
Report to
Council

23 February 2010

Report of
Director of Customer and Workforce Service

Title
Local Government and Public Involvement in Health Act 2007 – New Executive Arrangements

1 Purpose of the Report

This report advises Council of the requirement under the Local Government and Public Involvement in Health Act 2007 for the Council to change its executive arrangements so that those arrangements take one of the two forms of executive arrangement now permitted by the Local Government Act 2000 as amended.

2 Recommendations

That the City Council considers and approves the following recommendations:

- 2.1 To adopt the new elected leader and Cabinet (England) form of executive arrangement from 9 May 2010;
- 2.2 To retain the current provision for the Council to remove the Leader from office by resolution;
- 2.3 To maintain the current allocation of functions between the executive and the authority as detailed in the Scheme of Delegation including the allocation of local choice functions;
- 2.4 In relation to transitional arrangements, that the existing Leader in office at the time of the elections in 2010 remain in place until the Annual Meeting unless Recommendation 2.5 is required;
- 2.5 Should a Leader not be elected at the relevant annual meeting, to authorise the existing Leader to appoint a Deputy Leader and Cabinet until a new Leader is appointed to discharge executive functions or should that not be possible to authorise that the existing deputy Leader become Leader and that s/he shall appoint a Deputy Leader and Cabinet to discharge executive functions until a new Leader is elected. Every Council meeting to require the election of a Leader until a new Leader is elected.
- 2.6 To approve the following amendments to the Constitution, with effect from three days after the local elections in 2010 (9 May);

- 2.6.1 the amendments to Articles 1, 2, 4 and 7 as set out in Appendix 1 to this report; and
 - 2.6.2 the amendments to Part 3 - Scheme of Delegation, as set out in Appendix 2 to this report; and
 - 2.6.3 the amendments to Part 4 - Council Procedure Rules, as set out in Appendix 3 to this report
- 2.7 To authorise the Monitoring Officer/Assistant Director (Legal Services) to approve any other consequential amendments to the Constitution to give effect to the new executive arrangements, with effect from 9 May 2010 along with any other legislative changes; and
 - 2.8 To authorise the Monitoring Officer/Assistant Director (Legal Services) to publicise the new executive arrangements in accordance with statutory requirements.

3 Information/Background

- 3.1 Council will be aware that the Local Government Act 2000 ("the 2000 Act") altered the political management structure of most local authorities from a cross-party committee system to one based on an Executive formed from the governing party and a cross-party scrutiny role undertaken by Members outside the Executive.
- 3.2 The 2000 Act as originally enacted permitted the Council to choose from one of three models of Executive: a directly Elected Mayor and Cabinet, a directly Elected Mayor and Council Manager or a Leader and Cabinet. The leader and cabinet option required the leader to be elected by the Council but made it possible for the other members of the cabinet to be appointed either by the Leader (the strong Leader model) or by the Council (the weak Leader model). The Council, in common with most other authorities, adopted the latter model. Under the Council's current Constitution, the Leader and a Cabinet of up to 9 other members are elected annually by Full Council.
- 3.3 In the White Paper 'Strong and Prosperous Communities' the Government set out its belief that further reform to local government leadership arrangements was required. It considered that the current Leader and Cabinet model hampers decision-making where the Council chooses the Cabinet and that requiring the Leader to face annual re-election may discourage taking essential decisions that are unpopular in the short-term. It further argues that strong leadership is the single most significant driver of change and improvement in local authorities. Building on the White Paper, the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") requires local authorities to adopt one of two new models of Executive that aim to give strong and stable leadership: a strong 'Leader and Cabinet (England)' or 'Mayor and Cabinet'.
- 3.4 The amendments made by the 2007 Act to provisions for executive arrangements do not change the requirement for the Council to have arrangements to review and scrutinise executive decisions and any actions taken as a result of them (i.e. Scrutiny Boards). Other 'non-executive' functions (e.g. regulatory functions, Standards) also remain unaffected.
- 3.5 For metropolitan councils, this change in governance must come into force from 9 May 2010. The Council must pass a resolution giving effect to the change at a meeting of the Council before that date.

4 Proposal and Other Option(s) to be Considered

- 4.1 The executive arrangements which Members are currently being asked to approve reflect a requirement in Schedule 4 to the Local Government and Public Involvement in Health Act 2007 that local authorities, such as the Council, which are operating old-style Leader and Cabinet executives should change to one of two possible forms of executive arrangement: directly elected Mayor and Cabinet or elected Leader and Cabinet. The 2007 Act required the Council to pass a resolution to make the change to one of the new executive arrangements. This needed to be passed at a specially convened meeting no later than 31 December 2009. The Council did not meet this timetable and is therefore obliged by provisions in the 2007 Act to adopt the new style Leader and Cabinet model no later than the third day after its 2010 elections (9th May).
- 4.2 Within the new style Leader and Cabinet model, Full Council appoints the Leader, for a fixed term of office, at the Annual Meeting. In authorities such as Coventry, which hold elections by thirds, this fixed term will be until the Annual Council Meeting following the Leader's normal date of retirement as a Councillor. The Leader then appoints or removes such other members of his/her Cabinet as appropriate (within the statutory limits of between 2 and 9 members). A Deputy Leader must be appointed by the Leader who will hold office for the same period as the Leader unless he or she resigns, ceases to be a Member or is removed by the Leader.
- 4.3 All the authority's executive functions and powers will be vested in the Leader who must choose how they will be delegated amongst Cabinet, individual Cabinet Members or officers. The Leader will be an elected Member as currently and so would continue to combine his or her ward councillor role with the role of Leader.
- 4.4 The 2007 Act also contained a power for local authorities to make changes to their governance arrangements in the future, in accordance with procedures set out in the 2007 Act. Therefore, although the Council must adopt the new style Leader and Cabinet model in 2010, it will have opportunities in the future to consider changing this from the new style Leader and Cabinet model (which is now to be adopted) to the elected Mayor and Cabinet model by way of referendum. The Council is also obliged to hold a referendum on this if it receives a valid petition signed by at least 5% of electors in Coventry (which equates to approximately 11,300 people as at 1 February 2010). In addition, the Council could be further obliged to hold a referendum if directed to do so by changes to legislation.
- 4.5 The legislation for the new executive arrangements envisages that the Leader will hold office for four years but makes provision for the Council to remove him or her by resolution. Council is therefore also recommended to adopt a provision to enable the Council to resolve to remove the Leader during his/her period of office and would reflect the existing position within this Council. (Recommendation 2)
- 4.6 Council is also recommended to maintain the current allocation of functions between the executive and the authority as detailed in the Scheme of Delegation. (Recommendation 3)
- 4.7 In relation to transitional arrangements, the Leader in office at the time of the local government elections in May remains in place until the Annual Meeting in 2010. It is also recommended to provide for a fall back position in the event that members of the Council do not elect a new Leader at the annual meeting. The proposed fall back position is that members should be required to elect a Leader at the Council meeting which follows the Annual Meeting and at every subsequent meeting until a new Leader is elected. In the

interim, the existing Leader should be authorised to appoint a Deputy Leader and Cabinet until a new Leader is elected to discharge the functions of the executive or, should that not be possible, for the existing Deputy Leader to act as Leader and be authorised to appoint a deputy Leader and Cabinet to discharge the functions of the executive until a new Leader is elected. (Recommendation 4 and 5)

- 4.8 Amendments to the Constitution will be necessary and these are detailed in the attached Appendices. (Recommendation 6)
- 4.9 In order to make any further changes to the Constitution to give effect to the new arrangements, Council is also recommended to authorise the Monitoring Officer/Assistant Director (Legal Services) to approve any consequential changes. (Recommendation 7).
- 4.10 As required by the 2007 Act, public notice of the formal adoption of these new executive arrangements, and of when they come into effect, will be required and Council is recommended to authorise the Monitoring Officer/Assistant Director (Legal Services) to publicise them in accordance with statutory arrangements. (Recommendation 8)

5 Other specific implications

5.1

	Implications (See below)	No Implications
Best Value		✓
Children and Young People		✓
Climate Change & Sustainable Development		✓
Comparable Benchmark Data		✓
Corporate Parenting		✓
Coventry Sustainable Community Strategy		✓
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		✓
Property Implications		✓
Race Equality Scheme		✓
Risk Management		✓

	Implications (See below)	No Implications
Trade Union Consultation		✓
Voluntary Sector – The Coventry Compact		✓

5.2 Legal Implications

5.2.1 The Council is required by Schedule 4 Paragraph 4 of the Local Government and Public Involvement in Health Act 2007 to adopt the "Leader and Cabinet Executive (England)" as its form of executive arrangements from 9th May 2010 onwards. A resolution of Full Council is required to achieve this and following its adoption the new arrangements must be notified in the local press in accordance with S.29 of the Local Government Act 2000.

5.2.2 The change to the new form of executive arrangements will enable the Council to comply with a legal obligation and to operate an effective form of decision making. This will help it to work towards meeting its key objectives and priorities.

6 Monitoring

6.1 The City Council's Constitution is monitored through the Monitoring Officer, Governance Services and the Constitution Working Group.

7 Timescale and expected outcomes

7.1 The Council must pass a resolution to implement the new Leader and Cabinet model no later than 9 May 2010.

	Yes	No
Key Decision		✓
Scrutiny Consideration (if yes, which Scrutiny meeting and date)		✓
Council Consideration (if yes, date of Council meeting)	✓ 23 February 2010	

List of background papers

Proper officer: *Bev Messinger*

Author: Telephone 024 7683 1587
Christine Forde, Monitoring Officer, Finance and Legal Services Directorate
(Any enquiries should be directed to the above)

Other contributors:

Helen Abraham, Assistant Director (Democratic Services), Customer and Workforce Services Directorate, Ext 2868

John Handley, Governance Services Manager, Customer and Workforce Services Directorate, Ext 3111

Mark Smith, Solicitor, Finance and Legal Services Directorate, Ext 3037

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Local Government Act 2000

1. **Summary and Explanation**

1.1 **The Council's Constitution**

Coventry City Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 8 parts. Part 2 contains the 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in Parts 3 – 7. Part 8 contains procedural matters which enable and support the Constitution.

1.2 **What's in the Constitution?**

Article 1 of the Constitution commits the Council to operate open, responsive and accountable decision making in achieving its Corporate Plan. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Councillors (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- The Lord Mayor (Article 5)
- Scrutiny (Article 6)
- The Cabinet (Article 7)
- Regulatory, other committees and the Emergency Planning Forum (Article 8)
- Standards Committee (Article 9)
- Joint arrangements (Article 10)
- Employees (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15)

1.3 **How the Council Operates**

The Council consists of 54 Councillors with one third elected three years in four. In the fourth year, there are not normally local elections. There may be a by-election at any time (including in the fourth year) if a Council seat becomes vacant during a Councillor's term of office.

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

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee has overall

responsibility for ensuring training on the Code is available for Members. The Code of Conduct is set out in Part 5.

All Councillors meet together as the Council. Members of the public are welcome to attend Council meetings. Here Councillors decide the Council's overall policies and set the budget each year. The Council is responsible for ~~appointing~~electing the Cabinet and the Leader ~~and~~who in turn will appoint a Deputy Leader and Cabinet and. The Council is ultimately responsible for holding the Cabinet to account. The role of the Council is set out in Article 4.

1.4 **How Decisions are Made**

The Council has decided to adopt a Leader and Cabinet form of executive. The executive is a group of Councillors responsible collectively for the functions of the Council. The executive is known as the Cabinet. Individual Members of the Cabinet have responsibility for specific functions allocated to them by the ~~Council~~Leader.

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, a Deputy Leader and, in accordance with legislation, up to eight other Cabinet Members appointed by the ~~Council~~Leader. When major decisions are to be discussed or made, these are published in the Cabinet Forward Plan insofar as they can be anticipated. If these major decisions are to be discussed with Council employees at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

1.5 **Scrutiny**

Scrutiny Boards support and challenge the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet, the Council as a whole and in some cases, outside agencies on policies, budget and service delivery.

The Scrutiny Co-ordination Committee manages scrutiny business and also monitors the decisions of the Cabinet. Non Cabinet Members can 'call-in' a decision which has been made by the Cabinet, but not yet implemented. The Scrutiny Co-ordination Committee then considers whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision.

Non Cabinet Members may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

2.2 **Article 2 – Councillors**

2.2.1 **Composition and Eligibility**

2.2.1.1 **Composition** – The Council will comprise 54 Members, otherwise called Councillors. Three Councillors will be elected by the voters of each ward.

2.2.1.2 **Eligibility** – Only registered voters of the area or those living or working in the City of Coventry who are 18 years of age and over will be eligible to hold the office of Councillor.

2.2.2 **Election and Terms of Councillors**

An election of a third of Councillors will normally be held on the first Thursday in May in each year. One year in every four there will be no election. A Councillor will usually be elected for a four year term. If a Council seat becomes vacant for any reason, there will usually be a by-election to elect a new Councillor to fill the vacancy for the remainder of the four year term for that Council seat.

2.2.3 **Powers of Individual Members**

An individual Councillor, other than a Cabinet Member appointed by ~~Council~~the Leader, cannot by law exercise the powers or duties of the Council. A Cabinet Member may only exercise those powers and duties that relate to the functions within his/her portfolio as ~~delegated~~determined by ~~full Council~~the Leader. Other Council bodies have delegated powers and duties. Functions and delegations are dealt with in Part 3.

2.2.4 **Roles and Functions of all Councillors**

2.2.4.1 **Key Roles**

All Councillors will:-

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions
- (ii) contribute to the good governance of the City and actively encourage community participation and citizen involvement in decision making
- (iii) effectively represent the interests of the communities of the City in their own ward and individual constituents
- (iv) respond to constituents' enquiries and representations, fairly and impartially
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics

- (vii) be available to represent the City Council on other bodies
- (viii) attend meetings of bodies to which they are appointed or, if they are unable to attend, present their apologies with their reason for absence.

2.2.4.2 **Rights and Duties**

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or employee entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.2.5 **Conduct**

Councillors will at all times observe the Code of Conduct for Elected Members and the Protocol on Member/Employee Relations set out in Part 5 of this Constitution.

2.2.6 **Allowances**

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

- 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

Additional plans and strategies may be approved or adopted as part of the Policy Framework from time to time.

2.4.3 **Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

2.4.4 **Functions of the Full Council**

Only the Council will exercise the following functions:-

- Adopting and changing the Constitution
- Approving or adopting the component parts of the Budget and Policy Framework
- Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is not covered by the Budget and Policy Framework or where the decision maker is minded to make it in a manner which would be contrary to the Budget and Policy Framework or not wholly in accordance with the Budget and Policy Framework.
- Appointing the Leader
- Removing the Leader by resolution, ~~Deputy Leader and Members of the Cabinet~~
- Appointing the Chairs and Deputy Chairs of the Scrutiny Board(s), Scrutiny Co-ordination Committee and other Committees

2.7 **Article 7 – The Cabinet**

2.7.1 **Role**

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. Specific responsibilities of the Cabinet and individual Cabinet Members are set out in Part 3.

2.7.2 **Form and Constitution**

The Cabinet will consist of the Leader and Deputy Leader together with at least ~~2~~¹, but not more than 8 other Councillors appointed to the Cabinet by the ~~Council~~Leader.

The Cabinet cannot include the Lord Mayor or Deputy Lord Mayor and there will be no substitutes or co-optees for Cabinet members.

To ensure that the Cabinet are aware of cross party views on matters to be decided by the Cabinet, representatives from the opposition groups will be entitled to attend meetings of the Cabinet but not to vote. There will be a maximum of four such representatives, two of whom will be nominees of the numerically-largest opposition group and the other two of whom will come from the totality of the other (smaller) opposition groups, the two latter nominations to be submitted by those groups. Such representatives will be determined by the Council and will be entitled to nominate substitute members.

Members of the Cabinet cannot be members of any Scrutiny Board.

2.7.3 **Leader and Deputy Leader**

The Leader will be a Councillor elected to the position of Leader by the Council. ~~The Deputy Leader will be a Councillor elected to the position of Deputy Leader by the Council.~~ The Leader ~~and Deputy Leader~~ will hold office until the date of the first Annual Meeting of the Council that takes place after the Leader's normal retirement as a Councillor unless:

- a) ~~the date of the next Annual Meeting following his/her appointment, save that the Council may by resolution remove the Leader from office at an earlier date~~he/she is removed from that office by resolution of the Council,
or
- (b) he/she resigns from the office, or
- (c) he/she is no longer a Councillor, or
- (d) ~~(d)~~ he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension).

~~In the event that the Council does not elect a Leader at the first Annual Meeting of the Council that takes place after the former Leader's normal retirement as a Councillor, then the Chief Executive shall carry out Executive functions until a Leader is elected.~~

The Deputy Leader will be a Councillor appointed to that position by the Leader. The Deputy Leader will hold office until the end of the term of the Leader unless:

- (a) he/she is removed from that office by the Leader, or
- (b) he/she resigns from the office, or
- (c) he/she is no longer a Councillor, or
- (d) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension)

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader will act in his/her place.

In the event that the Council does not elect a Leader at the first Annual Meeting of the Council that takes place after the existing Leader's normal retirement as a Councillor, then the existing Leader shall appoint a deputy leader and Cabinet and where this is not possible the deputy Leader shall become Leader, appoint a deputy Leader and Cabinet and shall carry out Executive functions until a Leader is elected.

2.7.4 Other Cabinet Members

Other Cabinet Members will hold office until the end of the term of office of the Leader unless:

- (a) ~~the date of the next Annual Meeting following his/her appointment, save that the Council may remove them from office, either individually or collectively, at an earlier date but only collectively in the event of a change in political control of the Council~~ they are removed from that office by the Leader, or
- (b) they resign from office, or
- (c) they are no longer Councillors, or
- ~~(d)~~ (d) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension).

If for any reason the office of both the Leader and Deputy Leader are vacant or neither are able to act, then the remaining Cabinet Members shall appoint one from their number to act in place of the Leader and Deputy Leader or shall act

collectively in place of the Leader and Deputy Leader.

~~In the event that all Members of the Cabinet are removed or have been disqualified from office, the Chief Executive shall in the interim carry out Executive functions.~~

2.7.5 Proceedings of the Cabinet

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

2.7.6 Responsibility for Functions

The Council will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet are responsible for the exercise of particular functions.

Some functions must be carried out by full Cabinet and these functions are shown in Part 3 of this Constitution.

2.7.7 Advisory Panels

2.7.7.1 The Cabinet and Cabinet Members may appoint Cabinet Advisory Panels to provide advice and guidance to the Cabinet and Cabinet Members. Such Panels may be made up of Councillors and persons outside the Council. They need not reflect the political balance of the Council. Cabinet Advisory Panels will operate in accordance with Cabinet Procedure Rule 4.4.14.

2.7.7.2 The Chair of a Cabinet Advisory Panel will normally be the Leader of the Council (for Advisory Panels of the Cabinet) or the relevant Cabinet Member but an alternative Chair may be appointed by the Leader or relevant Cabinet Member.

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 1 ~~45~~ of the Local Government Act 2000, ~~the Council or where applicable the Executive~~[the Leader](#) 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.

3.2.4 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~~ Leader will ~~decide the number of Cabinet Members who together with the Leader and~~ appoint a Councillor to be the Deputy Leader ~~and shall appoint at least one further Councillor as a Cabinet Member. The Leader may also appoint up to a further 7 other Councillors as Cabinet Members. The Leader together with the Deputy Leader and the Cabinet Member(s) appointed by the 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~~ The appointment of the Deputy Leader and Cabinet Member(s) shall take effect upon the date that written notification of such an appointment is received by the Director of Customer and Workforce Services. The Leader shall report upon any such appointments at the next available Full Council meeting.

3.2.5.3 ~~The Council will determine the portfolios and allocate individual portfolios to individual Members of the Cabinet~~ The Leader will determine those matters reserved to full Cabinet and the content of each Cabinet Member portfolio so as to ensure that the Executive Functions of the City Council are properly and effectively discharged.

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.~~ The Leader will allocate Executive Functions amongst the Cabinet as he/she sees fit and may from time to time alter those arrangements. The allocation of Executive Functions and any alterations to such arrangements will take effect upon the date that written notification is received by the Director of Customer and Workforce Services. The Leader shall report upon the allocation of Executive Functions within the Cabinet or any changes to such arrangements at the next available Full Council meeting.

3.2.5.5 The Leader may remove the Deputy Leader and any Cabinet Member from office. Such a removal from office will take effect upon the date that written notification is received by the Director of Customer and Workforce Services. The Leader shall report upon any such removal from office at the next available Full Council meeting.

3.2.5.6 The Leader may as he/she sees fit delegate Executive powers to employees and may amend such a scheme of delegation from time to time. Any such arrangements shall take effect upon the date that written notification is received by the Director of Customer and Workforce Services. The Leader shall report upon any such scheme of delegation or any changes to it at the next available meeting of Full Council.

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 12.

3.3 Functions of Council

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

Functions	Statutory Reference
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 <u>Electing and removing</u> the leader and members of the Cabinet	Sections 15 <u>44B/44C</u> 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

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 March, April or May.

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 in any year in which the current Leader's term of office expires. If the Council does not elect the Leader at the Annual Meeting, the election of the Leader shall be an item on the agenda at every ordinary meeting of the Council after the Annual Meeting until the Leader is elected. The existing Leader ~~Chief Executive shall have the power and responsibility~~ appoint a deputy Leader and Cabinet for the discharge of Executive functions until the Leader is elected; Where this is not possible the deputy Leader shall become Leader and appointed a deputy Leader and Cabinet for the discharge of Executive functions until the Leader is elected
- 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~~receive the report of the Leader of the Council on the composition of the Cabinet and the allocation of Executive Functions within 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).

- 4.1.2.11 receive questions and provide answers to Councillors (except at the Council Tax/Budget setting meeting);
- 4.1.2.12 receive any statement by the Leader of the Council or her/his nominated speaker on [any changes to the composition of the Cabinet or a location of Executive Functions within the Cabinet or to employees or on](#) any matter of significant importance to the City;
- 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/Monitoring Officer
- 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.
- 4.1.4.5 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.

- (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 a amendment in similar terms to one which has been rejected at a meeting of the City Council in the previous six months.

[Paragraph 4.1.67 does not apply to a motion to remove the Leader from the role of Leader.](#)

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.

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~~receive a report from the Leader on the delegation of Executive Functions made by ~~it~~him/her 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~~ Leader will present a report to the next ordinary meeting of the Council setting out the changes made by ~~the Leader~~him/her.