriction on any approval consent licence permission or registration granted in the exercise of those functions and the power to determine any other terms to which any such approval consent licence permission or registration is subject.

3.5.3 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to determine whether, and in what manner, to enforce any failure to comply with any approval consent licence permission or registration granted or any failure to comply with the condition limitation or term to which a such approval consent licence permission or registration is subject or any other contravention in relation to a matter with regard to which the function has been exercised.

3.5.4 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to amend modify or vary any such approval consent licence permission or registration or any condition limitation or term to which it is subject and the power to revoke any such approval consent licence permission or registration.

3.5.5 **Legal Proceedings**

The Licensing and Regulatory Committee shall (except where delegated to an Employee under Part 3.8) have the power to institute, defend and conduct legal proceedings in furtherance of or arising from the discharge of functions delegated to it.

The Licensing and Regulatory Committee has retained the responsibility for authorising all legal proceedings in relation to those functions delegated to the Head of Public Protection (formerly known as Assistant Director (Environmental Services)) and the Head of Housing Policy and Services as set out in part 3.8, other than where specifically indicated.

3.6 **Planning Committee**

Reference should also be made to **Part 4.11** – Planning Committee Procedure Rules

3.6.1 **Functions Delegated to the Planning Committee.**

The Planning Committee will have responsibility for the following delegated functions **except** where specific functions have been delegated to an employee of the Council by virtue of Part 3.8 of this Constitution.

	<b>Function</b>	<b>Statutory Reference</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 (c.5) and the Planning and Compulsory Purchase Act 2004 (Commencement Order No. 2, (Transitional Provisions and Savings) Order 2004 (SI 2004/2202) in so far as they confer a power or impose a duty
2.	Power to agree to establish a joint committee to be, for the purposes of Part 2 of the Planning and Compulsory Act 2004, a local planning authority	Section 29 of the Planning and Compulsory Purchase Act 2004 and the Planning and Compulsory Purchase Act 2004 (Commencement Order No. 2, Transitional Provisions and Savings) Order 2004 (SI 2004/2202) in so far as they confer a power or impose a duty
3.	Power to agree to confer additional functions on a joint committee	Section 30 of the Planning and Compulsory Purchase Act 2004
4.	Power to request the dissolution of a joint committee	Section 31 of the Planning and Compulsory Purchase Act 2004
5.	Power to determine application for planning permission	Sections 70 (1) (a) and (b) (modified by the Town and Country Planning (Trees) Regulations 1999 (SI 1999/1892) Reg. 2(1)) and 72 of the Town and Country Planning Act 1990 (c.8)
6.	Power to determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990
7.	Power to grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990
8.	Power to decline to determine application for planning permission	Section 70A of the Town and Country Planning Act 1990
9.	Duties relating to the making of determinations of planning applications	Sections 69, 76 (repealed by the Planning and Compulsory Purchase Act 2004 Sch 6, paras. 1, 4, Schedule 9) and 92 of the Town and Country Planning Act 1990 and



		Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2005 (SI 2005/85) and directions made thereunder
10.	Power to determine application for planning permission made by a local authority, alone or jointly with another person	Section 316 of the Town and Country Planning Act 1990 substituted by the Planning and Compensation Act 1991 section 12(1) and the Planning and Compulsory Purchase Act sub-sections 118(1), 120, sch 6, para 1, 5, sch 9 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492) and any other regulations thereunder
11.	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 (S.I. 1995/418) and any other enactment and regulations thereunder
12.	Power to enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
13.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990 (substituted by the Planning and Compensation Act 1991 section 10(1))
14.	Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 section 51(2)(b), 6
15.	Power to grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990, the Environment Act 1995, section 120(1), sch 22, para 233(1), and the Antisocial Behaviour Act 2003 section 48(1)(a) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 2007/783) and any other regulations made thereunder
16.	Power to authorise entry onto land	Section 196A of the Town and Country Planning 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 or withdraw a planning contravention notice, breach of condition notice, stop notice or temporary stop notice	Sections 171C, 171E, 187A and 183(1) (now revised by the Planning and Compensation Act 1991 section 9 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 (substituted by the Planning and Compensation Act 1991 section 5)
20.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
21.	Power to determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 as amended by the Environmental Protection Act 1990
22.	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 as modified by the Planning and Compulsory Purchase Act 2004, s 87, (c.34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act
23.	Power to require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
24.	Power to determine application 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 (c.9)
25.	Power to determine applications for conservation area consent	Section 16(1) and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act
26.	Duties relating to applications for listed building consent and conservation area consent	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 as amended by the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2003 (SI 2003/2048), the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2004 (SI 2004/2210), the Planning (Listed Buildings and Conservation Areas) (Amendment) (No 2) (England) Regulations 2004 (SI 2004/3341) and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97

27.	Power to serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
28.	Power to issue enforcement notice in relation to demolition of a listed building in conservation area	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
29.	Powers to acquire a listed building in need of repair and to serve a repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
30.	Power to apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
31.	Power to execute urgent works	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
32.	Powers relating to the preservation of trees	Sections 197 to 214D Town and Country Planning Act 1990 and Trees Regulations 1999 (SI 1999/1892) as amended by the Transport Act 2000 (Consequential Amendments) Order 2001(SI 2001/4050) and any regulations made thereunder
33.	Power to make limestone pavement order	Section 34(2) Wildlife and Countryside Act 1981
34.	Power to create footpaths, bridleways and restricted byways	Sections 25 and 26 of the Highways Act 1980
35.	Duty to keep register of information with respect to maps, statements and declarations	Section 31 Highways Act 1980
36.	Power to apply for judicial stopping up or diversion of a highway	Section 116 Highways Act 1980
37.	Power to stop up footpaths, bridleways and restricted byways	Section 118 of the Highways Act 1980
38.	Powers to divert footpaths bridleways and restricted byways	Section 119 of the Highways Act 1980 (and Restricted Byways (Application and Consequential Amendments of Provisions) Regulations 2006 (SI 2006/1177)
39.	Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980
40.	Power to authorise temporary disturbance of surface of footpath, bridleway and restricted byways	Section 135 Highways Act 1980 (and Restricted Byways (Application and Consequential Amendments of Provisions) Regulations 2006 (SI 2006/1177)

41.	Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980
42.	Duty to keep a definitive map and Statement under review	Section 53 of the Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000, s 51
43.	Duty to reclassify roads used as public footpaths	The Countryside and Rights of Way Act 2000, ss 47(1), 102, sch 16, pt II
44.	Power to permit deposit of builder's skip on highway	Section 139 of the Highways Act 1980
45.	Power to license planting retention and maintenance of trees etc in part of highway	Section 142 of the Highways Act 1980
46.	Power to authorise erection of stiles etc on footpaths and bridleways	Section 147 of the Highways Act 1980
47.	Power to license works in relation to buildings etc which obstruct the highway	Section 169 of the Highways Act 1980
48.	Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980
49.	Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980
50.	Power to restrict the placing of rails, beams etc over highways	Section 178 of the Highways Act 1980
51.	Power to consent to construction of cellars, etc under highways	Section 179 of the Highways Act 1980
52.	Power to consent to the making of openings into cellars etc under streets, and pavement lights	Section 180 of the Highways Act 1980
53.	Power to register common land or town and village greens except where the power is exercisable solely for the purpose of giving effect to –  (a) an exchange of lands effected by an order under section 19(3) or paragraph 6(4) of Schedule 3 Acquisition of Land Act 1981 as amended by The Planning and Compensation Act 1991 or	Regulation 6 Commons registration (New Land) Regulations 1969 (SI 1969/1843) amended by the Coal Industry Act 1994 (Consequential Modifications of Subordinate Legislation) Order 1994 (SI 1994/2567)

	(b) an order under section 147 of the Inclosure Act 1845 (and Commons Act 2006 not yet in force)	
54.	Power to register variation of rights of common	Regulation 29 of the Commons Registration (General) Regulations 1996 (S.I 1996/1471)
55.	Power to determine applications for public path extinguishment orders and special extinguishment orders	Section 118ZA and 118C(2) of the Highways Act 1980
56.	Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980
57.	Power to make a special extinguishment order	Section 118B of the Highways Act 1980
58.	Power to determine applications for a public path diversion order and special diversion order	Section 119ZA and 119C(4) of the Highways Act 1980
59.	Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980
60.	Power to make a special diversion order	Section 119B of the Highways Act 1980
61.	Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980
62.	Power to make an SSSI diversion order	Section 119D of the Highways Act 1980
63.	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
64.	Power to decline to determine certain applications	Section 121C of the Highways Act 1980
65.	Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980
66.	Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B of the Highways Act 1980
67.	Power temporarily to divert footpath, bridleway and restricted byways	Section 135A of the Highways Act 1980
68.	Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980

69.	Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981 (c.67)
70.	Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
71.	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 and the Wildlife and Countryside Act 1981 (England) (Regulations) 2005 (SI 2005/2461)a
72.	Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981 and the regulations under the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (as amended by (SI 2006/1177) reg 2 sch. Part 2)
73.	Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984 (c.38)
74.	Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1985 (c.68)
75.	Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990
76.	Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990
77.	Power to enter into agreements with respect of means of access	Section 35 of the Countryside and Rights of Way Act 2000. (c.37)
78.	Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000
79.	Power relating to the protection of important hedgerows	The Hedgerows Regulations 1997 (SI 1997/1160) and any other regulations thereunder
80.	Power to adjudicate on high hedges complaints	Part 8 of the Anti Social Behaviour Act 2003
81.	Power to require the removal of any advertisement displayed in contravention of regulations or the discontinuance of the use of any site for the display of advertisements in contravention of the regulations	Section 224 of the Town and Country Planning Act 1990

***Part 3.6 Matters incidental to the exercise of the Committee's delegated functions***

**3.6 Matters incidental to the exercise of the Committee's delegated functions.**

3.6.2 The exercise of the above functions by the Planning Committee will include the power to impose any condition limitation or other restriction on any approval consent licence permission or registration granted in the exercise of those functions and the power to determine any other terms to which any such approval consent licence permission or registration is subject.

3.6.3 The exercise of the above functions by the Planning Committee will include the power to determine whether, and in what manner, to enforce any failure to comply with any approval consent licence permission or registration granted or any failure to comply with the condition limitation or term to which a such approval consent licence permission or registration is subject or any other contravention in relation to a matter with regard to which the function has been exercised.

3.6.4 The exercise of the above functions by the Planning Committee will include the power to amend modify or vary any such approval consent licence permission or registration or any condition limitation or term to which it is subject and the power to revoke any such approval consent licence permission or registration.

**3.6.5 Legal Proceedings.**

The Planning Committee shall have the power to institute, defend and conduct legal proceedings in furtherance of or arising from the discharge of functions delegated to it.

**3.7 Standards Committee**

The Standards Committee will have responsibility for the following functions which are reserved to it.

**3.7.1 The Role and Function**

The Standards Committee will have the following roles and functions:-

- promoting and maintaining high standards of conduct by Councillors, and co-opted Members and Church and Parent Governor representatives.
- assisting the Council's co-opted Members and Church and Parent Governor representatives to observe the Code of Conduct for Elected Members.
- to advise the Council on the adoption or revision of the Code of Conduct for Elected Members.
- monitoring the operation of the Code of Conduct for Elected Members.
- 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.
- considering reports following investigations by the Ethical Standards Officers as referred by the Monitoring Officer.
- dealing with any reports from a case tribunal established by the Adjudication Panel for England (or Interim Case Tribunals) notices of decisions and approving action upon recommendations in individual cases.
- the exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the members of those Parish Councils.
- advising the Council on the adoption or revision of the Code of Conduct for Employees.
- to consider and adopt any Protocols in connection with Members/employee relations.
- to monitor and review the City Council's "whistleblowing" procedures.
- oversight of other arrangements and maintenance of probity and ethical standards allocated from time to time by the Council.
- granting dispensations to Councillors, co-opted Members and church and parent governor representatives in relation to the Members Code of Conduct as permitted by the relevant legislation.
- to review and recommend to the Council, amendments to the Constitution in accordance with Article 2.15 of this Constitution.
- determining local complaints referred to it by the Standards Board.



**3.8 Scheme of Functions Delegated to Employees**

**3.8.1 General Delegations**

In this part Management Board shall mean the Chief Executive, the Director of City Development, the Director of Children Learning and Young People, the Director of Community Services, the Director of City Services, the Director of Finance and Legal Services, and the Director of Customer and Workforce Services [plus the Assistant Chief Executive, the Head of Human Resources and the Head of Legal Services where applicable].

All Directors includes the Head of Human Resources.

All Members of Management Board have the power to exercise the following functions and those functions may be exercised by those officers indicated:

Description	Exercised By
Compilation of lists of, and identification of, background papers under Sections 100D(1)(a) (Subs by the Local Government Act 2000 section 97(1) and 5(a) and (b) of Local Government Act 1972	Member of Management Board in whose name a report has been prepared or who has led in preparation of a joint report (as Proper Officer)
Data Protection Act 1998 – to sign the formal registration for their area(s) of service of the Council's use of personal data held electronically	Member of Management Board
To designate employees under their management as "authorised officers" for the purposes of carrying out any of the Council's functions relevant to that employee	Member of Management Board
Investigation of recruitment and selection complaints	Customer Services Manager
To sign (as Proper Officer) any notice, order or other document on behalf of the City Council in exercise of any functions s/he is authorised to discharge	Any employee exercising any function s/he is authorised by the Council to discharge

**3.8.2 Specific Delegations**

The following employees have the powers and functions delegated to them as listed. Where indicated those powers and functions may be exercised on his/her behalf by the officer so nominated. The delegations are subject to any limitations specified.

- 3.8.2.1 If the office of any Director is vacated or the Director is absent or otherwise unable to act then the Chief Executive, in consultation with the relevant Cabinet Member shall be authorised to act in place of that Director in so far and to the extent that any of the functions of that Director have not been delegated in accordance with paragraph 3.8.2.

Where any powers have been delegated in accordance with 3.8.2 then the Chief Executive having assumed the authority to exercise the functions of the relevant Director shall be responsible for that delegation to the extent outlined in paragraph 3.8.5 and 3.8.5.4 in particular.

The Chief Executive shall only remain authorised to act in place of the relevant Director for so long as that Director's post remains vacant or until the Director is fit to resume his or her office.

- 3.8.2.2 The following delegations may be added to, amended or revoked by the body [either the Council or the Executive] that has responsibility for the function that is the subject of the additional delegation, amendment or revocation. Nothing contained in this part will interfere with or prevent another body from exercising such function in any particular circumstances should it so choose.

- 3.8.2.3 Any function specifically delegated to an employee under any of the following primary legislation will also include:

any secondary legislation made under the Act; and

any amendments made to or under the Act;

in so far as that secondary legislation or amendment is applicable to the manner in which the employee discharges his delegated function.

## **Chief Executive**

### **Statutory or other Functions**

### **Nominee/Limitations**

#### **Local Government Act 1972**

Witness and receipt of Declarations of acceptance of office

Head of Democratic Services

#### **Local Government Act 2000**

Power to make payments or provide other benefits in cases of maladministration

Director of Finance and Legal Services

To assure the reinstatement of services as result of a major disaster in line with the Corporate Disaster Recovery Plan

Head of Facilities Management in consultation with relevant Cabinet Member

Authorising paid overtime working below spinal column point 29

All Managers

Control and management of TOIL and working hours in accordance with Health and Safety requirements

All Directors

#### **Promoting Health at Work and Sick Pay**

Authorising extensions to sick pay

All Directors and Head of Legal Services and reported quarterly to relevant Cabinet Member

Ensure compliance with absence control policies and performance targets

All Directors

Authorise payments within the NJC for Chief Officers pay and grading structures

Director of Customer and Workforce Services/Human Resources Managers

Approval of special payment arrangements

Director of Customer and Workforce Services/Human Resources Managers

Authorise payments within JNC pay and grading structure

Management Board

### **Statutory or other Functions**

### **Nominee/Limitations**

#### **Electoral Functions**

To exercise functions under the Representation of the People Act 1983 and in particular, to act as Registration Officer/Returning Officer for local elections and Acting Returning Officer for parliamentary elections and Local Returning Officer for European Parliamentary Elections.

Deputy Returning Officers and Acting Returning Officers may be appointed

To act as Electoral Registration Officer

Head of Democratic Services/  
Manager (Electoral Services) as Deputy  
Electoral Registration Officers

## **Director of Customer and Workforce Services**

### **Human Resources Functions**

To appoint a nominated officer to carry out police checks in respect of those persons who are employed to work with children and vulnerable adults

Head of Human Resources

To approve the pattern of holidays each year

Head of Human Resources

To agree a fit for work protocol appropriate to the circumstances of older employees and which will be produced by the Occupational Health Unit

Head of Human Resources

Approval of special leave arrangements, carry over of annual leave and closures

Directorate Human Resources Managers

### **Post Entry Training**

To decide whether a course has been approved for Post Entry Training Support after the Head of Human Resources has recommended that these facilities should be given

Head of Human Resources and Senior HR Manager Workforce Developments, Customer and Workforce Services

To exclude approved courses from the conditions of the Post Entry Training Scheme where the cost of the course does not justify the administration involved

Head of Human Resources and Senior HR Manager Workforce Developments, Customer and Workforce Services

To waive repayment under the two years agreement in cases where individual would suffer personal distress and financial difficulties if the fees were repaid

Head of Human Resources Managers

### **Statutory or other Functions**

Payment of ex gratia payments to employees in respect of loss of and damage to personal property during the course of their duties

Senior Human Resources Manager (Corporate Support) (payments over £150)  
Directorate Human Resources Managers (payments up to £150)

Maintaining list of politically restricted posts and issuing certificates of opinion for submission with applications for exemption from the list [Local Government and Housing Act 1989]

Senior Human Resources Manager (Corporate Support) or Director of Finance and Legal Services in consultation with relevant Cabinet Member in relation to issuing certificates in cases of doubt

### **Nominee/Limitations**

**Part 3.8 – Functions Delegated to Employees**

Approval for early retirement on the grounds of efficiency and redundancy	Head of Human Resources and Director of Finance and Legal Services in consultation with relevant Cabinet Member for requests proposing added years
Approval for buying out employment conditions up to 1 year's value	Directorate Human Resources Managers
Approval for buying out employment conditions for 1 to 2 years	Head of Human Resources in consultation with relevant Cabinet Member
To authorise the issue of Welfare Loans to employees, in line with agreed criteria	Human Resources Manager (Occupational Health)
Council Policy and monitoring of overtime	Head of Human Resources in consultation with relevant Cabinet Member
Authorising overtime for which the compensation is TOIL	All Managers
Authorising payments of planned and emergency overtime above spinal column point 28	Head of Human Resources or Directorate Human Resources Manager in consultation with relevant Cabinet Members
<b>Promoting Health at Work and Sick Pay</b>	
Promoting health at work, monitoring reports and controls	Senior Human Resources Manager (Corporate Support)
<b>Pay and Conditions</b>	
Authorise changes to pay policy and terms and conditions of employment and ensure the Council's policies comply with the requirements of all employment legislations	Head of Human Resources
Authorise changes to Job Evaluation Scheme	Head of Human Resources
Authorise operation and outputs of job evaluation results and appeals	Senior Human Resources Manager (Corporate Support)

**Statutory or other Functions**

**Nominee/Limitations**

**Recruitment, Retention and Development**

Authorise changes to recruitment and retention policies and set standards for practice to comply with the requirements of Local Government and Housing Act, RRA, SDA and DDA

Senior Human Resources Manager  
(Resourcing)

Ensure compliance with policy and codes of practice in the recruitment, retention and development of the workforce

Human Resources Managers

Monitor the composition of the workforce and authorise changes to practice, which enables the City Council to meet performance targets in relation to equal opportunities

Head of Human Resources or Senior Human Resources Manager (Corporate Support)

Authorise payment of market related pay and market related supplements

Head of Human Resources or Senior Human Resources Manager (Corporate Support)

**Local Government Act 1972**

Parish Trustee

Head of Democratic Services

Receipt of Notice of Resignation of Office

Head of Democratic Services

Convening of meeting of Council to fill casual vacancy in office of Chairman

Head of Democratic Services

Receipt of Notice of casual vacancy from two local government electors

Head of Democratic Services

Keeping a record of disclosures of Members' Interests

Head of Democratic Services

Power to transfer charity functions of holders of office with authorities before 1<sup>st</sup> April 1974 to equivalent office with authorities existing on or after 1<sup>st</sup> April 1974 or if there is no such office, to the Proper Officer

Head of Democratic Services

Deposit of documents with Proper Officer

Head of Democratic Services

**Part 3.8 – Functions Delegated to Employees**

To send copies of byelaws for parish records	Head of Democratic Services
Certification of byelaws	Head of Democratic Services
Keeping of the Roll of Freemen	Head of Democratic Services
Signature of summonses to Council meetings	Head of Democratic Services
Receipt of Notices regarding address to which summons to meetings is to be sent	Head of Democratic Services
Certification of resolutions	Head of Democratic Services
Exclusion from public copies of agendas, reports etc of items not to be open to members of the public	Head of Democratic Services
Supply of committee papers to the Press	Head of Democratic Services
Preparation of summaries of minutes	Head of Democratic Services
Identification of background papers in the case of a report prepared by an elected or co-opted Member	Head of Democratic Services
Papers not open to Members	Head of Democratic Services
<b>West Midlands County Council Act 1980</b>	
Freedom of Coventry	Head of Democratic Services
<b>Local Government and Housing Act 1989 and Local Government Act 2000</b>	
All Proper Officer functions including to hold on deposit the list of politically restricted posts	Head of Democratic Services
Access to Information provisions	Head of Democratic Services
Ensuring publication of the Forward Plan containing details of key decisions / urgency provisions	Head of Democratic Services



To produce a record of every decision taken at a meeting including a statement of:

Head of Democratic Services

the reasons for the decision; and alternative options considered and rejected. Power of rectification of the record of decision

**Statutory and other Functions**

**Nominee/Limitations**

**Local Government (Committees Political Groups) Regulations 1990**

To provide notification

Head of Democratic Services

**Appeals Functions**

To determine the membership of Appeals Committees, having regard to the knowledge, expertise and preferences of Members, to hear appeals against decisions of the City Council, with the exception of school admission and exclusion appeals and those matters where there is a statutory right of appeal.

Head of Democratic Services

Access to Information provisions

Head of Democratic Services

Ensuring publication of the Forward Plan containing details of key decisions / urgency provisions

Head of Democratic Services

To produce a record of every decision taken at a meeting including a statement of:

Head of Democratic Services

the reasons for the decision; and alternative options considered and rejected. Power of rectification of the record of decision

**Consultant in Communicable Disease control as Proper Officer**

**Proper Officer Function**

**Statutory or other Function**

Section 47, National Assistance Act 1948 (subject to amendments)

Consultant in Communicable Disease Control (Health Authority) up to date list maintained by Director of Customer and Workforce Services

Public Health (Control of Disease) Act 1984 (subject to amendments)

Consultant in Communicable Disease Control (Health Authority) up to date list maintained by Director of Customer and Workforce Services

**Director of Children, Learning and Young People**

**Statutory or other Functions**

**Nominee/Limitations**

**The Local Government Act (Miscellaneous Provisions) 1982 as amended by the Education Act 1996.**

To authorise any proceedings necessary to nuisance on education premises.

in consultation with the Director of Finance and Legal Services/Head of Legal Services

Education (School Teacher Appraisal) Regulations (Chief Advisor).

in consultation with the Director of Finance and Legal Services/Head of Legal Services

**Child Protection Functions**

Approval of recommendations made by the Adoption Panel on:

Head of Group

whether adoption is in the best interest of the child

whether a "Placement" Order should be made;

matching of an approved couple with a particular child.

Approval of adoptive parents

Head of Group

Approval of recommendations made by the Fostering Panel

Head of Group

Approval of applications for registration of day care for under 8's/childminders and to propose cancellation/refusal of registration in appropriate cases and to issue certificates where cancellation/refusal is not opposed [Children Act 1989].

Head of Group

Children Act 1989 – institution of care proceedings and associated proceedings relating to children

Fieldwork Manager

Children Act 1989 – Approval to place children in care with relatives and friends

Fieldwork Manager

Approval of car lease subsidy for selected posts, where recruitment and retention needs are identified in accordance with specified criteria

Head of Group

**Statutory or other Functions**

**Nominee/Limitations**

Child Care Act 1980, this enactment is repealed with savings by the Children Act 1989, section 108(6), 7, sch 14, 15 – Financial assistance to foster parents within policy guidelines

Head of Group

Approval of Discretionary Rate Relief Applications

Head of Group

**Adoption of Children Act 2002**

**Children Act 2004**

setting up Local Safeguarding Children Board to prepare and publish Children and Young People's Plan

Head of Group

any related ancillary matters

**The Education Act 2005**

Production of commentary on governing bodies Action Plan and production and approval of an LEA Action Plan for schools in serious weakness/special measures.

in consultation with the Director of Finance and Legal Services

To appoint a nominated officer(s) to carry out relevant police checks for those employed to work with children/young adults.

Appointment of teaching staff.

To make statements of Special Educational Need.

Approval of placements in out of city schools and colleges.

Approval of requests for additional holidays "occasional days".

in consultation with the relevant Cabinet Member.

Approval of premature retirement compensation for teachers.

**School Standards and Framework Act 1998**

Approval and making of school Instruments of Government and any subsequent changes prepared by governing bodies.

jointly with the Head of Legal Services

**Statutory or other Functions**

**Nominee/Limitations**

**Admissions**

Subject to the provisions of the Education Act 1996 and the School Standards Framework Act 1998 relating to County and Voluntary Schools:

Director of Children, Learning and Young People

to consult annually with governing bodies about admission arrangements as required by the School Standards and Framework Act 1998, section 140 (1), (3) sch 30, paras 57, 109, sch 31.

Director of Children, Learning and Young People

to keep standard numbers under review and to implement any necessary changes, where these are agreed by the governing body (as requested);

Director of Children, Learning and Young People

to respond to any proposals from governing bodies to increase standard numbers;

Director of Children, Learning and Young People

to set admission limits which exceed the standard number where this is considered appropriate.

Director of Children, Learning and Young People

To administer arrangements for admissions to nursery schools and classes in accordance with policies agreed by the Local Education Authority.

Director of Children, Learning and Young People

To exercise on behalf of the Authority the power under the School Standards and Framework Act 1998, to issue a direction that a child be admitted to a named school within the Authority's area.

Director of Children, Learning and Young People

To comply with any requirements made by the Secretary of state to implement a scheme for co-ordination arrangements for admission in accordance with the School Standards and Framework Act 1998..

Director of Children, Learning and Young People

To administer arrangements for the admission of individual pupils to primary and secondary schools including designated areas and other relevant factors and to present the case on behalf of the Authority to admission appeals panels.

Director of Children, Learning and Young People

**Statutory or other Functions**

To ensure that relevant publication on schools is available.

**Attendance at School**

To ensure that appropriate transport arrangements are made in accordance with the authorities policies.

To exercise the powers and duties of the Authority in respect of children excluded from (school and to make arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school)

To authorise any proceedings necessary to enforce any enactment relating to the non-attendance of pupils at school or education other than at school.

To undertake the powers and duties of the Authority under section 36 of the Children Act 1989 under the School Standards and Framework Act 1998 regarding Education Supervision Orders. Refer to the Education Act 2005 also

**Special Educational Needs**

To arrange for children to be assessed in accordance with the requirements of the Education Act 1996 and the Special Educational Needs and Disability Act 2001 to determine the special educational provision which should be made for them and to maintain and review a statement of special educational need in accordance with any Regulations.

To represent the Authority at statutory appeal tribunals in connection with the assessment of special educational needs.

To ensure that the requirement of any statutory codes of practice or other regulations are complied with.

To determine and authorise the payment of boarding awards, grants awards, tuition fees and expenses at schools where fees are payable. Major and further educational awards, maintenance allowances and tuition fees for correspondence courses and requests for the refund of grants in accordance with the policy of the Council.

**Nominee/Limitations**

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

Director of Children, Learning and Young People

**Part 3.8 – Functions Delegated to Employees**

To determine applications for assistance towards travelling expenses for pupils to special schools and units.

Director of Children, Learning and Young People

**Miscellaneous**

To determine awards to pupils, students and parents.

Director of Children, Learning and Young People

Approval of grants to voluntary bodies.

Director of Children, Learning and Young People

Approval of work experience places.

Director of Children, Learning and Young People

**Appeals**

The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools (b).

Director of Children, Learning and Young People

The making of arrangements pursuant to the School Standards and Framework Act 1998 sections 94(1), (1A) and (4) (admissions appeals) (c).

Director of Children, Learning and Young People

The making of arrangements pursuant to section 95(2) of the 1996 Act (Children to whom section 87 applies: appeals by governing bodies) (d) and any regulations made thereunder

Director of Children, Learning and Young People

**Statutory Proposals**

To determine Statutory Proposals for Schools where no objections have been received to the proposals contained in the publicised Statutory Notice.

Director of Children, Learning and Young People

## Director of Community Services

### Statutory or other Function

### Nominee/Limitations

Approval of the expenditure of Capital Funding for support to foster carers and adopters.

in consultation with the relevant Cabinet Member

Approval of expenditure relating to the provision of assistance under National Assistance Act 1948 and any regulations made thereunder and Chronically Sick and Disabled Persons Act 1970 up to £8,000 and to take such action to recover appropriate charges from those with a duty to pay.

in consultation with the relevant Cabinet Member

Mental Health Act 1983 – authorisation of Approval Social Workers Applications for Court of Protection/Displacement of Next Relative and removal to care in appropriate cases

Head of Group

Determination of applications for grants to voluntary bodies up to £10,000

Head of Group

### **Housing Policy and Services**

Signing any documentation on behalf of the Council in exercise of any function that he or she is at any time authorised to discharge

Head of Housing Policy and Services

The Head of Housing Policy and Services (as Proper Officer) is authorised to do anything necessary, incidental or ancillary to or in consequence of the exercise of his/her functions or the carrying into effect of any decision (but this will not confer authority to prosecute any person).

He/she has power to authorise other officers to exercise any of the functions described in this part who may do so in the name of the Head of Housing Policy and Services, as the case may be, notwithstanding that such post is vacant or the holder thereof is absent or otherwise unable to act.

Building Act 1984

Caravan Sites Act 1968

Caravan Sites and Control of Development Act 1960

Energy Conservation Act 1996

Environmental Protection Act 1990

Home Energy Conservation Act 1995

Homelessness Act 2002

Housing Act 1985, **except: -**

Section 265 (making demolition order)

Section 275 (substitution of closing order for demolition order)

Section 278 (determination of closing order)

Section 279 (substitution of demolition order for closing order)

Section 274(3) (making obstructive building order)

Section 304 (closing order for listed buildings)  
Section 334 (reports and proposals on overcrowding).  
Section 346 (making a registration scheme).  
Section 380 (modifying control order)  
Section 392(2) (revoking control order).

**(Note:** Making a closing order under Section 264 or a control order under Section 379(1) of the Housing Act 1985 is delegated only if the officer exercising the delegation is satisfied that it is necessary to do so without delay because of a serious and imminent threat to the safety or health of any person and such action will be reported to the next meeting of the appropriate Committee). Refer to relevant sections for any amendments and repeals by the Housing Act 2004.

All the following statutes are in force, subject to amendments and repeals in part. Refer to relevant enactment.

Housing Act 1996  
Housing Act 2004  
Housing Association Act 1985  
Housing Grants, Construction and Regeneration Act 1996  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989, **except:** -  
Sections 127-130 (group repair schemes)  
Section 169 (provision of services to persons repairing or improving dwellings).  
Prevention of Damage by Pests Act 1949  
Protection from Eviction Act 1977  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Disease) Act 1984  
Rent Act 1977  
Water Act 1989  
Water Industry Act 1991

The preparation and submission to the Secretary of State of the Housing Investment Programme and schemes for the development of housing accommodation and for the development of housing accommodation and land and implementation of such schemes pursuant to decisions of the relevant Cabinet Member.

Functions concerning enforcement of the statutory rights of occupants of rented accommodation, mobile homes and caravans.

Administration and supervision of the List of Contractors undertaking grant assisted works and suspension of contractors from the List pending consideration of removal from the List.

To recommend whether all/part of a renovation grant needs to be repaid to the City Council.



**3.8 Director of Finance and Legal Services**

The Director of Finance and Legal Services is also the Proper Officer for the purposes of any reference to a Proper Officer of the Council in any enactment or instrument where no other specific Proper Officer appointment has been made.

The Director of Finance and Legal Services shall also have authority, to make changes to the Scheme of Delegation as set out in Part Three of this Constitution to ensure that all delegated powers are assigned to relevant employees and to ensure that any new legislation of a technical nature is delegated to the appropriate Council body.

**Statutory or other Function**

**Nominee/Limitations**

Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26<sup>th</sup> October, 1972 to the treasurer of a council or a borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the council

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

Any reference in any local statutory provision to the treasurer of a specified council or a specified borough or a specified county borough which, by virtue of Article 8(1) of The Local Authorities etc (Miscellaneous Provisions) Order 1974, is to be construed as a reference to the Proper Officer of the Council

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

**Local Government Act 1972**

receipt of money due from officers

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

declarations and certificates with regard to securities

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

accounts of Proper Officer open to inspection by any member

Director of Finance and Legal (as Proper Officer) or Head of Financial Services

Statement in Demand Note that precepts of joint authorities comply with maxima

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

**Accounts and Audit Regulations 1996**

to maintain an adequate and effective system of internal audit of accounting records and control systems, to ensure proper accounting practice and sign and date statement of accounts

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

**Accounts and Audit Regulations 1996**

audit of the Authority's accounts

Director of Finance and Legal Services (as Proper Officer) or Head of Financial Services

**Local Government Pensions Scheme (Discretionary Payments) Regulations 1986**

Approval of early non-ill health retirements

Director of Finance and Legal Services and Head of Human Resources jointly

**Local Government Pension Scheme Regulations 1986:**

augmentation of service on leaving and granting added years for employees retiring early;

Director of Finance and Legal Services and Head of Human Resources jointly

augmentation of service on joining;

Director of Finance and Legal Services and Head of Human Resources jointly

introduction of shared cost AVC scheme.

Director of Finance and Legal Services and Head of Human Resources jointly

Council Tax and National Non-domestic Rates Liability Order and Committal Court Costs

Director of Finance and Legal Services or Head of Revenues and Benefits

authority to increase costs

**Local Government Finance Act 1988**

responsibility for making reports to Council in specified circumstances

Head of Financial Services

University of Warwick Science Park Ltd

to determine request to change the priority of loans

Director of City Development and Director of Finance and Legal Services in consultation with relevant Cabinet Member

Community Led Environmental Strategy Foleshill

To negotiate and make annual grant-aid agreements with Groundwork Coventry

Director of City Development, Director of Finance and Legal Services in consultation with relevant Cabinet Member

Hillfields Shop Improvement Scheme

approval of applications

Director of City Development, Director of Finance and Legal Services in consultation with the relevant Cabinet Member

**Statutory or other Functions**

**Nominee/Limitations**

**Local Government and Housing Act 1989**

Determinations

Director of Finance and Legal Services or Head of Financial Services

To capitalise expenditure to be reimbursed or met out of monies provided by any other person

Director of Finance and Legal Services or Head of Financial Services

To capitalise expenditure, enter or vary a credit arrangement on the strength of a credit approval

Director of Finance and Legal Services or Head of Financial Services

To fund expenditure from useable capital receipts or use useable receipts as credit cover to enter or vary a credit agreement

Director of Finance and Legal Services or Head of Financial Services

To use revenue monies as credit cover to enter into or vary a credit arrangement

Director of Finance and Legal Services or Head of Financial Services

**Local Authorities (Companies) Order 1995**

Determinations:

To treat a credit approval as reduced as credit cover for the transactions of a regulated company

Director of Finance and Legal Services or Head of Financial Services

To set aside useable capital receipts or revenue credit cover for the transactions of a regulated company

Director of Finance and Legal Services or Head of Financial Services

The relevant liabilities of a regulated company

Director of Finance and Legal Services or Head of Financial Services

The excess of a company's liabilities over its current assets as at the date immediately before the company became regulated

Director of Finance and Legal Services or Head of Financial Services

To treat a Basic Credit Approval (BCA) as increased when a regulated company reduces its liabilities.

Director of Finance and Legal Services or Head of Financial Services

**Statutory or other Functions**

To sign finance-related contracts on behalf of the City Council to enable policies and decisions of the City Council to be carried out.

Implement and monitor approved Treasury Management Strategy.

Make revisions to the lending list in accordance with approved criteria, decide the timing, source, maturity and type of interest for long-term borrowing, authorise rescheduling of long-term loans, including taking out new replacement loans.

Reduce the lending limits or remove institutions from the lending list, according to the agreed criteria, decide the timing, source, maturity and type of interest for short-term borrowing and lending, authorise the repayment of maturing long-term loans (These decisions are subject to controls by a Finance Officer and an Authorised Signatory before any funds leave the bank account.)

Decide investment counterparties within agreed lists or procedures, decide investment instruments, amounts, maturities within agreed constraints, decide the timing of the purchase and sale of investments, enter into contracts making investments on behalf of the City Council.

To award all contracts relating to the supply of goods and service.

Post-tender negotiation in respect of above contracts

**Nominee/Limitations**

Director of Finance and Legal Services, Head of Financial Services, Head of Revenues and Benefits, Head of Special Projects and Head of Procurement

Head of Financial Services

Head of Financial Services

Head of Financial Services

External Fund Managers

Director of Finance and Legal Services all Directorate Heads of Service

Head of Procurement

**Authority to Write-Off Debts**

	<b><u>Limits</u></b>	<b><u>Exercisable By</u></b>
(a) Accounts raised on the Corporate Debtors System	Up to £2,499 £2,500 - £7,499 £7,500 - £14,999 £15,000 and above	Head of Financial Services or Head of Revenues and Benefits or Head of Special Projects
(b) Other accounts	up to £200	Finance Managers
Poll Tax	Up to £250 Over £250 NB Maximum debt is less than £1,100	Head of Revenues and Benefits
National Non Domestic Rates	Up to £1,000 £1,000 - £5,000 £5,000 - £10,000	Head of Revenues and Benefits or Local Taxation Manager or Assistant Local Taxation Manager
Council Tax	Up to £500 £500 - £1,000 Over £1,000	"
Old Rates	Up to £5,000 £5,000 - £10,000	"

**Procurement Functions**

To oversee the operation of standing lists	Director of Finance and Legal Services
To make selections from standing lists	Director of Finance and Legal Services
To refuse further applications from contractors who have been excluded from the lists within the preceding two years	Director of Finance and Legal Services
To limit to three (including initial application) the number of attempts allowed to contractors to provide satisfactory policies relating to health, safety and equal opportunities	Director of Finance and Legal Services
To remove contractors who are in receivership/liquidation or have ceased trading	Director of Finance and Legal Services
To suspend contractors who are in receivership but still trading pending clarification of their financial status and suitability for inclusion or future tender lists	Director of Finance and Legal Services

To add contractors to lists in accordance with approved criteria

Director of Finance and Legal Services

**Local Government Act 1972**

Certification of photographic copies of documents

Head of Legal Services

Authentication of documents

Head of Legal Services

General supervisory responsibility over births, marriages and deaths registration service.

Head of Legal Services

**Rates Act 1984**

Statement in Notice of Rate that precepts of Joint Authorities comply with Maxima

Head of Legal Services

**Planning and Housing Functions**

**Town and Country Planning Act 1990**

To make and where unopposed, confirm public path extinguishments/diversion orders.

Head of Legal Services

To make and, where unopposed, to confirm Tree Preservation Orders.

Head of Legal Services

To serve planning contravention notices in accordance with section 171c(2), (3) of the Town and Country Planning Act 1990.

Head of Legal Services

To serve breach of condition notices and notices extending time for compliance with such notices in accordance with section 187A(2) of the Town and Country Planning Act 1990.

Head of Legal Services

To Issue, vary or withdraw planning enforcement notices in respect of security shutters and grilles in accordance with section 172 of the Town and Country Planning Act 1990.

Head of Legal Services

To prosecute in respect of failure to comply with requisitions for information in accordance with section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and section 330 of the Town and Country Planning Act 1990, planning contravention notices, enforcement notices, temporary stop notices in accordance with section 171E of the Town and Country Planning Act and Part 4 of the Planning and Compulsory Purchase Act 2004, advertisement regulations in accordance with the relevant legislation and the Town and Country Planning (Control of Advertisements) (England) (Amendment)

Head of Legal Services

Regulations 2007 (SI 2007/1739), and Listed Buildings Enforcement Notices in accordance with section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Breach of Condition Notices, Notices requiring proper maintenance of land in accordance with section 215 of the Town and Country Planning Act 1990 and remedial notices in respect of high hedges in accordance with section 68 of the Antisocial Behaviour Act, Part 4 and the High Hedges (Appeals) (England) Regulations 2005

To reduce the charge for making a public path order by 20% or 40% where it is considered that the charge would otherwise be unreasonably in excess of the actual costs of the City Council.

Head of Legal Services

### **Legal Proceedings**

Section 28, Town Police Clauses Act 1847 Prosecution of Offences (amended by the Police and Criminal Evidence Act 1984, Sexual Offences Act 2003 and various regulations made thereunder).

Head of Legal Services

Sections 1, 9, 16A, 19, 29, 35, 38, 45, 46, 49, 61, 83, 84 Road Traffic Regulation Act 1984 as amended by the New Roads and Street Works Act 1981 and Parking Act 1989 – to confirm Traffic Regulation Orders where no objections have been received to the proposals or any objections have been withdrawn.

Head of Legal Services

Section 223 of the Local Government Act 1972 and any other legislation/ enactment that confers authorisation thereunder – Authorisation of officers of Finance and Legal Services Directorate to prosecute or defend on behalf of the Council, or to appear on their behalf, in proceedings before a Magistrates' Court.

Head of Legal Services

Section 60 – County Courts Act 1984 Authorisation of officers of Finance and Legal Services Directorate to appear on behalf of the City Council in respect of recovery action.

Head of Legal Services

Section 49 of the Children Act 1989 – to prosecute for offences of removing children from care.

In consultation with the Director of Children, Learning and Young People

To prosecute for offences under the Care Standards Act 2000 and Part XA of the Children Act 1989 (Nurseries, full day, sessional care and childminding).

In consultation with the Director of Children, Learning and Young People and Director of Community Services (for Registered Homes)

**Highways Functions**

**Highways Act 1980**

Confirmation of unopposed footpath creation orders Head of Legal Services

Confirmation of unopposed footpath extinguishment Order Head of Legal Services

Confirmation of unopposed footpath diversion orders Head of Legal Services

**Wildlife and Countryside Act 1981**

Making of legal event definitive map modification orders Head of Legal Services

Confirmation of unopposed evidential event definitive map modification orders Head of Legal Services

Power to include modifications to the definitive map in other relevant orders Head of Legal Services

**Cycle Tracks Act 1984**

Confirmation of unopposed cycle track conversion orders Head of Legal Services

**Miscellaneous Functions**

Serve requisitions for information in connection with any of the functions of the Council. Head of Legal Services

**Coroners Acts 1988**

revision of scale of fees for mortuary staff Head of Legal Services

**The Local Land Charges Act 1975**

Maintenance of Land Charges Register Head of Legal Services

Community led Environmental Strategy – Foleshill - to negotiate and make annual grant-aid agreements with Groundwork Coventry. In consultation with Director City Development and the relevant Cabinet Member.



**Statutory or other Functions**

**Nominee/Limitations**

**School Standards and Frameworks Act 1998**

Approval and making of school instruments of government and any subsequent changes approved by governing bodies

jointly with the Director Children's Services

**Gambling Act 2005**

To determine whether a representation received from the Licensing Authority, Local Planning Authority or Environmental Health Authority whilst acting as responsible authorities are vexatious, frivolous or would certainly not influence the determination of an application

Head of Legal Services

**General Delegation**

Authorisation of employees to appear in Court on the City Council's behalf

Director of Finance and Legal Services, Head of Legal Services

**Appeals Functions**

To make arrangements for school admission and exclusion appeals under the School Standards and Framework Act 1998 and to determine applications for further appeals in accordance with the set criteria

Head of Legal Services

**Head of Legal Services**

**Monitoring Officer Responsibilities**

Deputy Monitoring Officer may be appointed

**Constitution**

Authority to make amendments and corrections to the Constitution where in his/her opinion, such amendment is to correct any anomaly or ambiguity is purely technical, to correct a clear typographical or other error and such amendment does not materially alter the terms or practical operation of the Constitution.

In cases of doubt about whether the change is purely technical, the Monitoring Officer should consult with the Chair of the Standards Committee.

**Legal Proceedings**

To institute, defend or participate in any legal proceedings in any case where action is necessary to give effect to the decisions of the Council or in any case where the Director of Finance and Legal Services considers that such action is necessary to protect the Council's interest

## **Director of City Services**

### **Statutory or other Function**

To identify and order maintenance work required within the Central Repairs Fund.

### **Nominee/Limitations**

Director of City Services

### **New Roads and Street Works Act 1991 and the Traffic Management Act 2004**

Power to issue street works licences

Director of City Services

Council's function as a Street Authority

Director of City Services

### **Refuse Disposal (Amenity) Act 1978**

Powers in respect of abandoned vehicles

Head of Street Services/Head of Neighbourhood Management

To take decisions in respect of applications for free or concessionary use of St Mary's Hall, the Armoury and Crypt

Head of Customer and Support Services in consultation with the relevant Cabinet Member

### **Highways Act 1980**

s 184 Vehicle Crossings

Director of City Services

ss 139 – 140A Builders Skips

Director of City Services

### **Environmental and Public Protection Matters**

To determine applications for Street Collection Permits, House to House Collection Permits, Small Lotteries Registration, Gaming Machine Permits except where:

Head of Public Protection

there is a history of non-compliance; or  
the application is non-routine; or  
reservations are expressed by a consultee.

To conduct underage test purchasing of age-restricted products

### **Legal Proceedings**

The following delegations **DO NOT** imply the power to commence legal proceedings in any court or tribunal except in the case of:

- a) "acid house parties" or any entertainments of a similar kind;
- b) noise nuisance proceedings relating to domestic premises under sections 79(1)g and 80(4) of the Environmental Protection Act 1990, the

Noise Act 1996 section 9 and the Clean Neighbourhoods and Environmental Act 2005, section 75 ;

- c) an alleged offender arrested by the police and charged whilst in police custody.
- d) under the Enterprise Act 2002
- e) proceedings for fly tipping under Section 33 of the Environmental Protection Act 1990 and the Controlled Waste Regulations 1992, (SI 1992/588) as amended by (SI 2005/2900), reg 4.

and any other regulations made thereunder

#### Home Office Cautions

In appropriate cases, the Head of Public Protection, following consultation with the Director of Finance and Legal Services, is authorised to administer Home Office Cautions without prior reference to the Licensing and Regulatory Committee.

In all other cases except where specifically indicated below, authority to commence legal proceedings will vest with the Licensing and Regulatory Committee.

The following legislation contains those powers delegated to the Head of Public Protection with respect to matters concerning environmental protection, licensing and trading standards. These will in turn be exercised by and on behalf of the Head of Public Protection **by any of the Assistant Heads of Public Protection**

Accommodation Agencies Act 1953

Administration of Justice Act 1970 (subject to amendments and repeals)

Agriculture (Miscellaneous Provisions) Act 1968 (subject to amendments and repeals)

Agricultural Produce (Grading and Marking) Acts 1928 and 1931

Agriculture Act 1970 (subject to amendments and repeals) and (SI 1999/2325) regs. 7 to 13

Animal Boarding Establishments Act 1963

Animal Health Act 1981 and Animal Health Act 2002

Animal Health and Welfare Act 1984 and Animal Welfare Act 2006

Anti-Social Behaviour Act 2003 (Part 6)

Breeding of Dogs Act 1973

Breeding and Sale of Dogs (Welfare) Act 1999

Building Act 1984

Business Names Act 1985 is to be repealed by the Companies Act 2006 (when in force)

Cancer Act 1939

Children and Young Persons Act 1933 and Children and Young Persons Act 1963

Children and Young Persons (Protection from Tobacco) Act 1991

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005  
Companies Act 1985 and Companies Act 2006 (in force October 2008)  
Consumer Credit Act 1974 and Consumer Credit Act 2006  
Consumer Protection Act 1987  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
**Constitutional Reform Act 2005**  
Cremation Acts 1902 and 1952 and (SI 2006/92)  
Criminal Attempts Act 1981  
Criminal Justice Act 1988 as amended by the Offensive Weapons Act 1996  
Criminal Justice and Police Act 2001  
Criminal Justice an Public Order Act 1994  
Criminal Law Act 1977  
Crossbows Act 1987  
Dangerous Dogs Act 1989 and 1991  
Dangerous Dogs (Amendment) Act 1997  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Dogs Act 1871  
Dogs Act 1906  
Dogs (Amendment) Act 1928  
Education Reform Act 1988  
Enterprise Act 2002  
Environment Act 1995  
Environment and Safety Information Act 1988  
Environmental Protection Act 1990  
Employment Agencies Act 1973  
Energy Act 1976 and Energy Act 1983  
Energy Conservation Act 1996  
Estate Agents Act 1979  
European Communities Act 1972  
European Communities (amendment) Act 1986 and European Communities (amendment) Act 1986, 1993, 1998, 2002  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Fire and Rescue Services Act 2004  
Financial Services and Markets Act of 2000  
Firearms Act 1968 (as amended)  
Food Act 1984  
Food and Environment Protection Act 1985  
Food Safety Act 1990

Food Standards Act of 1999  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006 and Fraud Act 2007  
Gambling Act 2005 (see \* below  
Game Act 1831  
Game Licences Act 1860  
Guard Dogs Act 1975  
Hallmarking Act 1973  
Health and Safety at Work etc Act 1974  
Home Safety Act 1961  
Housing Act 2004  
Hypnotism Act 1952  
Intoxicating Substances (Supply) Act 1985  
Licensing Act 2003 (see \* below)  
Litter Act 1983  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
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  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Pet Animals Act 1951  
Poisons Act 1972  
Pollution Prevention and Control Act 1999  
Powers of Criminal Courts (Sentencing) Act of 2000  
Prevention of Damage by Pests Act 1949  
Prices Acts 1974  
Property Misdescriptions Act 1991  
Protection of Animals Act 1911  
Public Health Amendment Act 1980  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Disease) Act 1984  
Refuse Disposal (Amenity) Act 1978  
Riding Establishments Acts 1964 and 1970  
Road Traffic Acts 1988 and 1991  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Offenders Act 1988

Scrap Metal Dealers Act 1964  
Slaughterhouses Act 1974  
Slaughter of Poultry Act 1967  
Sunday Trading Act 1994  
Telecommunications Act 1984  
Timeshare Act 1992  
Tobacco Advertising and Promotion Act 2002  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Trading Representations (Disabled Persons) Acts 1958 and 1972  
Unsolicited Goods and Services Acts 1971 and 1975  
Video Recordings Act 1984 and 1993  
Water Act 1989  
Water Consolidation (Consequential Provisions) Act 1991  
Water Industry Act 1991  
Weights and Measures Act 1985  
Weights and Measures and c Act 1976  
West Midlands County Council Act 1980  
Zoo Licensing Act 1981

\* Licensing Act 2003

1. The functions of the Council as "responsible authority" under the Licensing Act 2003 in relation to:
  - (a) Health and Safety
  - (b) Pollution Control/Environmental Health
  - (c) Weights and Measures
  
2. The functions of the Council as Licensing Authority under the Licensing Act 2003 to:
  - (i) Determine applications for licences and certificates where there are no objections
  - (ii) Deal with requests to be removed as a designated premises supervisor
  - (iii) Decisions on whether an objection/representation is irrelevant, frivolous, vexatious etc
  - (iv) The ability to set any fees required under the Act where not specified by statutory instrument.
  - (v) Receive/acknowledge temporary event notices and serve S.107 counter-notices

3. The Council's enforcement function under Part 7

\* Gambling Act 2005

1. The functions of the Council as "responsible authority" under the Gambling Act 2005 in relation to:
  - (a) the Licensing Authority
  - (b) Environmental Health/Pollution
2. The functions of the Council as "licensing authority" under the Gambling Act 2005 to:
  - (a) processes applications for premises licences (including variation and transfer), provisional statements and determines such applications and applications for club gaming machine permits where no representations are outstanding.
  - (b) process and determine applications for all other types of permit, not referred to above.
  - (c) receive/acknowledge temporary use and occasional use notices.
  - (d) cancel licensed premises gaming machine permits.
  - (e) process and determine small society lottery registrations.
  - (f) exercise the Council's powers of entry/inspection.
  - (g) maintain the public register.
  - (h) determine whether representations received from external, responsible authorities and interested parties are frivolous, vexatious or would certainly not influence the determination of an application.

Fly Posting

The Head of Public Protection, and duly authorised officers are delegated with the authority to:

- (a) enforce the relevant regulations made under Sections 220 and 224 of the Town and Country Planning Act 1990, (the 1990 Act) and the Antisocial Behaviour Act 2003 section 48 as they relate to fly posting and, as may be extended from time to time, to areas designated as areas of special control under Section 221 of the 1990 Act and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007/283
- (b) remove or obliterate placards under powers contained in Section 225 of the 1990 Act and the Clean Neighbourhood and Environment Act 2005 section 34(1) and (2) and authorise in writing, officers to enter land for the purpose of exercising powers in Section 225 of the 1990 Act, provided that the land on premises are unoccupied and the power cannot be exercised without entering the land.

**Land and Property Affecting Amenity**

Powers of entry for Section 215 of the Town and Country Planning Act 1990 purposes as prescribed by Section 324 of that Act.

**Clean Neighbourhood and Environment Act 2005**

To authorise legal proceedings for offences relating to non-payment of fixed penalty fines	Head of Public Protection/Head of Highway Services
Nuisance Parking	Head of Planning and Strategic Transportation/Head of Highway Services
Abandoned Vehicles	Head of Street Services/Head of Neighbourhood Management
Littering	Head of Public Protection
Street litter control notices	Head of Public Protection
Free distribution of material	Head of Public Protection
Graffiti	Head of Street Services
Fly Posting	Head of Public Protection
Produce authority to transport waste	Head of Public Protection
Failing to furnish waste documentation	Head of Public Protection
Waste offences domestic receptacles	Head of Street Services
Waste offences commercial receptacles	Head of Public Protection
Dog control orders	Head of Public Protection

**Highways**

**Common Law**

To exercise the Council's common law powers to remove obstructions and abate nuisances on the highway	Head of Highway Services
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**Town Police Clauses Act 1847**

Orders closing streets for processions etc.(S.21) Head of Highway Services

**Chronically Sick and Disabled Persons Act 1970**

Issue/revocation of disabled parking badges(S.21) Head of Highway Services

Recovery of expenses for excessively heavy traffic (S.59) Head of Highway Services

Placing/licensing amenities in the highway (Part VIIA) Head of Highway Services

Powers to take action to protect highway rights (Part IX) Head of Highway Services

urgent repairs to private streets (S.230) Head of Highway Services

Erection of emergency barriers (S.287) Head of Highway Services

Powers of entry (Ss.289 –294) Head of Highway Services

Requisitions for information (S.297) Head of Highway Services

Recovery of expenses (S.305) Head of Highway Services

Authenticating documents (S.321) Head of Highway Services

**Local Government (Miscellaneous Provisions) Act 1976**

Service of notice and subsequent action to make trees safe and to recover costs from owners/occupiers Head of Highway Services

**Road Traffic Regulation Act 1984**

Power to instruct Director of Finance and Legal Services to advertise proposed traffic orders where; Head of Highway Services

order not funded by the Council;

order not part of major highway scheme, traffic calming scheme, or pedestrianisation scheme;

Ward Councillors have been consulted and have not objected.

Power to instruct Director of Finance and Legal Services to make experimental traffic orders where;  order not funded by the Council;  order not part of major highway scheme, traffic calming scheme, or pedestrianisation scheme;  Ward Councillors have been consulted and have not objected.	Head of Highway Services
Temporary road closure orders/notices (s 14)	Head of Highway Services
Permits for heavy trailers (s 21)	Head of Highway Services
Power to permit use of traffic signs (ss 65, 68, 69, 71, 72)	Head of Highway Services
Powers to remove vehicles (ss 99 102)	Head of Highway Services
<b>Road Traffic Act 1988</b>	
Power to prohibit use of overloaded vehicles (s 70)	Head of Highway Services
Powers to weigh vehicles (s 78)	Head of Highway Services
<b>Criminal Justice and Public Order Act 1994</b>	
Power to direct unauthorised campers to leave highway land (s 77)	Head of Highway Services
Power to apply for court order to remove vehicles off highway (s 78)	Head of Highway Services
<b>Traffic Management Act 2004</b>	
To act as the Traffic Manager (s 17)	Head of Highway Services
Refer to any amendments and regulations made thereunder	

**Director of City Development**

**Statutory or other Function**

**Nominee/Limitations**

**Local Government Act 1972 modified by the Ordnance Survey Act 1841**

Functions with regard to ordnance survey

**Safety of Sports Grounds Act 1975 and Fire Safety and Safety of Places of Sport Act 1987**

To issue or amend certificates and carry out all associated functions and to authorise emergency action

Head of Planning and Strategic Transportation

**Local Government (Miscellaneous Provisions) Act 1976**

Serving requisition of Information Notices

All Directors

Serving of notices and subsequent action to provide protection to the public from dangerous excavations on private land to which the public has access.

Head of Planning and Strategic Transportation

**Local Government (Miscellaneous Provisions) Act 1982**

Power of entry

Head of Planning and Strategic Transportation

Protection of Buildings

Head of Planning and Strategic Transportation

Buildings on operational land of certain statutory undertakers

Head of Planning and Strategic Transportation

**The Building Act 1984**

Determination of applications for Building Regulation consent; applications for dispensation from, or relaxation of, Building Regulation Requirements

Head of Planning and Strategic Transportation

Building over sewers

Head of Planning and Strategic Transportation

Use of short lived materials

Head of Planning and Strategic Transportation

**Part 3.8 – Functions Delegated to Employees**

Use of materials unsuitable for permanent building	Head of Planning and Strategic Transportation
Provision of drainage	Head of Planning and Strategic Transportation
Drainage of buildings in combination	Head of Planning and Strategic Transportation
Provision of facilities for refuse	Head of Planning and Strategic Transportation
Provision of fire exits	Head of Planning and Strategic Transportation
Provision of water supply	Head of Planning and Strategic Transportation
Provision of closets	Head of Planning and Strategic Transportation
Provision of bathrooms	Head of Planning and Strategic Transportation
Provision for feed storage	Head of Planning and Strategic Transportation
Site containing offensive material	Head of Planning and Strategic Transportation
Determination of questions	Head of Planning and Strategic Transportation
Proposed departure from plans	Head of Planning and Strategic Transportation
Lapse of deposit of plans	Head of Planning and Strategic Transportation
Test for conformity with building regulations	Head of Planning and Strategic Transportation
Means of escape from fire	Head of Planning and Strategic Transportation
Raising of chimneys	Head of Planning and Strategic Transportation
Cellars and rooms below sub-soil water level	Head of Planning and Strategic Transportation
Notices and action in respect of Dangerous buildings and structures	Head of Planning and Strategic Transportation

**Part 3.8 – Functions Delegated to Employees**

Ruinous dilapidated buildings and neglected sites Head of Planning and Strategic Transportation

Notices in respect of demolition Head of Planning and Strategic Transportation

Maintenance of entrances to courtyards Head of Planning and Strategic Transportation

**West Midlands County Council Act 1980**

Allocation of street numbers Head of Planning and Strategic Transportation

Approval of plans to be void after certain interval Head of Planning and Strategic Transportation

**Party Wall etc Act 1996**

Appointment of surveyors when requested for resolving disputes through arbitration Building Control Manager

**Highways**

**Countryside Act 1968**

Signposting of footpaths etc.(s 27) Building Control Manager  
Refer to amendments by the Wildlife and Countryside Act 1981, and the Road Traffic Regulation Act 1984

**Highways Act 1980 (as amended by any enactment thereunder)**

Maintaining a register of adopted streets (s 36) Building Control Manager

Agreements for adopting highways (s 38) Building Control Manager

Adoption of private streets by notice (Section 228) Building Control Manager

Advance Payments Code (ss 219 – 225) Building Control Manager

Highway funding agreements (s 278) Building Control Manager

**Wildlife and Countryside Act 1981 and any regulations made thereunder**

Keeping Definitive Maps and Statements of Rights of Way & associated registers (Part III) Building Control Manager

**Public Passenger Vehicles Act 1981**

Power to object to PSV operator licences (s 14A)

Building Control Manager

**Transport Act 1985**

Power to make representations regarding local bus services (s 6 and any amendments by the Railways Act 2005)

Building Control Manager

**Goods Vehicles (Licensing of Operators) Act 1995**

Power to object to licences (s 12)

Building Control Manager

Power to object to variation of licences (s 19)

Building Control Manager

**Property Matters – Methods of Disposal**

By tender unless otherwise recommended

Head of Property Management

Marketing at fixed rent or price of any property

Head of Property Management

Direct negotiation with a single party where it is in the best interests of the Council as directed by the Head of Property Management

Head of Property Management

Approval to sell property at auction

Head of Property Management  
in consultation with Cabinet Member

**Approval of Terms**

Minor land transactions of up to £20,000

Head of Property Management

Terms for rent reviews and lease renewals

Head of Property Management

Terms for any new lettings

Head of Property Management

Approval of acquisition by agreement or Compulsory Purchase Order where principal budget has prior agreement

Head of Property Management

Highest Tenders

Head of Property Management

**Surrenders**

Acceptance of surrenders where:

tenant moving to larger or more expensive City Council premises.

Head of Property Management  
Head of Property Management

a reletting can be achieved and the financial benefit to the City Council is demonstrated

Head of Property Management  
in consultation with the Director of  
Finance and Legal Services

it is agreed that that there are or could be arrears of rent which it is unlikely would be recovered.

Head of Property Management

**Lease Variations**

Any lease variation

Head of Property Management

**Landlord's consent**

Any consent under the terms of a Lease

Head of Property Management

**Other**

Approval of applicants (including established businesses) for New Enterprise Schemes

Head of Property Management

New Enterprise Scheme to:

Extend occupation beyond three years

Head of Property Management

Permit established businesses to occupy

Head of Property Management

Authorise appropriate action for licensee with arrears of six weeks or more

Head of Property Management

Naming of new development

Head of Property Management in  
consultation with the relevant Cabinet  
Member

**Authority to Authorise Action**

Any legal notice (eg. s146/s.17 etc) for Breach of Lease Covenant

Head of Property Management

Submission of planning applications where application consistent with approved policy.

Head of Property Management

Appointment of consultants for all property related matters subject to compliance with procurement rules

Head of Property Management

**Part 3.8 – Functions Delegated to Employees**

Any action to protect the Charter for the Retail Market	Head of Property Management
Requisition for information and decision to prosecute under s.16 Local Government (Miscellaneous Provisions) Act 1976 in relation to compulsory purchase	Head of Property Management
Termination of New Enterprise Scheme Licenses	Head of Property Management
Taking action for Summary Possession against itinerants and other unlawful occupiers of Council-owned land.	Head of Property Management

**Authority to Sign Documentation**

Agreement or licences under hand conferring an interest of 3 years or less.	Head of Property Management
Licence Agreements for New Enterprise Units	Head of Property Management
Wayleave consents between Council and statutory undertakers	Head of Property Management
Landlords consent in respect of:- any matter relating to the lease	
Valuation certificates verifying consideration within market limits.	
Rating Agreement Forms	



**Planning Functions**

All applications and ancillary submissions under Planning Acts (including Listed Buildings and Conservation Area Consents; applications for express consent; notifications and prior approvals under the General Permitted Development Order; submission of details under the General Permitted Development Order; Notifications under Circular 14/90; notifications by the Coal Authority; Consultations from Government Departments under Circular 18/84; Circular 21/91 and Circular 6/93 applications under Hedgerow Regulations; Hazardous Substances Consents; matters under the Land Compensation Act 1961; Certificates of Lawful Development (subject to the agreement of the Director of Finance and Legal Services; all powers and requirements under Environmental Impact Assessment Regulations.

Head of Planning and Strategic  
Transportation

**Safeguards**

It is expected that officers shall not determine matters in exercise of the above delegation unless the following safeguards 2 to 5 are met in the cases of householder and minor development and all the following safeguards are met in all other cases provided that (for the avoidance of doubt) failure to observe the safeguards shall not affect the validity of any determination:-

1. Any decision being in full compliance with the Unitary Development Plan and all other appropriate City Council policies, standards or guidelines. (This criteria does not apply to householder and minor developments).
2. Any decisions not being the subject of any unresolved public representations.
3. Any decision not being the subject of any unresolved conflicts of advice from other City Council Directorates as statutory consultees.
4. No Member of the City Council having objected to the application being a delegated decision and requested it to be considered by Committee.
5. The matter not being one in respect of which a Member of the City Council or an officer of the Planning and Transportation Division has a prejudicial interest.

Other functions as delegated at present are not proposed to be affected.

**Licensing Act 2003**

The functions of the Council as a "responsible authority" under the Licensing Act 2003 – in relation to being the local planning authority

Head of Planning and Strategic  
Transportation

**Gambling Act 2005**

The functions of the Council as a "responsible authority" under the Licensing Act 2003 and Gambling Act 2005 – in relation to being the local planning authority

Head of Planning and Strategic  
Transportation

**Hackney Carriage and Private Hire Licensing Scheme of Delegation.**

The following schedule lists the delegated authority for the **Director of City Development** or his nominated officer, the **Licensing Manager**, to undertake various matters on behalf of the City Council. Any matters that are not delegated must be referred to the Licensing and Regulatory Committee.

This schedule supersedes and replaces all previous delegations to employees.

**1. Hackney Carriage and Private Hire Drivers**

**1.1 Grant/Renewal of Licence**

To grant, renew or re-grant where:

- (a) Convictions endorsed on a DVLA licence are for driving offences where not more than 3 penalty points are endorsed for any offence or where no more than 6 penalty points are endorsed in total; or
- (b) Apart from driving convictions to which paragraph (a) above applies, there are no other convictions or cautions recorded against the applicant, or where any other recorded convictions or cautions would have been spent for the purposes of the Rehabilitation of Offenders Act 1974; or
- (c) The Licensing Manager is satisfied that the applicant complies with the Council's Guidelines Covering Driver Applicants who have been absent from the UK, or
- (d) Driving or other convictions have previously been considered by the Licensing Committee or an appeal court and found not to render the applicant unsuitable (provided no further offences have been recorded since the Committee or court decision was made).

**1.2 Refusal of Licence**

To refuse to grant, renew or re-grant where:

- (a) A DVLA licence (or equivalent) has not at any time prior to the application been held for a full continuous period of 12 months; or
- (b) The applicant has not successfully completed one or more of the following elements of the licensing application process: Road Knowledge Test, Driving Test, Medical Test, Driver Training Test; or
- (c) Where less than 12 months has elapsed from the date of a previous refusal, revocation or unsuccessful appeal, unless a lesser period has been stipulated by the Licensing Committee or an appeal court

**1.3 Suspension of Licence**

To suspend where:

- (a) A driver is disqualified from driving during the term of a licence issued by the City Council and the driver's DVLA licence will be restored during that term; or
- (b) In the opinion of the Licensing Manager in consultation with the Chair of the Licensing Committee (or in his/her absence the Deputy Chair or in the absence of either, the Director of Finance and Legal Services) it is necessary that immediate steps be taken to suspend a licence in the interests of public safety.

**1.4 Revocation of Licence**

To revoke where:

- (a) A driver is disqualified from driving during the term of a licence issued by the City Council and where the driver's DVLA licence will not be restored during that term

**2. Hackney Carriage and Private Hire Vehicles**

**2.1 Grant, renewal or transfer of Licence**

To grant, renew or transfer where:

- (a) The vehicle complies with all relevant legislative requirements and the policies of Coventry City Council.

**2.2 Refusal to grant, renew or transfer Licence**

To refuse to grant where:

- (a) The vehicle does not comply with the relevant legislative requirements or the policies of Coventry City Council.

To refuse to renew or transfer where:

- (a) The vehicle is unfit for use as a Hackney Carriage or Private Hire Vehicle; or
- (b) The vehicle's operator or driver has committed an offence under or has otherwise failed to comply with the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976; or
- (c) There is reasonable cause to do so.

### **2.3 Revocation/suspension of Licence**

To revoke or suspend where:

- (a) The vehicle is unfit for use as a Hackney Carriage or Private Hire Vehicle; or
- (b) The vehicle's operator or driver has committed an offence under or has otherwise failed to comply with the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 or;
- (c) There is reasonable cause to do so.

**N.B.** In relation to the testing or inspection of vehicles the power to suspend a licence may be exercised by a CCS Transport Services Vehicle Inspector where a vehicle fails an inspection on a MOT testable item.

### **2.4 Private Hire Vehicle Exemptions**

To issue notices of exemption under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 where:

- (a) In the reasonable opinion of the Licensing Manager, the vehicle is a recognised prestige/executive model or specification of model, or is a recognised vintage or classic model; and
- (b) The vehicle is used solely for contract or account work with businesses/organisations or one-off bookings for special occasions such as birthdays, anniversaries or other similar occasions requiring a chauffeur-driven service; and
- (c) The vehicle is not fitted with a data-box, taximeter or two-way radio.

### **2.5 Advertisements on Hackney Carriages**

To authorise requests for the display of advertisements inside or outside licensed hackney carriages in accordance with City Council policy.

**3. Private Hire Operators**

**3.1 Grant/renewal of licences**

To grant or renew where:

- (a) There are no convictions or cautions recorded against the applicant or where any recorded convictions or cautions are spent for the purposes of the Rehabilitation of Offenders Act 1974; or
- (b) Convictions or Cautions have previously been considered by the Licensing Committee or an appeal court and have been found not to have rendered the applicant unsuitable (provided no further offences have been recorded since the Committee or court decision was made).

**3.2 Refusal to grant/renew licences**

To refuse to grant or renew a licence where:

- (a) Less than 12 months has elapsed from the date of a previous refusal, revocation or unsuccessful appeal, unless a lesser period been stipulated by the Licensing Committee or appeal court.

**3.3. Miscellaneous**

3.3.1 sign licences and all other documents relevant to this schedule on behalf of the City Council.

3.3.2 To instruct the Director of Finance and Legal Services to commence legal proceedings where offences have been committed under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and Section 143 Road Traffic Act 1988 (as authorised by Section 222 Local Government Act 1972 (and as amended by any regulations) and to defend any appeal or challenge brought against a Hackney Carriage or Private Hire licensing decision made by the City Council.

3.3.3 To refer any matter within the scope of this schedule to the Licensing Committee for their determination where in the opinion of the Director of City Development or the Licensing Manager it is appropriate to do so.

**Culture and Leisure Functions**

Adoption of open space areas in accordance with policy	Head of Culture, Leisure and Libraries in consultation with the relevant Cabinet Member
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To erect, alter or remove notices prohibiting vehicles or cycles or the playing of ball games under Section 6, West Midlands County Council Act 1980.	Head of Culture, Leisure and Libraries
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**Part 3.8 – Functions Delegated to Employees**

**Except** for disposal for highway purposes, to determine applications for the disposal of land of up to 250 sq. yds and, in the case of disposals of "open space" land to advertise the intention to do so under Section 123 of the Local Government Act 1972 and any amendments by the Local Government, Planning and Land Act 1980

Head of Culture, Leisure and Libraries with terms for disposal delegated to the Head of Projects.

Any decisions made under delegated powers will:

Be in full compliance with all appropriate City Council policies or guidance;

Not be the subject of any unresolved public objection; and

Not be the subject of any unresolved conflicts of advice from other Council Departments or Committees.

Approval of events and activities at parks, open spaces and other cultural facilities in accordance with agreed policy

Head of Culture, Leisure and Libraries

Approval of small grants up to maximum value of £1,000

"

To vary fees and charges annually in accordance with inflation

"

Approval of amendments to Museum Acquisitions and Disposal Policy.

in consultation with relevant Cabinet Member

Approval of minor items to be de-accessioned and disposed of from Museum collections.

in consultation with relevant Cabinet Member

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**3.8.3 Statutory Appointments**

3.8.3.1 The Chief Executive is Head of the Paid Service (Section 4, Local Government and Housing Act 1989).

3.8.3.2 The Head of Legal Services is Monitoring Officer (Section 5, Local Government and Housing Act 1989).

3.8.3.3 The Director of Finance and Legal is responsible for the administration of the Council's financial affairs (Section 151, Local Government Act 1972).

**3.8.4 Proper Officer Designations**

3.8.4.1 Legislation specifies certain functions as the responsibility of "the Proper Officer". The Council has designated particular posts for these purposes and these are identified in the scheme of delegation. In the event of any such Proper Officer appointment not being expressly made, the officer to whom a function is delegated is deemed to be the Proper Officer for that function.

**3.8.5 Exercising Powers Delegated to Employees**

3.8.5.1 Members of the Management Board are accountable for the efficient and effective management of the services for which they are responsible and the performance of their statutory functions

3.8.5.2 Members of the Management Board may use whatever means they consider appropriate to discharge the functions for which they have responsibility.

3.8.5.3 All employees must, in the exercise of their delegated powers, act within the law, comply with the Council's Standing Orders, financial rules and human resource policies and act in accordance with Council policy.

3.8.5.4 An employee to whom powers are specifically delegated may authorise another employee to exercise those powers on his/her behalf but remains responsible for any decisions taken.

**3.9 Functions Of The Appeals Committee, Appointments Panel and Remuneration Panel.**

**3.9.1 The Appeals Committee**

3.9.1.1 The Appeals Committee will have responsibility for functions relating to appeal set out below except where specific functions have been delegated to an employee of the council by virtue of Part 3.8 of this Constitution

3.9.1.2 With the exception of School Admission and Exclusion Appeals and those matters where there is a statutory right of appeal, appeals against decisions of the Council made by members or by employees under delegated powers will be heard by the Appeals Committee established by the Director of Customer and Workforce Services on an ad hoc basis from the appeals panel.

**3.9.1.3**

1. The determination of an appeal against any decision made by or on behalf of the authority	Any enactment conferring a power on the Council to determine such appeals
2. The making of arrangements for appeals against exclusion of pupils	The Education Act 2002 Section 215(2), Schedule
3. The making of arrangements for school admissions appeals	Section 94(1) and (4) School Standards and Framework Act 1998 as amended by Education Act 2002 and Education and Inspections Act 2006, and any other regulations made thereunder
4. The making of arrangements for appeals by governing bodies against an LEA decision to admit a child permanently excluded from two schools	Sections 87 and 95(2) School Standards and Framework Act 1998

There is a separate appeal body for school admissions and exclusion appeals.

**3.9.2 The Appointments Panel**

An appointments panel will carry out functions specified in the Employees Employment Procedure Rules in Part 4.8.

**3.9.3 The Independent Remuneration Panel**

The Independent Remuneration Panel will be responsible for the function of making any scheme for basic, attendance and special responsibility allowances for Local Authority Members or amending, revoking or replacing any such scheme.



**PART 4**  
**RULES OF PROCEDURE**

**4.1 Council Procedure Rules**

**ANNUAL MEETING OF THE COUNCIL**

**4.1.1 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 or June.

The Annual Meeting will:-

- 4.1.1.1 elect a person to preside if the Lord Mayor and the Deputy Lord Mayor are not present;
- 4.1.1.2 receive any apologies for absence;
- 4.1.1.3 receive any correspondence and announcements of the Lord Mayor;
- 4.1.1.4 elect the Chair of the Council (being Lord Mayor of the City);
- 4.1.1.5 elect the Vice-Chair of the Council (being Deputy Lord Mayor of the City);
- 4.1.1.6 elect the Leader and Deputy Leader of the Council
- 4.1.1.7 agree the minutes of the last meeting and their signature;
- 4.1.1.8 receive the return of persons elected as Councillors (when applicable);
- 4.1.1.9 receive any declarations of interest from Councillors;
- 4.1.1.10 agree the number of Councillors to be appointed to the Cabinet and appoint those Councillors of the Cabinet
- 4.1.1.11 establish the Scrutiny Co-ordinating Committee, Scrutiny Boards, Best Value Review Groups, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 of this Constitution. This also includes the appointment of the Chair and Deputy Chair of those bodies (with the exception of the Standards Committee which shall appoint its own chair from amongst its membership).
- 4.1.1.12 decide the size and terms of reference for those Scrutiny Boards and Committees
- 4.1.1.13 decide the allocation of seats to political groups in accordance with the political balance rules;
- 4.1.1.14 receive nominations of Councillors to serve on each Scrutiny Board, Committee and outside body; and
- 4.1.1.15 appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet
- 4.1.1.16 agree the scheme of delegation as set out in Part 3 of this Constitution;
- 4.1.1.17 decide the date and time of the next Annual Meeting;

- 4.1.1.18 approve a programme of ordinary meetings of the Council Cabinet, Scrutiny Boards and Committees for the year; and
- 4.1.1.19 consider any business set out in the notice convening the meeting.

NOTE: Procedural matters relating to the Annual Meeting are detailed in Paragraph 8.7.

**ORDINARY MEETINGS**

- 4.1.2 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:-
  - 4.1.2.1 elect a person to preside, if the Lord Mayor and the Deputy Lord Mayor are not present;
  - 4.1.2.2 receive any apologies for absence;
  - 4.1.2.3 agree the minutes of the last meeting and their signature;
  - 4.1.2.4 receive any return of persons elected as Councillors;
  - 4.1.2.5 present the Citizen of the Month Award;
  - 4.1.2.6 receive any correspondence and announcements of the Lord Mayor;
  - 4.1.2.7 receive any petitions in accordance with the Petitions Procedure Rules set out in Part 4.9;
  - 4.1.2.8 receive any declarations of interest by Councillors;
  - 4.1.2.9 receive questions and provide answers to Councillors (except at the Council Tax/Budget setting meeting);
  - 4.1.2.10 receive any statement by the Leader of the Council or her/his nominated speaker on any matter of significant importance to the City;
  - 4.1.2.11 determine any matters left for determination by the City Council;
  - 4.1.2.12 consider recommendations for the City Council;
  - 4.1.2.13 consider motions;
  - 4.1.2.14 approve extensions to the programme of ordinary meetings of the Council, Cabinet, Scrutiny Boards and Committees;
- 4.1.3 Any ordinary meeting of the Council may be cancelled, rearranged or relocated by the Director of Customer and Workforce Services after consultation with the Lord Mayor and the Leader of the Council.

## **EXTRAORDINARY MEETINGS**

### **4.1.4 Calling Extraordinary Meetings**

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:-

4.1.4.1 the Council by resolution;

4.1.4.2 the Lord Mayor

4.1.4.3 the Director of Customer and Workforce Services

4.1.4.4 any five Councillors if they have signed a requisition presented to the Lord 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.

Any requisition under Rule 4.1.4.4 will be addressed to the Lord Mayor by being left for the Lord Mayor at a location designated by the Director of Customer and Workforce Services. The requisition will indicate the business to be transacted at the meeting. \*NB: The location currently designated is Room 59 in the Council House.

4.1.6 The date, time and location of any extraordinary meeting will be fixed by the Director of Customer and Workforce Services after consultation with the Lord Mayor and the Leader of the Council.

## **TIME AND PLACE OF MEETINGS**

4.1.7 The time and place of meetings will be determined by the Director of Customer and Workforce Services and notified in the summons.

4.1.8 There will be no restriction on the duration of meetings except that if any Council meeting continues for a period of more than 3 hours, there will be a break in proceedings as soon as 3 hours has elapsed since the start of the meeting unless the Council votes unanimously to continue without a break or the Lord Mayor or other person chairing the meeting determines that the remainder of the business of the meeting can be concluded within a reasonable time so as to render any break unnecessary. The break will be for a minimum of 5 minutes and a maximum of 15 minutes. This provision is intended to safeguard the health and wellbeing of Councillors and employees present at any meeting.

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

4.1.9 The Director of Customer and Workforce Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Director of Customer and Workforce Services will send a summons signed by him or her by post to every 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.

**CHAIR OF MEETING**

- 4.1.10 The Lord Mayor or, in her/his absence, the Deputy Lord Mayor will chair meetings of the City Council. In the absence of both the Lord Mayor and the Deputy Lord Mayor, the City Council will elect another Councillor, other than a Councillor of the Cabinet, to chair the meeting.
- 4.1.11 If it is necessary to select a Councillor to chair the meeting in the absence of the Lord Mayor and the Deputy Lord Mayor, the Chief Executive (or, in her/his absence, the Head of Legal Services) will call for a Councillor to move that another Councillor should be nominated to chair the meeting.
- 4.1.12 If discussion arises on that motion, the Chief Executive (or, in her/his absence, the Head of Legal Services) will exercise the powers of the Chair to regulate that discussion and to maintain order at the meeting.
- 4.1.13 The Lord Mayor will be addressed "Lord Mayor". The Deputy Lord Mayor when chairing the meeting will be addressed as "Deputy Lord Mayor" and any other Councillor elected to chair a meeting will be addressed as "Chair".
- 4.1.14 The Deputy Lord Mayor or other Councillor chairing the meeting will be entitled to exercise any power of the Lord Mayor in relation to the conduct of that meeting.

**QUORUM**

- 4.1.15 Subject to Rule 4.1.19, no business will be dealt with unless there is a quorum of 14 Councillors.
- 4.1.16 If, at the expiration of 15 minutes after the time at which any meeting is appointed to be held, there is no quorum present, the meeting will not take place.
- 4.1.17 If during any meeting, the Lord Mayor, after counting the number of Councillors present, declares that there is not a quorum present, the meeting will stand adjourned for fifteen minutes.
- 4.1.18 If, after 15 minutes, there is no quorum present, the meeting will end. The consideration of any business not transacted will be adjourned to a date, time and location fixed by the Lord Mayor at that time or, if she/he does not fix a date, time and location at that time, to the next ordinary meeting.
- 4.1.19 If Councillors are required to leave the meeting under the Code of Conduct for Elected Councillors their leaving the meeting will not affect the quorum.

## **QUESTIONS BY COUNCILLORS**

At ordinary meetings of the Council, except the Council Tax/Budget setting meeting, there will be a Question Time.

- 4.1.20 A Councillor may put in writing a question concerning any matter to be answered at the meeting by the appropriate Cabinet Member, Chair or other Councillor. Such questions must be delivered to the Director of Customer and Workforce Services at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. An answer may be written and circulated to Councillors at the meeting, given orally by the Cabinet Member, Chair or other Councillor replying, or a combination of both. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question already asked upon that part of the minutes.

\*NB The location currently designated is Room 59 in the Council House.

- 4.1.21 A Councillor may ask a Chair of a Scrutiny Board, the Scrutiny Co-ordination Committee or the Chair of any other Body any oral question. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. The Chair will reply orally at the meeting or a written answer will be circulated to Councillors after the meeting within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral question which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to the question(s) already asked.

- 4.1.22 A Councillor may ask the nominated spokespersons of the West Midlands Police Authority, West Midlands Fire & Rescue Authority or the West Midlands Passenger Transport Authority a written question about any matter which relates to the work of that Authority. The question must be delivered to the Director of Customer and Workforce Services at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. An answer may be written and circulated to Councillors at the meeting, given orally by the nominated spokesperson or a combination of both. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral questions which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked.

\*NB The location currently designated is Room 59 in the Council House.

- 4.1.23 A Councillor may ask another Councillor or an Employee, who is a Councillor or a director of an authorised company as defined by Section 71(1) of the Local Government and Housing Act 1989, a written question about any matter which relates to the activities of that company. The question must be delivered to the Director of Customer and Workforce Services at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. An answer may be written and circulated to Councillors at the meeting, given orally or a combination of both. Nothing will require the other Councillor or the Employee to disclose any information about the company which has been communicated to her/him in confidence. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral questions which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked. \*NB The location currently designated is Room 59 in the Council House.

- 4.1.24 A Councillor may ask a Council representative on an outside body an oral question at the meeting without prior notice being given on any matter pertaining to that outside body. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. An answer may be given orally by the representative on the outside body at the meeting or a written answer circulated to Councillors after the meeting, within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which in her/his opinion is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked.
- 4.1.25 A Councillor may ask a Cabinet Member an oral question at the meeting without prior notice being given on any other matter. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. An answer may be given orally by the Cabinet Member at the meeting or a written answer circulated to Councillors after the meeting, within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which, in his/her opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or questions already asked.
- 4.1.26 All questions referred to in Rules 4.1.20, 4.1.22 and 4.1.23 will be considered in the order received by the Director of Customer and Workforce Services. The Lord Mayor may change the order of questions at the meeting if she/he considers it expedient. Copies of all questions will be circulated to all Councillors and made available to the public attending the meeting.

#### **MOTIONS ON NOTICE**

- 4.1.27 Every notice of motion to be inserted in the summons for the next meeting of the City Council will be in writing and signed by the Councillor intending to move it and by the Councillor intending to second it. The notice must be delivered to the Director of Customer and Workforce Services at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. The Director of Customer and Workforce Services will only accept notices of motion which fulfil these requirements and will not accept more than one notice of motion intended to be moved (and seconded) by a Councillor(s) of any one Political Group. The Director of Customer and Workforce Services will enter every such motion and the time and date of its receipt in a book to be kept in a location designated by her/him and such book will be open to the inspection of every Councillor and will be open for public inspection.
- \*NB The location currently designated is Room 59 in the Council House.
- 4.1.28 The Director of Customer and Workforce Services will set out in the summons for every meeting of the City Council, all motions of which notice has been duly given under the heading "Debates", in the order in which they have been received unless the Councillor giving such notice intimated in writing, when giving it, that she/he proposed to move it at some later meeting, or has since withdrawn it in writing.
- 4.1.29 If a motion set out in the summons is not moved and seconded either by the Councillor who gave notice thereof, or by some other Councillors on their behalf it will, unless postponed by consent of the City Council, be treated as withdrawn and will not be moved without fresh notice.
- 4.1.30 The mover of a motion or amendment will speak for no more than 5 minutes. All other speeches on the motion will each be for no more than 3 minutes.

- 4.1.31 An amendment to a notice of motion will not be discussed unless it has been moved and seconded. It will be put in writing and handed to the Director of Customer and Workforce Services before it is put to the meeting.
- 4.1.32 When a motion is made in pursuance of a notice of motion, and the subject is referred by the City Council to a Body, the Director of Customer and Workforce Services will send notice of the meeting at which the subject will be considered to the proposer and seconder of the motion, unless they are themselves members of that Body. The proposer and seconder will not be entitled to vote unless either of them is a member of the Body.
- 4.1.33 If a motion is made in pursuance of a notice of motion which would increase expenditure of the City Council, or reduce income to the City Council, then the motion will be regarded as tentative only and will be referred by the City Council to the appropriate Body for them to consider and make their views known to the City Council before formal approval is given.
- 4.1.34 The tentative decision will be included in the summons for the next appropriate meeting of the City Council where the City Council may confirm, amend or rescind it, having regard to the views of the appropriate Body.

**MOTIONS WITHOUT NOTICE**

- 4.1.35 The following motions may be moved without notice:
  - 4.1.35.1 to elect a Councillor to chair the meeting;
  - 4.1.35.2 to agree the minutes of the previous meeting;
  - 4.1.35.3 to re-order the business on the agenda;
  - 4.1.35.4 to refer an item to the agenda of the next ordinary meeting, or to the Cabinet, Scrutiny or a City Council Committee;
  - 4.1.35.5 to combine debates on items on the agenda;
  - 4.1.35.6 to withdraw an item from the agenda;
  - 4.1.35.7 to suspend particular Council Procedure Rules;
  - 4.1.35.8 not to hear, on the motion of the Lord Mayor, a Councillor further or to require a Councillor to leave a meeting;
  - 4.1.35.9 to record the Council's appreciation or condolence;
  - 4.1.35.10 to receive a petition;
  - 4.1.35.11 to refer a matter raised by a petition or question to the Cabinet, Scrutiny, City Council Committee or to an external body;
  - 4.1.35.12 to obtain the agreement of the meeting in any case where a particular Council Procedure Rule requires it;
  - 4.1.35.13 to appoint Councillors or other persons to an external body;



- 4.1.35.14 to proceed to the next business;
- 4.1.35.15 that the questions now be put;
- 4.1.35.16 to adjourn a debate;
- 4.1.35.17 to adjourn a meeting;
- 4.1.35.18 to exclude the press and public in accordance with the Access to Information Rules

**PETITIONS**

- 4.1.36 Petitions will be presented as provided for in the Petitions Procedure Rules set out in Part 4.9 of this Constitution.

**STATEMENT BY THE LEADER OF THE COUNCIL OR A NOMINATED SPEAKER**

- 4.1.37 The Leader of the Council, or a Councillor nominated by her/him, will be entitled to make a statement on an issue or matter of significant importance to the City. The statement will last no more than 10 minutes.
- 4.1.38 Where there is to be a Statement by the Leader, the Leaders of the other political groups will be notified of the subject matter at the earliest opportunity.
- 4.1.39 A Councillor from each of the other Groups represented on the Council will be entitled to respond to the statement. The response will last no more than 10 minutes.
- 4.1.40 The Leader of the Council or the nominated Councillor will be entitled to a right of reply lasting no more than 5 minutes, but there will be no further debate.

**RECOMMENDATIONS SUBMITTED TO THE CITY COUNCIL**

- 4.1.41 Recommendations submitted to the City Council will be reproduced and a copy will be issued to each Councillor prior to or with the summons for the meeting of the City Council at which they are to be submitted. In case of urgency, such recommendations may be issued during the interval between the summons and the meeting, provided that due notice of the business is included in the summons.
- 4.1.42 Recommendations submitted to the City Council will include all matters which are listed in Part 3 as being functions of the Council.
- 4.1.43 In case of doubt whether a delegated matter ought, under this Standing Order, to be dealt with in any particular manner, the Director of Customer and Workforce Services will have the power to decide the point and her/his decision will be final.
- 4.1.44 The Director of Customer and Workforce Services will reproduce the recommendations submitted to the City Council for consideration in such order as will appear to her/him to be the most convenient for consideration by the City Council.

- 4.1.45 Upon the consideration of the recommendations before Council for consideration, the motion for the confirmation of the recommendations will be submitted by the Cabinet Member, Chair, Deputy Chair, or other Councillor having charge thereof. In doing so, she/he may, with the consent of the City Council (signified without discussion), withdraw from consideration a specified item of business or move the confirmation of recommendations with a specified alteration. On the consideration of the motion, it will be competent for any Councillor to call the attention of the City Council to, and fully discuss, any subject matter referred in the recommendations which still remains before the City Council, having regard to any earlier withdrawal or amendment.
- 4.1.46 The rules of debate in Rules 4.1.47–65 will apply to recommendations.

### **RULES OF DEBATE**

A diagram detailing the Process for Debates is appended as Annex 1 to this section.

- 4.1.47 A Motion or amendment will not be discussed unless it has been proposed and seconded, and it will, unless the Lord Mayor dispenses with this requirement, be produced in writing and handed in to the Director of Customer and Workforce Services before it is further discussed or put to the meeting. A copy of any amendment(s) will be circulated to all members at the meeting when the amendment(s) has/have been moved and seconded. Every amendment must be the subject of a vote unless the amendment, having been moved and seconded, is withdrawn by the proposer.
- 4.1.48 A Councillor intending to move an amendment will declare that intention, together with the wording of the amendment and the name of the Councillor then present in the meeting who has agreed to second the amendment, within three minutes of starting to speak in the debate on a Motion. Once the amendment has been moved and seconded the debate is then on the amendment. The Councillor named to second the amendment will, immediately upon being so named, indicate her/his agreement to the Lord Mayor by show of hand. The mover of the amendment may thereupon continue to speak, provided that, in total, the length of her/his speech will not exceed five minutes.
- 4.1.49 If the mover of an amendment does not, for whatever reason, name his seconder as prescribed in 4.1.48 or, if the named seconder fails to indicate agreement by show of hand, the mover of the amendment will speak for no more than three minutes and will then sit. The Lord Mayor will then call for a seconder of the amendment. If any Councillor present seconds the amendment, the mover of the amendment will have the right to resume his speech for a further period not exceeding two minutes. If no Councillor present seconds the amendment, the mover of the amendment will not speak further upon the amendment.
- 4.1.50 The mover of an original motion will have the right of reply at the close of a debate upon the recommendation immediately before:-
- i) it is put to the vote or;
  - ii) before a motion is put that:-
    - "the question now be put"
    - "the debate be now adjourned", or
    - "that the Council so now proceed to the next business"

If an amendment is proposed:-

- (1) the mover of the original motion will be entitled to speak on any amendment to the motion immediately before the reply and;
- (2) the mover of the amendment will have the right of reply at the close of the debate on the amendment immediately before:-
  - (i) it is put to the vote; or
  - (ii) before a motion is put that:-
    - "the question now be put"
    - "the debate be now adjourned" or
    - "that the Council so now proceed to the next business"

4.1.51 A Councillor, when seconding a motion or an amendment, may reserve her/his right to speak until later in the debate provided that she/he clearly signifies her/his intention to do so.

4.1.52 A Councillor may speak once in relation to any motion; and once more in relation to any amendment to that motion; and once more in relation to each and every further amendment in any debate. This is in addition to any right of reply on a point of order or by way of personal explanation. All contributions to any debate must refer directly to the motion or the amendment before the Council.

4.1.53 A Councillor, who has not participated in the debate then before the City Council, may at the conclusion of a speech of another Councillor, move without comment "that the question be now put". On the seconding of that motion the Lord Mayor (if in her/his opinion the question has been sufficiently discussed) will put this motion to the vote. If it is carried, the question before the meeting will then be put to the vote following the reserved right to second in 4.1.51 above and the right of reply in 4.1.50 above.

4.1.54 A Councillor may move:-

- i) "that the Council do now adjourn"
- ii) "that the Council do now proceed to the next business", or
- iii) "that the debate be now adjourned"

The Councillor moving such a motion will give her/his reasons for the motion in a speech not exceeding 2 minutes. The motion must be seconded without speech.

Once seconded, the right of reply referred to in 4.1.50 above will apply to the mover of the original motion and mover of any amendment before the motion is put to the vote. (In accordance with 4.1.58, the right of reply will last no more than 5 minutes).

4.1.55 A second motion "that the Council do now adjourn", "that the Council resolve itself into committee", "that the Council do now proceed to the next business" or "that the debate be now adjourned" will not be made within a period of 15 minutes unless it is moved by the Lord Mayor or unless some business or subject of debate is before the City Council when the second motion is moved which was not before the City Council when the first motion was moved.

4.1.56 On the resumption of an adjourned debate, the Councillor who moved the adjournment will be entitled to speak first.

- 4.1.57 A Councillor, when speaking must stand and address the meeting through the Lord Mayor. If more than one Councillor stands, the Lord Mayor will ask one to speak and the others will sit. Other Councillors must remain seated whilst a Councillor speaks, unless they wish to make a point of order or of personal explanation.
- 4.1.58 Except as provided for in 4.1.59 below, a Councillor moving a motion or amendment may speak for not more than 5 minutes and other speeches will last no more than 3 minutes.
- 4.1.59 The time limits referred to in 4.1.58 above will not apply to:-
- 4.1.59.1 Business at annual meetings of the City Council
- 4.1.59.2 The proposer of a recommendation to the City Council in respect of the level of Council Tax/Council Budget to be levied each year and the Leader (or nominee) of each Political Group (or their nominated speaker) on the Council budget in respect of that recommendation.
- 4.1.60 Every amendment must relate to the motion on which it is moved and may:-
- 4.1.60.1 refer a matter back to the Body concerned;
- 4.1.60.2 leave out words;
- 4.1.60.3 add or insert words; or
- 4.1.60.4 leave out words and add or insert words
- but such omissions, insertions or additions of words will not have the effect of negating the motion before the City Council
- 4.1.61 If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended will become the Substantive Motion and be the motion upon which any further amendment may be moved.
- 4.1.62 A further amendment will not be moved until the City Council has disposed of every amendment previously moved. An amendment cannot be accepted by the proposer of any original or amended motion.
- 4.1.63 **Council Tax/Budget Debate Process**
- (i) The proposer of the recommendation will move the budget. This speech will not be time limited.
  - (ii) This will be seconded and the seconder will speak or reserve the right to speak.
  - (iii) The Leader of the Main Opposition Group (or nominated speaker) will move any amendment to the recommendation. This speech will not be time limited.
  - (iv) The Deputy Leader of the Main Opposition Group (or nominated speaker) will second the amendment and speak or reserve the right to speak.
  - (v) The debate on the amendment will take place; the vote on the amendment will take place and the amendment will be carried or lost. If carried, this would become the substantive motion.

- (vi) The Leader of the largest of the minority Groups (or nominated speaker) will move any amendment to the motion. This speech will not be time limited.
- (vii) A representative of that Group will second the amendment and speak or reserve the right to speak.
- (viii) As (v) above.
- (ix) The Leader (or nominated speaker) of any of the remaining minority Groups will move any amendment (in the order in which they catch the eye of the Lord Mayor). These speeches will not be time limited. Representatives of those Groups will second the amendment and speak or reserve the right to speak. This will apply to any remaining minority Groups.
- (x) As (v) above.
- (xi) Any further amendments will be moved in the order in which the proposer catches the eye of the Lord Mayor.
- (xii) When there are no more amendments, the debate on the substantive motion takes place and the vote is taken.

- Notes: 1. In accordance with the Council Procedure Rules, the mover of the original motion (or substantive motions if the original motion is amended) is entitled to speak on any amendment immediately before the reply by the mover of the amendment.
- 2. Should adjournments be necessary during the course of the meeting, rooms will be made available.
  - 3. If the proposer of the recommendation is not the Leader of the Council, then the Leader of the Council will get one opportunity for a speech that is not time-limited.

**4.1.64 Point of Order**

- (a) A point of order is a request by a Councillor to the Lord Mayor to rule on an alleged irregularity in the constitutional conduct of the meeting.
- (b) The Councillor will rise to make the point immediately she/he notices it and state the Procedural Rule in question, and how it is broken. Immediately after the point of order has been raised, the Councillor will resume her/his seat.
- (c) The Lord Mayor will decide the issue raised in the point of order and announce her/his ruling before the debate continues. There will be no discussion on that ruling.

**4.1.65 Point of Personal Explanation**

- (a) A Councillor may find that she/he has made a statement which is misquoted by a later speaker, or that another Councillor has misunderstood or misquoted what was said.

- (b) If this happens, she/he may rise on a point of personal explanation and, with the permission of the Lord Mayor, interrupt the speaker to correct the misunderstanding.

### **SIX MONTH RULE**

- 4.1.66 No Councillor may move a motion or amendment to rescind a decision made at a meeting of the full City Council within the previous six months.
- 4.1.67 No Councillor may move a motion or amendment in similar terms to one which has been rejected at a meeting of the City Council in the previous six months.

### **VOTING**

- 4.1.68 The vote on every question will be taken by the voice, except where by law or in these Rules it is otherwise provided, but if the Lord Mayor is unable to decide upon the voices or if any two Councillors challenge her/his decision thereon, the vote will be taken by a show of hands. Councillors are required to be seated in their allocated position when the vote is taken.
- 4.1.69 If, before the Lord Mayor finally declares the result of the vote (whether taken by the voice or by show of hands), any 2 Councillors require a recorded vote, this will supersede any vote taken under 4.1.68 above.
- 4.1.70 A recorded vote will be taken immediately afterwards and recorded in the minutes. A Councillors vote will only be recorded if the Councillor personally answers "For", "Against" or "Abstain" immediately after her/his name is called by the Head of Legal Services.
- 4.1.71 Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 4.1.72 In the case of an equality of votes, the Lord Mayor will have a casting vote in addition to her/his vote as a Councillor.

*NOTE: As a matter of convention, at full Council meetings only where there is an equality of votes, the Lord Mayor will cast her/his casting vote in favour of the largest political group represented on the Council.*

- 4.1.73 If there are more than two people 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.

### **MINUTES**

- 4.1.74 The minutes of every meeting of the City Council will be reproduced and a copy sent before the next subsequent meeting to each Councillor. At such subsequent meeting, the Lord Mayor will call for a motion that the minutes of the previous meeting be signed as a correct record. Once such motion is approved, the minutes will be signed by the Lord Mayor. The only part of the minutes that can be discussed is their accuracy.
- 4.1.75 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 Local

Government Act 1972 (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 paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

**EXCLUSION OF PUBLIC**

- 4.1.76 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 4.1.83.

**MEMBERS' CONDUCT**

- 4.1.77 When the Lord Mayor stands during a debate, any Councillor speaking at the time will sit down. All Councillors must be silent.
- 4.1.78 If a Member persistently disregards the ruling of the Lord Mayor by behaving improperly or offensively or deliberately obstructs business, the Lord Mayor may move that the Member is not heard further. If seconded, the motion will be voted on without discussion.
- 4.1.79 If the Member continues to behave improperly after such a motion is carried, the Lord Mayor may move that either the Member leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 4.1.80 In the event of general disturbance which, in the opinion of the Lord Mayor renders the due and orderly despatch of business of the meeting impossible, the Lord Mayor (in addition to any other power invested in her/him) may, without question, adjourn the meeting for such period as she/he in her/his discretion will consider expedient.
- 4.1.81 In accordance with Rule 4.1.19, if Members are required to leave the meeting under Rule 4.1.79 their leaving the meeting will not affect the quorum.
- 4.1.82 Mobile telephones will be switched off during meetings of the City Council.

**DISTURBANCE BY THE PUBLIC**

- 4.1.83 If a member of the public disrupts the proceedings at any meeting, the Lord Mayor will issue a warning. If the member of the public continues the interruption, the Lord Mayor will order the removal of the member of the public from the Council Chamber. In the case of general disturbance in any part of the Council Chamber open to the public, the Lord Mayor will order that part to be cleared.

**SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

4.1.84 **Suspension**

All of these Council Rules of Procedure except Rule 4.1.72 and 4.1.84 may be suspended by motion on notice or without notice. Suspension can only be for the duration of the meeting.

**4.1.85 Amendment**

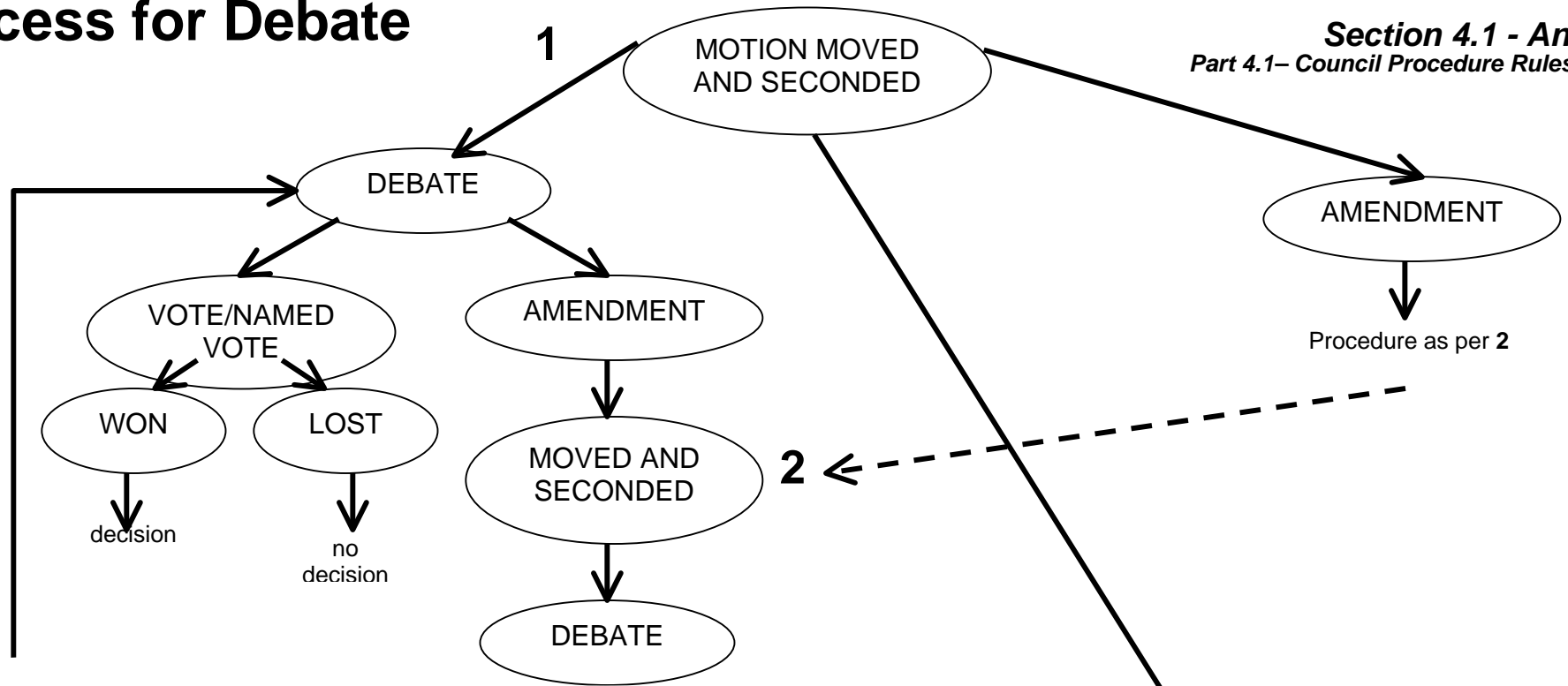
Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

**APPLICATION OF COUNCIL PROCEDURE RULES TO OTHER BODIES**

4.1.86 These rules where they can be appropriately applied, apply to all formal meetings of bodies of the Council. These rules will not apply where the specific rules of procedure relating to any such body already make provision for the activity to be undertaken and/or procedure to be followed at meetings of that body.

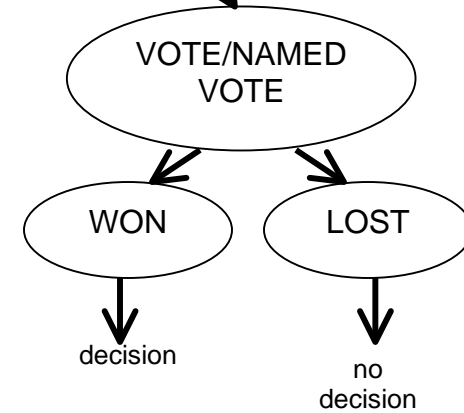
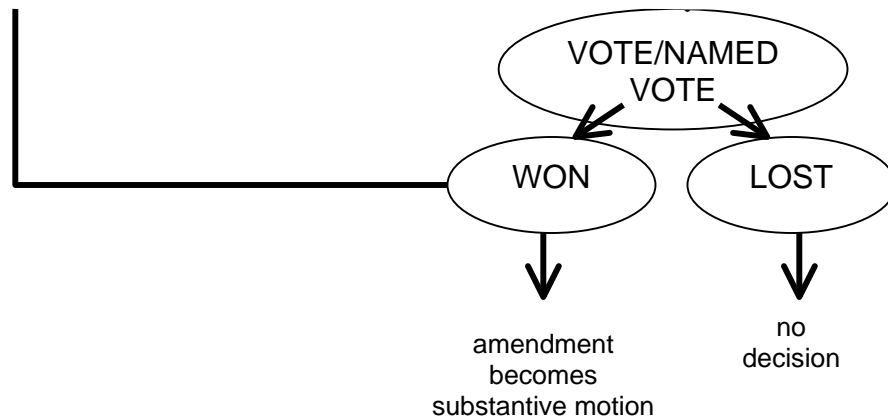


# Process for Debate



Process is repeated until all amendments have been voted on and decision is reached

before a vote is taken the mover of the original motion 1 to speak before the mover of the amendment 2



**4.2 Access to Information Procedure Rules**

**4.2.1 Scope**

These rules apply to all meetings of the Council, Scrutiny Boards, the Standards Committee and other committees and public meetings of the Cabinet or any Cabinet Member (together called meetings).

**4.2.2 Additional Rights to Information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

**4.2.3 Rights to Attend Meetings**

Members of the public may attend all meetings subject only to any exceptions in this Constitution.

**4.2.4 Notice of Meetings and Adjourned and Reconvened Meetings**

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Council House, Earl Street, Coventry ("the designated office") and including the details on the Council's website.

When a meeting is adjourned and reconvened, there must be at least 5 working days notice of the date of that reconvened meeting.

**4.2.5 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 designated office at least five clear working 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 Director of Customer and Workforce Services will make each such report available to the public as soon as the report is printed and sent to Councillors. At each of these stages the relevant documentation will be included on the Council's website.

**4.2.6 Supply of Copies**

The Council will supply 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 Director of Customer and Workforce Services thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs. This information will also be made available on the Council's website.

**4.2.7 Access to Minutes and Other Documents After the Meeting**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meetings or records of decisions taken, together with reasons, for all meetings of the Cabinet or any Cabinet Member, 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 inspect 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.

**4.2.8 Background Papers**

**4.2.8.1 List of Background Papers**

The proper officer preparing any report 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 Cabinet or Cabinet Member reports, the advice of any political advisor.

**4.2.8.2 Public Inspection of Background Papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

**4.2.9 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 Council House, Earl Street, Coventry.

*As the Constitution is available to the public and located on the Council's website, these Rules constitute that written summary.*

**4.2.10 Exclusion of Access by the Public to Meetings**

**4.2.10.1 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.

**4.2.10.2 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 of the Human Rights Act.

**4.2.10.3 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.

**4.2.10.4 Meaning of Exempt Information**

Exempt information means information falling within the following categories (subject to any condition):

<b>Description of exempt information</b>	<b>Qualification</b>	<b>Notes</b>
	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.	Applies to all categories of otherwise exempt information.
1. Information relating to any individual.	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 – see note on public interest at end of table.	Names, addresses or telephone numbers can identify individuals.  Also consider the Council's Data Protection Act responsibilities.

**Part 4.2– Access to Information Procedure Rules**

<p>2. Information which is likely to reveal the identity of an individual.</p>	<p>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 – see note on public interest at end of table.</p>	<p>Names, addresses or telephone numbers can identify individuals.</p> <p>Also consider the Council's Data Protection Act responsibilities.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>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 – see note on public interest at end of table.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:-</p> <ul style="list-style-type: none"> <li>a) the Companies Act 1985</li> <li>b) the Friendly Societies Act 1974</li> <li>c) the Friendly Societies Act 1992</li> <li>d) the Industrial and Provident Societies Acts 1965 to 2002</li> <li>e) the Building Societies Act 1986</li> <li>f) the Charities Act 1993</li> </ul>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined (etc).</p> <p>Financial or business affairs includes contemplated, as well as past or current activities.</p> <p>Registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p>

<p>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.</p>	<p>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 – see note on public interest at end of table.</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not fails to be determined (etc).</p> <p>Employee means a person employed under a contract of service.</p> <p>Labour relations matter means:-</p> <ul style="list-style-type: none"> <li>a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</li> <li>b) any dispute about a matter falling within paragraph (a) above.</li> </ul> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
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**Part 4.2– Access to Information Procedure Rules**

<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>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 – see note on public interest at end of table.</p>	<p>Privilege lies with the "client" which broadly is the Council. Seek the view of the relevant Chief Officer whether they wish to waive privilege.</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p>	<p>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 – see note on public interest at end of table.</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not fails to be determined (etc).</p>
<p>7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>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 – see note on public interest at end of table.</p>	

Description of exempt information relating to Standards Committee ONLY (in addition to paragraph 1-7 above)	Qualification	Notes
8. Information which is subject to any obligation of confidentiality.	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 – see note on public interest at end of table.	This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Local Investigation or Determination.
9. Information which relates in any way to matters concerning national security.	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 – see note on public interest at end of table.	
10. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 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 that Act.	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 – see note on public interest at end of table.	This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.

**NOTE:**

**Public Interest**

In each case before information can be exempt the Council must be satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The changes bring the exemptions and access to information into line with those exemptions available under the Freedom of Information Act 2000.



There is no legal definition of what the public interest test is but the following identifies some of the relevant considerations.

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue.
- Facts and analysis behind major policy decisions.
- Knowing reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public interest in public bodies obtaining value for money.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.

#### **4.2.11 Exclusion of Access by the Public to Reports**

If the Director of Customer and Workforce Services 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 4.2.10, the meeting is likely not to be open to the public. Such reports will be marked "PRIVATE" together with the category of information likely to be disclosed. To allow the public access to all public information contained in reports, all private reports must be accompanied by a corresponding public report, unless there are extreme exceptional circumstances. (See 5.4.4.21).

#### **4.2.12 Application of Rules to the Cabinet and Cabinet Members**

Rules 4.2.13 to 4.2.22.3 apply to the Cabinet. If the Cabinet meets to take a key decision then Rules 4.2.1-4.2.11 must also be complied with unless Rule 4.2.15 (general exception) or Rule 4.2.16 (special urgency) apply.

If the Cabinet meets to formally discuss a key decision to be taken collectively, with an 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 4.2.1-4.2.11 unless Rule 4.2.15 (general exception) or Rule 4.2.16 (special urgency) apply.

A key decision is as defined in Article 13 (paragraph 2.13.3.5) of this Constitution as:-

A key decision is one which is likely to:-

- (a) result in the City Council incurring expenditure, making savings, or receiving income which is/are significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising 2 or more wards or electoral divisions in the area of the City;

By the term "significant" the Council means a decision which:-

- (a) results in expenditure, savings, income, additional funding or virement of over £500,000 per annum being incurred or achieved and which additionally, in the case of a capital scheme, has not been identified in the "Approved Programme" within the Capital Programme; or
- (b) results in an outcome which will have a marked effect on communities living or working in an area comprising 2 or more wards.

The following will be deemed not to be key decisions:-

- (a) any decision to implement or take forward an earlier key decision.
- (b) any decision that is delegated to an employee

This requirement does not include meetings, the sole purpose of which is to brief Councillors.

#### **4.2.13 Procedure Before Taking Key Decisions**

Subject to Rule 4.2.15 (general exception) and Rule 4.2.16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called a Forward Plan) has been published in connection with the matter in question;
- (b) at least 5 clear working days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4.2.4 (notice of meetings).

#### **4.2.14 The Forward Plan**

##### **4.2.14.1 Period of Forward Plan**

The Forward Plans will be prepared by the Leader (in consultation with the Chief Executive) to cover a period of four months, beginning with the first day of any month. It 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 and so on.

##### **4.2.14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the Forward Plan.

It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker 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 identify of the principal groups whom the decision taker 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 decision taker 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 taker for consideration in relation to the matter.

#### **4.2.14.3 Publication of the Forward Plan**

The Forward Plan must be published at least 14 days before the start of the period covered.

The Director of Customer and Workforce Services 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 Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Forward Plan will contain details of the key decisions that is anticipated are to be made for the four month period following its publication;
- (d) that each Forward Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Forward Plan will contain a list of the documents submitted to the decision taker for consideration in relation to the key decisions on the 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 any decision taker;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

**4.2.15 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 4.2.16 (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 Director of Customer and Workforce Services has informed the Chair of the Scrutiny Co-ordination Committee, by notice in writing, of the matter to which the decision is to be made;
- (c) the Director of Customer and Workforce Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Director of Customer and Workforce Services complied with (b) and (c).

Where such a decision is taken by the Cabinet collectively, it must be taken in public.

**4.2.16 Special Urgency for Key Decisions**

4.2.16.1 If by virtue of the date by which a decision must be taken Rule 4.2.15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the decision taking body (or his/her nominee) obtains the agreement of the Chair of the Scrutiny Co-ordination Committee who must attend the meeting and confirm that the taking of the decision cannot be reasonably deferred. If the Chair of the Scrutiny Co-ordination Committee is unable to act, then he/she can appoint a nominee to attend the meeting. However, no decisions can be made unless the Chair of the Scrutiny Co-ordination Committee or his/her nominee is present at the meeting at which the urgent item is considered.

4.2.16.2 Any reports on which urgent decisions have been made are to be referred to Scrutiny Co-ordination Committee for them to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

**4.2.17 Report to Council**

**4.2.17.1 When an Overview and Scrutiny Committee can require a report**

If a Scrutiny Board 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 the Chair of Scrutiny Co-ordination Committee under Rule 4.2.16;

the Board may require the Cabinet to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the

Board, but is also delegated to the Chief Executive, who will require such a report on behalf of any Scrutiny Board when so requested by the Chair or any 5 members of that Scrutiny Board. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Board. A copy of any such report must also be submitted to the Standards Committee.

**4.2.17.2 Cabinet Report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Scrutiny Board, then the report may be submitted to the next meeting after that. The report to Council will set out particulars of the decision, the individual or body taking the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

**4.2.17.3 Quarterly Reports on Special Urgency Decisions on Key Decisions**

In any event the Leader will submit quarterly reports to the Council on any key decisions taken in the circumstances set out in Rule 4.2.16 (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. A similar report must also be submitted to the Standards Committee.

**4.2.18 Record of Decisions**

After any formal meeting of the Cabinet or any Cabinet Member or any Cabinet Committee, whether held in public or private, the Director of Customer and Workforce Services or, where no employee was present, the person presiding at the meeting, will produce a record or minute of every decision taken at that meetings as soon as practicable.

The provisions of Rules 4.2.7 and 4.2.8 (inspection of documents after meetings and background papers) will also apply to the making of decisions by an individual Cabinet member. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

**4.2.19 Notice of Private Meeting of the Cabinet**

Members of the Cabinet 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.

In such circumstances, the recorded decision will include the reason for the urgency and the Cabinet Member may be required to explain that reason to the Scrutiny Co-ordination Committee. In such circumstances, the Chair of the Scrutiny Co-ordination Committee or his nominee will be invited to attend the meeting, (paragraphs 4.2.16.1 and 4.4.10 refer).

**4.2.20 Scrutiny Board Access to Documents**

**4.2.20.1 Rights to Copies**

Subject to Rules 4.2.21.1 and 4.2.21.2 below, a Scrutiny Board (including any Sub-group) will be entitled to copies of any document which is in the possession or control of the Cabinet or Cabinet Member and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or Cabinet Member; or
- (b) any decision taken by an individual Cabinet Member.

**4.2.20.2 Limit of Rights**

A Scrutiny Board will not:

- (a) have an automatic right to any document that is in draft form;
- (b) be entitled to any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) be entitled to the advice of a political assistant (if any).

**4.2.21 Additional Rights of Access for Members**

**4.2.21.1 Material Relating to Previous Business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or any Cabinet Member and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

**4.2.21.2 Material Relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or any Cabinet Member which relates to any key decision unless paragraph (a) or (b) above applies.

**4.2.22.3 Nature of Rights**

These rights of a member are additional to any other right he/she may have.

**4.3 Budget and Policy Framework Procedure Rules**

**4.3.1 The Framework for Executive Decisions**

The full Council will be responsible for the adoption of the Budget & Policy Framework as set out in Article 4. Once the Framework is in place it will be the responsibility of the Cabinet to implement it.

**4.3.2 Process for Developing the Framework**

4.3.2.1 The Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget & Policy Framework, and its arrangement for consultation after publication of these initial proposals. The consultation period shall in each instance be no less than 8 weeks. A copy of the Forward Plan will also be sent to the Chairs of the Scrutiny Boards so that they are aware that proposals are to be made.

4.3.2.2 At the end of the consultation period, Cabinet will then draw up firm proposals having regard to the responses it has received to the consultation. If a Scrutiny Board wishes to respond to the Cabinet in that consultation process then it may do so. As the Scrutiny Boards have responsibility for fixing their own work programme, it is open to the Scrutiny Board to investigate, research or report in detail the policy recommendations before the end of the consultation period. The Cabinet will consider responses from the Scrutiny Boards and take those into account in drawing up firm proposals for submission to the Council and the Cabinet report to Council will reflect the comments made by consultees and the Cabinet's response.

4.3.2.3 Once the Cabinet has approved the final proposals the Director of Customer and Workforce Services will refer them at the earliest opportunity to the full Council for decision.

4.3.2.4 In reaching a decision the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration or, in principle, substitute its own proposals in their place.

4.3.2.5 If it accepts the recommendations of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise it may only make an "in principle" decision. In either case the decision would be made on the basis of a simple majority of votes cast at the meeting.

4.3.2.6 A copy of the Council decision shall be given to the Leader.

4.3.2.7 An "in principle" decision will automatically become effective 7 days from the date of the Council decision unless the Leader informs the Director of Customer and Workforce Services in writing within 5 days of the decision that he/she objects to the decision becoming effective and provides reasons why.

**4.3.3 Conflict Resolution Mechanism**

4.3.3.1 Where the Leader has objected, on behalf of the Cabinet, to an in principle decision of the Council, under paragraph 4.3.2 above, the Director of Customer and Workforce Services will within 7 days call a meeting of the full Council. This meeting should take place as soon as possible after the expiry of the 7 day period and, in any event, within 28 days of the original decision. At that meeting the Council will be required to reconsider its decisions together with any further information or documentation which may be submitted by the Leader. The Council may:-

- (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
- (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority of votes cast at the meeting.

4.3.3.2 The decision shall then be made public and shall be implemented immediately.

**4.3.4 Virements and Policy Changes**

In approving the Budget & Policy Framework the Council will also specify the extent of the virement within the budget and the degree of in year changes to the Policy Framework which may be undertaken by the Cabinet in accordance with paragraphs 4.3.5 and 4.3.6 of these Rules. Any other changes to the Policy and Budgetary Framework are reserved to full Council.

**4.3.5 Decisions Outside the Budget & Policy Framework**

4.3.5.1 Subject to the provisions of paragraph 4.3.4 (Virements and Policy Changes) the Cabinet, Cabinet Members, and officers discharging executive functions may only make decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework or contrary to and not wholly in accordance with the budget approved by full Council then that decision may only be taken by the Council subject to paragraph 4.3.6 below.

4.3.5.2 If the Cabinet, Cabinet Members, or officers discharging executive functions wish to make such a decision then they must take advice from the Monitoring Officer and/or the Director of Finance and Legal Services as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or Policy Framework then the decision must be referred by that body or officer to full Council for decision, unless the decision is a matter of urgency, in which case the provisions of paragraph 4.3.6 (Urgent Decisions outside the Budget & Policy Framework) shall apply.

**4.3.6 Urgent Decisions Outside the Budget & Policy Framework**

4.3.6.1 The Cabinet, or a Cabinet Member or officer discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly



in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:-

- (i) if it is not practicable to convene a quorate meeting of the full Council; and
- (ii) the Chair of the Scrutiny Co-ordination Committee, or Deputy, agrees that the decision is a matter of urgency.

4.3.6.2 The reasons why it is not practicable to convene a quorate meeting of full Council and the Chair of the Scrutiny Co-ordination Committee, or his/her Deputies, consent to the decision being taken as a matter of urgency, must be noted on the record of the decision. In the absence of the Chair of the Scrutiny Co-ordination Committee and his/her Deputy then the consent of the Lord Mayor, or in his/her absence, the Deputy Lord Mayor, shall be sufficient.

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

#### 4.3.7 **Virements**

4.3.7.1 For **revenue** budget virements (including contributions to/from reserves), the following delegated scheme applies:

- a) All virements up to £250,000 – approval by relevant Director(s) (Including the Director of Finance and Legal Services for virements to/from employee budgets)
- b) Virements over £250,000 but below £500,000 – within the same portfolio, Cabinet Member approval; between portfolios, the appropriate Cabinet Members, approval
- c) All virements over £500,000 but below £1 million – Cabinet approval
- d) All virements over £1 million – full Council approval
- e) All technical adjustments - Each year there are a number of technical adjustments made to the Council's budget, for example asset charges. A feature of these adjustments is that there is no overall impact on the Council's "bottom-line" and they are internal transfers, involving no cash transactions with third parties. In addition, these transfers do not increase the budget over which individual budget holders have spending discretion. Such technical adjustments can be approved by officers, even though they are not wholly in accordance with the budget approved by Council.

**N.B.** The above scheme does not apply to Schools, for which separate financial rules are set out in the financial regulations of the Fair Funding scheme of delegation.

4.3.7.2 For **capital** programme virements, the following delegated scheme applies:

Approval levels for individual schemes not in the Capital Programme which are added during the year are subject to the identification of additional resources to fund the

scheme (eg grant, supported borrowing approval, capital receipts etc.) or a virement of resources from existing schemes and are as follows:

- Schemes up to £0.25m can be approved by the Capital Working Group, subject to reporting to Management Board at the next available opportunity.
- Schemes between £0.25m and £0.5m can be approved by the Management Board (supported by the Director of Finance and Legal Services and relevant Service Director).
- Schemes between £0.5m and £2.5m require Cabinet approval.
- Schemes over £2.5m require full Council approval.

**Any proposed schemes which are unfunded require the approval of the full Council.**

#### **4.3.8 In Year Changes to Policy Framework**

4.3.8.1 The responsibility for agreeing the Budget & Policy Framework lies with the Council and decisions by the Cabinet, Cabinet Member or officers must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:-

- (i) which will result in the closure or discontinuance or reduction of a service or part of a service to meet a budgetary constraint;
- (ii) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (iii) in relation to the Policy Framework in respect of a Policy which would normally be agreed annually by the Council following consultation but where the existing Policy document is silent on the matter under consideration;
- (iv) which relate to Policy in relation to schools where the majority of School Governing Bodies agree with the proposed change;
- (v) where the Chair of the Scrutiny Co-ordination Committee or in his/her absence their Deputy, agrees that the proposed change is sufficiently minor in the context of the Policy concerned and is an appropriate change in the circumstances;
- (vi) where, when approving the Framework, the Council gave specific authority to the Cabinet to make in-year changes.

#### **4.3.9 Call-in of Decisions Outside the Budget or Policy Framework**

4.3.9.1 Where a Scrutiny Board is of the opinion that an Executive decision is, or if made, would be contrary to the Policy Framework or not wholly in accordance with the

Council's budget then it shall seek advice from the Director of Finance and Legal Services.

4.3.9.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or the Chief Financial Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Board if the Monitoring Officer or the Chief Finance Officer conclude the decision was not a departure.

4.3.9.3 If the decision has yet to be made, or has been made but not yet implemented, the advice from the appropriate officer is that the decision is, or would be, contrary to the Policy Framework or not wholly in accordance with the budget, the Scrutiny Board may refer the matter to Council. In such cases, no further action shall be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 28 days of the request by the Scrutiny Board. At the meeting it will receive the report of the decision or proposals and the advice of the officer. The Council may either:-

- (i) endorse a decision or proposal of the Executive decision taker as falling within the existing Budget & Policy Framework. In this case no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's Financial Procedure Rules, Financial Regulations or Policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case no further action is required save the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts the decision or proposal is contrary to the Policy Framework or not wholly in accordance with the budget, and does not amend the existing Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Financial Officer.

**4.4 Cabinet Procedure Rules**

**4.4.1 How Does the Cabinet Operate?**

**4.4.1.1 Who may make Cabinet Decisions:-**

Under the arrangement for the discharge of functions set out in the executive arrangements adopted by the Council (Part 2 Schedule 1), the Leader may decide how such functions are to be exercised. He/she may provide for the executive functions to be discharged by:-

- i. the Cabinet as a whole
- ii. an individual Member of the Cabinet
- iii. an Employee
- iv. joint arrangements; or
- v. another local authority

**4.4.1.2 An Advisory Panel or Panels may be established to provide advice and guidance to the Cabinet or an individual Cabinet Member.**

**4.4.2 Delegation of Cabinet Functions**

At its annual meeting the Council will decide the delegations made by it for inclusion on the Council's scheme of delegation at Part 3 to this Constitution. The scheme of delegation will contain the following information about Cabinet functions in relation to the coming year.

- I. The names, addresses and wards of the people appointed to the Cabinet
- II. The extent of any authority delegated to Cabinet Member individually including details of the limitation of their authority
- III. The nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- IV. The nature and extent of any delegation to employees with details of any limitation on that delegation, and the title of the employee to whom the delegation is made.

(a) Subject to 4.4.3 below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

(b) The Leader is also able to decide whether to delegate Cabinet functions, and he/she may amend the scheme of delegation relating to Cabinet functions at any time during the year. To do so, the Leader must give written notice to the Director of Customer and Workforce Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Director of Customer and Workforce Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

**4.4.3 Sub-delegation of Cabinet Functions**

(a) Where the Cabinet or an individual Cabinet Member is responsible for a Cabinet function, they may delegate further to joint arrangements or an employee.

- (b) Unless the Council directs otherwise, the Cabinet may delegate further to an employee.
- (c) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

**4.4.4 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Elected Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Elected Members in Part 5 of this Constitution.
- (c) If the exercise of a Cabinet function has been delegated to an individual Cabinet Member or an employee and should a conflict of interest arise, 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 Elected Members in Part 5 of this Constitution.

**4.4.5 Cabinet Meetings – When And Where?**

The Cabinet and Cabinet Members will meet at the times specified in the Council's Calendar of Meetings.

The Cabinet and Cabinet Members will meet at the Council's main offices or another location to be agreed by the Leader as specified on the relevant agenda.

The date and time of any meeting may be altered or the meeting postponed or cancelled or additional meetings arranged by the Director of Customer and Workforce Services in consultation with the Leader (for Cabinet) or relevant Cabinet Member.

**4.4.6 Public or Private Meetings of the Cabinet**

The Cabinet or Cabinet Member meetings will be open to the public, unless the nature of the business to be transacted requires the meeting to take place in private in accordance with the Access to Information Rules detailed in Part 4.2.

**4.4.7 Quorum**

The quorum for a meeting of the Cabinet will be 5.

**4.4.8 How are Decisions to be Taken by the Cabinet**

Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

4.4.9 All decisions of the Cabinet and Cabinet Members will be open to the Call-In arrangements and subject to the call-in criteria.

(The Call-In procedure is referred to in Paragraph 4.5.25).

- 4.4.10 In any case where the Cabinet or Cabinet Member determine an urgent matter, the recorded decision will include the reason for the urgency and the Cabinet or Cabinet Member may be required by Scrutiny to justify why the matter was considered as urgent. Matters determined on this basis are not subject to the Call-In arrangements. In such circumstances, the Chair of the Scrutiny Co-ordination Committee must be invited to attend Meetings where urgent decisions are taken to determine if the matter is urgent. If the Chair of the Scrutiny Co-ordination Committee is unable to attend, then he/she can appoint a nominee to attend the meeting. However, no decisions can be made unless the Chair of the Scrutiny Co-ordination Committee or his/her nominee is present at the meeting at which the urgent item is considered. Any reports on which urgent decisions have been made are to be referred to Scrutiny Co-ordination Committee for them to understand the need for urgency, but this will not delay implementation of the urgent decision itself.
- 4.4.11 The Director of Customer and Workforce Services or her/his representative will be present at any Meeting where a Cabinet Member responsible for a portfolio makes a formal decision to advise and record that decision and, if the Director of Customer and Workforce Services or her/his representative is not present, no decision will be deemed to have been taken.
- 4.4.12 In the absence of a Cabinet Member responsible for a portfolio, a decision in respect of a function under that portfolio may not be taken by another Cabinet Member unless he or she has been reassigned that function by the Leader of the City Council, or in her/his absence, the Deputy Leader of the City Council. Unless this is the case, the decision will be referred to the Cabinet.
- 4.4.13 In the case of a Cabinet Member responsible for a portfolio declaring an interest in a matter and being unable to act, that matter should be referred to the Cabinet for their consideration.
- 4.4.14 Advisory Panels may be established for each portfolio and for the Cabinet to provide advice and guidance to the Cabinet Member responsible for that portfolio on the development of policy. Advisory Panel meetings will not generally be public meetings although Cabinet or Cabinet Member may invite any person with particular expertise to an Advisory Panel meeting.
- 4.4.15 **How are Cabinet Meetings Conducted?**
- 4.4.15.1 Who Presides?
- At any Cabinet meeting, if the Leader is present he/she will preside. In his/her absence if the Deputy Leader is present he/she will preside. In the absence of the Leader or Deputy Leader/his/her nominee will preside. In all absence of any nominee, the Cabinet will elect a member of the Cabinet to preside.
- 4.4.15.2 Who May Attend?
- These details are set out in the Access to Information Rules in Part 4 of this Constitution.

**4.4.15.3 What Business?**

At each meeting of the Cabinet the following business will be conducted:-

- I. Consideration of the minutes of the last meeting
- II. Declarations of interest, if any
- III. Matters referred to the Cabinet (whether by Scrutiny Board or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- IV. Consideration of reports from Scrutiny Boards, and
- V. Matters set out in the agenda for the meeting, and which will indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

**4.4.15.4 Consultation**

All reports to the Cabinet from any Member of the Cabinet or an 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 Board, 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.

**4.4.15.5 Who can put Items on the Cabinet Agenda?**

- (a) The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Cabinet Committee or any Member or employee in respect of that matter. The Director of Customer and Workforce Services will comply with the Leader's requests in that respect.
- (b) In the absence of the Leader, the Deputy Leader may exercise the function at (a) above.
- (c) Any Member of the Cabinet may require the Director of Customer and Workforce Services to make sure that any appropriate item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Director of Customer and Workforce Services will comply.
- (d) The Director of Customer and Workforce Services will make sure than an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Board or the full Council have resolved that an item be considered by the Cabinet.
- (e) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Director of Customer and Workforce Services to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

**4.4.15.6 Referrals to Cabinet/Cabinet Members by Scrutiny**

Scrutiny Boards can refer items to Cabinet/Cabinet Members with the agreement of the Chair of the Cabinet or the appropriate Cabinet Member. However, this does not prejudice consideration of call-ins as detailed in 4.5.25 and Scrutiny's right to make a recommendation to the Cabinet or Cabinet Member to amend a decision.



**4.5 Scrutiny Procedure Rules**

**Scrutiny Arrangements**

**4.5.1 Constitution of Scrutiny Boards and Scrutiny Co-ordination Committee**

4.5.1.1 The Council will have Scrutiny Boards as set out in Article 6 with functions as set out in Part 3 and will appoint to them as it considers appropriate from time to time. Scrutiny Boards may appoint time limited sub-groups to assist their work.

4.5.1.2 There will also be a Scrutiny Co-ordination Committee whose main functions will be to co-ordinate the work of the Scrutiny Boards and will be responsible for the consideration of call-ins.

**4.5.2 Terms of Reference – Scrutiny Boards**

4.5.2.1 Scrutiny Boards will have the power to investigate any matters they consider relevant to their work area and to make recommendations to the Council, the Cabinet, any Cabinet Member or any other Committee of the Council as they see fit.

4.5.2.2 The terms of reference of each Scrutiny Board will be:-

- (i) To perform all overview and scrutiny functions on behalf of the Council in relation to the area of work allocated to that Scrutiny Board;
- (ii) To appoint such time limited sub-groups as it considers appropriate to help fulfil those overview and scrutiny functions;
- (iii) Taking into account the views of the Scrutiny Co-ordination Committee, to approve a work programme for the Scrutiny Board, including the programme of work of any sub-group it appoints so as to ensure that time is effectively and efficiently utilised;
- (iv) To receive requests from the Cabinet, any Cabinet Members, the Scrutiny Co-ordination Committee and/or the full Council to undertake investigations or other work and to respond accordingly;
- (v) To review proposals from the Cabinet in relation to the Budget and Policy Framework;
- (vi) To consider reports of any Best Value Review Member Steering Group within its remit and refer recommendations to the Cabinet or appropriate Cabinet Member;
- (vii) To consider Performance Management information;
- (viii) To scrutinise Cabinet and any Cabinet Member decisions and the activities of relevant external organisations;
- (ix) To consider reports back by Members and/or employees on their attendance at conferences;
- (x) To consider petitions referred to them by the Cabinet or any Cabinet Member.
- (xi) To refer any matter that potentially also falls within the remit of another Scrutiny Board to Scrutiny Co-ordination Committee for a decision in accordance with paragraph 4.5.3.1 (ii) below.

4.5.2.3 The terms of reference of the Scrutiny Board whose responsibilities include scrutinising the financial resources of the City Council and carrying out the audit function will be:-

(NOTE: The Board may appoint an Audit Sub-Group to carry out this function in which case, the Quorum will be three.)

## **AUDIT COMMITTEE – TERMS OF REFERENCE**

### **Audit Activities**

1. To consider the Head of Internal Audit's Annual Report and Opinion and a summary of internal audit activities (actual and proposed) and the level of assurance given within the Statement on the System of Internal Control incorporated in the Annual Accounts
2. To consider summaries of specific internal audit reports as requested
3. To consider a report from the Head of Internal Audit regarding recommendations contained in Internal and External Audit reports that have not been implemented within agreed timescales.
5. To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
6. To consider specific reports as agreed with the External Auditor.
7. To comment on the scope and depth of external audit work and to ensure that it gives value for money.

### **Regulatory Framework**

8. To maintain an overview of the Council's Constitution in respect of contract procedure rules and financial regulations.
9. To review any relevant issue referred to by the Chief Executive, the Director of Finance and Legal Services or the Monitoring Officer.
10. To monitor the Executive's effective development and operation of risk management.
11. To monitor Council policies on "whistle blowing" and the anti-fraud and anti-corruption strategy.
12. To consider the Statement of Internal Control, prior to its consideration by the Executive.
13. To consider the Council's compliance with its own and other published financial standards and controls

### **Accounts**

14. To monitor the City Council's revenue and capital programmes and to consider the City Council's Annual Statement of Accounts, prior to its consideration by the full Council.
15. To consider the External Auditor's report to those charged with governance on issues arising from the audit of the City Council's Accounts.

**General**

16. To report annually on its work to the Council.

**4.5.3 Terms of Reference - Scrutiny Co-ordination Committee**

4.5.3.1 The Scrutiny Co-ordination Committee's terms of reference will be:-

- (i) To receive the annual work programmes prepared by the Scrutiny Boards to ensure that there is efficient use of the Scrutiny Boards' time and that the potential for duplication of effort is minimised;
- (ii) Where matters potentially fall within the remit of more than one Scrutiny Board, to determine which Scrutiny Board will be responsible for any particular issue or to consider proposals from Scrutiny Boards that they set up joint arrangements, and to resolve any issues of dispute between them.
- (iii) To ensure consistency of approach in the work of Scrutiny Boards and Sub-Groups;
- (iv) At the request of the Cabinet or any Cabinet Member to make decisions about the priority of referrals made (in the form of reports or recommendations for reconsideration) by the Scrutiny Boards to the Cabinet or any Cabinet Member if the volume of such referrals creates difficulty for the management of Cabinet or any Cabinet Member business or jeopardises the efficient running of Council business.
- (v) To determine the appropriateness of the reasons given for calling in decisions of the Cabinet or any Cabinet Member made but not yet implemented.
- (vi) To have the powers in relation to the call-in of Cabinet or any Cabinet Member's decisions made but not implemented as set out in section 21 (2a) and (3) of the Local Government Act 2000.
- (vii) To receive reports back on attendance at Conferences etc relating to the Lord Mayoralty.
- (viii) Receive reports back on the work of Outside Bodies.
- (ix) Receive details of any urgent decisions taken in order for them to understand the need for urgency (see paragraph 4.4.10).

**4.5.4 Membership of Scrutiny Boards, Review Groups and the Scrutiny Co-ordination Committee**

4.5.4.1 Any Councillor except a Member of the Cabinet may be appointed as a member of a Scrutiny Board. However, no member may be involved in scrutinising a decision in which s/he has been directly involved.

4.5.4.2 Any Councillor except a Member of the Cabinet may be invited by Scrutiny Board to be a member of a Sub-group appointed by that Scrutiny Board, whether or not they are Members of that Scrutiny Board.

4.5.4.3 The Membership of the Scrutiny Co-ordination Committee will be determined by full Council and will reflect political proportionality.

**4.5.5 Co-optees**

4.5.5.1 Each Scrutiny Board or Sub-Group will be entitled to appoint non-voting co-optees.

4.5.5.2 Co-opted Members will be required to attend at least one appropriate meeting every six months or else their co-option will cease. Any exemptions to this rule, for example long-term illness, would need to be approved by the full Council.

**4.5.6 Education Representatives**

4.5.6.1 The Scrutiny Board responsible for Education matters will include the following:-

- (a) One person nominated by the Church of England.
- (c) One person nominated by the Roman Catholic Church.
- (d) One parent governor elected by the parent governors in the City in respect of the Primary phase of education.
- (d) One parent governor elected by the parent governors in the City in respect of the Secondary phase of education.
- (e) One representative from other faith groups in the City

4.5.6.2 Such appointees, with the exception for the time being of the representative appointed under 4.5.6.1(e) above, may vote on education issues only, but may speak on other issues.

4.5.6.3 They will also be invited to attend the meetings of Scrutiny Co-ordination Committee and of other Scrutiny Boards if education matters are to be considered at those meetings.

**4.5.7 Frequency of Meetings of Scrutiny Boards and Scrutiny Co-ordination Committee**

4.5.7.1 At its annual meeting, the Council will determine a schedule of dates of meetings for the period up to the next annual meeting.

4.5.7.2 Additional meetings will be convened by the Director of Customer and Workforce Services after consultation with the Chair of the relevant Scrutiny Board or Scrutiny Co-ordination Committee or, in her/his absence, the Deputy Chair.

4.5.7.3 The Director of Customer and Workforce Services, with the agreement of the Chair, or in her/his absence the Deputy Chair, may alter, cancel/postpone or bring forward a meeting.

4.5.7.4 If at least 3 members of a Scrutiny Board or of the Scrutiny Co-ordination Committee notify the Director of Customer and Workforce Services in writing that they wish a meeting to be called, the Director of Customer and Workforce Services will do so as soon as possible, and in any event within 15 working days, the date and time being determined in consultation with the relevant Chair (or in her/his absence the Deputy Chair).

4.5.7.5 Such a notification must specify the business to be dealt with and must contain sufficient information to enable Members to be acquainted with the issues. Where such

a special meeting is summoned, the agenda will set out the business to be considered at that meeting.

**4.5.8 Quorum for Scrutiny Boards and Scrutiny Co-ordination Committee**

4.5.8.1 The Quorum for Scrutiny Boards will be four elected Members.

4.5.8.2 The Quorum for the Scrutiny Co-ordination Committee will be three elected Members.

**4.5.9 Substitute Members for Scrutiny Boards and Scrutiny Co-ordination Committee**

Any elected Member of a Scrutiny Board or the Scrutiny Co-ordination Committee will be entitled to nominate another elected member (except any Cabinet Member) to substitute for her/him at a meeting or part of a meeting of a Scrutiny Board or Scrutiny Co-ordination Committee, provided that notice of the nomination of that substitution is given to the Director of Customer and Workforce Services at least one hour in advance of the meeting.

**4.5.10 Chairing Meetings of Scrutiny Boards, Scrutiny Co-ordination Committee and Sub-Groups**

4.5.10.1 Chairs and Deputy Chairs of the Scrutiny Boards, the Scrutiny Co-ordination Committee and Best Value Review Groups will be appointed by the Council from amongst the Members appointed to those bodies.

Chairs of Sub-Groups will be appointed by the Scrutiny Board which established the Sub-Group from amongst the members of that Sub – Group, unless the appointment of a chair is delegated by the Scrutiny Board to the Sub-group. The Chair of any Joint Sub Group will be appointed by the Scrutiny Co-ordination Committee.

**4.5.11 Work Programme and Annual Report**

4.5.11.1 Each Scrutiny Board will, subject to the views of the Scrutiny Co-ordination Committee, be responsible for setting their own work programme and in doing so they will consult with relevant Cabinet Members and the Management Board. They will also consider the wishes of those Members of the Scrutiny Board who are not members of the largest political group on the Council.

**4.5.12 Agenda Items of Scrutiny Boards**

4.5.12.1 Any Member of a Scrutiny Board will be entitled to give notice in writing to the Director of Customer and Workforce Services that he/she wishes an item relevant to the function of that Scrutiny Board to be included on the agenda for the next available meeting of the Scrutiny Board. He/she must give full details and reasons for the request. On receipt of such a request, the Director of Customer and Workforce Services will ensure that it is included on the next available agenda, provided it falls within the Scrutiny Board's terms of reference. The Chair of the Scrutiny Board will decide, at the start of the meeting at which such item is referred, whether it is appropriate for the Board to deal with the items so notified.

4.5.12.2 The Scrutiny Board will also respond, as soon as their work programme permits, to a request from the Council, Cabinet, or any Cabinet Member or any other Committee of the Council, to review particular areas of Council activity. Where they do so, the Scrutiny Board will report their findings and any recommendations back to the Council, the Cabinet or any Cabinet Member or the relevant Committee, as they deem appropriate.

In the event of any dispute or disagreement about whether an item should be included on an agenda for a Scrutiny Board the Chief Executive or in her/his absence the Director of Customer and Workforce Services will arbitrate.

**Policy Review and Development**

**4.5.13 Role of Scrutiny Boards in Relation to Budget and Policy Framework**

The role of the Scrutiny Boards in relation to the development of the Council's budget and policy framework will be as set out in the Budget and Policy Framework Procedure Rules.

**4.5.14 Role of Scrutiny Boards in Relation to Other Matters**

In relationship to the development to the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Boards may make proposals to the Cabinet or any Cabinet Member for developments in so far as they relate to matters in their Terms of Reference.

**4.5.15 Further Role of Scrutiny Boards in Relation to Policy Development**

4.5.15.1 Scrutiny Boards may hold enquiries and investigate the available options for future directions in Policy Development and may appoint advisors and assessors to assist them in this process.

4.5.15.2 Subject to budget availability, they may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.

4.5.15.3 They may pay advisors, assessors or witnesses any reasonable fee and expenses.

**Reports from Scrutiny Boards**

**4.5.16 Preparation of Reports**

4.5.16.1 As soon as they have formed recommendations or proposals for development, a Scrutiny Board will prepare a full report and submit it to the Director of Customer and Workforce Services who will arrange for its consideration by the Cabinet or the appropriate Cabinet Member or the City Council.

4.5.16.2 If the proposals are consistent with the existing Budget and Policy Framework the Cabinet or Cabinet Member or the City Council will consider the report and take such actions as the Cabinet or Cabinet Member or City Council deem appropriate.

4.5.16.3 If the recommendation concerns a departure from or a change to the agreed Budget and Policy Framework, the Cabinet will consider the report and refer it to full Council with such recommendations as the Cabinet deem appropriate.

**4.5.17 Minority Reports**

4.5.17.1 If a Scrutiny Board or Best Value Review Group cannot agree one single final report to the Cabinet on any matter, no more than one minority report may be prepared and submitted to the Scrutiny Board or Best Value Review Group. Any minority report so

submitted must be supported by at least two Councillors who are Members of the relevant Scrutiny Board.

- 4.5.17.2 Any minority report so submitted will be appended to the report of the Scrutiny Board to the Cabinet in such a manner that makes it clear that there is a minority view on the subject matter of the report and indicating the nature and substance of that minority view. This will be done notwithstanding disagreement of the Scrutiny Board.

**4.5.18 Consideration of Scrutiny Board Reports**

- 4.5.18.1 As soon as a Scrutiny Board report on any matter which is the responsibility of the Cabinet or any Cabinet Member and has been considered and approved by a Scrutiny Board it will be included on the agenda of the next available meeting of the Cabinet or Cabinet Member, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet or Cabinet Member within a period of six weeks from the date the report is approved by the Scrutiny Board. In such cases, the report of the Scrutiny Board will be considered by the Cabinet or Cabinet Member when it considers that matter.

- 4.5.18.2 If for any reason the Cabinet or Cabinet Member does not consider the report within six weeks then the Director of Customer and Workforce Services will refer the matter to the next available meeting of the Council for them to consider the report and make a recommendation to the Cabinet or Cabinet Member.

**4.5.19 Rights of Scrutiny Board Members to Documents**

- 4.5.19.1 In addition to their rights as Councillors, Members of Scrutiny Boards 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.

**4.5.20 Liaison and Communication**

- 4.5.20.1 To facilitate effective communication, liaison between the Cabinet or Cabinet Member and the Scrutiny Boards may take place depending on the particular matter under consideration.

- 4.5.20.2 To facilitate the effectiveness of liaison and communication the Scrutiny Co-ordination Committee and Cabinet may meet jointly to agree arrangements and protocols for effective liaison and communication.

**4.5.21 Members and Employees Giving Account**

Any Scrutiny Board may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within the Portfolio allocated to the Scrutiny Board. As well as reviewing documentation, in fulfilling the Scrutiny role a Scrutiny Board may require any member of the Cabinet, the Chief Executive and/or any senior employee to attend before it to explain in relation to matters within their remit:-

- (i) any particular decision or series of decisions.
- (ii) the extent to which the actions taken implement Council policy.
- (iii) their performance

and it is the duty of those persons to attend.

**4.5.22 Notice of Attendance**

Where any member or employee is required to attend a Scrutiny Board, the Director of Customer and Workforce Services will inform the Member or employee of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend and whether any documentation is required to be produced for the Scrutiny Board. Where this will require the production of a report, the Member or employee concerned will be given sufficient notice to allow for preparation of that report.

**4.5.23 Member/Employee Unable to Attend**

If, in exceptional circumstances, a Member or Employee is unable to attend on the required date, the Chair of the Scrutiny Board will, either

- (a) in consultation with the Member or employee, arrange an alternative date for attendance.
- (b) agree to consider the item of business in the absence of the Member or employee.

**4.5.24 Attendance by Others**

A Scrutiny Board or Sub-Group may invite people other than those referred to in Rule 4.5.20 to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents or other stakeholders, community representatives, members of minority ethnic communities and Members and Officers in other public sector or partner organisations and may invite such people to attend. However, they are not obliged to attend.

**4.5.25 Call-in Procedure**

4.5.25.1 In this context call-in means the right for Non-Cabinet Members to look at and consider issues decided by the Cabinet or any Cabinet Member subject to the limitations on this right set out in paragraph 4.5.26 below.

4.5.25.2 Information about decisions to be taken by the Cabinet or any Cabinet Member will be issued to those Members who are not Cabinet Members who have indicated that they wish to receive them at least five clear working days before the Cabinet or Cabinet Member meeting. A summary sheet will be communicated to all Members of the Council at the end of each week setting out decisions taken and the deadline for calling items in.

4.5.25.3 Decisions of the Cabinet or Cabinet Member on which information has been issued can be called in by no fewer than three persons comprising Members (or, in respect of Education matters only, Co-opted Members) who are not Cabinet Members. To call-in an item, Members must complete the appropriate form which may be submitted in person, by fax or electronically, or a combination of these, which must include the specific decision being called in, a written reason for the call-in and an indication of whether or not they wish the relevant Cabinet Member(s) to attend Scrutiny Co-ordination Committee when the matter is considered, and submit it to the Director of Customer and Workforce Services by no later than 9.00 a.m. on the specified date. Any decisions not called in by this deadline will immediately become effective.

4.5.25.4 The appropriateness of a call-in under these procedures will be determined by the Scrutiny Co-ordination Committee, in accordance with criteria decided by them, on



advice by the Director of Customer and Workforce Services, in conjunction with the Head of Legal Services, unless there is no other business to be considered by the Committee. In such instances, the appropriateness of a call-in will be determined by the Chair (or in her/his absence, her/his nominee) of the Scrutiny Co-ordination Committee in conjunction with the Director of Customer and Workforce Services in accordance with the criteria. The Scrutiny Co-ordination Committee or Chair of the Committee will determine whether the relevant Cabinet Member(s) is required to attend Scrutiny Co-ordination Committee when the matter is considered, taking into account the wishes of the Members calling in the decision, however, this does not preclude Cabinet Member(s) from attending and speaking if they so wish. At this stage, there is no requirement for any Members who called in a decision to be present. If a call-in is rejected as being inappropriate, the Members who have submitted the call-in will be advised of the decision and the reason for it.

- 4.5.25.5 Once the deadline for calling in items has passed and the appropriateness of call-ins has been determined, the Director of Customer and Workforce Services will inform all Members of the Council and Co-opted Members of Scrutiny Boards of the items called-in and will arrange for these to be considered at the next appropriate meeting of the Scrutiny Co-ordination Committee. The agenda for that meeting will show the written reasons given for the call-ins and enclose the relevant documents. The Chair of the relevant Scrutiny Board will be invited to attend the meeting when the call-in is to be considered to ensure that they are kept informed of issues relevant to their Board.
- 4.5.25.6 At least one of the Members who called in a decision must attend and speak at the meeting of the Scrutiny Co-ordination Committee mentioned in 4.5.25.5 (if they are not already a Member of that Committee). If none of the Members attend, the call-in will fail unless the Committee decide that the matter can be referred to a subsequent meeting when at least one Member can attend or that the call-in can be considered in their absence.
- 4.5.25.7 A call-in may only be withdrawn by notification in writing, by fax or electronically from all the Members who requested the call-in, and submitted to the Director of Customer and Workforce Services.
- 4.5.25.8 The Scrutiny Co-ordination Committee will consider the decisions called in and will have at its disposal the information which has been submitted to the Cabinet or Cabinet Member, including any advice/recommendations from Advisory Panels. They can require the relevant Cabinet Member(s) and appropriate employee to attend the meeting to answer questions about the issue. If the Scrutiny Co-ordination Committee accepts the original decision by the Cabinet or Cabinet Member it becomes effective. If the Scrutiny Co-ordination Committee makes a recommendation to the Cabinet or Cabinet Member to amend a decision, this will be considered by the Cabinet or Cabinet Member.
- 4.5.25.9 If the Cabinet or Cabinet Member disagree with the recommendation of the Scrutiny Co-ordination Committee to amend a decision it will inform the Scrutiny Co-ordination Committee. In such circumstances, the Scrutiny Co-ordination Committee may refer the matter to the Council for decision on the dispute. In these circumstances the Council will have before them the views of both the Scrutiny Co-ordination Committee and the Cabinet or Cabinet Member. If the Cabinet or Cabinet Member decides further work needs to be done, it may defer the item for this to be carried out.
- 4.5.25.10 Scrutiny Co-ordination Committee may refer any issue which arises during the consideration of a call in to the appropriate Scrutiny Board for further detailed consideration.

**4.5.26 Limitations on Call-in**

A call-in will normally be regarded as appropriate **UNLESS**:-

1. it falls within paragraph 4.5.26 of the Scrutiny rules (part 4 of the Constitution) – ie. it relates to:-
  - (i) a matter which is to be determined by the Council.
  - (ii) a decision of the Cabinet/Cabinet Member taken as a matter of urgency and the Chair of the Scrutiny Co-ordination Committee (or his/her nominee) had been invited to attend the meeting where the urgent decision had been taken.
  - (iii) a decisions made on a recommendation arising from a Best Value Review before 12 months has elapsed since that decision.\*
  - (iv) a matters which is the subject of a current year Best Value or other planned review.
  - (v) a decision made by an employee exercising delegated authority.
  - (vi) Decisions of the Licensing and Regulatory Committee.
  - (vii) Decisions of the Planning Committee.
  - (viii) Decisions of the Appeals and Appointments Panels.
2. The call-in form is not completed correctly.
3. The call-in form is received after the specified time.
4. The reason for the call-in is unclear or does not relate directly to the decision specified on the call-in form.
5. The reason for the call-in is a question, the answer to which can be found in the report relating to the decision which is being called in.

\* "decision" means a decision taken by the Cabinet or by a Cabinet Member which relates to a recommendation arising from a Best Value Review.

**4.5.27 Call-in - Urgent Decisions**

- 4.5.27.1 Decisions of the Cabinet or any Cabinet Member which are urgent (ie. any delay likely to be caused by the call-in process would prejudice the Council's or the public's interest) will not be subject to call-in.
- 4.5.27.2 The records of such decisions will reflect the reasons for urgency and state that therefore they are not subject to call-in.
- 4.5.27.3 The Chair of the Scrutiny Co-ordination Committee, or his/her nominee, will be invited to and must attend meetings where urgent decisions are to be taken and will be asked to agree the need for urgency.
- 4.5.27.4 Any reports on which urgent decisions have been made are to be reported to Scrutiny Co-ordination Committee for them to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

**4.5.28 The Party Whip**

When a Scrutiny Board considers any matter in respect of which a Member of that Board is subject to a Party Whip, the Member must declare the existence of the Whip,

and the nature of it, before the commencement of the Scrutiny Board's consideration of the matter. The declaration, and the details of the Whipping arrangements, will be recorded in the minutes of the meetings.

**4.5.29 Business of Scrutiny Boards**

At each meeting of the Scrutiny Boards the following business will be conducted:-

- (a) Notification of substitutes
- (b) Minutes of the last meeting
- (c) Declarations of interest
- (d) Responses of the Council, Cabinet or any Cabinet Member or other Committees to reports of the Scrutiny Board
- (e) Other business set out on the agenda for the meeting including reports back on attendance at Conferences etc except those relating to the Lord Mayoralty which will be considered by the Scrutiny Co-ordination Committee.

**4.5.30 Investigations/Reviews**

When the Scrutiny Board conducts investigations/reviews (including by means of a Sub-Group) it may ask people to attend to give evidence at meetings, which are to be conducted in accordance with the following principles:-

- (a) The investigation/review will be conducted fairly and all Members of the Scrutiny Board or Sub-Group will be given the opportunity to ask questions of those attending and to contribute and speak.
- (b) Those assisting the Scrutiny Board or Sub-Group to give evidence will be treated with respect and courtesy.
- (c) The investigation/review will be conducted so as to maximise the efficiency and effectiveness of the investigation/review.

**4.5.31 Report Following Investigations/Reviews**

If an investigation/review is carried out by a Scrutiny Board that Scrutiny Board will prepare a report for submission to the Council, Cabinet, Cabinet Member or other Committee as it deems appropriate and will make its report and findings public except when the Information Rules require otherwise.

If an investigation/review is carried out by a Sub-Group, that Sub-Group will prepare a report for submission initially to the Scrutiny Board which appointed it, and will make its report findings public except when the Information Rules require otherwise. The Scrutiny Board will then refer the report to the relevant body.

**4.5.32 Referrals to Scrutiny by Cabinet/Cabinet Members**

With the agreement of the Chair of the appropriate Scrutiny Board/Scrutiny Co-ordination Committee, Cabinet/Cabinet Members can refer items to Scrutiny. However, call-in will still apply to referred items.

NOTE: Reports should not normally be referred to Scrutiny for information.

## **4.6 Financial Procedure Rules**

### **4.6.1 Introduction**

The City Council is a very large and complex organisation with an annual turnover in excess of £500 million. It requires robust systems and procedures to ensure that there is public accountability for the use of these resources as well as the appropriate level of probity demanded by the public.

### **4.6.2 Proper Financial Administration**

The Director of Finance and Legal Services is the City Council's nominated officer for the proper administration of its financial affairs. The day to day discharge of the duties of proper financial administration is carried out through a framework of delegated authority set by the Director of Finance and Legal Services.

### **4.6.3 Finance Structure in Coventry**

Coventry City Council operates a decentralised finance structure – finance staff are located in service departments, working closely with service officers who are delivering services and managing their finances. Each finance team is headed by a Principal Finance Officer.

The Director of Finance and Legal Services, working with the relevant service Director, designates an employee in each department as Finance Manager to assist the service Director to ensure compliance with the proper administration of financial affairs.

### **4.6.4 Financial Responsibilities of the Cabinet**

The Cabinet and Cabinet Members will exercise their financial responsibilities in accordance with the Constitution and terms of reference of the Cabinet and Cabinet Portfolios.

### **4.6.5 Framework of Delegated Authority**

The bulk of finance related tasks are undertaken by decentralised finance teams. The Director of Finance and Legal Services retained central responsibility for a limited number of specialist tasks, e.g. treasury management, financial co-ordination work, and to provide support and advice to ensure that Principal Finance Officers carry out their duties to a standard commensurate with the Director of Finance and Legal Services section 151 responsibilities. A key part of this strategic role is acting as system authorising officer for each of the Council's financial systems. Thus central finance officers have responsibility for specifying financial systems, advising on their use in service departments, and monitoring systems' compliance. Specifying normally takes the form of the publication of Finance Function manuals which lay down best practice for each financial system, and identifies responsibilities.

The specific responsibilities of the Director of Finance and Legal Services, service Directors and Principal Finance Officers are set down in these Finance Function manuals. Each Director and each service Head of Function must ensure compliance with the Council's financial rules, as set out in Finance Function manuals. They must report to the Director of Finance and Legal Services if they become aware of a failure to comply with the rules.

Furthermore, the Director of Finance and Legal Services must report to the Cabinet Member whose portfolio includes resources any breach of the City Council's financial rules which may jeopardise the sound financial management of the City Council.

**4.6.6 General Responsibilities**

Below are the general responsibilities for proper financial administration for the Director of Finance and Legal Services, service Directors and Principal Finance Officers. These general responsibilities and a summary of their responsibilities for specific financial systems are contained in the Principal Finance Officers Finance Function manual. Also set out below are the responsibilities of Councillors and employees.

**4.6.7 Director of Finance and Legal Services**

4.6.7.1 To act as the City Council's accountant and financial adviser and to carry out all responsibilities as the officer responsible for the proper administration of financial affairs in accordance with Section 151, Local Government Act 1972 (i.e. to act as "the responsible financial officer").

4.6.7.2 To determine the accounting systems; to ensure that the accounting systems are observed and that the accounts of the City Council and supporting records are kept up-to-date; to prepare and submit to Cabinet Member and Cabinet meetings, and the City Council's external auditors, the accounts relating to all the authority's activities; to prepare and submit the authority's Annual Accounts and financial returns. In carrying out responsibilities, the Director of Finance and Legal Services will take into account the requirements of the Accounts and Audit Regulations 1996 (as amended 2001) and CIPFA Accounting Code of Practice.

4.6.7.3 To compile the City Council's longer term capital and revenue programmes and annual budgets; to forecast the availability of financial resources; to provide financial advice relating to future spending proposals and commitments.

4.6.7.4 To prepare and revise finance function manuals; to provide advice on the meaning of their contents and on the principles underlying their contents; and to monitor, as a matter of routine, the extent to which they are being complied with.

4.6.7.5 To maintain an adequate and effective internal audit service; to prepare and submit to Directors (and, if necessary, Cabinet Member and Cabinet meetings) reports on the adequacy of internal control and the economic use of resources; to conduct investigations into major fraud, irregularity and loss; to report annually to the Management Board on internal audit work over the last year.

4.6.7.6 To have a particular concern for the efficient and effective use of the Council's resources in achieving value for money, while recognising the responsibilities of Directors and heads of function generally, the Head of Human Resources (with regard to Human Resources and Information Systems/Technology) and the Director of City Development (with regard to land and property) in this respect.

4.6.7.7 Under Section 114, Local Government Finance Act 1988, to issue a formal report to the City Council's external auditors and to each member of the City Council where it

appears that the authority, a Cabinet member or the Cabinet, or an employee of the authority:-

- (i) has made or is about to make a decision which involves or would involve the authority incurring spending which is unlawful;
- (ii) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority;
- (iii) is about to enter an item of account, the entry of which is unlawful.

4.6.7.8 The Director of Finance and Legal Services is also required to issue a formal report to the same persons if it appears to her/him that the spending of the authority (including planned spending) in a financial year is likely to exceed the resources available to it to meet the spending.

#### 4.6.8 **Service Directors**

4.6.8.1 To be responsible to the appropriate Cabinet Member for all the financial duties delegated to and undertaken in the department as set out in this document and the Finance Function manuals, and in other instructions, rules and guidance issued by the City Council through the appropriate Cabinet Member.

4.6.8.2 In particular, to be responsible for the following requirements:-

- (i) to ensure compliance with the City Council's financial rules agreed by the Council (such as Finance Function manuals and other instructions);
- (ii) to report to the Director of Finance and Legal Services when they become aware that there is a failure to comply with the rules;
- (iii) to ensure that their employees consider and address the financial, personnel and legal implications when making operational decisions and also when proposing potential policy developments;
- (iv) to supply to the Director of Finance and Legal Services details of any proposal which they intend to submit to a Cabinet Member or Cabinet meeting and which has financial implications or is of financial importance, in order that they and the Director of Finance and Legal Services may report jointly to the meeting;
- (v) (in conjunction with the Director of Finance and Legal Services to appoint a responsible officer (i.e. the Principal Finance Officer) for their department.

4.6.8.3 To collaborate with the Director of Finance and Legal Services and other Strategic Directors in undertaking any matters with financial implications and achieving value for money in the provision of services.

4.6.8.4 To ensure that adequate facilities are made available to both internal and external auditors and that reasoned and timely responses are made to audit reports and reports from Systems Authorising Officers.

**4.6.9 Finance Managers**

- 4.6.9.1 To undertake day-to-day responsibility on behalf of both the Director of Finance and Legal Services and the service Director for the proper and efficient conduct of financial affairs within the department, and to aid the department in obtaining value for money. In discharging this responsibility, the Finance Manager has professional responsibility to the Director of Finance and Legal Services on accounting principles, financial standards, systems and performance; and day to day have management responsibility to the service Director for the effective delivery of financial services to their department
- 4.6.9.2 To provide assurance to the service Director and the Director of Finance and Legal Services that, as far as possible, financial business within the department is legal and regular. The primary source of advice on questions of legality is obtained from the Head of Legal Services' Department which should be consulted when there is any doubt.
- 4.6.9.3 To play a key role in ensuring that the processes of the City Council's Policies, Priorities and Resources (PPR) system are undertaken within the department; to assist positively the departmental management team in identifying the department's financial needs, the problems that need to be addressed and their value for money implications. In relation to specific proposals, to ensure that the objectives are clear and appropriate, that the alternatives have been explored, that the proposal has been properly evaluated and that the resource implications have been set out.
- 4.6.9.4 To organise the annual estimates exercise, including preparation of the capital programme so that the City Council's timetables are met, that budget holders are able to contribute to the process and that the resulting revenue budget and capital programme accords with the guidelines and standards set by the Director of Finance and Legal Services.
- 4.6.9.5 To ensure that there is a satisfactory system of budgetary control within the department, that information provided to budget holders enables them to carry out their responsibilities, that budget holders are carrying out those responsibilities, and that their Director is advised of the overall budgetary control position and of any issues which need to be resolved.
- 4.6.9.6 To organise the annual closure of the accounts in accordance with the Director of Finance and Legal Services standards, guidelines and timetable. There is a specific responsibility on the Finance Manager to ensure that the accounts present fairly the financial position of the department and that they adhere to accounting principles.
- 4.6.9.7 To give financial advice to the department and to Member meetings through the signing of reports on behalf of the Director of Finance and Legal Services and by attending formal and informal meetings as her/his representative.
- 4.6.9.8 To define, allocate or agree the allocation of, and monitor the discharge of responsibilities for all the financial activities within the department.
- 4.6.9.9 To agree or specify, and monitor compliance with, the methods of operation for all the financial activities within the department.
- 4.6.9.10 To provide, when necessary, officers in the department with information on the contents of Finance Function Manuals, and advice on their interpretation, and act as a link between the department and Coventry Finance on such matters.

4.6.9.11 To report directly and promptly to their service Director and Director of Finance and Legal Services, (and where she/he thinks it is appropriate, to the Chief Executive) on any actual failure or a risk of failure to achieve sound financial management of her/his department or directorate. This must include any actual, suspected or potential significant irregularity.

4.6.9.12 In the event of a Finance Manager facing conflict in a material respect between the instructions of her/his service Director and the proper administration of the City Council's financial affairs, to report the matter to the Director of Finance and Legal Services immediately and inform her/his Director of any such action or proposed action.

#### 4.6.10 **Capital Working Group**

The Capital Working Group meets on a regular basis in order to provide recommendations to Management Board on a number of issues including medium term capital issues, asset management planning, corporate property (including disposals) strategy and the Council's five year Capital Programme.

Within the scheme of delegation, the Capital Working Group has delegated authority to approve new schemes up to £250,000 where funding has already been identified or can be vired from existing approved schemes.

#### 4.6.11 **Members**

This Constitution contains the responsibilities of Members. For example, there are statutory financial duties – to approve a balanced budget. In addition, Members need to make policy decisions as necessary to ensure that sound financial management is maintained.

#### 4.6.12 **Managers and Their Staff**

Managers and their staff are responsible for actively managing all the resources under their control so as to achieve policy and service objectives as set by Members. This active management must include securing value for money, maximising resources and staying within the approved budget. All of this should be done within the financial control framework as set down in the Finance Function manuals.

#### 4.6.13 **Financial Systems and Processes**

In support of the general responsibilities set out above, the Director of Finance and Legal Services publishes a series of Finance Function manuals which set out best practice for financial systems and processes – the details of the financial framework for which he/she is responsible as section 151 officer. These are identified in summary form below.

4.6.13.1 **Account maintenance:** The purpose of this manual is to ensure the accurate recording of transactions in the Council's computerised accounts. It provides the framework within which officers are expected to use and maintain the Council's General Ledger, which holds details of all financial transactions incurred by the City Council. The manual sets out the principles for ensuring that the Council's General Ledger provides accurate and timely financial information.

4.6.13.2 **Bank Accounts:** This manual provides the framework within which the City Council exercises control over the operation of its bank accounts, and ensures that the opening,



operating and closing of bank accounts is done in a controlled, uniform and proper manner.

- 4.6.13.3 **Budgetary Control:** The purpose of this manual is to ensure revenue budgets and spending are regularly monitored and appropriate action taken so that budgets are not overspent. It provides the framework of rules within which the City Council exercises control over the revenue (spending on day to day activities e.g. salaries) budgets of its services.

In it, the specific responsibilities of budget holders (service managers who have a budget allocated to them to deliver services) are set down. These include the management of their services within the cash-limited budget provided by the Council, and the paying of continuous attention to their budgetary control position, identifying potential variations (between budget and actual spending) and taking corrective action.

The manual also specifies the rules for transferring amounts between budgets, the technical name for which is virement. At the budget holder level, this enables the service officer to respond to changing circumstances within his/her budget. The manual permits Directors to authorise virements between any two budget heads provided they are within approved policy, and will not give rise to budgetary pressures in the current or future years.

Virements which are outside specific approved policy require the approval of the individual Cabinet Member for amounts up to £100,000, and the approval of the full Cabinet for amounts over £100,000.

- 4.6.13.4 **Capital:** The purpose of this manual is to ensure that the Council's capital spending is managed and monitored effectively. Within local government finance, a distinction is drawn between revenue and capital expenditure. In broad terms capital spending is one off spending on , or related to, longer lasting assets such as roads and buildings, Revenue spending is on day to day spending like salaries. Revenue and Capital spending are both financed and accounted for separately in local government.

The Director of Finance and Legal Services publishes this manual to guide officers, mainly but not exclusively finance staff, on what is a very technically complex area. The manual covers the definition of capital spending, capital accounting requirements, government rules surrounding capital, and the requirements for the approval of capital expenditure.

- 4.6.13.5 **Cash Control:** The purpose of this manual is to ensure the effective control of the Council's cash. Cash (coins, banknotes, cheques, postal orders, stamps etc) is the one negotiable asset of the City Council which is available for use by anyone, authorised or unauthorised, and whether employed by the council or not. This manual lays down the rules for the strict control of cash in order that potential losses are minimised, and actual losses are identified and reported as soon as possible after they occur.

- 4.6.13.6 **Contracts:** The Contract Procedure Rules (currently Contract Standing Orders and Administrative Procedures) are set out in Part 4.7. The City Council has established written standing orders and administrative procedures – rules to govern its business in relation to contracts for the supply of works and services including consultancies. These are not limited to financial rules, and are issued by the Director of Finance and Legal Services, but for completeness they are included here. They exist to protect the City Council, its Members, Directors and other officers involved in the award of contracts, to demonstrate that the City Council is obtaining value for money in the award of contracts, and to prevent corruption, or allegations of corruption, in the award of

contracts. They provide the means of securing competition in the award of contracts, to regulate the manner in which tenders are invited, and to monitor and control the performance and delivery of contracts awarded.

- 4.6.13.7 **Creditors:** The purpose of this manual is to ensure that the Council pays invoices to its suppliers in a controlled way. The City Council pays 300,000 invoices each year to its suppliers of goods and services. The Director of Finance and Legal Services publishes a manual to set out the means by which proper control can be established and maintained over these payments, so that they can be made in an accurate, and timely way and accounted for correctly.
- 4.6.13.8 **Debtors:** The purpose of this manual is to ensure that the Council bills its customers and manages the receipt of income in a controlled way. The City Council issues 275,000 invoices each year to customers of its services. The Director of Finance and Legal Services sets down in the Debtors Finance Function manual best practice, guidance and controls for the prompt raising of these invoices, credit management, and control and recovery of debts.
- 4.6.13.9 **Education – Fair Funding:** The Fair Funding scheme of delegation defines the status of financial regulations and the responsibility of schools to observe them. The scheme contains regulations which cover all aspects of financial management, and are designed to assist Governing Bodies in discharging their responsibilities. Governing Bodies are responsible for proper financial management and financial probity of their schools, and are publicly accountable for the money spent. Governors should conduct the business of the school in a manner consistent with public expectations of legality and propriety. The Director of Finance and Legal Services' responsibility for the proper administration of the City Council's financial affairs includes all aspects of financial management undertaken by Governing Bodies, which is discharged through the Finance Manager for the Education service.
- 4.6.13.10 **Estimates:** The purpose of this manual is to set down best practice in the preparation of the Council's annual budget. In February each year, the City Council's Cabinet approves the Budget Requirement for the following financial year. The budget is a detailed presentation of the Council's plans and objectives, expressed in £s. The preparation of these estimates is a part of the Budget and Policy Framework which is set down separately in this Constitution. The Director of Finance and Legal Services publishes Estimates guidance notes each year to assist officers prepare estimates in a uniform way which reflects the service and financial policies and decisions of the Council.
- 4.6.13.11 **Final Accounts:** The purpose of this manual is to set down best practice in the preparation of the Council's annual accounts. At the end of each financial year, the City Council is required by law to produce and publish its Statement of Accounts. Our External Auditors, appointed by the Audit Commission, audit these accounts and give their audit opinion. The Director of Finance and Legal Services produces Final Accounts guidance notes to assist officers throughout the Council to make their contribution to the year end closedown process. The guidance covers accounting principles and practices, best practice and timetable.
- 4.6.13.12 **Funding of External Organisations:** The purpose of this manual is to ensure that resources provided to external organisations are utilised in a way which is consistent with the Council's controls. The City Council works with the community and voluntary sectors to provide some services. The Funding of External Organisations manual seeks to ensure that management and financial arrangements are in place so that the funding of external organisations is administered in a manner which will achieve City Council

policies, safeguard public money, and demonstrate that funding has been awarded fairly.

- 4.6.13.13 **Grants Claims:** The purpose of this manual is to ensure the Council's grant submissions and claims are managed effectively from a financial point of view. The City Council receives significant sums of money from external organisations in the form of grant. It is very much in the Council's interest that eligible grants are identified, grant claims are accurately calculated, grant claims are made at the appropriate time, grant income received is monitored, and grant bids are evaluated (so there is no undue risk if bids are unsuccessful). The Grant Claims manual gives general guidance on the necessary procedures and control requirements to be followed surrounding grant claims.
- 4.6.13.14 **Inventories:** This manual has been established to give guidance on the provision of records of portable and attractive items so that loss can be deterred and/or detected.
- 4.6.13.15 **Joint Financial Reports:** The purpose of this manual is to ensure that Members of the Council have the right financial advice to assist them when they make policy decisions (establish new policy or change existing policy). In Coventry City Council, these policy decisions are taken either by individual Cabinet Members, or the Cabinet, following the receipt of written reports from Strategic Directors and Heads of Function. The Director of Finance and Legal Services gives financial advice to individual Cabinet Members, or the full Cabinet, by contributing to these written reports.

The preparation of these written reports is supported by the Protocol for the Production of Reports contained in this Constitution. The relevant Finance Manager must be consulted on all reports to determine whether there are any financial implications. If the Finance Manager confirms there are financial implications, the report must reflect this, and the financial information contained in the report must have regard to these Finance Procedure Rules, and the supporting financial regulations contained in Finance Function manuals, especially the Joint Financial Reports manual. This sets out the full requirement for financial information in order to ensure that Members can make an informed decision. (The need for an analysis of the alternative ways to achieve an objective, contained in this manual, is now enshrined in the options analysis required by the 2000 Act).

A key issue is the circumstances in which proposals (in the form of written reports) are presented to full Cabinet rather than individual Cabinet Members. The general policy of the Council is that all proposals to spend resources where the total spend is £500,000 or more, and all virement requests over £100,000 (see the definition in the Budgetary Control section above). In addition, a proposal will be referred to Cabinet:

- (a) when a Cabinet Member refers, although the financial implications are not significant,
  - (c) when the Cabinet Member whose portfolio includes resources refers, because of corporate/resource considerations
  - (c) when the Director of Finance and Legal Services refers because of technical financial considerations.
- 4.6.13.16 **Payroll:** The purpose of this manual is to ensure that there are effective arrangements for the administration of the Council's payroll. The City Council's City Pay business unit makes over 400,000 individual payments each year. The Payroll Finance Function manual establishes the control and procedural framework designed to ensure that these

payments are made accurately, on time, in accordance with the City Council's conditions of service, and with the minimal risk of error or fraud.

- 4.6.13.17 **Private and Unofficial Funds:** This manual sets out the arrangements to ensure that funds not provided by the Council are managed in a way which is consistent with the way the Council manages its own funds. Private and Unofficial funds is a term used to describe those resources which are not provided by the City Council. For some Council services, these funds can be significant. Whilst the City Council recognises that these funds are separate from its own resources, nevertheless proper financial administration is still essential. The Private Funds Finance function manual contains guidance on the administration of such funds.
- 4.6.13.18 **Procurement (of works, services and supplies):** The purpose of this manual is to ensure that the Council's procurement is conducted in a controlled and cost effective way. The Procurement Manual sets out the rules and responsibilities for the commissioning of contracts for the provision of works and services and for the supply of goods and materials. The manual also provides guidance on the need to use central purchasing arrangements where these exist.
- 4.6.13.19 **Reserves:** The purpose of these regulations is to ensure continuity in the way that reserves are created and held centrally on behalf of the Council as a whole. In all cases, all reserves must have an auditable written purpose for their usage including how and when they may be used.
- 4.6.13.20 **Risk Management and Insurance:** Every officer employed by Coventry City Council has a risk management responsibility. In the delivery of its services, the City Council is affected by many risks which lead to loss. These losses include financial losses, and also disruption of service, and inconvenience to service users and staff. Some losses can be insured against, whilst others cannot. The Risk Management and Insurance manual sets out the Council's policies, practices, procedures and mechanisms in relation to insurance and self-insurance, and also the proactive approach of risk management which seeks to identify risks, to implement strategies for risk elimination or risk reduction, to put in place financial mechanisms for remaining risks, and to monitor ongoing performance.
- 4.6.13.21 **Stores:** This manual sets out procedures for the accounting for stores transactions, security of storage, stock checking, stock adjustment procedures, stock balance certification, monitoring of stocks and disposal of surplus stocks.
- 4.6.13.22 **Trading Services:** The purpose of this manual is to set out the framework for the effective management of the finances of the Council's trading services. This manual provides guidance on financial and related matters for the operation of trading and quasi-trading services within the City Council. Whilst all Finance Function manuals apply equally to trading and non-trading services, this manual supplements the other manuals by focusing on requirements specific to trading services. In particular, each such organisation will submit its annual report and accounts to the Cabinet.
- 4.6.13.23 **Treasury Management:** The purpose of this manual is to set out the control framework for the effective management of the Council's treasury authorities. The City Council has to manage its cash flows, its banking, its money market and capital market transactions, the effective control of the risks associated with those activities, and the pursuit of optimum performance consistent with those risks. This is called Treasury Management. The City Council defines the policies and objectives of its treasury management activities in the same way as set down in the Chartered Institute of Public Finance and Accountancy Treasury Management in the Public Services: Code of Practice 2001. The City Council's Cabinet at its meeting on 19 March 2002 approved and adopted the Code.

- 4.6.13.24 **Value Added Tax:** This manual ensures that the Council complies with VAT registration and rules. VAT is a complex tax. This manual describes what is required to understand the general principles of the tax and its application to local authorities, not only for employees involved in making payments and collecting income, but also employees involved in making policy decisions about the disposal and acquisition of property, provision of services and the initiation of capital projects.
- 4.6.13.25 **Working through Partnership – Joint Ventures:** The objective of this manual is to establish a framework for guidance and control of the Council's partnership arrangements. Partnerships are a means of achieving the City Council's service and policy objectives through joint working with outside parties. This manual, part of the management framework necessary to ensure that Members' policies are implemented effectively and in a controlled way, sets out a framework of accountability and responsibility, covering the process for creating partnerships as well as the ongoing accountability.

**4.7 Contracts and Disposal of Land Procedure Rules**

4.7.1 The Council's Contract Standing Orders have been reviewed in 2006.

4.7.2 Following that review and approval by Cabinet, the Council will adopt the new Procurement Manual.

4.7.3 In the meantime, the existing Contract Standing Orders and Administrative Procedures will apply.

4.7.4 Part G of former Standing Orders (Sale or other Disposal of Land) will also apply

**4.8 Employment Procedure Rules**

**4.8.1 Recruitment and Appointment**

**4.8.1.1 Recruitment Policy**

Recruitment of employees will be in accordance with the Council's adopted recruitment and appointment policy and the Council will recruit from the widest possible field and will appoint on the sole criteria of merit, except where race and gender is a genuine occupational qualification, or where the Council seeks to avoid redundancy by identifying alternative employment opportunities or there are exceptional circumstances.

**4.8.1.2 Legislation**

The Council's Recruitment and Selection Policy and Procedures are governed by extensive legislation particularly the laws relating to discrimination. The Employment Procedure Rules reflect existing statutory provisions and in particular the Local Authorities (Standing Orders) (England) Regulations 2001 and are based on the model provided by the Secretary of State for Transport Local Government and the Regions.

**4.8.1.3 Declarations**

These will be considered as follows:-

- The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are related to or a partner of an existing Councillor or an employee of the Council, or the partner of such persons.
- A candidate who fails to disclose such a relationship will be disqualified for the appointment and if appointed will be liable to dismissal without notice.
- Every Member and employee of the Council at JNC for Chief Officers level will disclose to the Chief Executive any relationship known to him/her to exist between themselves and any person they know is a candidate for an appointment with the Council.
- No candidate so related to any Member or an employee will be appointed to the same service unit without the authority of the Chief Executive or relevant Chief Officer.
- Any employee who develops a personal relationship with a Councillor, or with another employee in the same service, or any employee covered by the JNC for Chief Officers who develops a personal relationship with any other employee, will disclose that relationship to his/her manager.
- The purpose of such disclosures is to ensure openness, probity, equality and effectiveness of management and Councillor/employee relationships.

**4.8.1.4 Seeking support for an appointment**

- Subject to Rule 4.8.1.5, the Council will disqualify any applicant who directly or indirectly seeks the support of any Member of the Council for any appointment with the Council.

- Subject to Rule 4.8.1.5 below, no Member of the Council will seek support for any person for any appointment with the Council.
- The content of this Rule will be included in any recruitment information.

**4.8.1.5 References**

Nothing in Rule 4.8.1.4 above will preclude a Member of the Council from giving a written reference for a candidate for submission with any application for employment. Any member giving such a reference will take no part in the recruitment process.

**4.8.2 Recruitment of Chief Executive, Chief Officers and "Deputy Chief Officers"**

For the purpose of these employment procedure rules, a Chief Officer or "Deputy Chief Officer" is as defined in Sections 2(6)(7) and (8) of the Local Government and Housing Act 1989. The definition of a "Deputy Chief Officer" means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more Chief Officer. This definition applies to a number of senior employees in the City Council, as determined by the Chief Executive, who for the purpose of these procedure rules, are designated "Deputy Chief Officers"

Where the Council proposes to appoint a Chief Executive, Chief Officer or "Deputy Chief Officer" and it is not proposed that the appointment be made exclusively from among their existing employees, the Council will:

Draw up a statement specifying:

- The duties of the employee concerned; and
- Any qualifications or qualities to be sought in the person to be appointed.
- To make arrangements for the post to be advertised in such a way that is likely to bring it to the attention of the persons who are qualified to apply for it; and
- make arrangements for a copy of Rule 4.8.1.4 to be sent to any person on request.

The appointment of employees other than those specified in 4.8.3 and 4.8.4 (other than assistants to political groups) is the responsibility of the Chief Executive or his/her nominee.

No appointments except Chief Executive, Chief Officer or "Deputy Chief Officer" (as defined in Rule 4.8.2 above) (other than assistants to political groups) may be made by any Member or Members of the Council.

**4.8.3 Selection Process for Chief Executive and Chief Officers and "Deputy Chief Officers"**

**4.8.3.1** Detailed arrangements with regard to the recruitment processes and selection techniques to be used, any additional procedures to those set out in these rules or the need for external advice will be decided by the Chief Executive or his/her nominee (unless excluded) on the advice of the appropriate senior HR Manager (unless excluded).



- 4.8.3.2 Any existing employee who is a candidate or a potential candidate or has any other personal interest in the recruitment process is excluded from taking any part in the process. In such circumstances Management Board will nominate a suitable replacement for that postholder.
- 4.8.3.3 The Chief Executive or his/her nominee (unless excluded) and the appropriate senior HR Manager (unless excluded) will identify all applicants who meet the requirements of the post, as detailed in the statement referred to in Rule 4.8.2 above, who will progress to the next stage of the selection process.
- 4.8.3.4 Applicants to posts of Chief Executive Chief Officer and "Deputy Chief Officer" (as defined in Rule 4.8.2 above) will then go through a screening and/or assessment process by a selection panel which will select candidates to go forward to the Appointments Panel. The selection panel will comprise of the following:-
- The appropriate Cabinet Member(s), responsible for the service or services concerned;
  - The Chief Executive or her/his nominee
  - The appropriate Senior Human Resources Manager or her/his nominee.
  - For an appointment other than a Member of the Management Board, the Member of the Management Board responsible for the post;
  - One other Member of the Management Board nominated by the Chief Executive at his/her discretion;
  - An appropriate professional advisor
- 4.8.3.5 Where no suitable qualified person has applied, arrangements will be made to re-advertise the post in accordance with the procedure set out in Rule 4.8.2.
- 4.8.4 **Appointment of the Chief Executive**
- 4.8.4.1 The Appointments Panel for the appointment of any Chief Executive will be established by full Council on a recommendation from the Cabinet.
- 4.8.4.2 The Appointments Panel for the appointment of the Chief Executive must include at least one Member of the Cabinet and will comprise at least the following:-
- the Leader and the Deputy Leader of the Council or their respective nominees;
  - the Chair of Scrutiny Co-ordination Committee or nominee;
  - Such other Opposition Member(s) of Scrutiny to ensure the political balance.
- 4.8.4.3 The full Council will approve the appointment of the Chief Executive following the recommendations of an Appointments Panel.
- 4.8.4.4 The Appointments Panel will be advised by any relevant Chief Officer(s) (or Senior Manager) or external professional advisers as nominated by the Cabinet on advice from any relevant Chief Officer (for the Chief Executive or Senior Manager).
- 4.8.4.5 The Quorum for the Appointments Panel for the Chief Executive will be 3 Members.

**4.8.5 Chief Officer and "Deputy Chief Officer" Appointments**

4.8.5.1 All Chief Officers or "Deputy Chief Officers" (as defined in Rule 4.8.2 above) will be appointed by an Appointments Panel.

4.8.5.2 The Appointments Panel should comprise the following:-

- The Leader and/or Deputy Leader of the Council or their respective nominees;
- The appropriate Cabinet Member(s) having responsibility for the area of service concerned, determined by the Director of Customer and Workforce Services in consultation with the Leader of the Council or her/his nominee;
- The Chair of the Scrutiny Co-ordination Committee or her/his nominee;
- Such other opposition non-Cabinet Member(s) to ensure the political balance.

4.8.5.3 The Appointments Panel will be advised by the Chief Executive and any other relevant Chief Officer(s) (or Senior Managers) or external professional advisers as nominated by the Chief Executive.

4.8.5.4 The appointment of the Monitoring Officer and Chief Finance Officer will be approved by full Council following a recommendation of an Appointments Panel.

4.8.5.5 The Head of Human Resources will ensure that all appropriate Criminal Records Bureau (CRB) checks are obtained before an appointment is confirmed.

4.8.5.6 The Quorum for the Appointments Panel for Chief Officers or "Deputy Chief Officers" (as defined in Rule 4.8.2 above) will be 3 Members.

**4.8.6 Offer of Appointment of Chief Officers and "Deputy Chief Officers"**

4.8.6.1 Any offer of employment to any post of Chief Officer or "Deputy Chief Officer" (as defined in Rule 4.8.2 above), will only be made by an Appointments Panel where no well founded objection from any Member of the Cabinet has been received.

4.8.6.2 Before an Appointments Panel considers an appointment to Chief Officer or "Deputy Chief Officer" (as defined in Rule 4.8.2 above), the Director of Customer and Workforce Services will be notified of the shortlisted candidates names and any other relevant particulars.

4.8.6.3 The Director of Customer and Workforce Services will notify all Cabinet Members of the names, the relevant particulars and the period within which any objection to any of the shortlisted candidates can be made (this will be a minimum of three working days).

4.8.6.4 Any objection by a Cabinet Member must be notified to the Leader who will respond to the Director of Customer and Workforce Services on behalf of the Cabinet.

4.8.6.5 No appointment can be made until the expiry of the objection period and notification is received from the Leader that neither he/she nor any Member of the Cabinet objects to the appointment.

4.8.6.6 If an objection is received, the Director of Customer and Workforce Services will notify the Appointments Panel and the appointment can only be made if the Appointments Panel determines that the objection is not material or well-founded.

4.8.6.7 The terms "Chief Officer" and "Deputy Chief Officer" are the statutory definitions of those terms and these requirements are compulsory.

**4.8.7 Dismissal**

4.8.7.1 Members of the Council will not be involved in the dismissal of any employee other than Chief Executive, Chief Officer or "Deputy Chief Officer" (as defined in Rule 4.8.2 above) except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's Disciplinary, Capability and related Procedures as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

**4.8.8 Objections to Dismissal**

4.8.8.1 Any dismissal from any post of Chief Executive, Chief Officer or "Deputy Chief Officer" (as defined in Rule 4.8.2 above) will only be made where no well founded objection from any Member of the Cabinet has been received.

4.8.8.2 When any person is minded to dismiss any Chief Officer or "Deputy Chief Officer", (as defined in Rule 4.8.2 above) the Director of Customer and Workforce Services will be notified of the proposed dismissal and any other particulars relevant to the dismissal.

4.8.8.3 The Director of Customer and Workforce Services will notify all Cabinet Members of the name, the relevant particulars and the period within which any objection to the proposed dismissal is to be made.

4.8.8.4 Any objection by a Cabinet Member must be notified to the Leader who will respond to the Director of Customer and Workforce Services on behalf of the Cabinet.

4.8.8.5 If no objection is received within the specified period or if the Leader has stated that neither he or any Member of the Cabinet objects to the proposed dismissal, the dismissal can be made.

4.8.8.6 If an objection is received, the Director of Customer and Workforce Services will notify the person proposing to make the dismissal and the dismissal can only be made if that person determines that the objection is not material or well-founded.

**4.8.9.1 Suspension of Chief Executive, Monitoring Officer and Chief Finance Officer**

The Chief Executive, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than 2 months.

**4.8.9.2 Independent Person**

No other disciplinary action may be taken in respect of any of these employees except in accordance with a recommendation in a report made by a designated independent person.

4.8.9.3 Members of the Council will not be involved in a disciplinary action against any officer below "Deputy Chief Officer" (as defined in Rule 4.8.2 above) except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The

Council's Disciplinary, Capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

4.8.9.4 For the avoidance of doubt, any disciplinary action against the Chief Executive, Monitoring Officer and Chief Finance Officer will be conducted strictly in accordance with the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 and any disciplinary action against Chief Officers and "Deputy Chief Officers" (as defined in Rule 4.8.2 above) will be conducted strictly in accordance with the Joint Negotiating Committee for Chief Officers.

**4.8.10 Assistants to Political Groups**

4.8.10.1 The appointment of any assistant to a political group will be made in accordance with the statutory provisions in that regard.

4.8.10.2 The appointment of an assistant to a political group will be made in accordance with the wishes of that political group.

4.8.10.3 There will be no political assistants unless such a post is allocated to all political parties that are so entitled. Any party that does not qualify may not have one. Before making any appointment to the post of political assistant, the Council must decide which group(s) would be entitled to such a political assistant.

**4.8.11 Interests in Employee Negotiations**

Any Councillor who is in the employment of any local authority or who is an official or an employee of a Trade Union whose Members include employees of the Council is prohibited by law from representing the interests of the Council in any negotiations with respect to the terms and conditions of Council employees. Nothing in this paragraph will prevent any member from taking part in any Appeal Panel not involving terms and conditions of service.

**4.8.12 Human Resource Matters**

**Management of Employees**

4.8.12.1 All Members of the Management Board will be accountable to the Cabinet for the management of their Directorates or Departments.

4.8.12.2 In fulfilling this management role, all Members of the Management Board will comply with the City Council's human resource policies with regard to recruitment, selection and employment of employees, as may be agreed from time to time by the Cabinet.

4.8.12.3 All senior Managers are responsible for the effective recruitment, development and promotion of a workforce which is representative of the community and provides training and, if appropriate, adaptations for under-represented groups.

4.8.12.4 All employment policy and precedent advice to an Appeal Panel or member level dispute panel will be provided by the Head of Human Resources or his/her nominee.

**4.8.13 Proposals with Human Resource Implications**

4.8.13.1 Any proposal to establish or change policy must be supported by a written report to the appropriate Cabinet Member by the relevant Member(s) of the Management Board.

4.8.13.2 The Head of Human Resources must report any breaches of the City Council's human resources policy, which may jeopardise the sound management of human resources within the City Council.

**4.8.14 Human Resources Managers**

4.8.14.1 The Head of Human Resources will, in consultation with each Member of the Management Board, designate an Employee as Human Resources Manager to help each Member of the Management Board ensure compliance with the human resource policies of the City Council.

4.8.14.2 Decisions of any Appointments Panel or Appeal Committee are not subject to call-in.

**4.9 Petitions Procedure Rules**

**4.9.1 General**

4.9.1.1 Petitions dealt with under these Rules are those supported by a Councillor and will not be recognised as such unless signed by at least five people resident in Coventry or five business ratepayers or a combination of both, and the address of the signatories are provided.

4.9.1.2 This definition does not include any multi-signatory letters or petitions which are not supported by a Councillor but are received directly by the appropriate Directorate. They will be investigated by the Directorate and, if appropriate, be taken into consideration with regard to any related application.

4.9.1.3 Where a petition is received that is not supported by a Councillor, the appropriate Directorate will ensure that a copy of the petition is forwarded to the relevant Ward Councillors.

**4.9.2 Submission Of Petitions**

4.9.2.1 A Councillor will initially hand petitions into the Customer and Workforce Services Directorate where a form will be completed. The Councillor will decide how she/he wishes the petition to be dealt with and will determine a petition spokesperson.

4.9.2.2 Petitions will be entered on a register maintained by the Director of Customer and Workforce Services which will indicate the Councillor submitting the petition, the date of receipt, the subject matter, the Directorate responsible for the issue and where and an anticipated date when the petition will be considered. A copy of the register detailing all outstanding petitions will be circulated to all Councillors and members of the Management Board on a monthly basis.

4.9.2.3 Petitions may be submitted by a Councillor either:-

4.9.2.3.1 To a meeting of the City Council. The Councillor submitting the petition will be entitled to speak for two minutes.

4.9.2.3.2 Directly to the Cabinet or appropriate Cabinet Member. The Councillor submitting the petition will be entitled to attend the Cabinet or Cabinet Member meeting to present the petition.

4.9.2.3.3 Directly to either the Planning or the Licensing and Regulatory Committee.

4.9.2.3.4 When a petition has been submitted by a Councillor, the Director of Customer and Workforce Services will write to the Councillor acknowledging receipt. A copy of this letter will be sent to the relevant Ward Councillors, petition spokesperson and appropriate Cabinet Member/Chair. A copy of the petition and letter will be sent to the appropriate Directorate.

4.9.2.3.5 Any petition presented to the City Council will automatically stand referred to a meeting of the Cabinet, appropriate Cabinet Member, appropriate City Council Committee or other appropriate body as determined by the Director of Customer and Workforce Services, having regard to the subject matter of the petition. Subject to any statutory requirements, the City Council may, upon motion proposed and seconded, order any petition relevant to any item of business before the meeting of the City Council to be

considered when that item of business is reached on the agenda. In that event, no discussion will take place before such consideration.

4.9.2.3.6 Where a petition stands referred to the Cabinet, appropriate Cabinet Member or appropriate City Council Committee, no discussion will take place upon it in the City Council prior to its consideration by the Cabinet, appropriate Cabinet Member or appropriate City Council Committee except that the Councillor presenting a petition will be allowed to speak for not more than two minutes in explanation of the contents of that petition.

4.9.2.3.7 Except as detailed in paragraph 4.9.4.2, all petitions will normally be considered within two months of their receipt.

### **4.9.3 Consideration Of Petitions By Cabinet And Cabinet Members**

4.9.3.1 Petitions not relating to Planning and Licensing or Regulatory matters will be referred either via the City Council or directly to the Cabinet or appropriate Cabinet Member responsible for the matter to which the petition refers.

4.9.3.2 When a petition is due to be considered the Director of Customer and Workforce Services will give the Councillor who submitted the petition, together with a spokesperson representing the petitioners and the relevant Ward Councillors, notice of the meeting at which the petition will be considered together with any relevant report. The Councillor and spokesperson will be entitled to attend that meeting and to speak upon the consideration of the petition. The Member concerned will not be entitled to vote unless she/he is a member of the Cabinet [or the Cabinet Member concerned].

4.9.3.3 Where more than one petition is presented in relation to a particular item, then the Director of Customer and Workforce Services will endeavour to ensure that all petitions are dealt with at the same meeting. In the event that petitions have an "opposing" viewpoint, the Director of Customer and Workforce Services will invite the petitioners to nominate a spokesperson for each of the petitions to the meeting at which the petitions are to be considered. Each spokesperson will be entitled to attend the meeting and to speak upon the consideration of the petition. If a spokesperson is unable to attend, for any reason, this would not prevent the meeting considering all the petitions and coming to a decision.

4.9.3.4 The Cabinet or appropriate Cabinet Member will then have the following courses of action available:-

- (a) Make a decision on the petition.
- (b) Discuss the matter with an Advisory Panel and ask them for their advice.
- (c) Refer the petition to Scrutiny where it relates to a policy or service issue which is currently subject to a service or Best Value review.

4.9.3.5 A Cabinet Member may refer the petition to the full Cabinet if the petition subsequently appears to relate to a City Council-wide or cross-cutting issue

4.9.3.6 The ultimate decision of the Cabinet Member or Cabinet on the subject matter of the petition will be subject to Call-in.

**4.9.4 Consideration Of Petitions By Planning Committee And Licensing And Regulatory Committee**

4.9.4.1 Petitions relating to matters under the remit of the Planning or Licensing and Regulatory Committees will be referred either via the City Council or directly to those City Council Committees. The Director of Customer and Workforce Services will follow the same procedure detailed in paragraphs 4.9.2.3.4 and 4.9.3.2 above with regard to acknowledgement of the petition and notification of the meeting where the petition will be considered. At Planning Committee in line with the public speaking scheme, the length of petition spokesperson's speeches will be limited to 3 minutes. In addition the applicant (or nominee) will have the right of reply when a petition is presented in respect of a Planning Application).

4.9.4.2 In the case of a petition that relates to a particular application, the petition will be considered at the same time as the application rather than within a period of two months.

**4.9.5 Public Participation**

4.9.5.1 The Director of Customer and Workforce Services will make arrangements for one spokesperson for each petition to attend and to speak on behalf of the other signatories to that petition at:-

- Cabinet Meetings
- Cabinet Member Meetings
- Planning Committee or Licensing and Regulatory Committee
- Advisory Panels
- Scrutiny Boards and Scrutiny Co-ordination Committee (subject to 4.9.6 below)

**4.9.6 Consideration Of Petitions By Scrutiny Boards And Scrutiny Co-ordination Committee**

4.9.6.1 Where a petition has been considered by a Cabinet Member or the Cabinet and the decision has been called in to Scrutiny, the Member who presented the petition and the petition spokesperson will be invited to speak at the meeting of the Scrutiny Board or Scrutiny Co-ordination Committee.

**4.9.7 Notification Of Decisions Relating To Petitions**

4.9.7.1 Following consideration of a petition, the Member submitting the petition together with the petition spokesperson and the relevant Ward Councillors will be notified in writing by the Director of Customer and Workforce Services of the decision and the Member and the petition spokesperson will then make arrangements to inform the petitioners accordingly.



**4.10 Planning Committee Procedure Rules**

4.10.1 The procedure at Planning Committee (the Committee) will be as follows.

4.10.1.1 General

The Committee will comprise the number of Councillors of the City Council appointed by the full Council at their annual meeting. There will be no provision for substitute Councillors to attend Committee meetings.

The quorum for all meetings (including site visits) will be five Councillors and no business will be transacted if any meeting or part of a meeting (or site visit) will not be quorate.

The Committee will meet at times and places appointed and published in accordance with the requirements of the Local Government Act 1972, as amended.

The Chair will preside over meetings of the Committee and, where the Chair is absent for the whole or part of the meeting, the Deputy-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Deputy-Chair for either the whole of or part of a meeting, the Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).

The Chair of the Committee meeting will be responsible for:

- (i) calling items for consideration as they appear on the Agenda,
- (ii) calling and allowing persons to speak at the Committee meeting,
- (iii) calling any matters for consideration which do not appear on the Agenda and for giving the reason(s) for the urgency of hearing such matters,
- (iv) maintaining good order at the Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a Councillor of the Committee), or to suspend the Committee meeting, in cases of disorder, until good order has been restored.

In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

Decisions of the Planning Committee are not subject to call-in.

4.10.1.2 Declarations

4.10.1.2.1 Declarations of Interests

Councillors and Employees will, in accordance with their respective Model Codes of Conduct, declare any interests they have in respect of any items appearing on that Committee's Agenda. These declarations will be made at the outset of the meeting under the item listed as 'declarations' on that Committee's Agenda or when that item is reached on the Agenda.

A Member of the Planning Committee who has asked that a particular application should be placed upon the agenda, rather than dealt with under delegated powers, will automatically be regarded as having a prejudicial interest in the application and must not take part in the deliberations on it.

**4.10.1.2.2 Declarations of 'Contacts'**

Councillors and certain Planning Employees (being the Committee Planning Officer who presents the report and the planning case officer) will declare all 'contacts' they have received in respect of planning applications appearing on that Committee's Agenda.

Councillors' declarations of 'contacts' will be made at the outset of the meeting under the item listed as 'contacts' on that Committee's Agenda or when the application is reached on the Agenda.

Planning Employees' declarations will be made in the written report in respect of that application or verbally if received after publication of that report.

Councillors and Planning Employees will declare as 'contacts' those matters as they are defined in the 'Code of Good Planning Practice' as it appears elsewhere in this Constitution.

**4.10.1.3 Petitions**

At Planning Committee the length of petition spokesperson's speeches will be limited to 3 minutes. In addition, the applicant (or nominee) will have the right of reply when a petition is presented in respect of a Planning Application.

**4.10.1.4 Consideration of Business on the Public Agenda and Public Speaking Scheme**

The Committee will determine all applications for permissions, approvals and consents made to and consultations with the Council under the terms of reference of the Committee (all of which matters are referred to in these rules as 'applications'). All applications to be decided by the Committee will be dealt with as follows:

The Planning Officer will present the written report on the Agenda in respect of each item as called by the Chair. The Planning Officer may refer to photographs, plans, diagrams and such other aids as are necessary whilst presenting the written report. All these aids will be displayed at the meeting. The Planning Officer will update the written report verbally in respect of matters occurring after publication of the Agenda and which have subsequently been communicated to the Planning Officer.

Where the matter is one to which the Council's Scheme of Public speaking at the Planning Committee applies, the Chair will then call speakers who have been registered to speak on that application.

- (i) A 'registered speaker' will be a person (other than the applicant or their representative) who has made written representations on the application to planning employees and have registered to speak with the Customer and Workforce Services Directorate.
- (ii) Any registered speaker may request a ward Councillor for the ward containing the application site to speak on their behalf. No member of the Committee may speak under the Public Speaking Scheme and participate in consideration of that application as a Committee member.

- (iii) All speakers under the Public Speaking Scheme will be allowed up to 3 minutes to address the Committee. Speakers will address the Committee in the following sequence:
  - objectors,
  - supporters, and
  - the applicant (or their representative).
- (iv) Speakers will only be allowed one opportunity to address the Committee. Where more than one objector or supporter addresses the Committee, second and subsequent respective speakers will be expected to raise new issues.
- (v) Where there is more than one objector who speaks, the applicant (or their representative) may, at the discretion of the Chair, be allowed longer than 3 minutes to address the Committee.
- (vi) For the purposes of good order in the meeting and to avoid repetition, the Chair will be entitled to curtail public speaking where he or she deems this necessary.

Following any speakers under the Public Speaking Scheme, Committee members (including the Chair) may speak on the application as called by the Chair and, where needs be, may question Employees on matters arising out of the application.

Employees may be required at any time after public speakers have been heard to address the Committee to answer questions asked or to comment or clarify any points that have been raised during consideration of the application or to advise the Committee.

Following consideration of the application the Chair will request the Committee to decide upon the application. Where the Committee are unanimous as to its decision on the application a vote will not be required. Where there is a difference of opinion as to its decision amongst Committee members, the Committee will move to a vote on the application.

Any dispute or question as to procedure at the Committee, including the operation of the Public Speaking Scheme, will be determined by the Chair, whose decision on all matters will be final.

#### 4.10.1.5 Voting

In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

All members of the Committee will have one vote. The Chair will have an extra casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

The Chair will call for a vote where the Committee are not unanimous as to its decision on an application, unless no amendment to the recommendation is proposed or such amendment is withdrawn.

Voting will be either for the recommendation as it appears in the written report (or as amended by the Planning Officer verbally at the meeting) or for the amendment to the recommendation (as proposed by a member of the Committee). Where there is more

than one amendment proposed, they will be voted on in the order in which they are proposed.

Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

Where there is ambiguity in the way votes are cast, the Chair may request Committee members to confirm their votes before the Committee's decision is recorded.

#### 4.10.1.6 Private Items

In accordance with section 100 and Schedule 12A to the Local Government Act 1972 certain reports to the Committee, most notably those on planning enforcement, will be exempt from publication and heard and determined by the Committee in private session. A resolution to enter into private session will be agreed in public by the Committee.

In relation to such 'private' items the procedure to be followed by the Committee will be as for public items as described above, except that there will be no provision for public speaking before the Committee as there will be no application for the Committee to determine.

For private items the Agenda will indicate the nature of the report and the Minutes of the meeting will:

- (i) confirm which paragraph of Schedule 12A justifies the report being determined in private and
- (ii) will confirm the resolution made by the Committee in private session.

#### 4.10.1.7 Site Visits

The Committee has agreed rules as to when a site visit ought to take place and how it should be conducted. Those rules are as follows:

A visit can be scheduled for any application where, in discussion with the Chair it is felt by Planning officers that a visual appreciation is necessary. In these circumstances, the reasons why a visit has been held before consideration of the application by the Planning Committee will be clearly stated on the agenda.

A visit can also be made where the Committee feel that there is significant doubt about the decision which should be made on the proposal which necessitates a visual appreciation of the site or its surrounding and no other method of obtaining this appreciation is available. The reasons for such visit should be specified, minuted and included on the Committee Agenda. The Councillor(s) requesting the visit will be expected to attend.

The Committee will normally only visit the application site and those premises from which a visual inspection of the proposals is considered essential to gain an understanding of the physical issues involved and that in notifying the owner(s) of the site to be visited, it will be made clear that no personal representations will be entertained.

The Committee will convene to consider applications immediately following the conclusion of visits.

No member of the public other than the owners/occupiers of the properties to be visited will be invited to attend.

Discussions at a property will be confined to factual questions asked of and answered by Planning Employees.

Only those Councillors attending the site visit may participate in and vote on the application when considered by the Committee.

Site visits may be necessary in other instances not involving consideration of an application (such as adoption of a proposed development brief). In these cases the rule in the preceding paragraph above as to participation and voting will not apply.

The provisions of the Codes of Conduct for Elected Members and Employees as they apply to conduct of official business by Councillors and employees will apply to site visits.

4.10.1.8 Other Matters

From time to time the Committee may consider reports on other items falling within the Committee's terms of reference, such as the Committee's role as a consultee on the City Council's own planning policy or on proposed changes to national or regional planning policy.

In those circumstances the procedure to be followed will be as described for public items above except that, there being no application for the Committee to determine, there will be no provision for public speaking before the Committee.

4.10.2 Development Forums

The purpose of Development Forums are to enable the engagement of Councillors and members of the public in pre-application discussions in a structured manner, with a view to promoting quality development and facilitating engagement with communities at the earliest opportunity.

4.10.2.1 Prior to submission of formal applications for major or potentially contentious proposals, Developers (which could include City Council employees in the role of Developers) are able to request to make a presentation to all Councillors of the City Council in the form of a Development Forum. The City Planning Manager or nominee, in consultation with the Cabinet Member (City Development) and the Director of Customer and Workforce Services will determine whether a request to hold a Development Forum should be acceded to.

4.10.2.2 Discussions at Development Forums will not bind the City Council as Local Planning Authority and this will be made clear at the outset of each meeting. Similarly it will be made clear that the views expressed are not part of the determination process and that any statements made at a Development Forum are "without prejudice".

4.10.2.3 Development Forums will normally be chaired by the Cabinet Member (City Development), or her/his nominee, (who would normally be a Cabinet Member). The Chair will be responsible for the smooth running of the Forum and will ensure that questions from Councillors or members of the public are relevant and not repetitive.

4.10.2.4 Appropriate employees of the City Council will be in attendance.

**Part 4.10 – Planning Committee Procedure Rules**

- 4.10.2.5 Development Forums will normally be held in City Council offices. They will be open to members of the public and will be included on the weekly public notice of meetings. Publicity will be given to meetings of the Development Forum through a press release which the developer will be expected to procure. The City Planning Manager will also send out targeted letters to residents groups and other interest groups.
- 4.10.2.6 Developers will be given the opportunity to make a presentation that should describe their proposal and explain how they believe the proposal relates to the Development Plan, how it fits in with local needs and preferences; and any other material consideration that they believe Councillors should give weight to. Presentations should be limited to the development proposal and a question and answer session on factual matters. It is expected that such a presentation should not last longer than 30 minutes.
- 4.10.2.7 A question and answer session on factual matters will follow. Councillors will be able to ask questions but must refrain from entering into debate directly with the Developers. Councillors must maintain an impartial listening role and avoid expressing an opinion to the Developers. Questions should focus on clarifying aspects of the proposal or express policy concerns, but must not develop into negotiations.
- 4.10.2.8 Members of the public may also ask questions of the Developer but must refrain from entering into debate with the Developers.
- 4.10.2.9 Notes will be taken at meetings of the Development Forum and a summary of the discussions will be kept on file which will be open to public inspection.
- 4.10.2.10 After the Developers and members of the public have left the meeting, Councillors can then discuss with employees any concerns, issues, requirements as to the future conduct of any employee/Developer negotiations. Councillors will advise employees as to any matters where they consider that further discussion and or amendments may be appropriate.
- 4.10.2.11 Employees will advise the Developers of any issues that they may wish to consider further and will continue to work with the Developers to achieve a quality scheme.

**4.11 Licensing and Regulatory Committee Procedure Rules**

**4.11.1 Application of Rules**

The following procedure rules apply when the Licensing and Regulatory Committee is dealing with the matters specified.

4.11.1.1 The quorum for Licensing and Regulatory Committee will be 5 Members.

4.11.1.2 Decisions of the Licensing and Regulatory Committee are not subject to call-in.

4.11.1.3 In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

**4.11.2 Hackney Carriage/Private Hire Licensing Committee Hearing (General) Procedure Rules**

4.11.2.1 The applicant/licensee is invited into the meeting.

4.11.2.2 The Chair will introduce those present and ask the applicant/licensee:

- (a) if he/she has been advised of their right to have legal representation; and
- (b) if not represented whether he/she is happy to proceed; and
- (c) that he/she has received a copy of the Licensing Officer's report and understands the procedure that the Committee will follow?

4.11.2.3 The Licensing Officer will present his/her report.

4.11.2.4 The Licensing Officer will invite the applicant/licensee to explain the circumstances of any conviction or other matter mentioned in the report.

4.11.2.5 The Licensing Officer may ask the applicant/licensee further questions.

4.11.2.6 The Chair will ask the applicant/licensee if he/she has any questions for the Licensing Officer?

4.11.2.7 The members of the Committee are invited by the Chair to ask the applicant/licensee or the Licensing Officer questions.

4.11.2.8 The Chair will invite the applicant/licensee to make a final statement summing up his/her case, or referring the Committee to points he/she feels it should consider, or adding any points he/she has not previously covered.

4.11.2.9 The Chair will ask the applicant/licensee together with any Licensing or Police officers present to leave the room whilst the Committee makes its decision.\*

4.11.2.10 The Chair will invite those who left the room back in and inform the meeting of the Committee's decision. Where the decision is to refuse a licence or to take action against an existing licence, the Chair will inform the meeting of the facts the committee relied on in making its decision and the reasons for that decision.

4.11.2.11 The Chair will inform the applicant/licensee that the Committee's decision will be confirmed in writing within 7 working days and that the letter will advise of any right of appeal, if relevant.

- \* The Chair may invite both the applicant/licensee and the Employees back into the room in order to clarify any points that may arise during its deliberations. Neither the applicant/licensee nor the employees will be invited back alone without the other party being present.

**4.11.3 Hackney Carriage/Private Hire Licensing Committee Hearing (Spent Convictions) Procedure Rules**

- 4.11.3.1 The Licensing & Regulatory Committee is a “Judicial Authority” for the purposes of s. 7 of the Rehabilitation of Offenders Act 1974. This means that it can consider evidence relating to a person’s spent convictions where that evidence is relevant to the decision it is being asked to make. Where the Committee is being asked to consider spent convictions, the following procedure will apply: -
  - 4.11.3.1.1 The applicant/licensee is invited into the meeting.
  - 4.11.3.1.2 The Chair will introduce those present and ask the applicant/licensee:
    - (a) if he/she has been advised of their right to legal representation; and
    - (b) if not represented whether he/she is happy to proceed; and
    - (c) that he/she has received a copy of the Licensing Officer’s report and understands the procedure that the Committee will follow?
  - 4.11.3.1.3 The Licensing Officer will present his/her report. That report will indicate the type, age and apparent seriousness of any spent convictions put forward by the Licensing Officer but will not give any further details.
  - 4.11.3.1.4 The Chair will ask the applicant/licensee together with any Licensing Employees or Police Officers present, to leave the room whilst the Committee decides if it regards the spent convictions as being relevant and wishes to go into further detail.
  - 4.11.3.1.5 The Chair will invite those who left the room back in and inform the meeting of whether the Committee wishes to hear further details of any of the spent convictions referred to.
  - 4.11.3.1.6 If the Committee has decided to hear further details about spent convictions, the Chair will invite the Licensing Officer to disclose those details. If it has decided not to hear further details, it will not take the spent convictions into account when making its decision.
  - 4.11.3.1.7 The Licensing Officer will invite the applicant/licensee by the Chair to explain the circumstances of any conviction or other matter mentioned in the report.
  - 4.11.3.1.8 The Licensing Officer may ask the applicant/licensee further questions.
  - 4.11.3.1.9 The Chair will ask the applicant/licensee if he/she has any questions for the Licensing Officer.
  - 4.11.3.1.10 The members of the Committee are invited by the Chair to ask the applicant/licensee or the Licensing Officer questions.
  - 4.11.3.1.11 The Chair will invite the applicant/licensee to make a final statement summing up his/her case, or referring the Committee to points he/she feels it should consider, or adding any points he/she has not previously covered.



**Part 4.11 – Licensing and Regulatory Committee Procedure Rules**

4.11.3.1.12 The Chair will ask the applicant/licensee together with any Licensing or Police officers present to leave the room whilst the Committee makes its decision.\*

4.11.3.1.13 The Chair will invite those who left the room back in and inform the meeting of the Committee's decision. Where the decision is to refuse a licence or to take action against an existing licence, the Chair will inform the meeting of the facts the Committee relied on in making its decision and the reasons for that decision.

4.11.3.1.14 The Chair will inform the applicant/licensee that the Committee's decision will be confirmed in writing within 7 working days and that the letter will advise of any right of appeal, if relevant.

\* The Chair may invite the applicant/licensee together with the Employees back into the room in order to clarify any points that may arise during its deliberations. Neither the applicant/licensee nor the Employees will be invited back without the other party being present.

**4.11.4 Hackney Carriage/Private Hire Licensing Committee Hearing (Complaint) Procedure Rules**

4.11.4.1 The licensee is invited into the meeting.

4.11.4.2 The Chair will introduce those present and ask the licensee:

- (a) if he/she has been advised of their right to have legal representation; and
- (b) if not represented, whether he/she is happy to proceed; and
- (c) that he/she has received a copy of the Licensing Officer's report and understands the procedure that the Committee will follow?

4.11.4.3 The Licensing Officer will present his/her report.

4.11.4.4 The complainant is invited into the meeting and is asked to give his/her evidence to the Committee.

4.11.4.5 The Licensing Officer may ask the complainant questions.

4.11.4.6 The licensee may ask the complainant questions.

4.11.4.7 The Councillors of the Committee may ask the complainant questions.

4.11.4.8 The licensee is invited to comment on the employee's report and on what the complainant has said.

4.11.4.9 The Licensing Officer may ask the licensee questions.

4.11.4.10 The members of the Committee may ask the licensee questions.

4.11.4.11 The Chair asks the complainant if he/she has any further comments on what has been said? The Chair will then thank the complainant for attending and tell him/her that they are free to go.

4.11.4.12 The licensee is invited by the Chair to make a final statement summing up his/her case, or referring the Committee to points he/she feels it should consider, or adding any points he/she has not previously made.

**Part 4.11 – Licensing and Regulatory Committee Procedure Rules**

- 4.11.4.13 The Chair will ask the licensee and the Employees to leave the room whilst the Committee makes its decision.
- 4.11.4.14 The Chair will invite the licensee and employees back into the room and announce the Committee's decision. Where the Committee has decided to uphold the complaint and take formal action against the licensee, the Chair will inform the meeting of the facts the Committee relied upon in making its decision and the reasons for that decision.
- 4.11.4.15 The Chair will inform the licensee that the Committee's decision will be confirmed in writing within 7 working days and that the letter will advise of any right of appeal, if relevant.

**4.11.5 Public Entertainment Licenses And Late Night Refreshment House Licence Hearing Procedure Rules**

**4.11.5.1 Other Applications**

Occasionally the Licensing and Regulatory Committee will be required to consider applications for licences not provided for specifically in these rules. The procedure to be adopted in such circumstances will be agreed between the Chair and the Committee's legal advisor to ensure the procedure adopted complies with any legislative or other requirements and complies where necessary with the rules of natural justice and the requirements of the Human Rights Act 1998.

**4.11.6 Public Entertainments and Late Night Refreshments Licensing Contested Applications - Hearing Procedure Rules**

1. The applicant, objector(s) and Environmental Services officer(s) are invited into the meeting.
2. The Chair will introduce those present and ask the applicant and objector(s):
  - (a) If they have received a copy of the Committee Report and understand the procedure that the Committee will follow?
  - (b) If they are happy to proceed?
3. The Licensing Officer will give a brief description of the application premises, their history and confirm whether all relevant application formalities have been complied with.
4. The Chair will ask the applicant to present his or her application.
5. The Chair will invite members of the Committee to ask the applicant questions.
6. The Chair will invite each objector to present his or her case.
7. The Chair will invite members of the Committee to ask each objector questions.
8. The Chair will invite the Environmental Services Officer to comment on any issues relevant to the hearing
9. The Chair will invite the applicant to make a final statement summing up his or her application, or referring the Committee to points he/she feels it should consider, or adding any points not previously covered.

**Part 4.11 – Licensing and Regulatory Committee Procedure Rules**

10. The Chair will ask the applicant, the objector(s), the Licensing Officer, the Environmental Services Officer and anyone else accompanying them to leave the room whilst the Committee makes its decision.\*
11. The Chair will invite those who left the room back in and inform the meeting of the Committee's decision. The Committee Solicitor will explain any facts relied on and the reasons for the decision and will, if relevant, advise the applicant of any right of appeal.

\*The Chair may invite those who left the room back into the meeting in order to clarify any points that may have arisen during the Committee's deliberations. Neither the applicant nor the objector(s) will be invited back alone without the other party being present to hear what is said.

**4.11.7 Sub-Committees of the Licensing and Regulatory Committee**

1. All Members of the Licensing and Regulatory Committee will be required to receive training before considering applications under the Licensing Act 2003 and the Gambling Act 2005.
2. Sub-Committee of the Licensing and Regulatory Committee will be established as necessary to consider applications under the Licensing Act 2003 and the Gambling Act 2005.
3. The membership of each Sub-Committee will be 3 Members, to be selected by the Director of Customer and Workforce Services in consultation with the Chair of the Licensing and Regulatory Committee, drawn from the membership of the Licensing and Regulatory Committee.
4. Sub-Committees are the subject of proportionality requirements of the Local Government Act 1989 and the Director of Customer and Workforce Services, in selecting the membership of any Sub-Committee, will ensure that the membership as far as it is practicable properly reflects the political makeup of the Council.
5. A Member who is unable to attend a meeting will be entitled to appoint a substitute Member, provided that such substitute Member is a member of the Licensing and Regulatory Committee.
6. The Quorum for each Sub-Committee will be 3 Members.
7. The Chair for each meeting will be appointed by the Sub-Committee at the start of their meeting. (The Chair will normally be a Member of the Controlling Group).
8. The Sub-Committees are subject to the Access to Information Procedure Rules set out in Part 4.2.
9. Decisions of the Sub-Committees are not subject to the call-in procedure.
10. Minutes of the Sub-Committees will be submitted to the Licensing and Regulatory Committee.
11. The Director of Customer and Workforce Services will report regularly to the Chair of the Licensing and Regulatory Committee on Members' availability and/or attendance at Sub-Committees.

**4.11.8 Licensing Act 2003 and the Gambling Act 2005 - Hearing Procedure Rules**

1. The members of the Sub-Committee will enter the hearing room.
2. The Chair will introduce the Members of the Sub-Committee and its supporting officers and will ask each of the parties (and their representatives) to identify themselves.
3. The Chair will ask if the parties have received and understood the procedure note and whether anyone present would like the procedure explained further.
4. The Chair will confirm any relevant documents the Sub-Committee has received and will be considering and will ask the parties whether there are any further documents they wish to present and their reasons for doing so.
5. The Chair will ask if any party wishes to call witnesses in support of their case and their reasons for doing so.
6. The Licensing Officer will give a brief description of the application, confirm whether all relevant application formalities have been complied with and whether the authority has notified any of the parties of any points the authority wanted clarification on at the hearing.
7. The Chair will invite the applicant/licensee (or representative) to present their case (maximum 45 minutes).
8. The Chair will invite Members of the Sub-Committee to ask the applicant/licensee (or representative) questions.
9. The Chair will invite each objector/review applicant (or representative) to present their case (maximum 45 minutes each).
10. The Chair will invite Members of the Sub-Committee to ask each objector/review applicant (or representative) questions.
11. The Chair will invite each objector/review applicant (or representative) to sum up their case (maximum 10 minutes).
12. The Chair will invite the applicant/licensee to sum up their case (maximum 10 minutes).
13. The Members of the Sub-Committee will retire with their supporting officers to make their decision.
14. The Members of the Sub-Committee and their supporting officers will return to the hearing room and the Chair will invite the Committee Solicitor to inform the meeting of the decision made, the facts relied on, the reasons for the decision and any legal advice given).

\* Where permitted by the Act, the Chair may close the meeting at this point and re-convene the meeting in private at a later date for the Sub-Committee to make its decision.

**4.12 Appeals Committee Procedure Rules**

- 4.12.1 An Appeals Committee will consist of Councillors who are not Cabinet Members and who have been trained in hearing appeals.
- 4.12.2 Any Statutory Review Board will comprise the appropriate number of members as selected by the Director of Customer and Workforce Services on an ad hoc basis from a Panel of Councillors who have had training in determining appeals and any statutory or other requirements for review boards.
- 4.12.3 The membership of each Appeals Committee will be determined by the Director of Customer and Workforce Services on an ad hoc basis from a Panel of Councillors who have had training in determining appeals.
- 4.12.4 The Chair of an Appeals Committee or a Statutory Review Board will be appointed by the Committee or Review Board at the start of each meeting.
- 4.12.5 Each Appeals Committee will comprise three Councillors (subject to any statutory requirements to the contrary) and all three Councillors will be required to be present to consider the appeal.
- 4.12.6 No Councillor who has had any previous knowledge or dealings with the matter which is the subject of an appeal will be eligible to serve on an Appeals Committee that considers that matter. In relation to an Appeals Committee dealing with an employment dispute, no Councillor who is a trade union official, employee or other office holder shall be permitted to be a Member of the Committee.
- 4.12.7 Appeals Committees are subject to the access to information procedure rules set out in Part 4.2.
- 4.12.8 Appeals Committees are the subject of the proportionality requirements for the Local Government and Housing Act 1989 and the Director of Customer and Workforce Services in selecting membership of any Appeal Committee or statutory review board will ensure that the membership properly reflects the political make up of the Council.
- 4.12.9 Decisions of the Appeals Committees are not the subject of call-in.
- 4.12.10 The Director of Customer and Workforce Services or her/his representative will attend all meetings to advise and record proceedings.
- 4.12.11 Appeals Committees dealing with employment appeals or trade union disputes will have in attendance the relevant Senior Human Resources Manager or her/his nominee to advise as appropriate.