



Sandwell Metropolitan Borough Council

Constitution

Date: May 2025



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Sandwell Metropolitan Borough Council

Constitution

Part 1 - Introduction

May 2025



1. The Council's Constitution

1.1 This Constitution sets out how Sandwell Council is governed for the benefit of those who live, work and study in the borough. It explains:

1.1.1 who is responsible and accountable for its decisions;

1.1.2 how it makes decisions and delivers services;

1.1.3 how it ensures its decision making is open and transparent to public scrutiny; and

1.1.4 the standards by which its Councillors and those who work for the Council conduct themselves.

1.2 The Council will exercise all its powers and duties in accordance with the law and this Constitution. This Constitution complies with the requirements of the Local Government Act 2000 (as amended), related regulations, and government guidance.

1.3 The Constitution's purpose is to:

1.3.1 enable the Council to provide visible, accountable, and effective leadership;

enable the Council's decisions to be lawful and deliver best value having regard to its legal duties policies, procedures and ethical standards;

1.3.2 create an effective system of checks and balances on the exercise of the Council's decision-making powers;

1.3.3 promote transparency and open decision-making including the provision of clear and lawful reasons when decisions are made in private, or documents are not available to the press and public;

1.3.4 help Councillors to effectively represent and support their constituents and the wider borough;

1.3.5 encourage the involvement of citizens in local authority decision-making; and

1.3.6 allow Officers to make decisions to ensure the most effective delivery of services and efficient and effective use of the Council's resources.

2. Overview of the Council

2.1 Composition

2.2 The Council comprises of 72 councillors (also called 'Elected Members,' or 'Members') for a term of office of four years. The Council elects by thirds over a 4-year cycle. This means that in years 1 through 3 of the cycle, 1 Councillor for each Ward is subject to election. No elections are held in year 4 of the cycle.

2.3 A Councillor's term of office starts and ends on the fourth day after they are elected. Sandwell's Councillors represent 24 Wards across the borough covering each of the six towns. Each Ward has three Councillors. Each Councillor represents a roughly equivalent number of electors.

2.4 If a Councillor resigns, or leaves office for another reason a by-election is held to fill the casual vacancy in accordance with a statutory procedure, unless it is within six months of the next ordinary elections and, if so, the casual vacancy will be filled at those elections.

2.5 The Role of Councillors

2.6 All Councillors will:

- 2.6.1 make decisions collectively, as part of a member body or individually where they are reserved for Councillor decision;
- 2.6.2 represent the Council and its interests on other bodies;
- 2.6.3 maintain the highest standards of conduct and ethics in the Council and ensure they do not participate in decisions or influence decisions, where the Council's Code of Conduct or the law prohibits participation;
- 2.6.4 contribute to the good governance and high ethical standards of the borough as a whole;
- 2.6.5 be a community leader, actively encouraging community participation and citizen involvement in decision-making; and
- 2.6.6 effectively represent the interests of their ward and of individual constituents including those who did not vote for them.

2.7 Councillors are democratically accountable to the residents of their Ward alongside their other Ward Councillors. The overriding duty of Councillors is to the whole

borough, but they have a special duty to their constituents, including those who did not vote for them.

2.8 Council Governance

- 2.9 Councillors meet together as the full Council. The Council has power to establish Committees to carry out its responsibilities, such as planning and licensing.
- 2.10 The Council has, by resolution, adopted the Leader and Cabinet model of executive governance. The Executive Leader is elected by the Council at its first meeting after ordinary elections. The Leader appoints between two and nine Councillors to be members of the Cabinet.
- 2.11 Each Councillor appointed as a member of the Cabinet has a portfolio of responsibilities allocated by the Leader. These responsibilities align as far as possible with the corporate management structures of the Council.
- 2.12 The Council is required to establish one or more Overview and Scrutiny Committees to hold the Leader and Cabinet to account and contribute to the development of Council policies and plans.
- 2.13 Councillors are supported in their role by the Council's staff, who are known as Officers.' Full details of the role and functions of Officers are set out in Part 2.5 of this Constitution.
- 2.14 Councillors must:
 - 2.14.1 agree to abide by the Council's Code of Conduct (which seeks to embed the Nolan Committee Standards of Public Life into the Council's decision making and the conduct of Councillors);
 - 2.14.2 register disclosable pecuniary and other interests required by the Council's register of interests, maintained by the Council's Monitoring Officer, within 28 days of election;
 - 2.14.3 register any further interests that arise during their term of office within 28 days and generally keep their register of interests up to date; and
 - 2.14.4 declare interests at meetings and take appropriate actions in accordance with the Council's Code of Conduct (in Part 4 of this Constitution).

- 2.15 The register of interests is made publicly available and is published on the Council's website.
- 2.16 Councillors should seek advice from the Monitoring Officer in respect of any conduct or ethical matter and take into account the content of the protocols set out in Part 4 of this Constitution.
- 2.17 The Council, Leader and Cabinet, Regulatory, Overview and Scrutiny and other Committees or Boards must comply with the rules of procedure that apply to them, as set out in this Constitution including the rules that allow for press and public access to information and meetings.

3. The Content of the Constitution

- 3.1 The Constitution is divided into four parts. The Constitution is supplemented by guidance documents which assist the understanding and operation of the Constitution, but do not form part of it:

Part 1 - Introduction	<ul style="list-style-type: none"> • Purpose and contents • A description of the Council and its make up. • A glossary of key terms used in the Constitution.
Part 2 – Decision Making	<p>This part sets out the decision-making structure within the Council and who makes decisions in the Council including:</p> <ul style="list-style-type: none"> • The Executive (the Leader and Cabinet) • The full Council (all the Councillors) • Committees (appointed by Council) • Officers (the Council's staff) <p>It sets out the powers of all decision makers including the Scheme of Delegation of powers to the Council's Officers.</p> <p>It includes the procedures for how meetings are run and how decisions are made.</p>

<p>Part 3 – Scrutiny & Open Government</p>	<p>This part sets out the system of checks and balances on the Council’s decision makers.</p> <p>This includes how the Council has established Overview and Scrutiny Committees to review the decisions of the Leader and Cabinet and contributes to policy development.</p> <p>The Council’s decisions must be made in an open and transparent way. This Part includes:</p> <ul style="list-style-type: none"> • The Access to Information Rules that set out the public and press’ rights of access to information and attendance to meetings including agendas, reports and minutes before and after meetings. • The rules concerning when meetings can be held in private and reports are not disclosed to the press and public. • Guidance on Councillors’ rights of access to Council information, in addition to public rights • Citizens’ rights of involvement and access
<p>Part 4 – Governance & Ethical Framework</p>	<p>Legal rules about how the Council must govern itself, manage its finances and rules of conduct for Councillors and Officers including:</p> <ul style="list-style-type: none"> • the Code of Conduct for Councillors and the complaints process; • Protocols for working relations between Members and Officers • Protocols for making planning and licensing decisions and the interaction with developers and lobbying;

	<ul style="list-style-type: none"> • The Council's audit arrangements, financial rules and Code of Governance; • How contracts are procured and managed in the Council (the Contract Standing Orders) • How the Council buys, sells and leases property to third parties; • The statutory process for agreeing the Council's budget; and • The Council's scheme for allowances for Councillors.
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4. Adoption, Review, and Suspension of the Constitution

- 4.1 Full Council will adopt and agree changes to the Constitution save as provided below. The rules in this Constitution may only be suspended where expressly provided and in compliance with any legal requirements.
- 4.2 The Council's Monitoring Officer will monitor and review the effectiveness and operation of the Constitution, to ensure that the aims and principles of the Constitution are given full effect.
- 4.3 The Executive Leader has the legal power to determine any matter in the Constitution that is an executive function, including, but not limited to the threshold for key decisions (Part 2), executive powers in the Scheme of Delegation (Part 2), financial thresholds set out in the Contract Standing Orders and Financial Procedure Rules (Part 4). In such cases, the Full Council is noting the inclusion of these provisions into the Council's Constitution and cannot change or amend the executive Leader's decision.
- 4.4 The Monitoring Officer is authorised to make any changes to any Part of the Constitution which are required:
- 4.4.1 as a result of legislative change, or decisions of the full Council or Executive to maintain the document and ensure it is up to date;
 - 4.4.2 to remove and replace redundant or obsolete terminology including changes to the Management Structure or organisational structure

including amendments to the Council's Scheme of Delegation, for example where a service moves from one directorate to another so long as where there is change in the substantive delegated powers to Officers; and

4.4.3 for the purposes of clarification only or to correct minor or clerical errors.

4.5 All changes by the Monitoring Officer will be recorded as delegated decisions and published.

Monitoring Officer

May 2025

Sandwell Metropolitan Borough Council

Constitution

Part 1.2 – Glossary of Terms

May 2025

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Glossary

Term	Definition
Adjourn	To suspend a meeting temporarily or to postpone to a later date.
Alternate	A substitute councillor, from the same political group, nominated to attend a meeting when the appointed councillor cannot do so.
Amendment	<p>A proposed change to a motion to alter, delete or add words.</p> <p>Amendments cannot negate/cancel out the motion.</p>
Annual Council Meeting (ACM)	A full Council meeting held each May, which elects the Mayor, Deputy Mayor and appoints Chairs and councillors to committees.
Approved Duties	Those meetings, events etc., approved for the purposes of claiming travel and subsistence allowances.
Background papers	Documents which have been used, or relied upon, to inform the content of a report.
Best value	The duty on the Council to secure value for money in the way its functions are exercised, having regard to a combination of factors, including economy, efficiency, and effectiveness.
Budget	The revenue and capital budget in any one year.
Cabinet	The collective term for the Leader of the Council and up to 9 councillors appointed by

Term	Definition
	the Leader who, individually or collectively, take executive decisions on behalf of the Council.
Cabinet committee	A committee established by Cabinet.
Cabinet member	A councillor appointed by the Leader as a member of the Cabinet and given a defined set of responsibilities.
Cabinet member responsibilities / portfolio	Areas of responsibility (portfolios) allocated to Cabinet Members by the Leader.
Call-in	<p>The process by which a scrutiny committee exercises its statutory right to scrutinise executive decisions that have been made, but not yet implemented by the Council.</p> <p>A matter which has been “called-in” is referred to the relevant Overview and Scrutiny Board for review.</p>
Chair of the meeting	The Councillor who leads the meeting. The Elected Chair or in his/her absence, the Vice Chair. The term may also apply to an Elected Member elected to preside in the absence of the Chair and/or Vice Chair.
Chairperson of the Council	The Member elected by the Council annually to preside over meetings of the Council and to act as the ceremonial head of the Council.
Chief Executive	The most senior officer of the Council, with overall responsibility for the management of the Council. The Chief Executive has also been designated as the Head of Paid Service.

Term	Definition
Chief Finance Officer / s.151 Officer	The Officer appointed by the Council under Section 151 of the Local Government Act 1972, to exercise the proper administration of the Council's financial affairs. This is a Statutory Officer role, also known as the "Section 151 Officer". For Sandwell, this is the Executive Director Finance and Transformation.
Chief Whip	The Councillor appointed by the largest political group to ensure discipline amongst group Members.
Civic Year	The period between annual meetings of the Council, usually held in May.
Clear days	Normal working days, excluding weekends and public holidays. It also excludes the date on which notice is given and the day of the meeting.
Code of conduct	A code that must be followed by all councillors, which sets out the rules governing their behaviour, responsibilities, and obligations.
Committee	Committees are appointed to carry out functions delegated to them by full Council or Cabinet.
Common seal	The Council's mark of authentication which is attached to certain legal documents, and which reflects decisions of the Council (or any properly constituted body of the Council).

Term	Definition
Confidential information	Information given to the Council by the government, on terms which forbid it being made available to the public. Where there is a legal restriction on information being made public (for example, a court order).
Constitution	The document setting out how the Council operates, how decisions are made and the procedures that must be followed.
Co-opted member	A person appointed to serve on a Committee or sub-committee in an advisory role. They are not councillors and are not normally entitled to vote.
Council	The meeting of all Councillors of the Council. It is sometimes referred to as full Council.
Council functions	The local authority functions which, by law, cannot be carried out by the Cabinet.
Days	Unless otherwise specified this means calendar days.
Declaration of Interest	The requirement for Members to give notice of their interests in matters related to an item under consideration (see also Disclosable Pecuniary Interests and Non-Pecuniary Interests).
Delegated Powers	The description of the level of authority delegated to a Committee, Sub Committee, panel, Executive Member, or Officer.
Democratic Services	The Democratic Services team is responsible for supporting Council, Cabinet and

Term	Definition
	committees as well as providing advice and support for Councillors.
Deputy Leader of the Council	The elected Member of the Cabinet appointed by the Leader to be their Deputy if the Leader is unable to act, or if the office of Leader is vacant.
Disclosable Pecuniary Interest	The requirement for Members to register and declare any financial or beneficial interests as defined in the Constitution.
Ethical Standards and Member Development Committee	The Committee which has responsibility for upholding high standards of ethical behaviour and determining code of conduct complaints against Elected and Co-opted Members.
Executive	The Executive is made up of up to 9 Councillors and the Leader. The Executive take most strategic decisions, except those which only full Council can decide (like major policy issues or setting the annual budget), or decisions on regulatory matters like planning and licensing.
Executive Director / Service Director	The most Senior Officers, after the Chief Executive, each of whom is responsible for a specific suite of Council services or departments.
Executive functions	Functions which are discharged by the Leader or delegated by the Leader to the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet, an Officer, or another local authority.

Term	Definition
	Executive functions may not be undertaken by the Council.
Executive Leader	The Leader of the Council is the Leader of the largest political group, elected by full Council and is responsible for carrying out the Executive functions of the Council.
Executive Members	Those Elected Members appointed to the Executive by the Leader.
Exempt information	Information that the Council is not required to publish because of its confidential or sensitive nature.
Extraordinary Meeting	A meeting of the Council convened for a specific purpose.
Forward plan	A document which lists the key decisions that Cabinet, individual Cabinet Members and Officers intend to take over the next four months.
Full Council	A meeting of all the councillors as a single body to conduct business.
Group Leader	The Member identified by a political group as its Leader by notice in writing.
Group Whip	A Councillor appointed by an individual political group to ensure discipline amongst other members of the same political group.
Head of Paid Service	The person ultimately responsible for delivery of effective Council services and reporting to Council on how employees are organised and deployed.

Term	Definition
	<p>Every Council is required to appoint a Head of Paid Service.</p> <p>The Chief Executive has been designated as the Head of Paid Service.</p>
Independent Person (Standards)	A person independent of the Council (not a councillor or officer) appointed to advise the Council on standards and conduct issues and before it makes a decision to dismiss a Statutory Officer.
Independent Member (Audit)	A person, or persons, independent of the Council appointed to the Audit Committee. The independent member does not carry voting rights.
Joint committee	A Committee appointed by Sandwell Council and one or more other Councils to jointly oversee the delivery of functions.
Key Decision	<p>An Executive decision which is likely to:</p> <ul style="list-style-type: none"> • result in the Council spending, or receiving, a sum of money above the financial threshold set by the Leader of the Council. • have a significant impact on communities living or working in two or more wards.
Licensing Authority	The Council, exercising its duties and responsibilities under the Licensing Act 2003.
Local Choice Functions	Specific functions where full Council can decide whether they are allocated as Council or Executive (Leader and Cabinet) functions.

Term	Definition
Mayor	A Councillor elected annually by the Council to chair full Council meetings and act as first citizen of the borough.
Main Opposition Group	The largest political opposition group by number of Councillors.
Main Opposition Leader	The councillor who leads the largest opposition group.
Member	A person elected to serve as a Councillor for one of the borough's Wards.
Members' Allowances Scheme	The scheme approved by Council on recommendations from the Independent Remuneration Panel for the payment of allowances to Members.
Members' Code of Conduct	The Code adopted by the Council which describes the conduct required of Elected or Co-opted Members of the Council.
Monitoring Officer	<p>The Monitoring Officer has the specific duty to ensure that the Council, its officers, and elected members maintain the highest standard of conduct in all they do.</p> <p>It is a statutory role under section 5 of the Local Government and Housing Act 1989. The Assistant Director Legal & Assurance is the Council's designated Monitoring Officer.</p>
Motion	A motion is a formal proposal put forward for debate or decision.
Non Executive functions	Functions which, by law, cannot be dealt with by the executive but must be determined by Council or by Committees appointed by

Term	Definition
	<p>Council. They include regulatory functions such as planning and licensing.</p> <p>Some matters, such as approving the Budget and Policy Framework, can only be decided by the full Council.</p>
Non Pecuniary Interests	The requirement under the Members' Code of Conduct for Members to register and declare any non financial interests.
Notice / notice in writing	This includes notice by electronic means but does not include text or social media.
Officer / employee	A person appointed to or holding a paid office of the Council or employed by the Council.
Officers' Code of Conduct	The Code adopted by the Council, which describes the conduct required of its Officers.
Officer Scheme of Delegation	<p>The document which sets out the Council's delegation of powers to Officers, including powers to make decisions and spend money.</p> <p>The Scheme of Delegation is agreed by the Council's Leader (for executive powers) and the full Council (for non-executive powers).</p>
Opposition	Councillors who are not members of the largest political group.
Opposition spokesperson	A councillor appointed by an opposition political group to speak officially for the group.
Ordinary elections	An election held to appoint councillors to the Council. The Council elects by thirds over a 4-year cycle. This means that in years 1 through 3 of the cycle, 1 councillor for each

Term	Definition
	Ward is subject to election. No elections are held in year 4 of the cycle.
Ordinary Meeting	A meeting of the Council included in the approved calendar of meetings.
Outside body	This includes statutory bodies, charities and voluntary organisations, partnership bodies, local government associations, companies, and other external organisations to which the Council appoints representatives.
Overview and scrutiny Board / scrutiny board	<p>Scrutiny is a role carried out by Councillors who are not Cabinet members (non-executive councillors). It is a statutory function under the Local Government Act 2000.</p> <p>The role of the Scrutiny Boards is to help develop policy, carry out reviews of Council and other local services and hold the Executive to account for their actions and decisions.</p>
Panel	A formal group of Members with functions delegated by a Committee or a Sub Committee.
Planning committee	The Planning Committee is responsible for the Council's statutory town and country planning and development control functions.
Policy framework	The plans and strategies, which must be adopted by the full Council, and in accordance with which the Cabinet and Committees have to operate.
Political Balance	There are detailed rules which determine how seats on committees are allocated to

Term	Definition
	political groups. These rules do not apply to the Executive.
Political Group	Two or more Councillors who belong to the same political party or have some other common interest may form a Political Group. Such groups are recognised by law and in the Council's Constitution. As defined in the Local Government (Committees and Political Groups) Regulations 1990, any group of at least two Members who have notified the Council in writing that they wish to be treated as a political group.
Politically restricted post	Employees in politically restricted posts are prevented from having any active political role, either in or outside of work.
Portfolio Holder	Otherwise known as an Executive Member, those Elected Members appointed to the Executive with defined areas of responsibility called 'Portfolios.'
Procurement Rules	Rules which the Council must follow when buying goods and services and undertaking works.
Proper officer	A designated Officer appointed by the Council to carry out a certain function, or functions, as required by law.
Quasi-judicial	Where the Council is operating in a "quasi-judicial" capacity, such as in a standards hearing, it means that it must act in a similar way to a court of law or a judge.

Term	Definition
Quorum	The minimum number of councillors that need to be present for a meeting to go ahead.
Recorded vote	A recorded vote where the names of each councillor are called individually and the vote of each councillor for, against or to abstain is recorded by name.
Regulatory committees	Regulatory Committees are responsible for registration and licensing functions such as planning, liquor licensing, street trading, and hackney carriage and taxi licensing.
Reports	Written accounts prepared by officers of the Council for consideration by councillors or to record decisions taken under delegated authority.
Statutory Officers	<p>The Senior Officers that the Council must have in place by law. Statutory officers play an important role in ensuring the lawful and effective operation of the Council.</p> <p>The Statutory officers at Sandwell Council are:</p> <ul style="list-style-type: none"> • Head of Paid Service (the Chief Executive) • Monitoring Officer (Assistant Director Legal & Assurance) • Chief Finance Officer (the Executive Director Finance & Transformation/s.151 officer) • Director of Adult Services • Director of Children's Services.

Term	Definition
Sub Committee	A formal decision-making body with functions referred or delegated to it by the Council or by a Committee.
Summons	Formal notice of a full Council or Committee meeting, setting out the agenda for proposed business at the meeting.
Task and Finish Group	An informal group of Members established by a Scrutiny Committee to examine a specific issue.
Terms of Reference	The description of what a Committee, Sub Committee or Panel may concern itself with.
Urgent Matter	A matter which is to be considered at a meeting of the Council, a committee, or a sub-committee by virtue of section 100B (4) (b) of the Local Government Act 1972. This provides for matters not appearing on the agenda to be considered at the meeting, if by reason of special circumstances, the Chairman is of the opinion that the item should be considered as a matter of urgency.
Vice Chair	The Councillor who deputises for the Chair.
Virement	Moving funds from one area of spend to another.
Ward	A geographical area within the boundary of the Council. Each ward is represented by three councillors.

Sandwell Metropolitan Borough Council

Constitution

Part 2.1 – How the Council makes decisions

How the Council makes decisions

1. Introduction and Legal Framework

- 1.1 The Council exists due to the laws and powers it is given and may only undertake activities authorised by legislation or activities that are reasonably incidental to its statutory powers. The Council is required by law to discharge over 1200 statutory powers and duties for the benefit of the Sandwell and those who live, work and study in the borough.
- 1.2 The Local Government Act 2000 establishes the legal framework that determines which person or body in the Council may make decisions or categories of decisions. The Council agrees in this Constitution procedure rules (also called standing orders) how decisions will be made, which also incorporate statutory rules in respect of public access to meetings and information (normally called 'access to information.')
- 1.3 This part of the Constitution sets out how the Council makes decisions including:
 - 1.3.1 Who makes decisions.
 - 1.3.2 How decisions are made.
 - 1.3.3 The Council's decision-making principles.

2. The Council's decision makers

- 2.1 The Local Government Act 2000 and regulations made under the Act divides the Council's powers into:
 - 2.1.1 **Executive powers** that are reserved to the Council's Leader (but the Leader may, and usually does, delegate those powers to the Cabinet or Officers).
 - 2.1.2 **Non-executive powers** that are reserved for decision by the full Council (but the Council may usually delegate those powers to Committees of Councillors or Officers).

- 2.2 If a power is not expressly reserved in legislation to full Council to decide, it is an executive power reserved to the Leader. Most of the Council's powers are executive powers.
- 2.3 Some powers must be carried out by an Officer, who are either known as a Statutory Officer or a Proper Officer.
- 2.4 Part 2 of the Constitution sets out how the Council makes decisions as follows:
 - 2.4.1 Full Council decision making powers and procedures (Part 2.2);
 - 2.4.2 Executive (Leader & Cabinet) decision making powers and procedures (Part 2.3);
 - 2.4.3 Committee decision making powers, procedures and terms of reference (Part 2.4); and
 - 2.4.4 Officers and delegated decision making, including the Scheme of Delegation of executive and non-executive powers to officers (Part 2.5).

3. Checks and Balances

- 3.1 Part 3 of the Constitution sets out the checks and balances in place to hold decision makers to account through:
 - 3.1.1 Overview and scrutiny by non-executive Councillors through Scrutiny Boards;
 - 3.1.2 Access to Information rules requiring the publication of agendas and open access to meetings to ensure transparency in decision-making; and
 - 3.1.3 guidance on Citizens and Members Rights.
- 3.2 Part 4 of the Constitution sets out further procedural rules that govern how the Council makes decisions, such as financial rules and rules relating to the procurement of contracts.

4. Decision Making Principles

- 4.1 All Council decisions will be made in accordance with the rules set out in this Constitution, any governing legislation that applies to the decision and the following principles:

- 4.1.1 proportionality (i.e. the action must be proportionate to the desired outcome);
 - 4.1.2 due consultation and the taking of professional advice from Officers;
 - 4.1.3 respect for human rights and where needed balancing different rights;
 - 4.1.4 a presumption in favour of openness;
 - 4.1.5 clarity of aims and desired outcomes; and
 - 4.1.6 explaining the reasons for a decision and the options considered with a presumption that all decisions will be recorded, where it is proportionate to do so.
- 4.2 **Quasi-judicial decision making**
- 4.3 Full Council, a Committee, Sub-Committee or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations of any person will follow a proper procedure which accords with the requirements of natural justice and the European Convention on Human Rights, so far as it is applicable.

Sandwell Metropolitan Borough Council

Constitution

Part 2.2 – Full Council Procedure Rules

Monitoring Officer

May 2025



Explanatory Note: What is Full Council?

The Council, or Full Council, is the meeting when all Councillors come together as a decision-making body and to debate issues that affect the borough and its residents.

Meetings take place about six times per year, including:

- An annual meeting at the start of the Council's 'municipal year.'
- A meeting that sets the Council Tax and budget for the following year, held in late February or early March.

The Council meetings are held in public, except where certain confidential information is discussed. The press and public can attend and may film or record the meeting.

The **Mayor** chairs the Council meetings according to the Council Procedure Rules.

What does Council decide?

The Council decides:

- who shall be the Leader of the Council (including a power to vote to change the Leader);
- The Council Tax and budget;
- Major plans and policies reserved to Council for decision;
- The Constitution, electoral and governance matters;
- The establishment and appointment to Committees that make decisions about matters like planning and licensing.
- Appointing the Council's Chief Executive.

The Council also gives the public the opportunity to make statements and for Councillors to ask questions of the Leader and Cabinet.

The Council debates matters of policy and importance to the borough and its citizens and may pass motions setting out the Council's views and, where it has power, requiring action be taken.

The Council may delegate its powers to committees and Officers to make decisions on its behalf.

The Council has several committees covering areas such as planning, licensing, audit and governance issues. Officers are delegated operational decisions to undertake the day-to-day activities of the Council.

Council Procedure Rules

These are the rules that govern how its meetings are run, including:

- When Councillors can speak and for how long
- The length of the meeting
- What items of business are considered and the rules of debate
- Voting rules
- Rules of conduct and how to deal with Councillors and members of the public who disrupt the meeting.

Full Council and the Mayor

1. Full Council

- 1.1 All Councillors meet as Full Council. Full Council comprises the 72 Councillors elected to represent the 24 wards which make up Sandwell.
- 1.2 Full Council has responsibility for all non-Executive functions of the Council, which includes but is not limited to:
 - 1.2.1 sets the council tax and agrees the annual budget (the “budget framework”);
 - 1.2.2 approves specific major policies (collectively called “the policy framework”);
 - 1.2.3 adoption and amendment of the Constitution;
 - 1.2.4 powers in respect of individual regulatory decisions, such as planning and licensing applications;
 - 1.2.5 governance functions including elections;
 - 1.2.6 determining Local Choice Functions of the Council that are agreed to be Council functions in this Constitution, as set out in the Appendix to this Part;
 - 1.2.7 awarding civic honours under s.249 of the Local Government Act 1972 (as amended) including freedom of the borough, freedom roll of association, creating honorary aldermen and alderwomen, or equivalent;
 - 1.2.8 deciding the size and membership of Committees of Council;
 - 1.2.9 appointing representatives to outside bodies unless the appointment is an Executive function;
 - 1.2.10 adopting and amending a Members’ Allowances Scheme;
 - 1.2.11 adopting the Council’s Annual Pay Policy Statement;
 - 1.2.12 powers in relation to staffing and pensions;
 - 1.2.13 making, amending, revoking, re-enacting byelaws and promoting or opposing the making of local legislation or personal Bills;

- 1.2.14 confirming the appointment of the Head of the Paid Service (the Chief Executive, who is the most senior member of staff); and
- 1.2.15 any other matters by law reserved to Full Council and set out in the Appendix.
- 1.3 Full Council may delegate its powers to Committees and to Council Officers, but the law specifies certain decisions that can only be exercised by Full Council.
- 1.4 Full Council's powers are set out in full in the Appendix.

2. Full Council Meetings

- 2.1 The Council meetings are held in public, except when Full Council agrees to consider a matter in private in accordance with the Access to Information Rules in this Constitution.
- 2.2 Full Council meetings will follow the Council Procedure Rules set out below. There are four types of Full Council meeting:
 - 2.2.1 Annual Council meeting;
 - 2.2.2 Budget (Council tax setting) meeting;
 - 2.2.3 Ordinary meetings; and
 - 2.2.4 Extraordinary meetings.

3. The Mayor and chairing Full Council

3.1 The Office and Functions of the Mayor

- 3.2 The Mayor's functions and responsibilities include, but are not limited to:
 - 3.2.1 to preside over Full Council meetings;
 - 3.2.2 to have discretion to exercise a casting vote in Full Council meetings;
 - 3.2.3 to be the Council's First Citizen;
 - 3.2.4 to be the conscience of the Council; and
 - 3.2.5 to attend and host such civic and ceremonial functions as the Council and (s)he determines appropriate.

- 3.3 By convention, the Mayor does not participate in Full Council debates or in political group activities or accept a political group whip, but (s)he retains discretion to do so as a Councillor.
- 3.4 **Election of the Mayor and the Appointment of the Deputy Mayor**
- 3.5 The Mayor shall be elected and the Deputy Mayor shall be appointed by Full Council at the Annual Council Meeting.
- 3.6 Any reference to the Mayor shall be interpreted as including the Deputy Mayor where (s)he is fulfilling any of the Mayor's duties.
- 3.7 If the office of Mayor or Deputy Mayor becomes vacant during a municipal year, a new office holder will be appointed at the next Full Council Meeting.
- 3.8 The Mayor and Deputy Mayor shall not be members of the Executive and will not by local convention sit on any Committee or Overview and Scrutiny Board, except for an area Committee including their ward.
- 3.9 **Chairing Council Meetings**
- 3.10 The Mayor must chair Full Council meetings if (s)he is present.
- 3.11 If the Mayor is absent from a meeting, the Deputy Mayor must chair the meeting if (s)he is present.
- 3.12 If neither the Mayor nor Deputy Mayor is present, Full Council shall appoint another Councillor to chair the meeting as the first item of business.

Council Procedure Rules

1. Purpose and Interpretation

- 1.1 These Council Procedure Rules (the Rules) govern the conduct of Full Council meetings. These Rules shall be read in conjunction with the Constitution in its entirety and are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 1.2 The Mayor's ruling on the application and interpretation of these Rules is final and, once made, shall not be questioned in meetings. The Monitoring Officer shall advise the Mayor and Full Council on the construction, interpretation or application of any part of these rules.
- 1.3 References to the Mayor, the Leader or Opposition Leader or spokesperson shall, in their absence from a meeting or item, include their appointed deputy.
- 1.4 References to the Chief Executive shall apply to their deputy and, in their absence, to the Monitoring Officer.
- 1.5 References to "days" shall mean calendar days, unless specified to be clear working days.
- 1.6 "Full Council" means a meeting of all the Councillors as a single body, including when it exercises decision making powers.
- 1.7 Where a deadline or time limit is stated in these rules, it shall mean 11.59 p.m. on that day unless otherwise stated or defined by law.
- 1.8 Requirements for notices in writing or signatures includes electronic communications and signatures but excluding social media and text messages.

2. The Council Order Paper

- 2.1 The Monitoring Officer may provide all Councillors and the public with an Order Paper as an aide for assistance in the conduct of the meeting, including information from the formal agenda for the meeting and provided in preparation for the meeting and accordance with these Rules, including:

- 2.1.1 The agenda items, including recommendations for Council decision;
 - 2.1.2 Apologies for absence (where known);
 - 2.1.3 The speakers at the meeting;
 - 2.1.4 Details of announcements;
 - 2.1.5 Councillors' questions and written replies;
 - 2.1.6 Motions and amendments;
 - 2.1.7 The recommendations of items of business;
 - 2.1.8 Appointments;
 - 2.1.9 Any other matters they consider relevant to assist the conduct of the meeting.
- 2.2 The Order Paper is not a formal document but the Mayor, Councillors and Officers may refer to the Order Paper when moving or seconding motions, amendments, reports and other formal matters.

3. Annual Meetings

- 3.1 The Council shall hold an Annual Meeting each year on the following dates:
- 3.1.1 In the year when ordinary elections are held, between the eighth and 21st day immediately following the day of retirement of Councillors (which is on the fourth day after the day of the election).
 - 3.1.2 In any other year, on any day in March, April or May as the Council may fix.
- 3.2 The order of business at the Annual Meeting will be:
- 3.2.1 to elect the Mayor for the ensuing Municipal Year;
 - 3.2.2 to appoint the Deputy Mayor for the ensuing Municipal Year;
 - 3.2.3 to approve the minutes of the last meeting of the Council;
 - 3.2.4 to receive any announcements from the Mayor and/or Chief Executive;

- 3.2.5 to receive a report from the Chief Executive on the outcome of the Election (if applicable), the membership and size of political groups, the Councillors appointed by their groups as the party leaders, deputy leaders and party whips;
- 3.2.6 in an election year, to elect a Councillor as Leader of the council for a term of four years;
- 3.2.7 to receive a report (either verbal or written) from the Leader and (s)he may speak for up to five minutes setting out:
 - a. the Council's priorities;
 - b. the appointment of between two and nine Councillors to the Cabinet ("Cabinet members");
 - c. the appointment of one of the Cabinet members as the Deputy Leader;
 - d. the allocation of portfolios to Cabinet members, if any;
 - e. the scheme of delegation for the exercise of Executive powers;
- 3.2.8 to appoint one or more Scrutiny Boards and to determine their terms of reference;
- 3.2.9 to appoint such other Committees and their terms of reference as the Council considers appropriate to discharge non-Executive functions that are not reserved by law or this Constitution to the Full Council to determine;
- 3.2.10 to agree the appointment of Committee members in accordance with the political balance rules (where applicable) and the nominations by political groups to:
 - a. Scrutiny Boards;
 - b. Ordinary Committees and Boards;
 - c. Outside bodies where the Council wishes to be represented;and to appoint the chairs and deputy chairs of these Committees or bodies as necessary;

- 3.2.11 to agree the appointment of alternate members of Committees in accordance with this Constitution, (except to the Executive);
 - 3.2.12 to approve a schedule of ordinary meetings of Full Council for the year and approve a schedule of ordinary meetings of Committees and Scrutiny Boards; and
 - 3.2.13 to consider any other ordinary business set out in the notice convening the meeting.
- 3.3 No other business may be transacted at the Annual Council Meeting except with the agreement of the Mayor.

4. Ordinary Meetings of Full Council

- 4.1 Ordinary meetings of Full Council will take place in accordance with a programme decided at the Annual Meeting.
- 4.2 Full Council may, as part of its annual programme or ordinary meetings, hold up to two meetings which will consider a single debate in respect of a matter of strategic importance to the borough or in relation to a Council priority. These meetings will be called themed meetings.
- 4.3 The Leader shall determine the subject matter of a themed meeting following consultation with the political group leaders.

4.4 The Agenda

- 4.5 The agenda shall be as follows and in the following order, unless the Mayor decides otherwise:
 - 4.5.1 to elect a Councillor to chair the meeting if the Mayor and Deputy Mayor are absent;
 - 4.5.2 to receive any declaration of interests from any Councillor;
 - 4.5.3 approval of the minutes of the last meeting and Extraordinary meetings. A member shall move that the Minutes be approved and, if so approved, the Mayor shall sign them as a correct record. There

shall be no discussion on the minutes except a Councillor may move an amendment as to their factual accuracy, which shall be voted on without discussion;

- 4.5.4 receive any announcements from the Mayor;
 - 4.5.5 receive any announcements from the Chief Executive;
 - 4.5.6 receive any announcements from the Leader of the Council (or a Cabinet member nominated by the Leader) for a maximum time of three minutes;
 - 4.5.7 to receive any response to the Leader of the Council's announcement from the Leader of the Opposition for a maximum time of one minute;
 - 4.5.8 to consider any public statements;
 - 4.5.9 to consider political group questions;
 - 4.5.10 to receive any petitions from Councillors (subject to meeting the required threshold for Full Council consideration);
 - 4.5.11 to receive any items of business for decision by full Council. The Chief Executive will determine what items of business are placed on the Council agenda ensuring it discharges its statutory duties and powers. The Chief Finance Officer and the Monitoring Officer may require items to be included on the agenda in the discharge of their statutory duties;
 - 4.5.12 to consider any motions before full Council submitted in accordance with these Rules; and
 - 4.5.13 to agree any nominations for appointments from political groups to Council Committees, Overview and Scrutiny Board or outside bodies.
- 4.6 Only business specified in the Council Summons may be transacted at an ordinary meeting save as set out below.
- 4.7 **Agenda for a themed meeting**
- 4.8 The agenda for a themed meeting shall be as follows:

- 4.8.1 to elect a Councillor to chair the meeting if the Mayor and Deputy Mayor are absent;
 - 4.8.2 to receive any declaration of interests from any Councillor;
 - 4.8.3 approval of the minutes of the last meeting and Extraordinary Meetings, as set out above;
 - 4.8.4 to agree any changes to the Council's rules for debate for the meeting that would be conducive to effective and constructive discussion and decision. Such changes to be proposed by the Mayor following consultation with the political group leaders and advice from the Monitoring Officer and voted without discussion;
 - 4.8.5 to consider the motion on the subject matter of the meeting moved by the Leader or their nominated Councillor;
 - 4.8.6 to receive any items of business for decision by full Council, agreed by the Mayor as requiring decision; and
 - 4.8.7 to agree any nominations for appointments from political groups to Council Committees, Overview and Scrutiny Board or outside bodies.
- 4.9 Any resolutions of full Council from a themed meeting relevant to a future Executive decision will be taken into account by the Leader and Cabinet when making those decisions.
- 4.10 **Urgent items of business**
- 4.11 The Mayor may agree an item of business, not included on the agenda for the meeting sent with the summons, taken for reasons of urgency (which must be specified) following receipt of the Monitoring Officer's advice.
- 4.12 So far as is practical, public notice will be given of any urgent item of business.

5. The Budget (Council Tax Setting) Council

- 5.1 The Council must hold a meeting for the purpose of setting the Council Tax and budget for the following year for agreement **by midnight on 10 March**.

- 5.2 These Rules set out specific provision for the length of speeches, voting and the approval of the Council Tax and budget at this meeting and the following additional rules shall apply.
- 5.3 The only business transacted at the meeting will be:
- a. The setting of the Council Tax for the following year;
 - b. The agreement of the Council's budget and related decisions determined by the Council's s.151 Officer;
 - c. If it is the final meeting before the end of the financial year, any decisions that are required by law to be made by Full Council.
 - d. Any business agreed by the Mayor following advice from the Monitoring Officer.
- 5.4 Councillors are required under s.106 of the Local Government and Finance Act 1992 to declare if they are in any arrears of Council Tax which have remained unpaid for a period of two months or more at the date of the meeting. Any Councillor making such a declaration may not vote on the setting of the Council Tax.
- 5.5 **Amendments to the Budget and Council Tax**
- 5.6 Proposed amendments to the setting of the Council Tax and budget will be submitted by a Political Group or an Independent Councillor to the Monitoring Officer by no later than 12 noon on the Friday preceding the meeting to enable the Council's Chief Finance Officer (s.151 Officer) to advise the budget setting meeting on the legality of the proposed amendment.
- 5.7 The Chief Finance Officer may, but is not required to, advise the mover of the amendment but, for the avoidance of doubt, the legality of the amendment is the sole responsibility of the mover of the amendment.

6. Extraordinary Meetings

- 6.1 An extraordinary meeting of full Council may be convened at other times:
- 6.1.1 by the Mayor; or

- 6.1.2 by the Monitoring Officer or Chief Finance Officer to consider a report in the discharge of their statutory duties; or
 - 6.1.3 by five Councillors only as set out below.
- 6.2 Five Councillors may present a requisition to the Mayor to hold an extraordinary meeting. A requisition must:
 - 6.2.1 be in writing;
 - 6.2.2 signed by at least five Councillors and identifying a Councillor to whom the Mayor should respond (the “lead Councillor”); and
 - 6.2.3 state the purpose of the meeting including a motion which must be made in accordance with these rules.
- 6.3 If the Mayor either refuses to call an extraordinary meeting or fails to call a meeting within seven days of the presentation of the requisition, the five Councillors may call an extraordinary meeting.
- 6.4 No other business may be transacted at an extraordinary meeting except with the agreement of the Mayor.
- 6.5 The Mayor may hold an extraordinary Council meeting on the same day as an ordinary Council meeting.
- 6.6 The following shall apply to this rule:
 - 6.6.1 requisitions may be submitted in electronic format including signatures; and
 - 6.6.2 the Chief Executive may cancel an extraordinary meeting at any time if requested to do so in writing by the lead Councillor.

7. Time and Place of Meetings

- 7.1 The Proper Officer (the Chief Executive) will give notice to the public of the time and place of any meeting of Full Council in accordance with the Access to Information Rules.
- 7.2 Unless otherwise determined or required by law, Full Council meetings will be held in the Council Chamber at Sandwell Council House from 6:00 p.m.

- 7.3 At least five clear working days before a meeting the Proper Officer (the Chief Executive) shall send a summons, electronically signed by her or him, by electronic means to a Councillor's official email account.
- 7.4 The summons will give the date, time and place of each meeting and specify the business to be transacted. The summons will be accompanied by such reports as are available.

8. Quorum

- 8.1 The quorum of a meeting shall be one third of the membership eligible to vote or the nearest whole number above one third.
- 8.2 If the Mayor counts the number of Councillors present at a Full Council Meeting and declares there is not a quorum, then the meeting will adjourn immediately for a period of up to 15 minutes to allow a quorum to be present (and the Mayor may allow more than one adjournment up to a total period of 30 minutes).
- 8.3 If after a period of 15 minutes there is still no quorum, the Mayor shall close the meeting and any remaining business will be considered at the next ordinary meeting or at a time and date fixed by the Mayor.

9. Duration of meetings

9.1 Interruption of the meeting after three hours

- 9.2 If the business of any Council meeting has not been concluded within three-hours (including any period of adjournment or otherwise), the Mayor must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion. All Procedure Rules bar those relating to Disorderly Conduct and voting will be suspended.

9.3 Motions and recommendations outstanding after three hours

- 9.4 If there are other motions or items of business on the agenda that have not been dealt with within the three-hour time limit, the Mayor will:

- 9.4.1 ask the mover of the motion or item of business if they wish to withdraw the motion or item;
- 9.4.2 if not, the motion or item will be deemed formally moved and seconded and any amendments will be deemed to have been formally moved and seconded. No speeches will be allowed on these items and the vote will be taken in the usual way; and
- 9.4.3 except that, items to make appointments will be considered as set out in these rules but without debate.

9.5 Extension of the Duration of a Meeting

- 9.6 The Mayor may extend the duration of a meeting to allow for a recorded vote (card vote) to be held.
- 9.7 A Councillor may move that the length of the meeting is extended by up to 30 minutes if:
 - 9.7.1 the motion is moved before the expiry of 3 hours from the start of the meeting; and
 - 9.7.2 is seconded and agreed by Full Council without debate.
- 9.8 Only one motion to extend the length of the meeting may be moved and the Mayor may put to the vote a different period of extension to that moved but longer than 30 minutes to ensure the effective and timely conduct of Council business.
- 9.9 When all the business on the meeting agenda is completed, the Mayor will close the meeting.

10. Voting at Meetings

10.1 Simple Majority

- 10.2 Unless provided otherwise in this Constitution, any matter will be decided by a simple majority of those Councillors present in the room at the time the question is put and voting on the matter.

- 10.3 Voting in respect of the budget and policy framework will comply with the additional rules relating to those decisions set out in this Constitution.
- 10.4 **Mayor's casting vote**
- 10.5 By convention, the Mayor does not vote on matters at Full Council but, if there is an equality of votes for and against on any matter, the Mayor may have a casting vote. There is no restriction on how the Mayor chooses to exercise a casting vote.
- 10.6 **Show of Hands**
- 10.7 Unless a recorded vote (Card Vote) is validly demanded or required by law, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 10.8 When the Mayor seeks a show of hands;
- 10.8.1 (s)he will call for those in favour or against the matter being moved and any abstentions; and
- 10.8.2 where the outcome of the vote is clear from the show of hands or is unanimous, the Mayor may declare the outcome without any requirement to count the votes of individual Councillors.
- 10.9 Where available, the Mayor may require the use of electronic voting for any matter.
- 10.10 **Recorded vote (card vote)**
- 10.11 If seven Councillors present at the meeting demand it, the names for and against a decision or abstaining from voting will be recorded and entered into the minutes.
- 10.12 A recorded vote must be taken at the Budget (Council Tax Setting) Meeting in respect of the setting of the Council Tax and budget and any proposed amendments to these proposals.
- 10.13 The Monitoring Officer will call out Councillors' names who will in response indicate immediately if they are voting for or against the matter or are abstaining from voting.

10.14 In the event of an equality of votes on a recorded vote, the Mayor will have a casting vote which will be recorded.

10.15 Where available, electronic voting will be used to hold a recorded vote.

10.16 Right to require individual vote to be recorded

10.17 Where immediately after a vote is taken, a Councillor requests it, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

10.18 Voting on appointments

10.19 If there are more than two Councillors or other persons nominated for any position to be filled and there is not a majority of votes in favour of one Councillor / person, then the name of the Councillor / person with the least number of votes will be removed from the list and a new vote taken. The process will continue until there is a majority of votes for one person.

10.20 Where there are two or more appointments to be made to a body and more nominations than there are places to be filled, a vote will be taken on each vacancy individually following the above process.

11. Councillors Speaking Rights and Length of Speeches

11.1 Speaking

11.2 Councillors may only speak when provided for by these Rules and must remain silent when other Councillors speak or the Mayor is speaking.

11.3 Councillors when speaking are required to use the microphone provided.

11.4 Councillors shall remain silent when the Mayor speaks or requests a Councillor to stop speaking.

11.5 Length of Speeches

11.6 Unless otherwise stated in these Rules, a Councillor shall speak for three minutes or a time fixed by the Mayor.

11.7 The following shall apply

Speaker	Length of Speech
Mover of Motion	5 minutes (Leader's motion) 3 minutes (all other motions)
Mover of amendment, seconder of motion or amendment	3 minutes
Right of reply	3 minutes
Mover of Leader's budget	10 minutes
Mover of Budget amendment	5 minutes
Secunder of budget or budget amendment	3 minutes

11.8 The Mayor may reduce the length of speeches to ensure the business of a meeting remains within its set duration and to give as many speakers the opportunity to speak as is reasonable.

11.9 First and Final Speeches

11.10 Councillors shall remain silent during a Councillor's first speech in Full Council or their final speech, as set out below.

11.11 Retiring Councillors can speak for up to two minutes about their final term of office at the final Full Council meeting before the election.

12. Public speaking time

12.1 Up to three members of the public (the speaker) may make a statement to Full Council that is relevant and directly relates to an item on the meeting's agenda in accordance with the following rules. Public speaking time may last no longer than 9 minutes.

12.2 Public speakers must either have their ordinary place of residence or business permanently within the boundaries of Sandwell Council.

- 12.3 The speaker must give notice of their wish to speak by 12 noon on the third day before the meeting, excluding bank holidays and weekends.
- 12.4 Notice must be given in writing to the Monitoring Officer and must include:
- 12.4.1 the name of the speaker;
 - 12.4.2 a full and final copy of the text of the statement to be read; and
 - 12.4.3 details of how the statement relates to an item of business.
- 12.5 A speaker may speak for up to 3 minutes and will be taken in the order in which the notices are received.
- 12.6 Each speaker must arrive at the Council Chamber no later than 15 minutes before the published start time of the Full Council meeting and notify Officers of their arrival. The speaker will be escorted to an allocated seating area to the rear of the Council Chamber until their opportunity to address Full Council comes. They will then be escorted to an allocated seat with microphone from which to make their address. At the conclusion of their address, they will be escorted to the Public Gallery. There will be no opportunity for the speaker to ask questions or respond to any debate by Full Council.
- 12.7 If the speaker does not attend the meeting, the statement will not be heard or dealt with.
- 12.8 The Leader or a Cabinet member nominated by the Leader may respond for one minute to any public speaker and there will be no supplemental questions or other speakers on the same matter. The Leader may elect to provide a written response.
- 12.9 Speakers may submit a copy of their statement either in advance or at the meeting and, if it is the case, a petition related to their statement. Unless the Monitoring Officer has rejected the right to speak under this rule, a copy of the statement will be sent to all Councillors and published on the Council's website.
- 12.10 The Monitoring Officer may reject a request to speak if:
- 12.10.1 it does not comply with any of these requirements;

- 12.10.2 it is not about a matter which is being considered as an item of business at the meeting;
 - 12.10.3 it is defamatory, frivolous or offensive;
 - 12.10.4 it is substantially the same matter which has been put at a meeting of the Council in the past six months;
 - 12.10.5 if the speaker has previously spoken at any Full Council meeting in the past six months; or
 - 12.10.6 it requires the disclosure of confidential or exempt information.
- 12.11 The Monitoring Officer may refer a speaker to a different body or person in the Council if their request does not comply with these Rules.

13. Councillors' Question Time

13.1 Political groups' right to submit questions

- 13.2 Councillors from each political group may individually submit up to one question in writing for response by the Leader or relevant Cabinet member at ordinary meetings in accordance with this rule, including that a question **must**:

13.2.1 relate to a matter that is the responsibility of the Executive;

13.2.2 be submitted by the Group Leader or Whip; and

13.2.3 does not include sub-questions (for example a, b, c.) and if this is the case only the first sub-question (i.e. "a") will be accepted as the question without further reference to the Political Group asking the question.

- 13.3 Questions must be submitted in writing to the Monitoring Officer by 12 noon five clear working days before the day of the meeting and the first two questions submitted will be accepted.

- 13.4 The Monitoring Officer must reject a question where:

13.4.1 it is not about a matter for which the Full Council or its Executive has responsibility;

- 13.4.2 it is defamatory, frivolous or offensive;
- 13.4.3 it is substantially the same as a question which has been put at a meeting of Full Council in the past six months;
- 13.4.4 it requires the disclosure of confidential or exempt information; or
- 13.4.5 requests an act or omission which would be unlawful or which the Council could not implement in practice.
- 13.5 The Monitoring Officer may, if the deadline in this rule has not passed, offer a Political Group submitting the question the opportunity to amend a question to comply with these Rules and may accept a revised question if received before the deadline.
- 13.6 For the avoidance of doubt, neither the Monitoring Officer nor any other Officer is under any obligation to assist in the revision of any question.
- 13.7 **The Conduct of Councillors' Question Time**
- 13.8 A maximum of 20 minutes will be allocated to Councillors' Question Time and no extensions may be agreed.
- 13.9 The Leader, or if the Leader chooses, a Cabinet member will provide written replies to all valid questions for inclusion in the Order Paper but have discretion to provide an oral response instead, as set out below.
- 13.10 Written questions and replies will be taken as read in the meeting.
- 13.11 If the Leader and /or Cabinet member provides an oral response they have one minute to speak.
- 13.12 The largest opposition political group leader (or their nominee from the group) may ask a supplementary question in respect of the Group's questions but:
 - 13.12.1 only in respect of the content of the written or oral reply;
 - 13.12.2 no statements can be made; and
 - 13.12.3 the speaker has up to one minute to speak.
- 13.13 The Leader and / or Cabinet member has one minute to respond but may elect to respond in writing and any responses will be sent to all Councillors and published as an appendix to the minutes of the meetings.

14. Submission of Petitions

- 14.1 Councillors may by raising their hand submit one or more petitions if it relates to a strategic policy issue or issues which are of Borough-wide significance, to the Mayor and, in doing so, may state the purpose of the petition and on whose behalf it is submitted to the Meeting but no speeches are allowed. The threshold for acceptance of such petitions is 3,000 signatures from individuals or businesses registered within the area of Sandwell.
- 14.2 Petitions submitted at Full Council may only relate to a Councillor's ward or an area including the Councillor's ward.
- 14.3 Councillors must provide Democratic Services notice on or before 12 noon of the Friday before the meeting that they wish to submit a petition and the subject matter of the petition.
- 14.4 The Monitoring Officer must reject a petition where:
 - 14.4.1 It is not submitted in the format set out on the Council's petitions arrangements;
 - 14.4.2 it is not about a matter for which the Full Council or its Executive has responsibility;
 - 14.4.3 it is defamatory, frivolous or offensive;
 - 14.4.4 it is substantially the same as a petition which has been put at a meeting of Full Council in the past six months;
 - 14.4.5 it requires the disclosure of confidential or exempt information; or
 - 14.4.6 requests an act or omission which would be unlawful or which the Council could not implement in practice.
- 14.5 The Mayor will pass any petition to the Chief Executive or Council Executive Director for an appropriate response.

15. Business Items

15.1 Agenda items requiring a Full Council decision will:

15.1.1 be moved and seconded but this may be done formally without speeches (by reference to moving the recommendations in the Order Paper or otherwise); and

15.1.2 will otherwise be subject to the rules for motions as set out below.

16. Motions on Notice

16.1 The following Motions on notice shall be considered at ordinary meetings:

Mover	Length
Leader (who may delegate the moving of the motion to another Councillor in their political group)	30 mins
Main opposition political group or opposition motion	20 mins
Up to three motions submitted by Councillors or political groups and agreed for debate by the Whips Meeting (see below).	20 mins (total 60 minutes)
Cross Party Motions which the Whips Meeting agree have all party support will be moved without debate by the Chief Whip and seconded by the Main Opposition Whip or Main Opposition Leader as applicable.	n/a

16.2 Motions submitted by Councillors but not considered at the Full Council meeting as set out in the table above will be referred by Democratic Services to the relevant Cabinet member and Executive Director for reply or referral to the relevant Councillor body or meeting.

16.3 A Councillor can submit up to three motions to the same meeting.

16.4 Democratic Services will publish:

16.4.1 actions taken in response to motions that have been passed including any reply from any external body; and

16.4.2 actions taken in response to a motion submitted but not considered at Full Council.

16.5 Submission of Motions

16.6 A Political Group or a Councillor may submit a motion as follows:

16.6.1 it must be in writing signed by two Councillors (except that Councillors not in a political group may submit a motion with one signature);

16.6.2 Political Group motions must be signed by the Leader, Deputy Leader or Whip and state that they are a Political Group motion;

16.6.3 it must be submitted to Democratic Services at least 8 clear working days before the date of the meeting; and

16.6.4 it must set out clearly the decision or action that the Council is being asked to undertake and noting that any action that, if it is an Executive function that can only be discharged by the Executive, it must be stated to be a request to the Executive to consider the action.

16.7 Motion to rescind a previous decision

16.8 A motion or amendment to rescind a decision made at a Council meeting within the past 6 months cannot be moved unless the notice of motion is signed by the number of Councillors that would constitute a quorum of the Council.

16.9 When the Council has determined any such motion or amendment, a Councillor cannot propose a similar motion within a further six-month period.

16.10 Submission of motions on urgent matters

16.11 The Mayor may accept a motion submitted after the deadline for the submission of motions where (s)he determines the motion:

16.11.1 complies with all other rules relating to motions;

16.11.2 relates to matters that arose after the deadline for the submission of motions on notice; and

- 16.11.3 it is a matter which cannot reasonably be considered by the following Council meeting or by another Council body or Officer before the next meeting.
- 16.12 The Mayor shall take the advice of the Monitoring Officer when considering a motion submitted under this rule.
- 16.13 **The scope and validity of motions**
- 16.14 The Monitoring Officer must reject a motion if it is:
- 16.14.1 about a matter intended for inclusion on the published Agenda for that meeting;
 - 16.14.2 about a matter for which the Council has no power to act or affect the desired outcome, other than motions that request the Council make representations to regional or central government.
 - 16.14.3 about a matter that is delegated for determination by another Council body or may be determined by an Officer acting under delegated powers, e.g. individual regulatory decisions;
 - 16.14.4 defamatory, frivolous, offensive or insulting to any person or persons;
 - 16.14.5 the same or substantially the same as a motion which has been put at a meeting of Full Council in the past six months;
 - 16.14.6 requires the disclosure of confidential or exempt information; or
 - 16.14.7 requires an act or omission which is either unlawful or incapable of having practical effect.
- 16.15 The Monitoring Officer may, but is not required to, advise a Councillor or political group submitting a motion on its contents but the sole responsibility for compliance with these rules rests with the Councillor or political group.
- 16.16 **Determination of motions for debate – Whips Meeting**
- 16.17 Democratic Services will arrange a meeting of the political group whips before the date of publication of the agenda who will determine by consensus and, if not, by a simple majority for recommendation to the Mayor for decision:

- 16.17.1 the three valid motions submitted by Councillors or political groups for debate at the meeting; and
- 16.17.2 the valid motions for cross party approval but without debate.
- 16.18 The allocation of motions for debate shall have regard to the overall political balance of the authority and give priority to motions submitted by political groups.
- 16.19 Political balance (in the allocation of motions) shall mean by reference to the estimated total number of motions over a municipal year and include the allocation of the Leader's and Opposition Leader's Motion.
- 16.20 Where practicable, allocation of motions in an individual meeting shall include motions from different political groups.

17. Motions of No Confidence in the Leader

- 17.1 The Leader can only be removed by a resolution of Full Council made on notice and in accordance with the procedure set out in the Executive Procedure Rules in this Constitution. If a Motion of No Confidence is passed, the Full Council must immediately seek to elect a new Executive Leader.

18. Conduct of Debates

18.1 Moving and withdrawing motions

- 18.2 A motion must be moved by the Councillor who submitted it or another Councillor nominated by the same political group, if not the Mayor shall treat the motion as withdrawn.
- 18.3 The mover of a motion may withdraw their motion:
 - 18.3.1 by notice in writing to Democratic Services up to 5:00 p.m. the day before the Council meeting; or
 - 18.3.2 at the meeting with the consent of Full Council and without debate.
- 18.4 Motions are required to be seconded before being debated.

18.5 Alteration of motions

- 18.6 A Councillor may seek to alter a motion directly after (s)he has moved the motion and at no other time.
- 18.7 Only alterations that could be moved as amendments can be sought and, for the avoidance of doubt, alterations may include alteration to accept one or more proposed amendments.
- 18.8 The Mayor must seek the meeting's consent to the alteration, which will be signified without discussion.
- 18.9 The Mayor may require a written copy of the altered motion to be drafted and circulated to all Councillors and may adjourn the meeting for this purpose.
- 18.10 Minor alterations to correct typographical errors or other minor errors that do not impact on the meaning of the motion may be moved by the Mayor and will be agreed with the consent of the meeting without debate.

19. Amendments to motions

19.1 Notice of Amendments

- 19.2 Amendments to motions must be submitted on behalf of a political group or by an independent Councillor who is not in a political group.
- 19.3 Only one amendment may be received in the name of a political group.
- 19.4 Amendments must be submitted to Democratic Services at least 2 days before the date of the meeting and:
 - 19.4.1 must be in writing signed by two Councillors (except that Councillors not in a political group may submit an amendment with one signature);
 - 19.4.2 Political group amendments must be signed by either the Leader, Deputy Leader or Whip and state that they are a political group motion; and
 - 19.4.3 comply with the rules on the scope and validity of motions set out above.
- 19.5 An Amendment must be relevant to the motion and must not negate the motion or replace the notice of motion with a completely new motion, and will:

- 19.5.1 refer the matter to an appropriate body or individual for consideration or reconsideration;
 - 19.5.2 leave out words;
 - 19.5.3 leave out words and insert or add others; or
 - 19.5.4 insert or add words.
- 19.6 The Monitoring Officer may reject an amendment if it does not comply with these rules. The Monitoring Officer may provide advice to the Councillor or political group submitting the amendment but it is the sole responsibility of the Councillor or political group to ensure that the amendment complies with these rules.
- 19.7 **Moving and Seconding an Amendment**
- 19.8 An amendment must be moved and seconded before it can be debated.
- 19.9 An amendment which is accepted and incorporated into a motion or another amendment shall not be moved but the mover of the amendment may, at the Mayor's discretion, be invited to speak first in the debate.
- 19.10 A Councillor seconding an amendment may formally second the amendment and reserve their right to speak to later in the debate. It is a matter of discretion for the Mayor to determine if there is sufficient time to allow the seconder to speak.
- 19.11 The mover of an amendment may seek permission to alter their amendment after they have moved the amendment and before it is seconded and at no other time.
- 19.12 Only alterations that could be moved as amendments can be sought and, for the avoidance of doubt, alterations may include alteration to accept one or more other proposed amendments.
- 19.13 The Mayor must seek the meeting's consent to the alteration, which will be signified without discussion.
- 19.14 The Mayor may require a written copy of the altered amendment to be drafted and circulated to all Councillors and may adjourn the meeting for this purpose.

19.15 Minor alterations to correct typographical errors or other minor errors that do not impact on the meaning of an amendment may be moved by the Mayor and will be agreed with the consent of the meeting without debate.

19.16 The mover of an amendment may withdraw their amendment:

19.16.1 by notice in writing to Democratic Services up to 5:00 p.m. on the day of the Council meeting; or

19.16.2 at the meeting with the consent of Full Council and without debate.

20. The Debate

20.1 After the motion and any amendments have been moved and, where necessary, seconded, the Mayor will invite Councillors who have not moved or seconded the motion or an amendment to speak on the motion and any amendments as a single debate.

20.2 Councillors wishing to speak must raise their hands at this time so that their names can be taken by the Mayor. No other speakers will be allowed except seconders who have reserved their right to speak.

20.3 The selection of speakers is at the Mayor's discretion and they will have regard to the desirability of the following:

20.3.1 reflecting the overall political balance of the authority and the consideration of different points of view so far as is reasonable in the time available;

20.3.2 hearing from a diversity of speakers over the course of the meeting; and

20.3.3 where there is sufficient time to hear from all those wishing to speak.

20.4 The Mayor may alter the length of speaking time in time limited debates where the estimated time to be taken by the number of Councillors wishing to speak exceeds the time available.

20.5 The Mayor may, if (s)he considers it conducive to effect debate, allow for debates on any amendments or the substantive motion separately and take a

vote on each amendment after it is debated before debating and voting on the substantive motion (or if any amendments are passed, the amended motion).

20.6 The mover of a motion may withdraw their motion:

20.6.1 by notice in writing to Democratic Services up to 5:00 p.m. on the day before the Council meeting; or

20.6.2 at the meeting with the consent of Full Council and without debate.

20.7 **When a Councillor may speak again**

20.8 A Councillor may only speak once on an item of business or a motion except:

20.8.1 to move or second a procedural motion which may be moved during a debate;

20.8.2 to make a point of order or personal explanation as defined by these rules; and

20.8.3 to exercise a right of reply.

21. Right of Reply

21.1 The mover of the motion has a right of reply at the close of the debate. The right of reply must be restricted to replying to issues raised by other Councillors in moving amendments or in the course of the debate.

22. Voting

22.1 Where there are no amendments, a vote is taken on the motion only.

22.2 Where an amendment or amendments are moved and seconded, they shall be voted on first and the voting shall take place in the following order:

22.3 **Voting where there is one amendment**

22.3.1 If the amendment is not carried, the Council will vote on the motion.

22.3.2 If the amendment is carried, the motion is amended and becomes the Substantive Motion

22.3.3 A second vote is held as the Substantive Motion and if carried becomes a decision of Full Council.

22.4 Voting on multiple amendments

22.5 If there is more than one amendment, they shall be voted upon in order and:

22.5.1 the voting shall move to the next amendment without amending the motion.

22.5.2 where they are carried, they shall amend the motion or amended motion to become the Substantive Motion; and

22.5.3 there shall be a final vote on the Substantive Motion

22.6 If the Mayor considers it necessary (s)he may require an amended motion and / or the final Substantive Motion to be drafted and circulated to all Councillors and / or read out to all Councillors at any stage before a vote is taken.

23. Motions which may be moved without notice

23.1 The following motions may be moved without notice:

23.1.1 to appoint a chair of the meeting where the Mayor and Deputy Mayor are not available to chair the meeting;

23.1.2 to change the order of business of the meeting;

23.1.3 to refer a matter to the appropriate body or individual;

23.1.4 to appoint a Committee or a member of a Committee;

23.1.5 to withdraw a motion

23.1.6 to amend a motion;

23.1.7 to proceed to the next item of business;

23.1.8 that the question be now put;

23.1.9 to adjourn a debate;

23.1.10 to adjourn a meeting;

23.1.11 to suspend one or more of these Council Procedure Rules so far as is permitted in these Rules and only in the meeting or for part of a meeting;

23.1.12 to exclude the public and press in accordance with the Access to Information Rules in this Constitution; and

23.1.13 to not hear further from a Councillor named by the Mayor or to exclude the Councillor from the meeting.

24. Closure Motions

24.1 The following closure motions may only be moved when the motion and any amendments have been moved and, where required, seconded.

24.2 To proceed to the next item of business

24.3 If a Councillor moves a motion to proceed to next business, the Mayor will:

24.3.1 ask if the motion is seconded and if so;

24.3.2 consider whether the item has been sufficiently discussed and if so;

24.3.3 will put the procedural motion to the vote.

24.4 If the procedural motion is carried, the Mayor will give the mover of the original motion a right of reply, and then move to next business without a vote.

24.5 To put the question to the vote

24.6 If a Councillor moves a motion that the question is now put, the Mayor will:

24.6.1 ask if the motion is seconded and if so;

24.6.2 consider whether the item has been sufficiently discussed and if so;

24.6.3 will put the procedural motion to the vote.

24.7 If it is passed, the Mayor will give the mover of the original motion a right of reply before putting her/his motion and / or any amendments to the vote.

24.8 To adjourn the debate

24.9 If a Councillor moves a motion to adjourn the debate, the Mayor will:

24.9.1 ask if the motion is seconded and if so;

24.9.2 consider whether the item has been sufficiently discussed or cannot reasonably be sufficiently discussed on that occasion and (s)he

considers this is the case, (s)he will put the procedural motion to the vote; and

24.9.3 if it is passed, the Mayor will give the mover of the original motion a right of reply and the motion will be adjourned to the next meeting or such other meeting agreed.

25. Point Of Order

25.1 Any Councillor may make a point of order to the Mayor alleging that there has been a breach of these Council Procedure Rules or any other statutory provision.

25.2 A Councillor making a point of order must raise their hand and when requested to, state clearly to the Mayor that:

25.2.1 (s)he wishes to make a point of order; and

25.2.2 specifying the Council Procedure Rule or statutory provision that has been breached and the way in which (s)he considers it has been broken.

25.3 The Mayor shall consider whether a valid point of order has been raised and:

25.3.1 if so, take any necessary action;

25.3.2 if not, continue with the business of the meeting

25.4 The Mayor's ruling is final.

26. Point of Personal Explanation

26.1 A Councillor who has already spoken in a debate may make a personal explanation where the Mayor agrees that the Councillor:

26.1.1 has been named by another Councillor during the debate; and

26.1.2 in a manner which reflects adversely upon the reputation of the named Councillor.

26.2 A Councillor who wishes to make a personal explanation must make the request at the end of the current Councillor's speech as follows:

- 26.2.1 to raise their hand to indicate to the Mayor that they wish to make a personal explanation specifying the grounds for the request;
- 26.2.2 the Mayor will either agree or refuse the request and the Mayor's decision is final; and
- 26.2.3 in making a personal explanation, the Councillor must only address the comment in respect of the Councillor's reputation.

27. Press and Public Access

27.1 Exclusion of the press and public

- 27.2 Members of the public and press may only be excluded in accordance with the Access to Information Rules in this Constitution or following disorderly conduct.

27.3 Recording and Filming

- 27.4 Any person, including Councillors, may record or film Council proceedings when the meeting is held in public subject to the following:

- 27.4.1 filming or recording must not disrupt the business and conduct of the meeting;

- 27.4.2 in the case of filming, remain in the allocated area for filming or a place agreed by Democratic Services;

- 27.4.3 refrain from filming or recording any member of the public, except where part of the formal proceedings; and

- 27.4.4 during a private session of the Council leave any form of recording device in the meeting room and Councillors remaining in the meeting must not record or film any private session of the proceedings.

- 27.5 This permission does not extend to filming or recording outside of any matter outside of the formal proceedings or before or after the meeting.

- 27.6 Councillors must ensure that they remain able to fully participate in the meeting whilst filming or recording the meeting.

28. Councillors' Misconduct

- 28.1 If a Councillor refuses to obey the Mayor's instructions and / or the Council's decisions and / or if a Councillor when speaking uses offensive, intimidatory or abusive language including towards any Councillor, Officer or other person, the Mayor may instruct the Councillor not to speak.
- 28.2 If the Councillor continues to refuse to obey the Mayor's instructions and / or the Council's decisions and / or if a Councillor when speaking uses offensive, intimidatory or abusive language or otherwise misbehaves, the Mayor may:
- 28.2.1 move without debate that the Councillor be suspended from and must leave the meeting, and
- 28.2.2 if the motion is seconded, the Council shall vote on the motion.
- 28.3 If the motion is carried but the offending Councillor refuses to leave the meeting, the Mayor may take steps to remove the Councillor.

29. Disturbance by the public

- 29.1 Mobile phones and other similar devices shall be placed on "silent" and shall not be used, except as set out elsewhere in these Rules.
- 29.2 **Removal of a Member of the Public**
- 29.3 Members of the public unless registered and approved to deliver a statement are required to remain seated in the public gallery to the Council Chamber.
- 29.4 Once a member of the public delivering a statement has concluded their address, they will be escorted to the public gallery by a member of Council staff.
- 29.5 If one or more members of the public interrupts the effective conduct of proceedings of the Council, the Mayor may warn him/her, and, if he/she again interrupts, the Mayor may order his/her removal from the public gallery and Council Chamber.

29.6 **General Disturbance**

- 29.7 In case of general disturbance in any part of the Chamber open to the public, the Mayor may order that the part shall be cleared.

30. Appointments to Committees and Outside Bodies

- 30.1 Appointments of Councillors or Officers to Committees and outside bodies may be made by reference to a record of proposed appointments set out in the Order Paper and approved with the consent of the meeting.

31. Application to the Executive and Committees

- 31.1 All of the above rules apply to meetings of Full Council.
- 31.2 Separate rules apply to Executive meetings.
- 31.3 Rules relating to procedure at Committee meetings are contained in Part 2.7 of the Constitution and will set out which of these Rules are incorporated into the conduct of Committee meetings.

32. Notification of cancellation of meeting

- 32.1 The Chief Executive, after consultation with the Mayor, may issue, owing to exceptional circumstances, a Public Notice of Cancellation of Meeting. The Notice must state reasons for cancellation.

33. Suspension and/ or amendment of Full Council Procedure Rules

- 33.1 Any or all of these Council Procedure Rules, except the following rules, may be suspended by a majority if at least **one half of the whole number of Councillors are present and eligible to vote**. Suspension will only be for the item or meeting specified in the motion. Motions to suspend must specify the Rule or Rules being suspended.
- 33.2 Rules that may not be suspended:
- 33.2.1 Annual Meeting (rule 3)

- 33.2.2 Budget (Council Tax Setting) Meeting (rule 4)
- 33.2.3 Extraordinary Councils – right of five Councillors to requisition a meeting and Chair's power to call the meeting (Rule 6)
- 33.2.4 Requirements for Summons (rule 7.3-4)
- 33.2.5 Duration of the Meeting (rule 8)
- 33.2.6 Quorum (rule 9)
- 33.2.7 Voting (rule 10)
- 33.2.8 Exclusion of the press and public (rule 26)
- 33.2.9 Rules as to conduct and removal (rules 27-28)
- 33.3 Any motion to add to, vary or revoke these Council Rules of Procedure will, if proposed and seconded, stand adjourned without discussion to the next Ordinary Meeting of the Full Council.

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Sandwell Metropolitan Borough Council

Constitution

Part 2.3 – Responsibility for Functions: Powers of Full Council

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Introduction

This part sets out the decision-making powers of Full Council. Full Council's powers are set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). The Regulations list the specific statutory powers that are "reserved" for Council decision. All other decisions are "executive" powers to be discharged by the Leader and Cabinet or delegated to officers.

Council powers largely fall into the following categories:

- **Budget and policy framework** - agreeing the Council's budget, Council Tax and major policies (collectively called the "budget and policy framework")
- **Governance powers** – including adopting the Constitution, determining the model of governance for the Council, setting members allowances and establishing committees
- **Regulatory powers** – which includes the determination of individual planning and licensing applications
- **Staffing powers** – including the terms and conditions of officers, appointment and dismissal of senior officers and pension decisions.

The Council will normally delegate its decision-making powers to committees or officers. This section sets out which of these powers are delegated at **Table 1** and the details of the delegations are found in the Council's Scheme of Delegation and the Committees Terms of Reference.

However, in respect of some functions, only the Full Council can make the decision. These are some of the most important decisions including the agreement of the annual Council Tax and budgets, major policy decisions, adopting this Constitution, appointing committees and setting members allowance scheme. These are set out in **Table 2**

Some Council functions can be decided by either the Full Council or the Leader and Cabinet (called "Local Choice functions"). The Council makes this decision and the Council's Local Choice functions are set out in **Table 3**.

Some Council decisions are made on the recommendations from the Leader & Cabinet. These are set out at **Table 4**. If the Council does not agree the Leader & Cabinet's recommendations, the process for the Budget & Policy Framework in Part 4 of the Constitution is followed.

Responsibility for Functions: Powers of Full Council

1 The Leader and Cabinet Model of Executive

- 1.1 The Council operates the Leader and Cabinet model of executive. The Executive refers to the Leader and Cabinet collectively. The term “Cabinet” is also used to refer to the Executive, its meetings, and decisions.

2 Full Council powers

- 2.1 Full Council exercises the powers reserved to it by law under the *Local Authorities (Functions and Responsibilities) (England) Regulations 2000* (the Regulations) as amended.
- 2.2 The Regulations include powers:
 - 2.2.1 reserved to Full Council that must be taken by Full Council and cannot be delegated.
 - 2.2.2 reserved to Full Council that may be delegated to committees, officers or other authorities.
 - 2.2.3 “Local Choice” powers that Full Council has decided shall be exercised by the Council and not by the Leader & Cabinet (but which may be delegated).
- 2.3 Some Council decisions are made by Full Council based on the recommendations of the Leader & Cabinet. This includes the Council’s budget and policy framework, as described in Part 2.2.
- 2.4 How Council Functions are discharged are set out:
 - 2.4.1 In the following tables in this section;
 - 2.4.2 In the Council’s Scheme of Delegation to Officers;
 - 2.4.3 The Council’s Committee Terms of Reference.

3 Joint arrangements

- 3.1 The Council may establish joint arrangements with one or more local authorities to exercise functions that are not Executive functions in any of the

participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

- 3.2 The Council may delegate non-executive functions to another local authority or, in certain circumstances permitted by law, to the executive of another local authority.

4 Table 1: Council Functions which cannot be exercised by the Leader and Cabinet (but may be delegated)

- 4.1 The following table sets out the powers reserved to Full Council that cannot be exercised by the executive, i.e., the Leader and Cabinet. The powers may be delegated and the table sets out how they have been delegated. All delegations are detailed in the Scheme of Delegation and / Committee Terms of Reference and delegated decision making is subject to the rules set out in this Constitution
- 4.2 All statutory references are to the Regulations, save where stated.

Function	Decision Maker with delegated powers under this Constitution (otherwise Full Council)
Functions relating to town and country planning and development control as listed in section A of Schedule 1	The functions in section A will be exercised by the Service Director or Assistant Director with responsibility for Development Planning and Building Control or a person nominated or authorised by them, except those functions which are (i) the responsibility of the Planning Committee or (ii) must be determined by Full Council
Functions relating to licensing and registration , as listed in section B of Schedule 1	The functions in section B will be exercised by the Executive Director - Place , or a person nominated or authorised by them,

	except those functions which are the responsibility of the Licensing Committee, Licensing Sub-Committees, or must be determined by Full Council
Functions relating to health and safety at work as listed in Section C of Schedule 1	The functions in section C will be exercised by the Chief Executive and officers as set out in the Council's Scheme of Delegation except where, or a person nominated or authorised by them, except those functions which are the responsibility of the Licensing Committee .
Functions relating to elections (as listed in Section D of Schedule 1.	The functions in section D will be exercised by the Monitoring Officer or a person nominated or authorised by them, except those functions which are the responsibility of the Governance and Constitution Review Committee or must be determined by Full Council.
Functions relating to name and status of areas or individuals as listed in Section E of Schedule 1	Full Council except those functions which are the responsibility of the Governance and Constitution Review Committee .
Functions relating to community governance as listed in Section EB of Schedule 1	Full Council except those functions which are the responsibility of the Governance and Constitution Review Committee .
Functions relating to making, amending, revoking or re-enacting byelaws as listed in section F of Schedule 1.	Full Council except those functions which are the responsibility of the Constitution & Governance Committee .
Functions relating to smoke-free premises etc , as listed in section FA of Schedule 1	The functions in section FA will be exercised by the Executive Director - Place , or a person nominated or authorised by them

Functions relating to promoting or opposing local or personal Bills of Parliament as listed in Section G of Schedule 1.	Full Council except those functions which are the responsibility of the Governance and Constitution Review Committee .
Functions relating to local government pensions etc as listed in Section H of Schedule 1.	The functions in section H are delegated to the Executive Director of Finance & Transformation as set out in the Scheme of Delegation and all other functions are the responsibility of the Appointments & Disciplinary Committee
Miscellaneous functions as listed in section I of schedule 1 (including but not limited rights of way, highways, footpaths)	The functions in section B will be exercised by the Executive Director - Place , or a person nominated or authorised by them
Other miscellaneous functions as listed in Part II of section I of schedule 1	
Power to make standing orders (in respect of council and committee procedure and business)	Full Council
Powers in relation to staff , including power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	The functions will be exercised by the Chief Executive and officers as set out in the Council's Scheme of Delegation, or a person nominated or authorised by them, except those functions which are the responsibility of the Chief Officers Appointments Sub-Committee or reserved to Full Council.
Power to make contract standing orders .	Full Council
Duty to make arrangements for proper administration of financial affairs etc.	Executive Director of Finance and Transformation (appointed in the List of Statutory Officers)

Power to appoint an officer for a particular purpose (appointment of “proper officer”).	Full Council. The Monitoring Officer may nominate a proper officer pending a Full Council decision.
Power to make limestone pavement order.	N/A
Power to make closing order with respect to take-away food shops.	Executive Director - Place
Duty to designate officer as the head of the authority’s paid service , and to provide staff, etc.	Full Council
Duty to designate officer as the monitoring officer , and to provide staff, etc.	Full Council
Powers relating to overview and scrutiny committees (scrutiny boards) (voting rights of co-opted members).	Full Council
Duty to approve authority’s statement of accounts , income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	Audit and Risk Assurance Committee
Powers relating to the protection of important hedgerows .	Service Director or Assistant Director with responsibility for Development Planning and Building Control
Powers relating to the preservation of trees .	Service Director or Assistant Director with responsibility for Development Planning and Building Control
Powers relating to complaints about high hedges .	Service Director or Assistant Director with responsibility for Development Planning and Building Control

Power to make payments or provide other benefits in cases of maladministration etc.	The relevant Executive Director within whose area of responsibility the maladministration arose.
Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Executive Director - Place
Power to make or revoke an order designating a locality as an alcohol disorder zone	Full Council
Power to apply for an enforcement order against unlawful works on common land .	Service Director or Assistant Director with responsibility for Development Planning and Building Control
Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Executive Director - Place
Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Monitoring Officer following instructions from the Executive Director - Place

5 Table 2: Functions that can only be decided by Full Council

5.1 The powers in Table 2 are reserved to Full Council and cannot be delegated to a committee or officer for determination.

Function	Statutory reference
The levying or issuing of a precept for a rate and the setting of council tax and limits for borrowing money.	Local Government Finance Act 1988. Local Government Finance Act 1992. S.3 Local Government Act 2003.

Function	Statutory reference
The establishment and abolition of Committees, Joint Committees (with other local authorities) and the appointment, replacement and removal of members of them other than in cases where the Executive is entitled to make appointments to joint committees.	Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000.
Resolutions to change governance arrangements and / or to hold a governance referendum	S.9K & 9M of the Local Government Act 2000.
Authorisation of applications to Secretary of State for approval of housing land transfers.	Leasehold Reform and Urban Development Act 1993. Ss. 32 and 43 of the Housing Act 1985.
Subject to the urgency procedure in the Standing Orders of this Constitution to make decisions about any function of the Cabinet where the decision maker is minded to make a decision which would be contrary to the policy framework or not wholly in accordance with the budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
Adopting or amending a members' allowances scheme.	S.18 of the Local Government and Housing Act 1989. The Local Authorities (Functions and Responsibilities) (England) 2000
Electing and removing the Leader	Ss.9I and 9IA of the Local Government Act 2000.
Adoption of the Members' Code of Conduct.	S.27 of the Localism Act 2011
Approval of the appointment of the Head of Paid Service and the dismissal of the Head	The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.

Function	Statutory reference
of Paid Service, Monitoring Officer and S.151 Officer.	
Adoption of the Policy Framework and the Budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
Changing the name of the Council.	S.74 of the Local Government Act 1972.
Appointment of the Mayor.	Schedule 4 to the Local Government Act 1972.
Power to promote or oppose local or personal Bills.	S.239 of the Local Government Act 1972.
Power to confer title of honorary alderman or to admit to be an honorary freeman.	S.249 of the Local Government Act 1972.
The making, altering or revoking of standing orders except as provided for in the Council Procedure Rules.	Ss.29, 106 and Schedule 12 of the Local Government Act 1972. Ss.8 and 20 Local Government and Housing Act 1989.
Power to make, amend, revoke or re-enact byelaws.	Any provision of any enactment (including a local Act), whenever passed, and s.14 of the Interpretation Act 1978.
The making of an agreement to establish a joint planning committee or to prepare a joint development plan document or to request the Secretary of State to revoke an order establishing such a joint committee.	Ss. 28 to 31 of the Planning and Compulsory Purchase Act 2004 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
Duty to determine and publish, in respect of its licensing functions, a statement of that policy.	S.5 of the Licensing Act 2003

Function	Statutory reference
Power to resolve not to issue a casino premises licence and duty to determine and publish the 3-year licensing policy statement	Ss.166 and 349 of the Gambling Act 2005
Adoption of a Pay Policy Statement for the following municipal year	S.38 of the Localism Act 2011

6 Table 3: Local Choice Functions reserved to Full Council

- 6.1 This table includes functions where Full Council has a choice under the Regulations as to whether they are allocated as Council or Leader and Cabinet functions.
- 6.2 The table set out the functions allocated to Full Council and the person or body to whom, if any, the function has been delegated by the Council.
- 6.3 An equivalent table of Local Choice Functions allocated to the Leader and Cabinet is contained in Part 2.3A of the Constitution.

Functions from Schedule 2 Reg 3(1) (“Local Choice Functions”)	Decision making body or person with delegated powers
Making arrangements under s.20 (questions on police matters at Council Meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Monitoring Officer, Assistant Director Legal and Assurance
Making appointments under paragraphs 2 to 4 (appointment of members by relevant Councils) of Schedule 2 (police authorities established under s.3) to the Police Act 1996.	The Chief Executive is delegated authority to make an appointment where, in their opinion, it is in the Council’s interests to make an appointment before it can be confirmed or another appointment made at the next meeting of Full Council.

Functions from Schedule 2 Reg 3(1) (“Local Choice Functions”)	Decision making body or person with delegated powers
Power to obtain information about interests in land under the Town & Country Planning Act 1990 (sec.330)	Service Director or Assistant Director with responsibility for Development Planning and Building Control
Power to obtain information about persons with interests in land under Local Government (Miscellaneous Provisions) Act 1976	Delegated to all the following officers: 1. Service Director or Assistant Director with responsibility for Development Planning and Building Control. 2. Monitoring Officer.
Appointment of any individual: (a) to any office other than an office in which he or she is employed by the authority. (b) to any body other than - (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body and the revocation of any such appointment.	Full Council The Chief Executive is delegated authority to appoint any officer to an outside body where required and to make any appointment of a councillor, officer or any other person where, in their opinion, it is in the Council’s interests to make an appointment before it can be confirmed or another appointment made at the next meeting of Full Council.

7 **Table 4: Functions not to be the sole responsibility of the Leader and Cabinet**

7.1 In respect of the following powers, decision making powers are shared between the Leader & Cabinet and Full Council in that the Leader & Cabinet is responsible for formulating or preparing the plans listed in the Table below

and submitting them to the Full Council for consideration and adoption or approval.

- 7.2 These plans are collectively called “the Policy Framework” and their approval are subject to the **Budget and Policy Framework Rules** in this Constitution.

Plans and Strategy	Statutory reference
Crime and Disorder Reduction Strategy	Ss.5 and 6 of the Crime and Disorder Act 1998
Development Plan Documents	S.15 of the Planning and Compulsory Purchase Act 2004
Youth Justice Plan	S.40 of the Crime and Disorder Act 1998
A plan or strategy for the control of the authority's borrowing investments or capital expenditure or for determining the authority's minimum revenue provisions	Local Authority (Functions and responsibilities) Regulations s4(1)(b)
Licensing Authority Policy Statement	S. 349 of the Gambling Act 2005

- 7.3 Full Council has power to determine that any other plan or strategy (whether statutory or non-statutory) should be approved or adopted by the authority and not the Cabinet. Under this power, the following plans are to be approved by Full Council on the recommendation of the Leader & Cabinet, as set out above:

7.3.1 The Council Plan.

7.4 **Limitations on the Leader and Cabinet's powers in respect of Policy Framework documents**

- 7.5 The Cabinet or a member of the Cabinet may not in relation to those plans or strategies listed above do the following:

- 7.5.1 give an instruction requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for consideration by Full Council;
 - 7.5.2 amend any draft plan or strategy submitted by the Cabinet for consideration by the Cabinet;
 - 7.5.3 approve for the purpose of its submission to the Secretary of State for independent examination, a development plan document;
 - 7.5.4 approve, for the purposes of its submission to the Secretary of State or any Minister of the Crown for his or her approval, any such plan or strategy required to be so submitted for approval; nor
 - 7.5.5 adopt with or without modification the plan or strategy.
- 7.6 Cabinet may amend, modify, revise, vary, withdraw or revoke any such plan or strategy only where such amendment, modification, revision, variation, withdrawal or revocation is:
- 7.6.1 required for giving effect to any requirements of the Secretary of State or a Minister of the Crown in relation to any such plan or part thereof submitted to him or her for approval; or
 - 7.6.2 in the case of development plan documents recommended by the person carrying out an independent examination of any such document.
- 7.7 **Housing Transfers**
- 7.8 The Cabinet may make an application:
- 7.8.1 under subsection (5) of s.135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993 for the inclusion of a disposal in a disposal programme;
 - 7.8.2 for consent to that disposal under s.32 (power to dispose of land held for the purposes of Part II) or s.43 (consent required for certain disposals not within s.32) of the Housing Act 1985;
 - 7.8.3 **Provided** that the Council has authorised the making of such an application.

7.9 The Budget Framework

7.10 The Council shall make any calculation required to be made in accordance with ss.32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992 whether originally or by way of substitute subject to the following:

7.11 The Leader and Cabinet shall:

7.11.1 prepare estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation for submission to the appropriate part of the Council for consideration;

7.11.2 prepare the amounts required to be stated in the precept for submission to the appropriate part of the Council for consideration;

7.11.3 reconsider those estimates and amounts in accordance with the Council's requirements; and

7.11.4 submit for the consideration by the appropriate part of the Council the revised estimates and amounts.

7.12 The process for the approval of the annual Council Tax and budget is set out in the Budget and Policy Framework Procedure Rules in this Constitution.

7.13 Joint local development documents and joint committees

7.14 The discharge of functions under ss.28 to 31 of the Planning and Compulsory Purchase Act 2004 (joint local development documents and joint committees) shall, subject to below, be the responsibility of the Leader and Cabinet.

7.15 The Leader and Cabinet may not:

7.15.1 make an agreement to prepare one or more joint development plan documents;

- 7.15.2 make an agreement to establish a joint committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;
- 7.15.3 where the authority is a constituent authority to a joint committee, make an agreement that the joint committee is to be, for the purposes of Part 2 of the 2004 Act, the local planning authority for any area or matter which is not the subject of an order under s.29 of the 2004 Act or an earlier agreement under s.30 of the 2004 Act; or
- 7.15.4 make a request to the Secretary of State for the revocation of an order constituting a joint committee as the local planning authority for any area or in respect of any matter.

7.16 Deregulation and Contracting Out Orders

- 7.17 Where a function which is subject to an Order made under s.70 of the Deregulation and Contracting Out Act 1994 is not the responsibility of the executive then the Cabinet may not authorise another person to exercise that function and nor may it revoke any such authorisation.

Sandwell Metropolitan Borough Council

Constitution

Part 2.4 – The Executive (Leader and Cabinet)

May 2025



Explanatory Note: The Executive or Cabinet

The Council operates the Leader and Cabinet model of Executive.

All Councillors vote at full Council to elect a Leader after the local elections and the Leader then appoints a Cabinet of between two and nine Councillors, including a Deputy Leader. The Leader and Cabinet are collectively called the executive but are usually just called the Cabinet.

The Cabinet is responsible for almost of all the Council's major decisions including those affecting procurement of all works, goods and services for the Council, housing, education, social care for children and adults. The Leader and Cabinet is responsible for all decisions except those that are reserved by law for the Full Council or to specific officers to carry out.

The Leader is the key decision maker in the executive. The Leader determines who makes executive decisions and delegates most powers either for collective decision making by Cabinet, decisions by individual Cabinet Members based on their portfolio responsibilities or to officers. These delegations are set out in the Leader's Scheme of Delegation, which is part of this Constitution.

Open Governance

The Cabinet meets monthly throughout the year. Cabinet meetings are open to the public and the agenda and reports are publicly available. Some matters may be considered privately were allowed by law but the reasons for doing this will be made public.

The Cabinet make 'key decisions.' These are generally decisions with a significant financial value or risk, or with significant impact on two or more wards. 28 days public notice of key decisions is given in the Council's Forward Plan, which is published on the website.

Checks and Balances

Checks and balances to the Cabinet's powers exist in the Council:

- **Full Council** must set the policy and budget framework; the Council Tax and agree the annual budget that the Cabinet must work within and the Council's major policy decisions. It also determines matters relating to governance, elections, staffing and also regulatory decisions such as planning and licensing.
- **Scrutiny Boards** can review and scrutinise executive decisions through an annual work plan and have the power to "call in" Cabinet decisions before they are implemented. Scrutiny committees may make recommendations to the Cabinet.
- **The Policy and Budget Framework** where an Executive decision is considered to be outside the policy and budget framework, it can be referred to full Council.
- **Councillors Question Time** at Full Council other Councillors can question the Cabinet about their decisions and policies.

The Leader and Cabinet

1 The Leader and Cabinet Model of Executive

- 1.1 The Council operates the Leader and Cabinet model of Executive. The Executive refers to the Leader and Cabinet collectively. The term 'Cabinet' is also used to refer to the Executive, its meetings, and decisions.

2 Membership

- 2.1 The Executive must comprise:
 - 2.1.1 The Executive leader (hereafter called the 'Leader') elected by the Council;
 - 2.1.2 Between two and nine councillors appointed by the Leader (hereafter called 'Cabinet members');
 - 2.1.3 One of the Cabinet Members is appointed by the Leader to be the Deputy Leader.
- 2.2 The Mayor or Deputy Mayor cannot be the Leader or a Cabinet Member and any rules relating to the appointment of alternates do not apply to the Executive.
- 2.3 The Executive is not subject to the political balance requirements set out in the Local Government and Housing Act 1989.

3 Powers and Delegation of Powers

- 3.1 The Executive discharges all the Council's powers which are not expressly reserved by law or this Constitution to be the responsibility of the Council or officers. This includes:
 - 3.1.1 Making key decisions reserved to the executive for decision, see below;
 - 3.1.2 Recommending the rate of Council Tax and the Leader's budget and related policies to full Council for approval for the following financial year (the Budget Framework);
 - 3.1.3 Recommending policies to full Council that are reserved to full Council for approval (the Policy Framework); and

- 3.1.4 Making decisions in respect of Local Choice Functions allocated in this Constitution to the Executive, as set out in the Table below.
- 3.2 The Leader is responsible in law for the discharge of the Executive's functions and may delegate any or all of those functions to:
- 3.2.1 the Executive;
 - 3.2.2 a Cabinet Member;
 - 3.2.3 a Committee of the Executive (a 'Cabinet Committee');
 - 3.2.4 a Neighbourhood Committee or forum under the Council's neighbourhood arrangements;
 - 3.2.5 to an Officer or Officers;
 - 3.2.6 to another authority under Joint Arrangements or any other person or body allowed by law.
- 3.3 Persons or bodies delegated executive functions as above and as set out in the table below may delegate those powers as follows, so far as allowed by law or subject to any prohibition or limitations set out in the delegation of power by the Leader.

Delegating body / person	May delegate to:
Cabinet	<ul style="list-style-type: none"> • Cabinet Committee • An Officer or Officers • A neighbourhood committee or forum
Cabinet member or Cabinet Committee	<ul style="list-style-type: none"> • An Officer or Officers • A Neighbourhood Committee or forum
Officer or officers	<ul style="list-style-type: none"> • Other Officers

3.4 Joint arrangements

- 3.5 The Leader and Cabinet may establish joint arrangements with one or more local authorities to exercise functions that are Executive functions in any of

the participating authorities. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.

- 3.6 The Leader and Cabinet may only appoint Cabinet Members to a Joint Committee undertaking executive functions, except in circumstances in which the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such case the Leader and Cabinet may appoint to the Joint Committee any Councillor who is a Member for a Ward that is wholly or partly contained within the area.
- 3.7 Where the Joint Committee comprises five or more local authorities, the appointee can be either Executive or non Executive
- 3.8 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations, as amended from time to time.
- 3.9 The Access to Information Rules apply to joint arrangements.

4 The Leader's Scheme of Delegation

- 4.1 The Leader's scheme of delegation to the Cabinet, Cabinet Committees and individual Cabinet Members is attached to this section.
- 4.2 The Leader's delegation of powers are set out in the Council's Scheme of Delegation to Officers.
- 4.3 The Leader and the Executive may agree further delegations to officers (including key decisions):
 - 4.3.1 By express decision in a meeting recorded in the Notice of Decision and minutes of the meeting;
 - 4.3.2 The Leader may agree delegations to Officers outside of a meeting following receipt of advice from the Monitoring Officer (or his / her delegate) but the delegation must be recorded in writing setting out the terms of the delegation and copied to the Monitoring Officer.

- 4.4 Where a key decision is delegated to an Officer, the Access to Information Rules apply to the decision except that it is not necessary to hold a public meeting to make the decision.
- 4.5 The Leader, Cabinet, Cabinet Committee or an Individual Cabinet Member delegating any of its powers to an Officer may elect to discharge the delegated powers at any time but should give notice of intention to do so to the Monitoring Officer.

5 The Leader

- 5.1 The Leader is a Councillor elected as the Council's Executive Leader by full Council at the Annual Council Meeting following the ordinary elections of the authority. The Leader will hold office for a term of four years unless (s)he:
- 5.1.1 resigns from the office; or
 - 5.1.2 is no longer a Councillor; or
 - 5.1.3 is disqualified from office for any reason; or
 - 5.1.4 is removed from office by resolution of full Council following a vote of no confidence following the procedure set out below.
- 5.2 If the office of Leader is vacant before the expiry of their term of office the Council will elect a new Leader at its next meeting or an extraordinary meeting called for that purpose.
- 5.3 If the Council fails to elect a Leader at any meeting, the election will take place at the next or subsequent meetings of the Council until a Leader is elected.
- 5.4 The Leader in office at the time of ordinary elections will remain in office until the Annual Council Meeting following the date of the election.
- 5.5 **Vote of No Confidence in the Leader**
- 5.6 The Leader can only be removed by a resolution of full Council in accordance with the following procedure.
- 5.7 A notice of motion to hold a full Council meeting to consider a vote of no confidence in the Leader must be submitted to the Chief Executive, signed by 20 Councillors with a mover and seconder of the motion identified.

- 5.8 The Chief Executive must issue a summons for the meeting within five working days of receipt of a valid notice of motion of no confidence in the Leader. The full Council meeting will be held for this purpose only.
- 5.9 The Council Procedure Rules will apply to consideration of the Motion save that the debate is not time limited and no amendments may be moved on the motion.
- 5.10 If a vote of no confidence in the Leader is passed, an election for a new Leader must take place immediately following the motion and the new Leader will be appointed for a term lasting until the next ordinary elections of the authority, subject to 4.4 above.

6 The Deputy Leader

- 6.1 The Leader must appoint a Deputy Leader from one of the Cabinet Members.
- 6.2 The Deputy Leader will hold office until the next ordinary elections of the Council unless (s)he:
 - 6.2.1 resigns from the office;
 - 6.2.2 is no longer a Councillor or Cabinet Member;
 - 6.2.3 is removed from office by the Leader.
- 6.3 If the Deputy Leader is unable to act or the post is vacant, no other Member of the Cabinet may act in their place. If a vacancy occurs, the Leader must appoint another Cabinet member as Deputy Leader.
- 6.4 The Deputy Leader must:
 - 6.4.1 discharge the role of the Leader if the post of Leader is vacant until a new Leader is election or if for any reason the Leader is unable to act;
 - 6.4.2 Preside at Cabinet meetings or Cabinet Committee meetings where the Leader is a Member in the absence of the Leader or as the Leader determines.
- 6.5 If the Leader is unable to act or the office is vacant and the Deputy Leader is unable to act or the office is vacant, the Cabinet's powers shall be carried out by the Cabinet collectively either until the Leader or Deputy Leader is able to act or a new Leader is elected.

7 Cabinet Members

- 7.1 The Leader may allocate areas of responsibility for Executive functions called portfolios to Individual Cabinet Members with or without the delegation of decision making powers.
- 7.2 The Leader may amend or change a portfolio in any way and for any reason.
- 7.3 The Leader may retain a portfolio and any executive functions that are not allocated to a Cabinet member are the responsibility of the Leader.
- 7.4 The Leader will provide a list of Cabinet Members' portfolios or changes to portfolios to the Monitoring Officer as soon as reasonably practicable including for each Cabinet member:
 - 7.4.1 The portfolio title;
 - 7.4.2 The Executive functions and responsibilities (by reference to the Council's directorate structure or otherwise);
 - 7.4.3 The date when the portfolio will commence or if it is with immediate effect.
- 7.5 The Leader and / or the Monitoring Officer will:
 - 7.5.1 Report the allocation or amendment of any portfolio to the next meeting of full Council; and
 - 7.5.2 As soon as is reasonably practicable publish the allocations of portfolios on the Council's website.
- 7.6 Cabinet members' appointments and / or portfolios held at the date of an ordinary election will terminate on the date of those elections.

8 Cabinet Committees

- 8.1 The Leader or Cabinet may establish Committees of three or more Cabinet Members to:
 - 8.1.1 Discharge executive functions on a continuing basis or for a single decision;
 - 8.1.2 Advise the Leader and / or Cabinet.

- 8.2 The Leader or Cabinet must determine the size, membership, and terms of reference of the Cabinet Committee with the advice of the Monitoring Officer.
- 8.3 The Monitoring Officer will publish the details of any Cabinet Committee above on the Council's website.

9 Executive Meetings

- 9.1 These rules will apply to meetings of the Cabinet, Individual Cabinet Members (except the rules on quorum) and Cabinet Committees.
- 9.2 Executive meetings will take place at the Council's main offices or another location to be agreed by the Leader and published to the Council's website.
- 9.3 Notice of each meeting will be given and the agenda and papers for each meeting will comply with the Access to Information Rules.
- 9.4 All Executive meetings will be open to the public and press, unless the business under consideration is exempt or confidential as determined by the Access to Information Rules and the meeting votes to hold that business in private.
- 9.5 The Leader has power taking into account the advice of the Chief Executive, Monitoring Officer and / or the Chief Finance Officer to:
 - 9.5.1 convene as many Cabinet meetings as (s)he considers appropriate;
 - 9.5.2 cancel and / or reschedule meetings where necessary;
 - 9.5.3 determine the agenda of Cabinet meetings.
- 9.6 In respect of a Cabinet Committee, the Chair of a Cabinet Committee has the same powers as the Leader has in respect of Cabinet meetings.
- 9.7 In respect of Individual Cabinet Member meetings, the relevant Cabinet member has the same powers as the Leader has in respect of Cabinet meetings.
- 9.8 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of any executive meeting in pursuance of their statutory duties and may require the Proper Officer to call an Executive meeting for this purpose.

10 Quorum

- 10.1 The quorum for a Cabinet meeting shall be three Members who are eligible to vote.
- 10.2 The quorum for a Committee of the Cabinet shall be agreed when the Committee is established but will be a minimum of three Members.

11 The conduct of business at Cabinet meetings

- 11.1 The Leader will chair meetings of the Cabinet:
- 11.2 The following business will be conducted:
 - 11.2.1 Approval of the record of decisions and minutes of the last meeting
 - 11.2.2 Declarations of interests, if any;
 - 11.2.3 Matters referred to Cabinet by a Scrutiny Board;
 - 11.2.4 Reports requiring Cabinet decision;
 - 11.2.5 Any other business specified on the agenda.
- 11.3 **The content of executive reports**
- 11.4 Reports for decision by the Executive must include sufficient information to allow the executive to make an effective evidence-based decision and shall include any requirements specified by the Chief Executive, Chief Finance Officer and / or Monitoring Officer including, but not limited to:
 - 11.4.1 the legal and financial implications of the proposed decision;
 - 11.4.2 the consideration of the public sector equality duty;
 - 11.4.3 the consideration of the outcome of any public consultation, if required; and
 - 11.4.4 whether or not the proposed decision achieves best value.
- 11.5 Reports will contain details and outcome of any consultation undertaken with Councillors, external bodies or the public. The scope and level of consultation required will be appropriate to the nature of the matter under consideration, including legal obligations to undertake public and / or stakeholder consultation.

12 Speaking rights at executive meetings

12.1 The following have the right to speak at executive meetings

12.1.1 The Leader and Cabinet.

12.1.2 The Chief Executive, Chief Finance Officer and Monitoring Officer in respect of the discharge of their statutory duties.

12.1.3 The Chair of a Scrutiny Board in respect of a report by that Committee.

12.2 The Leader may allow other persons, including other Councillors such as the Leader of the Opposition, to speak at Cabinet only in relation to an item of business on the agenda. The time allocated to speak shall be at the discretion of the Leader. The Executive may take into account verbal representations made at its meeting when making decisions but must not consider any additional documentation submitted without compliance with the Access to Information Rules set out in this Constitution.

13 Conflicts of interest in executive decision making

13.1 The Leader and Cabinet when making any executive decision must comply with their obligations to declare conflicts of interests under the Council's Code of Conduct for Members and any conflicts will be dealt with in accordance with this Code. The Leader and Cabinet should seek the Monitoring Officer's advice where appropriate.

13.2 If a Cabinet member exercising delegated powers, either in a Cabinet committee or as an individual member, has a conflict of interest which would require them not to make or participate in the decision to comply with the Code of Conduct, (s)he must notify the Leader who will determine who will make the decision, taking account of any advice from the Monitoring Officer.

14 Local Choice Functions of the Executive

14.1 The Council agrees that the following Local Choice are to be exercised by the Leader and Cabinet and where stated delegated to Officers.

Functions from Schedule 2 Reg 3(1) ("Local Choice Functions")	Decision making body or person with delegated powers
Any function under a Local Act	The relevant Executive Director responsible for the function
Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This excludes matters where statutory arrangements exist).	Chief Executive
Making arrangements for appeals against exclusion of pupils	Director of Children and Education Services
Making arrangements for admission appeals by pupils and Governing Bodies	Director of Children and Education Services
Any function relating to contaminated land	Executive Director – Place
Any function relating to the control of pollution or the management of air quality	Executive Director – Place
Any function relating to the abatement of statutory nuisances	Executive Director – Place
Any function relating to noise nuisances	Executive Director – Place
Powers of inspection to detect statutory nuisances	Executive Director – Place
Investigation of complaints of statutory nuisances	Executive Director – Place
The making of agreement for the execution of highways works	Executive Director – Place

Functions from Schedule 2 Reg 3(1) ("Local Choice Functions")	Decision making body or person with delegated powers
Powers in respect of the Council's Local Area Agreement under sections 106,110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007.	The relevant Executive Director(s) responsible for the function

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Sandwell Metropolitan Borough Council

Constitution

Part 2.5 – Key Decision Threshold

Date Approved: May 2025

Document Owner: Monitoring Officer



Key Decision Threshold

1. Key decisions are those executive decisions that are subject to statutory rules as to public and press access. They are the most significant decisions made in the Council. In Sandwell these are reserved for decision by the Leader and Cabinet collectively, except where delegated to Officers.
2. The statutory definition of key decision is found in Reg 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089.
3. The Leader has determined that these definitions shall be applied in accordance with the following thresholds:

Category	Definition	Examples (for illustrative purposes only)
Financial Threshold	A decision which is likely to result in the Council: incurring new expenditure or making new savings <i>or</i> Incurring financial obligations or risk of £1,000,000 or above	<ul style="list-style-type: none"> • Policies with direct financial implications • Changes to services where there is a financial change • Property transactions (including leases) • Procurement decisions • Changes to fees and charges • Entering into contracts or grant agreements to provide services with third parties • Contractual provisions that incur financial risk over the threshold, for example claw back provisions • Decisions relating to Council owned companies (as shareholder or otherwise).
Community Impact Threshold	A decision that will have significant impact on those living or working in 2 or more wards in the borough.	<ul style="list-style-type: none"> • Policies or strategies with area or borough wide impact • Significant changes to service delivery in two or more wards without a direct financial value.

Sandwell Metropolitan Borough Council

Constitution

Part 2.6 – Leader’s Delegations to the Executive and Cabinet Committees

Date Approved: May 2025

Document Owner: Monitoring Officer



The Leader and Cabinet - Delegations

1 The Leader and Cabinet Model of Executive

- 1.1 The Council operates the Leader and Cabinet model of executive. The Executive refers to the Leader and Cabinet collectively. The term 'Cabinet' is also used to refer to the Executive, its meetings, and decisions.

Leader's Delegations to the Executive

1. Introduction

- 1.1. This Part sets out the Leader's delegation of decision-making powers to:
- 1.1.1. the Cabinet (for collective decision)
 - 1.1.2. Cabinet Committees
 - 1.1.3. Individual Cabinet members
- 1.2. Delegations are made subject to the provisions of the Constitution.

2. Delegations to the Cabinet

- 2.1. The table below sets out the decisions delegated to the Cabinet and the decisions reserved for decision by the Leader.
- 2.2. The Leader may delegate individual decisions to the Cabinet, a Cabinet Committee or an Individual Cabinet Member in respect of an individual decision or series of decisions or a specific matter as (s)he sees fit.

Power		Leader	Cabinet	Source
Key Decisions, Budget and Policy decisions				
1	To make all key decisions reserved for executive decision		X	Local Government Act 2000
2	To consider and decide upon any Council amendments to the Executive's proposed policy framework document and to submit proposals back to Council		X	(Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 as amended
3	<p>All budget, financial or other decisions reserved to the Executive, including but not limited to:</p> <p>a) recommendation of all Budget Framework and Council Tax decisions to full Council;</p> <p>b) approval of the Treasury Management Report and Strategy and prudential borrowing limits;</p> <p>recommendations of a plan or strategy for the control of the authority's borrowing, investments or capital expenditure.</p>		X	(Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 reg 4
4	To consider Council amendments (or alternative proposals) to the executive's proposed budget and related decisions and to submit proposals back to Council (including power to accept any or all such amendments or alternative proposals)		X	(Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853
5	<p>To approve the commencement of procurement in the following circumstances:</p> <p>a. procurement of a new service;</p> <p>b. significant change in provision; or</p> <p>c. it will result in externalisation of a service.</p>		X	Contract Standing Orders

Power		Leader	Cabinet	Source
Key Decisions, Budget and Policy decisions				
Urgent Decisions				
6	<p>The power to make urgent key decisions where an urgent decision is required to protect the Council's legal or financial interests, comply with a statutory or legal obligation or requirement and / or protect the health and safety of any person or persons. This power includes the power to delegate authority to an officer or individual Executive member to make the urgent decision. *</p> <p>*This power is to be exercised in compliance with the Council's rules for making urgent decisions. To be read alongside the delegations to the Chief Executive.</p>	X		s.9E Local Government Act 2000
Governance and appointments to outside bodies				
7	All Executive decisions in relation to the structure, governance, membership and powers of the Cabinet and Cabinet members, save as set out in this Scheme.	X		Local Government Act 2000
8	Recommendations to full Council for the making of byelaws		X	s.235 Local Government Act 1972 and other byelaw making powers
9	All powers relating to the joint exercise of solely executive functions with one or more other authorities, including appointments to Joint Committees.		X	Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 Part 4 Local Government Act 1972 s.101(5)
10	Power to agree the joint exercise of functions with one or more other authorities, where at least one of the functions is an		X	Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations

Power		Leader	Cabinet	Source
Key Decisions, Budget and Policy decisions				
	Executive function, authorities, including appointments to joint committees. (N.B. Exercise of this power also requires the agreement of full Council.)			2012/1019 Part 4. Local Government Act 1972 s.101(5)
11	All powers relating to the delegation of solely executive functions to another authority or the Executive of another authority.		X	Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 Parts 2 & 3
12	The exercise of Local Choice functions allocated to the Executive under the Council's Constitution		X	Constitution, Local Choice Functions

3. Delegations to Cabinet Committees

- 3.1. The Cabinet Committees, if any, established by the Leader and Cabinet and their terms of reference are attached to this part of the Constitution.
- 3.2. The Leader or Cabinet may additionally delegate decisions to a Cabinet Committee in respect of an individual decision or series of decisions or a specific matter as (s)he or they sees fit.

4. Delegations to Individual Cabinet Members

- 4.1. Any delegations to Individual Cabinet Members by the Leader or Cabinet Members are attached to this part of the Constitution.
- 4.2. The Leader or Cabinet may additionally delegate decisions to an Individual Cabinet member in respect of an individual decision or series of decisions or a specific matter as (s)he or they sees fit.

Committees of Cabinet

Companies Governance and Shareholder Committee

1. Purpose

- 1.1 To approve and oversee the Council's strategic objectives across wholly owned and subsidiary local authority companies or those where the Council holds a shareholding or interest.
- 1.2 To undertake the functions of the Cabinet in relation to the Council's role as member or shareholder in wholly or partly owned local authority companies, including:
 - 1.2.1 Ensuring that the statutory and regulatory compliance responsibilities of the Council are appropriately discharged.
 - 1.2.2 Managing the overall relationship with those local authority companies.

2. Composition

- 2.1 A membership of up to six Councillors comprising the Leader of the Council (Chair), the Cabinet Portfolio Holder with responsibility for finance and up to four other Cabinet Members.
- 2.2 Standing invitations, with speaking but not voting rights, made to the Chief Executive, the Monitoring Officer and the Executive Director of Finance and Transformation.
- 2.3 The Committee may invite any person it considers able to support its work to participate on a non-voting basis, either generally or in relation to specific strategies, projects and/or initiatives.

3. Quorum

- 3.1 The quorum is three.

4. Powers

- 4.1 The Committee will:

- 4.1.1 Act as the Executive decision making in relation to all Member or shareholder matters relating to local authority companies which the Council wholly owns or has an interest in.
- 4.1.2 Receive Annual Reports and Annual Accounts from companies.
- 4.1.3 Provide an articulation of what success looks like in terms of achieving social outcomes and/or a return on investment in each of the local authority companies.
- 4.1.4 To engage as appropriate with the strategic business planning process of the local authority companies
- 4.1.5 Evaluate the effectiveness of the local authority company boards and the delivery of the company performance against strategic objectives and the business plan.
- 4.1.6 Provide financial oversight of each of the local authority companies.
- 4.1.7 Approve any borrowing or loans undertaken by the local authority companies in line with the Executive decision-making criteria.
- 4.1.8 Provide the necessary oversight from a company member / shareholder's perspective that the governance arrangements, policies and boundaries that the Council has established are being adhered to.
- 4.1.9 Provide a holistic review of risk to the Council offered by each of the local authority companies.
- 4.1.10 Approve the establishment or disestablishment of any local authority companies or their subsidiaries.
- 4.1.11 Periodically review whether each entity provides the most effective vehicle to deliver the outcomes it requires and whether there are viable alternative models which might offer a more effective means of delivering its priorities.
- 4.1.12 Review and monitor (as appropriate) company member / shareholder / management agreements.
- 4.1.13 Review annually or otherwise as requirements the Council's Companies Governance Protocol taking account of all relevant current

and emergent sector best practice guidelines issued from time to time by CIPFA, LLG and Local Partnerships.

- 4.1.14 Require as appropriate the attendance of the Chair, Chief Executive, Managing Director, Finance Director or other relevant representative of any of the part- or wholly owned local authority companies at any meeting where the affairs of that company are considered.

Sandwell Metropolitan Borough Council

Constitution

Part 2.7 – Committees

May 2025

Document Owner: Monitoring Officer



Explanatory Note: What are Committees?

Committees are bodies appointed by the full Council with a small number of Councillors to debate and make decisions about specific matters or to have an advisory function only. The smaller size of committees allows for more detailed discussion; committees are less formal than Full Council and they meet more regularly than Full Council. Non-councillors can be members of committees but generally do not have any voting rights when decisions are made. Full Council agrees the Council's Committee structure and their Terms of Reference.

There are different types of Committees.

'Ordinary' Committees

The Council has a general legal power to delegate its powers to ordinary Committees. A Committee will normally have responsibility for a particular area, such as planning, standards of conduct and audit. Committees can only make decisions within the powers that are delegated to them. The powers are set out set out in the Terms of Reference, set out below.

Regulatory Committees such as planning and licensing have more detailed rules around their procedure because they make decisions affecting the legal rights of individuals, e.g. whether or not to grant planning permission.

Ordinary Committees must be politically balanced, which means that, as far as possible, the political balance of the committee's membership represents the respective size of political groups on the Council as a whole. For example, if a political group that has a majority of the seats on the Council as a whole, they will have a majority of seats on a Committee.

Committees can delegate powers to a Sub-Committee or Officers unless full Council prohibits the Committee from doing so.

Statutory Committees

Some Committees are required by law and have fixed statutory rules about their composition, remit and how they consider matters. Licensing committees that make decision on alcohol and gambling licence applications are the main example of this. Most alcohol and gambling licence applications are determined by sub-committees of three Councillors by law. The political balance rules do not apply to the Sub-Committees.

The Health and Wellbeing Board is a statutory hybrid body, which has some of the features of a Committee but it also includes non-councillors as members. It is dealt with separately.

Joint Committees and arrangements

Joint arrangements, including Joint Committees with other local authorities, are set out in a separate section of the Constitution.

Open Governance

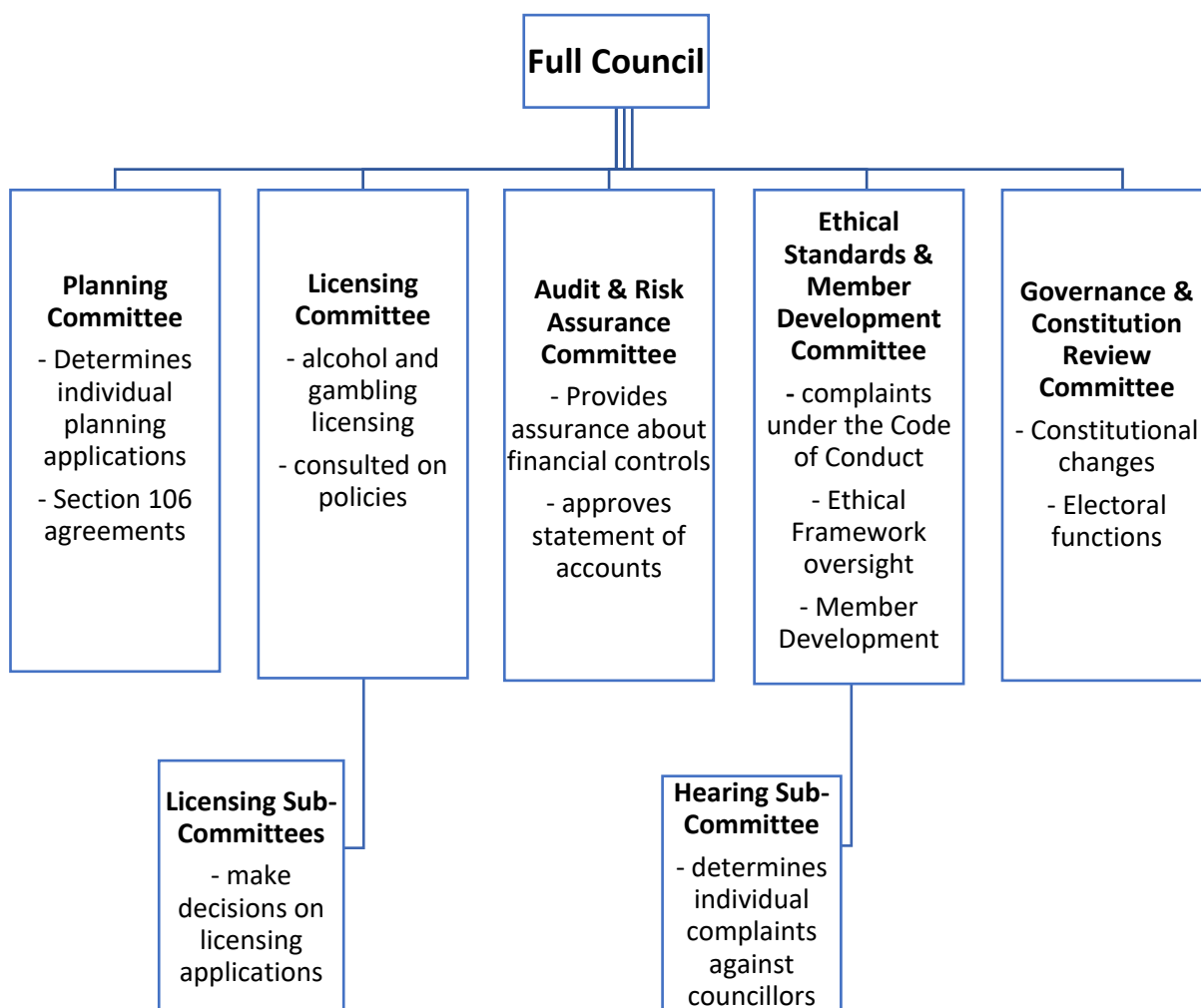
The Council's Access to Information Rules apply to Committee meetings.

Full Council and the Mayor

1. Full Council

What a committee structure make look like in practice

(This is a simplified example for illustration purposes only. The Council's committee structure is similar but this is not intended to represent the current structure.)



Committees

1.1 Purpose

- 1.2 These Committee Procedure Rules (the Rules) govern the conduct of Committee meetings. These rules shall be read in conjunction with the Constitution in its entirety and are subject to any relevant statutory rules or other relevant enactments whether passed before or after these rules came into effect.
- 1.3 Regulatory committees that govern the Council's decisions in relation to licensing and planning decisions have additional rules set out this Constitution and statute, which will supersede these rules where there is any conflict.

2. Establishment of committees and delegated powers

- 2.1 Full Council may establish one or more Committees and a Committee may:
 - 2.1.1 Exercise powers delegated from full Council; or
 - 2.1.2 Act as an Advisory Committee without delegated powers.
- 2.2 Full Council is required to establish certain Committees to discharge statutory functions, such as licensing decisions under the Licensing Act 2003.
- 2.3 A committee may delegate its powers to a sub-committee or officers unless prohibited by full Council.
- 2.4 Any reference to a Committee shall include reference to a Sub-Committee with any necessary changes.

3. Time and place of meetings

- 3.1 Full Council shall agree a schedule of Committee meetings at its Annual Council Meeting.
- 3.2 Additional meetings may be held with the chair's agreement, taking advice from the Monitoring Officer and only where there are items of business which can reasonably be deferred to the next scheduled meeting of the Committee.
- 3.3 The Proper Officer will notify the time and place of meetings in the summons. The summons will also specify the business to be transacted and will be accompanied by such reports as are available.

- 3.4 Meetings will take place at the Oldbury Council House at 6:00 p.m. or such other venue specified in the summons.

4. Committee chairs and vice chairs

- 4.1 Full Council will appoint Committee chairs and vice chairs at its Annual Council Meeting.
- 4.2 Vacancies in either office will be filled at the next meeting of full Council, including, if held, an extraordinary council meeting.
- 4.3 The Chair must chair a Committee meeting, if (s)he is present.
- 4.4 If the Chair is absent from a meeting, the Vice Chair must chair the meeting if (s)he is present.
- 4.5 If neither the Chair nor Vice Chair is present, the Committee shall appoint another Councillor to chair the meeting as the first item of business.
- 4.6 The Chair of the meeting must chair in accordance with these rules and the Constitution and where necessary taking advice from the Democratic Services Officer and / or legal advisor present.
- 4.7 The Chair may exercise a second and casting vote in committee meetings on any item of business.

5. Committee meeting agendas

- 5.1 Meetings will have an agenda similar to the example listed below:
- 5.1.1 To elect a Councillor to preside at the meeting if both the Chair and Vice Chair are not present;
- 5.1.2 To approve the minutes of the last meeting;
- 5.1.3 To receive any declarations of interest from Councillors;
- 5.1.4 To receive referrals from Full Council, the Executive or other Committees;
- 5.1.5 To receive reports, if any, from officers, the executive, and / or the Council's Committees;
- 5.1.6 To deal with any outstanding business from the last meeting; and
- 5.1.7 To consider any other business specified in the summons to the meeting.

- 5.2 A Committee meeting may not consider any business not included in the summons unless the Chair agrees to accept a late item on grounds of urgency and those reasons are recorded in the minutes.

6. Quorum

- 6.1 The quorum of a meeting shall be one third of the membership eligible to vote or the nearest whole number above one third subject to a minimum quorum of three Councillors.
- 6.2 If the Chair counts the number of Councillors present at a meeting and declares there is not a quorum, then the meeting will adjourn immediately for a period of up to 15 minutes to allow a quorum to be present (and the Chair may allow more than one adjournment up to a total period of 15 minutes).
- 6.3 If after a period of 15 minutes there is still no quorum, the Chair shall close the meeting and any remaining business will be considered at the next ordinary meeting or at a time and date fixed by the Chair.

7. Substitute Councillor Scheme (also known as alternates)

- 7.1 Subject to the provisions of this rule, any Councillor may act as a substitute for another Councillor of the same political group at a Committee meeting. The scheme's purpose is to maintain the quorum and political balance of Committees but should only be used when an ordinary member of a Committee is unable to attend a meeting by reason of illness, leave or other good reason.
- 7.2 Substitute Councillors may be appointed to cover vacancies (e.g. by reason of resignation or change of political group) in the membership of a Committee pending the appointment of a permanent Committee meeting at the next full Council meeting.
- 7.3 Substitution does not apply to the Audit and Risk Assurance Committee to ensure compliance with Chartered Institute of Public Finance and Accountancy (CIPFA) guidance.

7.4 Powers and duties

- 7.5 Substitute Councillors may exercise the powers and duties of any Committee member they are substituting for but may not exercise any special powers or duties exercisable by that Councillor.
- 7.6 Where the Chair is substituted, the Vice Chair will chair the meeting if present.
- 7.7 Where both the Chair and the Vice-Chair are substituted, the meeting will elect a person to preside from those present entitled to vote.

7.8 Substitution Procedure

- 7.9 The relevant group whip or leader must notify Democratic Services in writing of the proposed substitution (including the name of the substitute) as soon as possible and in advance of the relevant meeting.
- 7.10 In cases of urgency, verbal notification may be provided to Democratic Services with confirmation in writing. (If notification is provided at the meeting itself, it must be made before the meeting starts and to the Democratic Services Officer present and supporting the meeting).
- 7.11 The relevant group whip or leader may change a substitution if the notice requirements above are complied with before the start of the relevant meeting, including to revert to attendance by the ordinary committee member.

7.12 Limitations

- 7.13 Substitute Councillors must be appointed for the whole of a Committee meeting and the ordinary committee member has no right to attend the meeting as a Committee Member.
- 7.14 If a substitute Councillor attends a Planning or Licensing Committee meeting and an agenda item is part considered and the meeting adjourned to consider the matter at a later date, the substitute Councillor must attend the subsequent meeting to consider that item.
- 7.15 Substitute Councillors must have undertaken any mandatory training that is a requirement for membership of the relevant Committee.
- 7.16 Executive Members may not be substitutes on Overview and Scrutiny Committees or on the Audit and Risk Assurance Committee.

8. Duration of meetings

8.1 Interruption of the Meeting after three hours

8.2 If the business of any meeting has not been concluded within two hours (including any period of adjournment or otherwise), the Chair must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion. All Procedure Rules bar those relating to Disorderly Conduct and voting will be suspended.

8.3 In the case of a Committee determining regulatory matters, the Chair may instead:

8.3.1 Where practicable, defer any agenda item to a later meeting for debate and decision; or

8.3.2 Extend the meeting to allow matters that are required by law to be determined at the meeting to be considered in full.

8.4 Extension of the Duration of a Meeting

8.5 The Chair may extend the duration of a meeting to allow for a recorded vote (card vote) to be held.

8.6 A Councillor may move that the length of the meeting is extended by up to 30 minutes if:

8.6.1 The motion is moved before the expiry of two hours from the start of the meeting;

8.6.2 Is seconded and agreed by the committee without debate

8.7 Only one motion to extend the length of the meeting may be moved and the Chair may put to the vote a different period of extension to that moved but longer than 30 minutes to ensure the effective and timely conduct of Committee business.

8.8 When all the business on the meeting agenda is completed, the Chair will close the meeting.

9. Voting at Meetings

9.1 Simple Majority

9.2 Unless provided otherwise in this Constitution, any matter will be decided by a simple majority of those Councillors present in the room at the time the question is put and voting conducted on the matter.

9.3 Only Councillors may vote, except where the terms of reference of a Committee allow for voting by non-elected Committee members.

9.4 Chair's casting vote

9.5 The Chair may exercise a second or casting vote.

9.6 Show of Hands

9.7 Voting will be by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is requested.

9.8 Recorded vote (card or named vote)

9.9 If three Councillors present at the meeting demand it, the names for and against a decision or abstaining from voting will be recorded and entered into the minutes.

9.10 The Democratic Services Officer present will call out Councillors' names who will in response indicate immediately if they are voting for or against the matter or are abstaining from voting.

9.11 In the event of an equality of votes on a recorded vote, the Chair will have a casting vote which will be recorded.

9.12 Where available, electronic voting may be used to hold a recorded vote.

9.13 Right to require individual vote to be recorded

9.14 Where immediately after a vote is taken, a Councillor requests it, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

10. Rules of Debate

10.1 Committees are intended to be more informal and discursive than full Council meetings. The Chair shall have conduct of the debate with a view to ensuring

all Councillors are able to speak on matters relevant to the item under discussion. It is expected that Councillors and others attending maintain an atmosphere of courtesy and respect.

- 10.2 The following rules shall apply normally but, if the Chair considers it necessary, (s)he may conduct any debate in accordance with the Council Procedure Rules.
- 10.3 Councillors must remain silent when other councillors speak or when the Chair is speaking.
- 10.4 Councillors will stop speaking if requested to do so by the Chair.
- 10.5 All statements and questions must be addressed through the Chair.
- 10.6 Speeches and / or questions are not time limited and, if invited by the Chair, a member may speak more than once on an item but councillors should aim to speak for no longer than three minutes.
- 10.7 The Chair may limit the length or number of speeches or questions to ensure the effective conduct of the meeting.

11. Public Speaking Rights

- 11.1 The Chair may allow members of the public or other persons to speak at a meeting for up to three minutes. Any speech must directly relate to an item of business on the Committee agenda.
- 11.2 Members of the public or other persons may not submit documentation or other information for consideration by the Committee. The Committee must make its decision based on the information contained in the agenda papers published in accordance with the Access to Information Rules and any oral representations made at the meeting.
- 11.3 Separate rules for public speaking apply for Regulatory Committees as set out in their procedure rules in this Constitution.

12. Business Items

- 12.1 Items of business on the agenda will be presented to the Committee by Officers who may also answer any questions from Councillors.

- 12.2 The Committee may move and agree by consensus or by vote amendments to the recommendations as they see fit and, if required, following legal or other advice. Save where otherwise provided in this Constitution, there is no formal procedure for the moving of amendments.

13. Point Of Order

- 13.1 Any Councillor may make a point of order to the Chair alleging that there has been a breach of these rules or any other statutory provision.
- 13.2 A Councillor making a point of order must state to the Chair that:
- 13.2.1 (s)he wishes to make a point of order; and
 - 13.2.2 specifying the rule or statutory provision that has been breached; and
 - 13.2.3 the way in which (s)he considers it has been broken.
- 13.3 The Chair shall consider whether a valid point of order has been raised and:
- 13.3.1 If so, take any necessary action;
 - 13.3.2 If not, will continue with the business of the meeting
- 13.4 The Chair's ruling is final.

14. Point of Personal Explanation

- 14.1 As Councillors may speak more than once in Committee meetings, they may request to speak to make a personal explanation, where the Chair agrees that the councillor:
- 14.1.1 has been named by another Councillor during the debate and;
 - 14.1.2 in a manner which reflects adversely upon the reputation of the named Councillor.
- 14.2 A Councillor who wishes to make a personal explanation must make the request at the end of the current Councillor's speech to the Chair who may either agree or refuse the request. The Chair's decision is final.
- 14.3 In making a personal explanation, the councillor must only address the comment in respect of the Councillor's reputation.

15. Press and Public Access

15.1 Exclusion of the press and public

15.2 Committee meetings are held in public.

15.3 Members of the public and press may only be excluded in accordance with the Access to Information Rules in this Constitution or following disorderly conduct.

15.4 Recording and Filming

15.5 Any person, including Councillors, may record or film Committee proceedings when the meeting is held in public subject to the following:

15.5.1 Filming or recording must not disrupt the business and conduct of the meeting.

15.5.2 In the case of filming, remain in the allocated area for filming or a place agreed by Democratic Services.

15.5.3 Refrain from filming or recording any member of the public, except where part of the formal proceedings.

15.5.4 During a private session of the Committee, not leave any form of recording device in the meeting room and councillors remaining in the meeting and must not record or film any private session of the proceedings.

15.6 This permission does not extend to filming or recording outside of any matter outside of the formal proceedings or before or after the meeting.

15.7 Councillors must ensure they remain able to fully participate in the meeting whilst filming or recording the meeting.

16. Councillors' Misconduct

16.1 If a Councillor refuses to obey the Chair's instructions and / or the Committee's decisions and / or if a councillor when speaking uses offensive, intimidatory or abusive language including towards any councillor, officer or other person, the Chair may instruct the councillor to be seated and not to speak.

- 16.2 If the Councillor continues to refuse to obey the Chair's instructions and / or the Committee's decisions and / or if a councillor when speaking uses offensive, intimidatory or abusive language or otherwise misbehaves through disorderly conduct, the Chair may move without debate that the Councillor be suspended from and must leave the meeting, and
- 16.3 if the motion is seconded, the Committee shall vote on the motion.
- 16.4 If the Motion is carried but the offending Councillor refuses to leave the meeting, the Chair may take steps to remove the Councillor.
- 16.5 Mobile phones and other similar devices shall be placed on 'silent' and shall not be used, except as set out elsewhere in these rules.

17. Removal of a Member of the Public

- 17.1 If one or more members of the public interrupts the effective conduct of proceedings of the Committee, the Chair may warn him/her, and, if he/she again interrupts, the Chair may order his/her removal from the meeting room.

18. General Disturbance

- 18.1 In case of general disturbance in any part of the meeting room open to the public, the Chair may order that the part shall be cleared.

19. Notification of cancellation of meeting

- 19.1 The Proper Officer, after consultation with the Chair may issue, owing to exceptional circumstances, a Public Notice of Cancellation of the Meeting. The Notice must state reasons for the cancellation.

20. Suspension and / or amendment of committee procedure rules

- 20.1 Any or all of these rules, except the following rules, may be suspended by a majority if at least one half of the whole number of Councillors are present and eligible to vote. Suspension will only be for the item or meeting specified in the motion. Motions to suspend must specify the rule or rules being suspended.
- 20.2 Rules that may not be suspended:
- 20.2.1 Requirements for Summons (rule 3.3)

20.2.2 Quorum (rule 6)

20.2.3 Duration of the Meeting (rule 8)

20.2.4 Voting (rule 9)

20.2.5 Exclusion of the press and public (rule 15.1)

20.2.6 Recording and Filming (15.4)

20.2.7 Rules as to conduct and removal (rules 16-18)

Sandwell Metropolitan Borough Council

Constitution

Part 2.8 – Committees Responsibilities and Terms of Reference

Date	May 2025
Version Number	1.2
Document Owner:	Monitoring Officer



Explanatory Note: different types of committees

Different types of committees exist for a range of purposes as it would be impracticable for the Full Council to meet to make every decision reserved to it. Committees may be established by Full Council or the Executive. Sub-Committees or panels may also be set up by Committees to undertake specific activities.

The three main types of Committees are as follows:

Ordinary Committees – these are Committees set up by full Council so that powers or functions held by Full Council can be undertaken by – or delegated to – a smaller body of councillors. Examples include regulatory functions relating to planning, street trading licensing, audit, personnel and Councillor standards of behaviour. Full Council may also directly appoint Sub-Committees or Panels as required.

A set of general rules, mainly found under s.101 and s.102 of the Local Government Act 1972, govern the operation of these committees. For this reason, they are often referred to as ‘section 101’ Committees or ‘Ordinary Committees.’

Statutory Committees – these are Committees that are set up under specific legislation rather than the Council’s general powers above to establish Committees. This can mean that the rules that apply to Ordinary Committees do not apply to these Committees and that special rules under their parent legislation applies. The main example of such Committees are Committees and Sub-Committees established to make decisions on applications for alcohol and gambling licences under the Licensing Act 2003 and the Gambling Act 2005.

The Health and Wellbeing Board is a Statutory Committee with specific terms of reference and membership including external partners’ representatives.

Joint Committees – these are Committees which are appointed when two or more Local Authorities are involved in the discharge of a function.

Overview and Scrutiny Boards – the Council is required to set up Committees or Boards to hold the Executive (the Leader and Cabinet) to account under s.9F of the Local Government Act 2000. These are normally known as Scrutiny Boards. These Committees undertake the Council’s statutory scrutiny functions and are established by Full Council. There are currently 5 in Sandwell covering different areas of the Council’s responsibilities. Refer to Part 3 Scrutiny and Open Government of the Constitution for more information. Some of the rules for s.101 Committees apply to Scrutiny Boards, but not all.

Committees Responsibilities

1. A range of functions are reserved to full Council. Full Council established the following committees to discharge some of its functions:
 - 1.1 Planning Committee;
 - 1.2 Audit and Risk Assurance Committee;
 - 1.3 Governance and Constitution Review Committee;
 - 1.4 Ethical Standards and Member Development Committee;
 - 1.5 Licensing Act 2003 and Gambling Act 2005 Committee (the Licensing and Gambling Committee);
 - 1.6 General Licensing Committee;
 - 1.7 General Purposes and Arbitration Committee;
 - 1.8 Chief Officer Terms and Conditions Committee* (*to 30 September 2025)
Appointments and Disciplinary Committee** (**from 1 October 2025);
and
 - 1.9 Health and Wellbeing Board.
2. The attached terms of reference set out the membership, governance and delegated powers of each committee subject to the provisions of this Constitution and any statutory requirements.

Planning Committee

1. Purpose

- 1.1 The Planning Committee is responsible for making decisions on the more sensitive planning applications received by the Council. The Committee meets approximately every 4 weeks and is made up of Councillors from all political parties.
- 1.2 The Committee may appoint a Sub-Committee drawn from its membership to consider and determine applications from time to time delegated by the Committee. The Sub-Committee shall meet as directed by the Committee.

2. Composition

- 2.1 The Committee will comprise 11 councillors to be appointed by full Council.
- 2.2 The Committee may appoint a Sub-Committee made up of up to five Councillors from the Planning Committee.
- 2.3 Other than in exceptional circumstances agreed by the Monitoring Officer, Councillors will only be able to sit on the Committee and Sub-Committee to determine applications if they have attended mandatory planning training and the Monitoring Officer has confirmed they have completed the mandatory training requirement.

3. Quorum

- 3.1 The quorum of the Committee shall be four. The quorum of the Sub-Committee shall be three.

4. Powers

- 4.1 Those functions relating to town and country planning and development control as specified in Part A of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (hereafter the Functions Regulations).
- 4.2 All other matters relating to the discharge of the Council's functions under the Town and Country Planning Act 1990 the Planning (Listed Buildings and Conservation Area) Act 1990 and the Planning (Hazardous Substances) Act 1990 which are not functions of the Council's Executive in accordance with

the Constitution and regulations 3-5 and schedules 2-4 of the Functions Regulations.

- 4.3 Functions relating to the preservation of trees and hedgerows as specified in Part I of Schedule 1 to the Functions Regulations.
- 4.4 The functions of obtaining information under s.330 of the Town and Country Planning Act 1990 and s.16 of the Local Government (Miscellaneous Provisions) Act 1976 as to interests in land.
- 4.5 The discharge of the associated powers referred to in Regulations 2(2), 2(3) and 2(4) of the Functions Regulations as far as they relate to the functions described in paragraphs 3.1 to 3.4 above, including functions relating to highways to the extent that they relate or are associated with planning matters.
- 4.6 The approval of major planning applications which are contrary to policies of the Sandwell Local Plan or other national or approved Council planning policies (as classified by the relevant government department for monitoring purposes) comprising:
 - 4.6.1 10 or more dwellings, or the site area is 0.5 hectares or more where the number of dwellings is not specified; and/or
 - 4.6.2 new floor space of 1000 sq. meters or more, or the site area is 1 hectare or more where the floor space involved is not specified;
 - 4.6.3 except for a variation of a scheme previously approved by Planning Committee which are delegated to the Assistant Director and Head of Planning.
- 4.7 The determination of Planning applications where:
 - 4.7.1 approval will be a material departure from the development plan the Sandwell Local Plan (Annex 3 of DETR Circular 1991/92):
 - 4.7.2 approval of an application where an objection has been lodged on planning grounds or refusal where a representation of support has been lodged (s.70 of the Town and Country Planning Act 1990) (except an objection which is resolved to the satisfaction of the Assistant Director and Head of Planning by amendment to the

application or by the imposition of conditions, and for minor and other categories of application which conform to the policies of the Sandwell Local Plan including where an objection has been received which are delegated to the Assistant Director and Head of Planning), or where, in the opinion of the Assistant Director and Head of Planning, the application raises issues of planning importance or raises significant public concern/objection;

- 4.7.3 approval of an application where an objection has been lodged to an application or submission under the prior notification procedure, in respect of telecommunications development and where the application/submission is recommended to be granted or no objections to be raised to siting/appearance, except where a submission would be out of the statutory time for responding to such notifications;
- 4.7.4 approval of an application where an objection has been lodged on planning grounds to an application which has been submitted for their own development proposals by a councillor or their spouse or partner, chief officers or deputy chief officers (as defined in the Employment Procedure Rules), planning or building control service officers or any officers otherwise involved in the determination of the application;
- 4.7.5 approval of an application where, in the opinion of the Assistant Director and Head of Planning, the application raises issues of planning importance or raises significant public concern/objection or cost implications; and
- 4.7.6 where two or more Councillors object to a planning application within their own Ward (or the Councillor in a single member ward) specifying one or more valid planning grounds for objection in the opinion of the Assistant Director and Head of Planning excluding householder applications, advertisement applications, tree applications or minor works to listed buildings.

5. Delegation of Powers to Officers

5.1 Assistant Director and Head of Planning

- 5.2 Save where powers are expressly reserved to the Committee in these terms of reference, all the Council's planning and building control functions are delegated to the Assistant Director and Head of Planning including but not limited to:

Planning

- 5.3 Authorisation and service of Notices and instructing the Monitoring Officer to commence legal proceedings for failure to comply with the terms of any such Notices issued in connection with the Committees functions, excluding;
- 5.3.1 the service of Listed Buildings, Urgent Works and Repair Notices and Injunctions under s.187B and s.214A of the Town and Country Planning Act 1990;
 - 5.3.2 the service of a Stop Notice under s.183 of the Town and Country Planning Act 1990 where in the opinion of the Director of Planning and Building Control service of the Notice would result in substantial demolition, significant loss of jobs, or potential for substantial costs to the Council; and
 - 5.3.3 the service of a Notice requiring compulsory acquisition of Listed Buildings in need of repair or repairs Notice under ss. 47 and 48 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 5.4 To instruct the Monitoring Officer to commence legal proceedings for the unauthorised display of advertisements or unauthorised works to a listed building.
- 5.5 To authorise entry into a planning obligation under s.106 of the Town and Country Planning Act 1990.
- 5.6 The determination of all applications/ submissions and notifications not reserved to the Committee.
- 5.7 The refusal of all applications/notifications/submissions, which are contrary to policies of the Sandwell Local Plan other National or approved Council

planning policies, except in the case of where a representation of support has been received in respect of a major application.

Trees and Hedgerows

- 5.8 All powers to make and confirm Tree Preservation Orders and consents to protect or carry out works to trees under the provisions of Town and Country Planning and associated legislation, and authorisation of any proceedings to secure compliance; and
- 5.9 Power to authorise and serve notices under the Hedgerow Regulations 1997 including proceedings to secure compliance.

Miscellaneous Powers

- 5.10 All powers in respect of the following:
 - 5.10.1 to determine whether planning permission or consent under other planning or associated legislation is required;
 - 5.10.2 to determine the level of fees for applications or any other matter;
 - 5.10.3 to determine whether a proposal falls into Schedule 1 or 2 of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1999, and where appropriate to require the submission of an Environmental Statement;
 - 5.10.4 to determine whether prior approval is required under the Town and Country Planning (General Permitted Development) Order 2015 for agricultural development, demolition of a building;
 - 5.10.5 to determine details arising from, and minor amendments to, conditions imposed on grants of planning and associated permissions;
 - 5.10.6 to agree minor amendments to previously approved schemes including non-material amendments and minor material amendments;
 - 5.10.7 to decline planning applications pursuant to s.70A of the Town and Country Planning Act (as amended);

- 5.10.8 to make an assessment under the Conservation (Natural Habitats and Conservation) Regulations 1994 where an objection is lodged on conservation grounds by a statutory consultee;
- 5.10.9 to comment on applications submitted to neighbouring planning authorities on which the Council has been consulted;
- 5.10.10 to respond to Local Plan consultations;
- 5.10.11 to respond to government, government agency, and other planning consultations;
- 5.10.12 power to deal with technical stakeholder planning consultations including activities under the Localism Act 'Duty to Cooperate' that Sandwell Council undertakes, invites others to take part in, or is invited by others to take part in; and
- 5.10.13 power to prepare, consult on and adopt any informal planning documents (i.e., those not constituting part of the Statutory Local Plan or SPD).

Entry to Land

- 5.11 All powers in respect of the following:
 - 5.11.1 to authorise Officers to enter land in the discharge of any function contained in the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Town and Country Planning (Control of Advertisement) Regulations 1992, the Hedgerow Regulations 1997 and any other associated legislation giving power to enter land;
 - 5.11.2 to instruct the Monitoring Officer to commence proceedings against persons who wilfully obstruct an authorised officer acting in the discharge of their powers of entry;
 - 5.11.3 to authorise the application for warrants to enter land under any the legislation referred to above; and
 - 5.11.4 to discharge any of these powers.

- 5.12 Any reference to an Act of Parliament, Regulation or Order shall be deemed to include reference to any statutory re-enactment thereof for the time being in force.
- 5.13 The Director of Planning and Building Control is delegated authority to authorise any officer and / or delegate powers in these terms of reference to any other officer within their services or any other Council officer who is their opinion is competent to discharge the functions.

6. Code of Conduct

- 6.1 All members must comply with the Council's Code of Conduct for Regulatory processes and the Code of Practice for Councillor, Officer, Applicant and Developer Engagement in addition to any other requirements.

Audit and Risk Assurance Committee

1. Purpose

- 1.1 To provide independent assurance of the adequacy of the risk management framework and the internal control environment. To provide independent review of the Council's governance, risk management and control frameworks and oversee the financial reporting and annual governance processes. To oversee internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

2. Composition

- 2.1 The Committee will comprise 11 Councillors of the Council to be appointed by full Council and up to two Co-opted Independent Members. The Independent Members are appointed by the Committee. The Independent Members do not have voting rights.
- 2.2 The Committee may not appoint any person as an Independent Member who is an active Councillor of any political party, defined as any person who engages in political activities which would not be permissible if that person were an Officer holding a politically restricted post within the Council. The appointment of Independent Members may only be made if the person has particular knowledge or expertise in the functions for which the Committee is responsible.
- 2.3 Councillors will only be able to sit on the Committee if they have attended mandatory training and the Monitoring Officer has confirmed they have attended and completed the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be 4 Councillors.

4. Powers

- 4.1 The following functions and responsibilities are assigned to the Committee.

Governance, Risk and Control

- 4.2 To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and to consider the local code of governance.
- 4.3 To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account Internal Audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- 4.4 To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 4.5 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 4.6 To monitor the effective development and operation of risk management in the Council.
- 4.7 To monitor progress in addressing risk-related issues reported to the Committee.
- 4.8 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 4.9 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 4.10 To monitor the counter-fraud strategy, actions and resources which includes relevant strategies and procedures such as the Council's whistleblowing strategy and procedures.
- 4.11 To review the governance and assurance arrangements for wholly owned companies, significant partnerships, or collaborations.

Internal Audit

- 4.12 To approve the internal audit charter.

- 4.13 To approve the risk-based internal audit plan and counter fraud plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 4.14 To approve significant interim changes to the risk-based internal audit plan and counter fraud plan and resource requirements.
- 4.15 To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- 4.16 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- 4.17 To consider reports from the head of internal audit on internal audit's performance during the year.
- 4.18 To consider the head of internal audit's annual report and counter fraud report:
 - 4.18.1 The statement of the level of conformance with the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN) and the results of the Quality Assurance and Improvement Program (QAIP) that support the statement – these will indicate the reliability of the conclusions of internal audit.
 - 4.18.2 The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement (AGS).
- 4.19 To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

- 4.20 To contribute to the QAIP and, to the external quality assessment of internal audit that takes place at least once every five years.
- 4.21 To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the Accounts and Audit Regulations.

External Audit

- 4.22 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) or the authority's auditor panel as appropriate.
- 4.23 To consider the external auditor's annual letter, relevant reports, and reports to those charged with governance.
- 4.24 To consider specific reports as agreed with the external auditor.
- 4.25 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 4.26 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Financial Reporting / Annual Statement of Accounts

- 4.27 To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 4.28 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- 4.29 To seek assurances that the Council has complied with the Treasury Management Strategy and Practices by demonstrating effective control of the associated risks and pursuing optimum performance consistent with those risks.

Accountability Arrangements

- 4.30 To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 4.31 To report to full Council and Cabinet on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose and issues in relation to the implementation of the Council's Strategic Improvement Plan.
- 4.32 To publish an annual report on the work of the Committee.

Governance and Constitutional Review Committee

1. Purpose

- 1.1 To consider and review the Council's Constitution and to submit to full Council, as and when appropriate, any proposed changes to the Constitution including proposals for the adoption of new or amended Standing Orders and electoral arrangements.

2. Composition

- 2.1 The Committee will comprise 11 councillors.

3. Quorum

- 3.1 The quorum of the Committee shall be four Councillors appointed at full Council.

4. Terms of Reference

- 4.1 To monitor, review and make recommendations on the operation of the Council's decision-making structures.
- 4.2 To consider any reports and recommendations of the Independent Remuneration Panel prior to submission to full Council.
- 4.3 All functions relating to elections and electoral registration not otherwise reserved to Full Council as set out in Schedule 1 D of the Functions Regulations.
- 4.4 To consider and make recommendations to Full Council on matters relating to name and status of areas and individuals as set out in Schedule 1E of the Functions Regulations.
- 4.5 All functions not otherwise reserved to Full Council relating to community governance as set out in Part EB of Schedule 1 of the Functions Regulations.
- 4.6 Recommendations to full Council on making, amending, revoking, re-enacting or enforcing byelaws as set out in Part F of Schedule 1 of the Functions Regulations.
- 4.7 Making recommendations to Full Council on the promotion or approval of a local bill as set out in Part G of Schedule 1 of the Functions Regulations.

- 4.8 Making recommendations to full Council as to recommendations to the Secretary of State on borough boundaries, ward boundaries, electoral divisions, Wards or polling districts.

Ethical Standards and Member Development Committee

1. Purpose

- 1.1 To review and advise the Council on the Council's ethical framework, determine complaints about councillor conduct, and oversee the development and delivery of a member development strategy, induction programme and annual Member development programme.

2. Composition

- 2.1 The Committee will comprise 11 Councillors appointed at full Council and at least one Co-opted Independent Person, and an Independent Co-opted Member who may not vote.
- 2.2 The Committee shall be chaired by a Co-opted Independent Member appointed but in their absence a Councillor may chair the meeting.
- 2.3 Councillors are required to attend and complete any mandatory training as determined by the Monitoring Officer before participating in a hearing of a complaint under the Code of Conduct, including any 'refresher' training held before the hearing takes place.
- 2.4 All powers in respect of the following:

3. Quorum

- 3.1 The quorum of the Committee shall be four Councillors and one of either the Co-opted Independent Member or an Independent Person.
- 3.2 The quorum for a hearing under the Code of Conduct is three Councillors.

4. Terms of Reference

- 4.1 The promotion of the highest standards of behaviour by Councillors, Independent Members and Co-opted representatives in accordance with the Nolan Principles on standards in public life, comprising:-
 - 4.1.1 selflessness;
 - 4.1.2 integrity;
 - 4.1.3 objectivity;
 - 4.1.4 accountability;

- 4.1.5 openness;
- 4.1.6 honesty; and
- 4.1.7 leadership.
- 4.2 Advising full Council on the adoption and operation of the Member Code of Conduct, and approving and issuing guidance to members, making recommendations to full Council regarding suggested amendments to the Code and monitoring the operation of the Code.
- 4.3 To review training arrangements for Councillors and Co-opted appointees on matters relating to the Council's Codes of Conduct together with relevant protocols and related probity issues.
- 4.4 To receive reports on the registration and declaration of disclosable interests and offers of gifts and hospitality.
- 4.5 The adoption, implementation, and monitoring of a procedure for dealing with allegations of breaches of the Members Code of Conduct; including monitoring and review and amending it from time to time as the Committee sees fit.
- 4.6 To hear and determine complaints against members alleging breaches of the Members Code of Conduct, where these are referred to them by the Monitoring Officer, and to take action in respect of a Member found to be in breach including the imposition of sanctions as appropriate in accordance with the law, the Council's Constitution and relevant procedures adopted by full Council.
- 4.7 To consider any other matters referred to it by the Monitoring Officer.
- 4.8 To submit an annual report on the work of the Ethical Standards and Member Development Committee to full Council and promoting the standards of ethical conduct and behaviour expected of Councillors.
- 4.9 The Ethical Standards and Member Development Committee shall also determine under s.1.2 of the Local Government and Housing Act 1989 (the 1989 Act):

- 4.9.1 any application received from any officer of the Council for exemption from political restriction; and
- 4.9.2 any application to consider whether a post should be included in the list maintained by the Council under s.2(2) of the 1989 Act and may direct the Council to include a post in that list.
- 4.10 To respond to consultation exercises carried out by Government and other agencies on issues related to the work of the Committee.
- 4.11 To develop and oversee the implementation of an annual programme of development activities ensuring members have the necessary skills, knowledge and competencies to undertake their duties.
- 4.12 To assist in the development and continuous review of a strategy for Member development, creating an environment where members can clearly identify how participation in training and development activities has assisted them in carrying out their role.
- 4.13 To identify learning and development needs for Elected Members that will assist them in carrying out roles.
- 4.14 To monitor and review the Member Development Programme.
- 4.15 To select and develop Members and officers who will undertake the various roles required to assist the Council achieve the Member Development Charter and similar appropriate quality awards.

Ethical Standards Hearing Sub-Committee

- 4.16 The Committee may from time to time as necessary, establish an Ethical Standards Hearing subcommittee (Hearing Sub-Committee) for the purposes of determining a standards complaint against a Member or Co-opted Member of the Council.
- 4.17 The Hearing Sub-committee shall comprise three Councillors drawn from the membership of the Ethical Standards and Member Development Committee.
- 4.18 The Hearing Subcommittee will be politically balanced so far as practicable.
- 4.19 The Hearing Subcommittee shall hear and determine code of conduct complaints in accordance with the arrangements agreed by the Council.

Licensing Act 2003 and Gambling Act 2005 Committee

(the Licensing and Gambling Committee)

1. Purpose

- 1.1 The Licensing and Gambling Committee (and its Sub-Committees) exercises the functions of the Council as Licensing Authority for the purposes and requirements of the Licensing Act 2003 and the Gambling Act 2005, except where functions are reserved to full Council.

2. Composition

- 2.1 The Committee will comprise 15 Councillors appointed by full Council.
- 2.2 The Committee will establish Sub-Committees of three Councillors to determine applications for licensing and gambling activities not delegated to officers, comprising three Councillors only.
- 2.3 The political balance rules will apply as follows:
 - 2.3.1 The Committee will be subject to political balance.
 - 2.3.2 Sub committees will not be subject to political balance.
- 2.4 Councillors will only be able to sit on the Committee or Sub-Committees determining an application if they have attended and completed mandatory training and the Monitoring Officer has confirmed they have attended the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be five Councillors.
- 3.2 The quorum for Sub-Committees will be three Councillors.

4. General Powers

- 4.1 The Committee may review the Council's Statement of Licensing Policy under the 2003 Act and Statement of Gambling Principles under the 2005 Act and may recommend changes to full Council.

5. Delegation of powers

- 5.1 The Licensing Committee may delegate functions and responsibilities to a Sub-Committee or a nominated Officer (subject to certain exceptions

contained in s.10(4) of the Licensing Act 2003. These delegations are made by the Licensing Committee and not full Council. A Sub-Committee may also delegate its functions to an Officer subject to the s.10(4) exceptions).

5.2 The following responsibilities are excluded from delegation to Officers under s.10(4) Licensing Act 2003, comprising any function for:

- 5.2.1 determination of application for premises licence where representations have been made (s.18(3);
- 5.2.2 determination of application for provisional statement where representations have been made s.31(3);
- 5.2.3 determination of application for variation of premises licence where representations have been made (s.35.3);
- 5.2.4 determination of application to vary designated premises supervisor following police objection (s.39(3);
- 5.2.5 determination of application for transfer of premises licence following objection (s.44(5);
- 5.2.6 consideration of objection made to interim authority notice (s.48(3);
- 5.2.7 determination of interim steps pending summary review (ss. 53A(2)(a) or 53B);
- 5.2.8 determination of application for club premises certificate where representations have been made (s.72(3);
- 5.2.9 determination of application to vary club premises certificate where representations have been made (s.85(3);
- 5.2.10 decision to give counter notice following police objection to temporary event notice (s.105(2);
- 5.2.11 determination of application for grant of personal licence following objection (s.120(7);
- 5.2.12 revocation of licence where convictions come to light after grant etc. (s.124(4);
- 5.2.13 revocation or suspension of licence by local authority where it becomes aware of convictions or immigration penalties (ss. 132A (8) and (12); and
- 5.2.14 determination of interim steps pending summary off-sales review (ss. 172G(3)(a) or 172H).

6. Hearing Procedure

- 6.1 The Committee Procedure Rules will not apply to Committee and Sub-Committee meetings when determining applications under the Licensing Act or Gambling Act and statutory provisions under those Acts shall apply.
- 6.2 Where the Committee is considering any other matter, the Council's Committee Procedure Rules shall apply.

General Licensing Committee

1. Purpose

- 1.1 The General Licensing Committee has power to discharge all other licensing and registration functions of the Council, which do not expressly fall within the remit of another Regulatory Committee.

2. Composition

- 2.1 The Committee will comprise of 11 councillors appointed by full Council.
- 2.2 Councillors will only be able to sit on the Committee if they have attended mandatory procedures training and the Monitoring Officer has confirmed they have completed the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be four Councillors.

4. Terms of Reference

- 4.1 All local authority licensing and registration functions and ancillary matters other than those falling within the remit of the Licensing and Gambling Committee or its Sub-Committees, including, but not limited to:
 - 4.1.1 Licensing and registration functions as set out in Part B of Schedule 1 of the Functions Regulations.
 - 4.1.2 Functions relating to health and safety at work (other than as employer) as set out in schedule 1 C of the Functions Regulations.
 - 4.1.3 Functions relating to smoke free premises as set out in schedule 1 FA of the Functions Regulations.

5. Delegation of powers to a Sub-Committee

- 5.1 The committee may appoint Sub-Committees comprising between three and five Councillors to discharge the functions of the Committee.

6. Delegation of powers to officers

- 6.1 The Council's Scheme of Delegation or this Committee may delegate any of the functions of the Committee to Officers.

- 6.2 The Executive Director for Place is authorised to undertake all other functions under the 1990 Act and the Functions Regulations and as may be amended by law from time to time including determination of applications for Hackney Carriage and Private Hire Vehicle Drivers Licences, and the revocation thereof, in accordance with such scheme as may be determined from time to time by the General Licensing Committee.
- 6.3 The Executive Director is further authorised to delegate any of the above functions to appropriate officers, as s/he thinks fit.
- 6.4 Any reference to an Act of Parliament, Regulation or Order shall be deemed to include reference to any statutory re-enactment thereof for the time being in force.

General Purposes and Arbitration Committee

1. Purpose

- 1.1 With the exception of any matter which falls within the terms of any other council committee, the General Purposes Committee is authorised to consider, make recommendations or determine matters on any Council (non-executive) function delegated to an Executive Director or Service Director which does not fall within the terms of reference of any other Committee.

2. Composition

- 2.1 The Committee will comprise 11 Councillors appointed by full Council.
- 2.2 The Committee will establish a Sub-Committee comprising three Councillors only to determine determination of disputes arising from the Joint Consultative Panel or from decisions of the executive in relation to which a formal 'Failure to Agree' is registered by a Trade Union(s) solely to the extent that any matter subject to dispute requires agreement between the Executive and Trade Union(s) prior to implementation.
- 2.3 The political balance rules will apply as follows:
 - 2.3.1 The Committee will be subject to political balance.
 - 2.3.2 The Sub-Committee will not be subject to political balance.
- 2.4 Councillors will only be able to sit on the Committee or Sub-Committees determining an application if they have attended and completed any necessary mandatory training and the Monitoring Officer has confirmed they have attended the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be four Councillors.

4. Terms of Reference

- 4.1 To monitor, review and make recommendations on the operation of the Council's decision-making structures not otherwise reserved to the Governance and Constitutional Review Committee.

- 4.2 To act as Managing Trustees of the Charity of Leonard Andrews Poole.
- 4.3 To consider and determine:
 - 4.3.1 Appeals against decisions of the relevant Executive Director or staff reporting to them regarding non-inclusion on the standing list for residential services and the approved list for non-residential services.
 - 4.3.2 Appeals against decisions of the relevant Director or staff reporting to them to exclude providers from the standing list of residential and nursing homes and the approved list for non-residential services.
 - 4.3.3 Oral or written representations made by applicants for registration under the provisions of the Registered Homes Act 1984, the Registered Homes (Amendment) Act 1991 and the Children Act 1989.
 - 4.3.4 Appeals against the decision of the relevant Director(s) in relation to access to personal files under the Access to Personal Files (Housing) Regulations 1989.
 - 4.3.5 Any appeals against decisions made by the Section 151 Officer on the ranking of charges, the redemption figure or the loan amount, in relation to the repatriation of the Kick Start Loan Portfolio.
- 4.4 The determination of disputes arising from the Joint Consultative Panel solely to the extent that any matter subject to dispute requires agreement between the executive and Trade Union(s) prior to implementation.
- 4.5 The determination of disputes arising from decisions of the executive in relation to which a formal 'Failure to Agree' is registered by a Trade Union(s) solely to the extent that any matter subject to dispute requires agreement between the executive and Trade Union(s) prior to implementation.
- 4.6 Any other employee relations matter which the Proper Officer, in consultation with the Assistant Chief Executive, may from time to time determine are relevant to be considered by the Committee to comply with appropriate human rights legislation.

Chief Officer Terms and Conditions Committee (to 30 September 2025)

1. Purpose

- 1.1 The Chief Officer Terms and Conditions Committee (the Committee) discharges the powers of the Council in respect of the employment of the Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers.

2. Composition

- 2.1 The Committee will comprise seven Councillors including at least two Members of the Executive, who will normally be the relevant Lead Member and the Leader or Deputy Leader.
- 2.2 Councillors will only be able to sit on the Committee if they have attended training and the Monitoring Officer has confirmed they have attended the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be three Councillors only, including a Cabinet Member.

4. Powers and Terms of Reference

- 4.1 Within approved Council policy and in accordance with the overall aims and objectives of the Council, the Committee shall:-
- 4.1.1 consider and make recommendations to the Council on all matters which fall within the following terms of reference:-
- (a) the selection and appointment of persons to the post of Head of the Paid Service of the Council;
 - (b) the dismissal of the Head of the Paid Service, Chief Finance Officer or the Monitoring Officer, following consideration with at least two Independent Persons, in accordance with Section 4.4 – Officer Employment Rules of the Constitution;
- 4.1.2 deal with all matters which fall within the following terms of reference, which are delegated to it:-

- (a) the selection and appointment of persons to Chief Officer posts within the Council (or associated bodies where the post holder is to be employed on the terms and conditions of the Council) as defined in ss.2 (6), (7) and (8) of the Local Government and Housing Act 1989;
 - (c) the dismissal of officers of the Council (or associated bodies where the post holder is employed on the terms and conditions of the Council) as defined in ss.2 (6), (7) and (8) of the Local Government and Housing Act 1989;
- 4.1.3 disciplinary dismissal of an assistant to a political group;
- 4.1.4 any other matters in relation to the employment, remuneration and terms and conditions of the Head of the Paid Service as may be required by Part 4.4 - Employment Procedure Rules of the Constitution or periodically delegated to it by the Council.
- 4.1.5 any other matters in relation to the employment, remuneration and terms and conditions of Chief Officers of the Council (or associated bodies where the post holder is, or is to be employed on the terms and conditions of the Council) as defined in Sections 2 (6), (7) and (8) of the Local Government and Housing Act 1989, as may be required by Part 4.4 - Employment Procedure Rules of the Constitution or periodically delegated to it by the Council.
- 4.1.6 the management and monitoring of local pay reviews of the Chief Executive and Chief Officers of the Council, in accordance with the Joint Negotiating Committee for Chief Officers of Local Authorities' agreement dated 5th October 1998 and subsequent national agreements;
- 4.1.7 the agreement of pay and conditions for the Chief Executive and Chief Officers in accordance with any Joint Negotiating Committee for Chief Officers of Local Authorities' agreements; and
- 4.1.8 the agreement of minor changes to the Senior Officer's establishment to reflect the realignment of services to ensure best fit and continuity of service.

Chief Officers Appointments Sub-Committee

1. Purpose

- 1.1 The Chief Officers Appointments Sub-Committee (the Sub-Committee) selection and appointment of persons to posts below the designation of Director, which are notionally identified as a Deputy Chief Officer of the Council (or associated bodies where the post holder is to be employed on the terms and conditions of the Council) as defined in Sections 2 (8) of the Local Government and Housing Act 1989.

2. Composition

- 2.1 The Sub-Committee will comprise three Councillors including at least two Members of the Executive, which will normally include be the relevant Lead Member and the Leader or Deputy Leader.
- 2.2 Councillors will only be able to sit on the Sub-Committee if they have attended training and the Monitoring Officer has confirmed they have attended the requisite training.

3. Quorum

- 3.1 The quorum of the Committee shall be two Councillors only.

4. Powers and Terms of Reference

- 4.1 Within approved Council policy and in accordance with the overall aims and objectives of the Council, the Sub-Committee shall deal with all matters which fall within the following terms of reference, which are delegated to it:-
 - 4.1.1 The selection and appointment of persons to posts below the designation of Director, which are notionally identified as a Deputy Chief Officer of the Council (or associated bodies where the post holder is to be employed on the terms and conditions of the Council) as defined in Sections 2 (8) of the Local Government and Housing Act 1989.

Appointments and Disciplinary Committee

(from 1 October 2025)

1. Purpose

- 1.1 The Appointments and Disciplinary Committee (the Panel) discharges the powers of the Council in respect of the employment of the Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers.

2. Composition

- 2.1 The Committee will comprise seven Councillors including at least one Member of the Executive, who will normally be the relevant Lead Member or the Leader or Deputy Leader.
- 2.2 Councillors will only be able to sit on the Committee if they have attended training and the Monitoring Officer has confirmed they have attended the requisite training.

3. Quorum

- 3.1 The quorum of the Panel shall be three Councillors only, including a Cabinet Member.

4. Powers

- 4.1 The Panel is delegated all powers reserved to councillor in respect of the appointment, employment and dismissal (including discipline and grievance matters) in respect of the following posts.

Statutory provision	Current Post(s)
The head of paid service under s.4 of the 1989 Act	The Chief Executive
statutory chief officer within the meaning of s2(6) of the 1989 Act	Director of Children Services Director of Adult Social Services Director of Public Health

Statutory provision	Current Post(s)
	Chief Finance Officer (s.151 officer)
a non-statutory chief officer within the meaning of s2(7) of the 1989 Act	Monitoring Officer Director or Service Directors (and any other non-clerical posts reporting to the Chief Executive)
a deputy chief officer within the meaning of s 2(8) of the 1989 Act	Non-clerical posts reporting directly to statutory or non-statutory chief officers.

5. Appointments

- 5.1 The Panel will interview candidates shortlisted for any of the above posts and either make recommendations for their appointment or make the decision to appoint the candidates, subject to compliance with the Employment Procedure Rules.
- 5.2 The Chief Executive (or their nominee) is delegated authority to make interim appointments to any of the above posts for a duration of up to twelve months or a longer period agreed by the Panel. The Panel may agree to extend an interim appointment for any period and the Chief Executive may agree to extend an interim appointment (following consultation with the Leader) until such time as the Panel may meet and complying with any notice requirements to the Officer.

6. Disciplinary Action, Grievances or Dismissal

- 6.1 The Panel will determine all disciplinary matters, including and up to dismissal, or any grievances that are reserved to Councillors under the Employment Procedure Rules.
- 6.2 The Panel must comply with the Employment Procedure Rules and any contractual or other employment law rights of the Officer.

7. Employment Matters reserved to Full Council

- 7.1 The Committee is delegated power in respect of all functions relating to pensions as set out in Part H of Schedule 1 of the Functions Regulations, except those expressly delegated to officers by the Council.

8. Reserved Matters

- 8.1 **Appointment and dismissal of Head of Paid Service** - Full Council must approve any recommendation made by the Panel prior to any formal offer of appointment being made to that person.

- 8.2 **Dismissal of Head of Paid Service, Monitoring Officer (s.5 Local Government & Housing Act 1989) and Chief Finance & s.151 Officer (s.151 of the Local Government Act 1972)** - Full Council must approve any recommendation to dismiss, before notice is given to that person, having regard to:

- 8.2.1 the recommendation of the Appointments and Disciplinary Panel to dismiss; and
- 8.2.2 any advice, views or recommendations on any proposal for the dismissal from the Independent Panel (Statutory Chief Officer Dismissal).

Independent Panel (Statutory Chief Officer Dismissal)

1. Purpose

- 1.1 To offer the Council advice, views or recommendations on any proposal for the dismissal of a statutory chief officer. The Panel, in doing so, will consider:
 - 1.1.1 the recommendation of the Appointments and Disciplinary Panel and the reasons in support of that recommendation;
 - 1.1.2 the report of the independent investigator; and
 - 1.1.3 any oral and/or written representations from the Statutory Officer.
- 1.2 The Council must invite Independent Persons to be appointed to the Panel in the following priority order:
 - 1.2.1 a relevant Independent Person who has been appointed by the authority and who is a local government elector;
 - 1.2.2 any other relevant Independent Person who has been appointed by the authority; and
 - 1.2.3 a relevant Independent Person who has been appointed by another authority or authorities.
- 1.3 The Council must appoint the Panel at least 20 working days before the Council meeting at which any vote is taken on whether or not to approve the dismissal of a Statutory Officer.

2. Terms of Reference

- 2.1 Delegated power to consider recommendations made by Appointments and Disciplinary Panel to dismiss the Head of Paid Service, Monitoring Officer (s.5 Local Government & Housing Act 1989) and Chief Finance and Section 151 Officer (s.151 of the Local Government Act 1972).

Health and Wellbeing Board

1. Purpose

- 1.1 The Health and Wellbeing Board is a Committee of the Council established under s102 of the Local Government Act 1972 as an ordinary committee pursuant to s194 of the Health and Care Act 2012 (as amended) and the Local Authority (Public Health, Health and Wellbeing Boards and Scrutiny) Regulations 2013.
- 1.2 The Health and Wellbeing Board will lead the improvement of the health and wellbeing of Sandwell's population, with a specific focus on tackling health inequalities.

2. Composition

- 2.1 The voting members of the Board must as a minimum consist of:
 - 2.1.1 At least one Councillor (to be nominated by the Leader).
 - 2.1.2 The Director of Adult Social Services.
 - 2.1.3 The Director of Children's Services.
 - 2.1.4 The Director of Public Health.
 - 2.1.5 A representative of the Local Healthwatch organisation for the area of the local authority.
 - 2.1.6 A representative of each relevant integrated care board.
 - 2.1.7 Such other persons, or representatives of such other persons, as the local authority think appropriate.
 - 2.1.8 The Board may, in addition, appoint such other persons or representatives as it thinks appropriate.
- 2.2 The Council will publish a list of members when fully determined and appointed.
- 2.3 The political balance requirements as set out in the Local Government and Housing Act 1989 do not apply to membership of the Board.

3. Quorum

- 3.1 The quorum of the Board shall be four appointed members comprising two local authority representatives and two NHS representatives.

4. Powers

- 4.1 To prepare and agree a Joint Strategic Needs Assessments (JSNA).
- 4.2 To prepare and agree Joint Health and Wellbeing Strategies (JHWA).
- 4.3 To encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under s.75 of the National Health Service Act 2006 (in connection with the provision of health and social care services).
- 4.4 To discharge powers to encourage:
 - 4.4.1 close working between commissioners of health-related services and the board itself; and
 - 4.4.2 close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.
- 4.5 Any other functions that may be delegated by the Council under s. 196(2) of the Health and Care Act 2012 (as amended);
- 4.6 To review and comment on forward plans, annual reports and budget arrangements submitted by the Integrated Care Board under their statutory obligations.
- 4.7 To formally sign off the submission of, and provide oversight and monitoring of, the Better Care Fund.

Joint Committees

Explanatory Note:

Joint Committees. Joint Committees consist of members of two or more authorities established for the joint discharge of any functions of those authorities in accordance with s101 of the Local Government Act 1972 (LGA 1972) and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (amended in 2024). Sandwell has a number of Joint Committees in partnership with neighbouring authorities, set out below.

Joint Health Scrutiny Committees. Two NHS geographical areas cover Sandwell. These are Sandwell and West Birmingham Hospitals Trust and Black Country Integrated Care system/Board. Work is underway with colleagues at Birmingham City Council, and the 4 Black Country Local Authorities (Sandwell, Dudley, Walsall and Wolverhampton) regarding joint health scrutiny arrangements to develop shared Memorandums of Understanding (MoUs) to govern these arrangements. MoUs have been drafted and are in the process of being consulted on. The MOUs set out how the local authorities and NHS Trusts will work together and how substantial variations will be identified and dealt with.

Joint Health Scrutiny Committees

1. Purpose

- 1.1 The Health and Adult Social Care Overview and Scrutiny Board may establish Joint Health Scrutiny Committees with one or more neighbouring local authority for the purpose of:-
 - 1.1.1 acting as the statutory scrutiny body for the consideration of service reconfiguration proposals ('substantial variation(s)') made by relevant NHS bodies and health service providers including the Black Country Integrated Care Board and Sandwell and West Birmingham Hospitals Trust;
 - 1.1.2 scrutinising the planning, provision and operation of the health services affecting Sandwell's residents; and
 - 1.1.3 scrutinising cross boundary health issues, as deemed necessary by the chairs of the respective constituent authorities' Health Overview and Scrutiny Committee/Board.

- 1.2 Joint health scrutiny committees shall operate in accordance with a Memorandum of Understanding, which shall be agreed by the relevant local authorities and relevant NHS bodies and health service providers concerned.
- 1.3 The purpose of the Memorandum of Understanding shall be to:
 - 1.3.1 ensure that the committee operates in compliance with the statutory duties and powers of Health Scrutiny as stipulated in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and the National Health Service Act 2006 (as amended);
 - 1.3.2 establish the criteria for determining when a variation to service will be considered substantial;
 - 1.3.3 establish the principles, procedures and timescales for effective joint working and communication between the committee and the relevant NHS bodies and health service providers involved;
 - 1.3.4 define the Constitution of scope and criteria for the committee to scrutinise substantial variations to health services that affect the population of more than one local authority area; and
 - 1.3.5 set out the mechanism for the Committee to make recommendations and call-in requests to the Secretary of State for Health and Social Care on proposed substantial variations that the committee does not agree with.
- 1.4 The relevant legislation setting out requirements for health scrutiny is:
 - 1.4.1 Health and Social Care Act 2012;
 - 1.4.2 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013; and
 - 1.4.3 Health and Care Act 2022.
- 1.5 This is supplemented by relevant guidance:
 - 1.5.1 Local Authority Health Scrutiny (DHSC, updated 2024); and
 - 1.5.2 Statutory guidance: "Reconfiguring NHS services – ministerial intervention powers" (DHSC, 2024).

2. Composition

- 4.2 The Joint Health Scrutiny Committee shall be constituted in accordance with the Memorandum of Understanding.
- 4.3 Each participating local authority should ensure that those councillors it nominates to a joint health scrutiny committee reflect its own political balance in accordance with the requirements of Localism Act 2011, Schedule 2 9FA, 6 (b). Overall political balance requirements may be waived with the agreement of all participating local authorities.

3. Terms of Reference

- 3.1 A Joint Health Scrutiny Committee can:
 - 3.1.1 require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions;
 - 3.1.2 make comments on the subject proposal by a date provided by the NHS body/local health service provider;
 - 3.1.3 make reports and recommendations to relevant NHS bodies and health service providers;
 - 3.1.4 require relevant NHS bodies and health service providers to respond within a fixed timescale to reports or recommendations;
 - 3.1.5 carry out further negotiations with the relevant NHS body/local health service provider where it is proposing not to agree to a substantial variation proposal; and
 - 3.1.6 where agreement cannot be reached, to notify the NHS body/local health service provider that it intends to request the Secretary of State to call in the proposed variation.
- 3.2 Where there are concerns about proposals for substantial developments or variation in health services the joint committee and the NHS body/local health service provider should work together to attempt to resolve these locally. Informal may be sought from the Independent Reconfiguration Panel (IRP).

- 3.3 Where the relevant parties, in accordance with the Memorandum of Understanding, have agreed that the proposals represent substantial developments or variations to services and agreed to enter into joint arrangements, only the joint health scrutiny committee may exercise these powers.

West Midlands Police and Crime Panel

1. Purpose

- 1.1 The West Midlands Police and Crime Panel examine the actions and decisions of the Police and Crime Commissioner (PCC). The Panel make sure information is available for the public so that they can hold the PCC to account.

2. Composition

- 2.1 The Panel is made up of ten elected representatives (Councillors) from the local authorities within the West Midlands Police force area plus two Independent Co-opted Members.

3. Terms of Reference

- 3.1 The Panel's responsibilities include:
 - 3.1.1 Contributing to the development of the PCC's police and crime plan.
 - 3.1.2 Making comments on the PCC's annual report at a public meeting.
 - 3.1.3 Scrutinising the PCC's proposed council tax precept.
 - 3.1.4 Confirming the appointments of the chief constable and the PCC's senior support staff.
 - 3.1.5 Making reports and recommendations to the PCC; and
 - 3.1.6 Dealing with complaints about the PCC.

4. Host authority

- 4.1 Birmingham City Council is the host authority for the West Midlands Police and Crime Panel.

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Sandwell Metropolitan Borough Council

Constitution

Part 2.9 – Officers

Date Approved:

Version Number

1.1

Document Owner:

Monitoring Officer

Explanatory Note: The role of Officers

‘Officer’ is a term used to describe the Council’s staff who deliver Council services, whether directly to citizens and other stakeholders, providing support services that ensure the Council delivers best value (such as finance and human resources), or managing the Council and providing advice to the Leader and Cabinet to deliver their policies.

The **Chief Executive** is the Council’s Lead Officer, accountable for the implementation of the Council’s priorities and advising the Leader and Cabinet. With the exception of the Council’s most Senior Officers, the Chief Executive has the legal responsibility for the management of the Council’s staff, including appointment, dismissal and disciplinary action. Senior Officers (known in law as ‘Chief Officers’ and ‘Deputy Chief Officers’) are appointed and dismissed by Councillors. Full Council must appoint the Chief Executive and must take the decision to dismiss certain Statutory Officers including the Chief Executive, Monitoring Officer or Chief Financial Officer following the receipt of independent advice and investigation.

The Employment Procedure Rules included in this Part set out the procedures for the appointment dismissal and management of officers employed by the Council.

The Council is organised into four directorates to deliver the Council’s different services, ranging from social care to planning and building control. Each directorate is led by an Executive Director who reports to the Chief Executive and is accountable to Councillors. The Council’s management structure is part of this Constitution.

Officer Powers

To carry out their duties, the Leader and the Council agrees a Scheme of Delegation that delegates powers to officers that are necessary to deliver council services and ensure best value. The Cabinet, Cabinet members and Committees can also delegate powers to officers.

Executive Directors will establish Schemes of Delegation in their directorates to ensure that all officers have the powers to deliver services.

Explanatory Note: The role of Officers

Statutory Officers

The law requires the Council to appoint individual officers to statutory roles. These roles are aimed at ensuring the Council acts lawfully, has sound finances and in key areas - such as social care and public health - has a Lead Officer accountable for these services. A list of Statutory Officers is included in this Part, including:

- The Chief Executive is the Head of Paid Service with overall responsibility for delivering council services through its staff.
- The Chief Finance Officer (or “s.151 officer”) responsible for the Council’s finances and that the Council sets a balanced budget.
- The Monitoring Officer responsible for the legality of the Council’s decisions and activities and the management of complaints against Councillors.

Due to the sensitive nature of these roles, they have additional statutory protection from disciplinary action and dismissal. Other Statutory Officers are responsible for key service areas:

- The Director of Children Services
- The Director of Adult Social Care
- The Director of Public Health

Officers

1. Roles, functions and powers

- 1.1 The Council's employees and other staff are referred to as 'Officers,' which includes, for the avoidance of doubt, those engaged on contracts for services and / or on temporary contracts or on secondment from another organisation.
- 1.2 The Chief Executive is responsible for the organisation, recruitment and management of all officers and the duties as the designated Council's Head of Paid Service under s.4 of the Local Government and Housing Act 1989 and the Local Authorities (Standing Orders) (England) Regulations 2001/3384, save where powers are reserved to councillors under this Constitution.
- 1.3 The Chief Executive may exercise any functions delegated to other Officers and may authorise one or more Officers in any of the Council's departments to make decisions or exercise functions unless expressly prohibited by law from doing so.
- 1.4 The Chief Executive shall also have the authority to carry out all Executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the Cabinet appointed to achieve a quorum.
- 1.5 If the Chief Executive acts in the circumstances set out in paragraph 1.4 above, the Chief Executive shall notify before acting, the leaders of Council's political groups, if any.

2. Management Structure

- 2.1 The Council's management structure is appended to this part of the Constitution.

3. Employment of Officers

- 3.1 Subject to 3.2, all functions and powers relating to the appointment and dismissal of, and taking disciplinary action against, an Officer must be

discharged by the Chief Executive as Head of Paid Service or by Officers nominated by the Chief Executive.

- 3.2 All Council employees must be appointed on merit.
- 3.3 In respect of politically restricted posts (as defined in Part 1 of the Local Government and Housing Act 1989) must comply with the statutory limitations on political activity.
- 3.4 The Council's Employment Procedure Rules, which form part of this Constitution, set out:
 - 3.4.1 the posts which, in respect of the appointment, dismissal and disciplinary action against post holders, are the responsibility of Councillors, either sitting in committee or, where necessary, by full Council decision; and
 - 3.4.2 the procedures applying to the appointment, dismissal and disciplinary action against Officers holding these posts.

4. Statutory Officers

- 4.1 Statutory Officers are individual Officers appointed by the Council to discharge duties as part of their employment. The officer must exercise the duties personally or, where lawful, through deputy statutory officers appointed by the Statutory Officer or in this Constitution.
- 4.2 The list of Statutory Officers is included in the Scheme of Delegation to Officers.
- 4.3 Where a post is identified in the list of Statutory Officers as holding a statutory office and an Officer is appointed to that post, no further approval is required from Council. This applies to all Officers, as defined in 1.1. above.
- 4.4 The Monitoring Officer is delegated authority to amend the list of Statutory Officers to remove and replace redundant posts or changes of appointments.

5. Functions of the Head of Paid Service

- 5.1 The Chief Executive is designated by full Council as its Head of Paid Service. In addition to powers stated elsewhere in this Constitution, the Chief Executive as Head of Paid Service has the following functions.
- 5.2 The Head of Paid Service will report to Council on the how the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of Officers.
- 5.3 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they meet all other requirements of this role.

6. Functions of the Monitoring Officer

- 6.1 The Assistant Director, Legal and Assurance is the Council's Monitoring Officer. In addition to powers stated elsewhere in this Constitution, the Monitoring Officer has the following functions.
- 6.2 **Ensuring lawfulness and fairness of decision-making**
- 6.3 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report in writing to the full Council, or to the Leader or Cabinet in relation to an Executive function if (s)he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.
- 6.4 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 6.5 **Ethical Framework and Councillor's Code of Conduct**
- 6.6 The Monitoring Officer is responsible for:
 - 6.6.3 the effective operation and maintenance of the Councillor's Code of Conduct reporting to the Ethical Standards and Member Development Committee;

- 6.6.4 maintaining the Council's register of councillors' disclosable pecuniary and other interests; and
- 6.6.5 advising Councillors on their obligations under the Code of Conduct.
- 6.7 **Proper Officer for access to information**
- 6.8 The Monitoring Officer will ensure that the Council complies with its duties to provide the press and public access to information submitted to Cabinet, Council and Committees and also determining when exemptions to publication and access applies.
- 6.9 **Advising whether Executive decisions are within the Budget and Policy Framework**
- 6.10 The Monitoring Officer will advise whether decisions of the Leader and Cabinet are in accordance with the Budget and Policy Framework.
- 6.11 **Providing advice**
- 6.12 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and Officers.
- 6.13 **Contributing to corporate management**
- 6.14 The Monitoring Officer will contribute to the corporate management of the Council in particular the provision of legal and governance advice.
- 6.15 **Restrictions on posts**
- 6.16 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- 6.17 **Legal proceedings**
- 6.18 The Monitoring Officer, Assistant Director – Legal and Assurance is authorised:
 - 6.18.6 to institute, defend or participate in any legal proceedings (whether actual or contemplated) in any case where such action is necessary to give effect to decisions of the Council or in any case where s/he

considers that such action is necessary to protect the Council's interests.

6.18.7 to undertake any other powers delegated to her/him under the Council's Scheme of Delegation or otherwise in this Constitution.

6.19 The Monitoring Officer, Assistant Director – Legal and Assurance may further delegate these powers, in so far as is legally permissible.

6.20 Authentication of documents

6.21 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by:

6.21.8 the Monitoring Officer, Assistant Director – Legal and Assurance, or such other person authorised by him/her

6.21.9 unless any enactment otherwise authorises or requires, or

6.21.10 the Council has authorised another person in the Council's Scheme of Delegation.

7. Common Seal of the Council

7.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer, Assistant Director – Legal and Assurance.

7.2 A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

7.3 The Common Seal will be affixed to the following:

7.3.11 any contract with a value exceeding £100,000 entered into on behalf of the Council documents; and

7.3.12 any document or agreement where in the opinion of the Monitoring Officer, Assistant Director – Legal and Assurance or an officer authorised by him/her, should be sealed.

7.4 The Monitoring Officer, Assistant Director – Legal and Assurance (or such other person(s) authorised by him/her) will attest the affixing of the Common Seal.

7.5 An entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the seal.

7.6 Authentication of documents for legal proceedings

7.7 Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Monitoring Officer, Assistant Director – Legal and Assurance or an officer authorised by him/her, unless any enactment otherwise requires or authorises, or the Council or a Committee acting under delegated powers gives the necessary authority to some other person for the purpose of such proceedings.

8. Functions of the Chief Finance Officer

8.1 The Director of Finance and Resources will be the Council's Chief Finance Officer under s.151 of the Local Government Act 1972 (or Section 151 Officer).

8.2 Ensuring lawfulness and financial prudence of decision-making

8.3 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or to the Executive in relation to an Executive function, and the Council's external auditor if s/he considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

8.4 Administration of financial affairs

8.5 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

8.6 The Chief Finance Officer will be responsible for drafting and maintaining the Financial Regulations in this Constitution.

8.7 Contributing to corporate management

8.8 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice and

leadership on the development of the Council's annual budget, Council Tax setting and Medium-Term Financial Strategy.

8.9 Providing advice

- 8.10 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and will support and advise Councillors and officers in their respective roles.

9. Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

10. Proper Officers

- 10.1 Proper officers are individual officers appointed by the Council to discharge specific statutory power on behalf of the Council, which mainly take the form of the exercise of discretionary decisions or to carry out certain tasks. Proper officer duties may be delegated to other officers and do not require any separate appointment process.
- 10.2 A list of Proper Officers is included in the Scheme of Delegation to Officers.
- 10.3 In absence of the appointment of a Proper Officer in this Constitution, the Monitoring Officer will be the Council's Proper Officer and has power to delegate this power, until an appointment is made by full Council.
- 10.4 The Monitoring Officer is delegated authority to amend the list of proper officers to remove and replace redundant provision or to change appointments.

11. Political Assistants

- 11.1 The Council may establish a scheme for the appointment of political assistants to provide support to a political group on the Council, up to a maximum of three political groups, subject to compliance with the Local Government & Housing Act 1989 and regulations made thereunder.

12. Scheme of delegation of powers to Officers

12.1 Introduction

- 12.2 The Executive (Leader and Cabinet) and full Council may delegate powers to officers to discharge, as set out in this Constitution. This allows officers to make decisions, spend money and take actions for the benefit Sandwell, its residents and other stakeholders. It also ensures that decisions are made at the right level in the organisation to allow it to operate efficiently, effectively and economically and so meet the duty of best value.

12.3 Delegations to Officers

- 12.4 The powers delegated to officers are set out in this Scheme of Delegation, the Council's Constitution or as set out below and Officers' powers are subject to any requirements or limitations set out in these documents.

- 12.5 The Leader and the Executive may agree delegations to officers in addition to the powers set out in this Scheme:

12.5.13 by express decision in a meeting recorded in the Notice of Decision and minutes of the meeting; and

12.5.14 outside of a meeting but only following receipt of advice from the Monitoring Officer (or his / her delegate) and must be recorded in writing setting out the terms of the delegation and copied to the Monitoring Officer.

- 12.6 The Council (or a committee or sub-committee of the Council) may agree delegations of non-executive powers to officers in addition to the powers set out in this Scheme by express decision in a meeting recorded in the Notice of Decision and minutes of the meeting.

- 12.7 The Leader, the Council or any Cabinet Member or Committee which has delegated powers to officers has the right to discharge any powers they have delegated at any time.

12.8 Officers' Powers

- 12.9 Officers with delegated powers may further delegate any or all of their powers to other Officers within their Directorate (or in the case of the Chief Executive, to any officer), save where prohibited by law and subject to the requirements of this Scheme of Delegation.
- 12.10 Executive Directors are required to prepare a Scheme of Delegation for their directorate and send a copy to the Monitoring Officer for advice and publication within 28 days of agreement or amendment.

12.11 Publication

- 12.12 The Leader reports the Scheme of Delegations s/he intends to operate for the forthcoming municipal year to the Annual Council Meeting.
- 12.13 The Council approves its delegations each year at the Annual Council Meeting.
- 12.14 Any in-year changes to the delegation of powers to Officers shall be reported to the Monitoring Officer.

13. Referenced sections

- 13.1 The following sections of the Constitution are referenced:
- 13.1.1 2.10 Scheme of Delegation of Powers to Officers including list of Proper Officers and Statutory Officers.
 - 13.1.2 2.11 Council's Management Structure.
 - 13.1.3 4.4 Employment Procedure Rules.

Sandwell Metropolitan Borough Council

Constitution

Part 2.10 – Scheme of Delegation to Officers

Date Approved:

Version Number

1.x

Document Owner:

Monitoring Officer

Scheme of Delegation to Officers

1. Purpose

- 1.1 This Scheme of Delegation contains the Council's delegation of powers to officers, including powers to make decisions, spend money and take actions for the benefit the borough, its residents and other stakeholders within set thresholds.
- 1.2 This ensures that decisions are made at the right level in the organisation to allow it to operate efficiently, effectively, and economically and so meet the duty of best value.
- 1.3 The Scheme of Delegation is agreed by the Council's Leader (in respect of executive powers) and full Council (in respect of Non Executive powers).
- 1.4 The Scheme of Delegation will be reviewed and agreed at the Council's Annual Council Meeting, but may be amended by the Leader or Council in respect of their respective powers at any other time.
- 1.5 The Scheme of Delegation is to be read alongside the Council's Constitution and the delegations of power set out in that document. The Scheme of Delegation ensures compliance with s.100(G) of the Local Government Act 1972 and the executive Leader's power to delegate executive decisions under s.9E of the Local Government Act 2000.

2. Decision Making Principles

- 2.1 Officers making delegated decisions must demonstrate the following principles when taking a decision:
 - 2.1.1. the Council has the legal power (also known as 'vires') to make the decision(s) proposed to be taken;
 - 2.1.2. compliance with any statutory or other legal criteria for the decision, e.g. obtaining best consideration for property disposals over seven years in length;
 - 2.1.3. taking into account any relevant Council policies, e.g. policies that set criteria for decision making;

- 2.1.4. ensuring transparency and openness in decision making through compliance with the Council's Access to Information Rules set out in this Constitution and maintaining a proportionate record of the decision taken;
 - 2.1.5. compliance with any applicable financial or procurement rules;
 - 2.1.6. undertaking public consultation, where required by law;
 - 2.1.7. having due regard to the achievement of the Council's equality objectives under s.149 of the Equality Act 2010.
- 2.2 This is not an exhaustive list and there may be additional considerations in individual decisions.
- 2.3 The nature, value, risk and scale of decisions taken by Officers under this Scheme will vary greatly and, therefore, the governance applicable to an individual decision will be proportionate to these factors. The minimum requirement for all decisions, however simple, is a clear record of the decision made, the decision maker, the reasons for the decision and any relevant records.

3. Interpretation and Terminology

- 3.1 **Officers:** In this Scheme, the term 'Officer' or Officers includes all permanent, contract and temporary staff working for the Council.
- 3.2 **Acting up, interim and deputising arrangements:** Officers have delegated powers of the post they are undertaking, including posts held under any interim, acting up or deputising arrangements.
- 3.3 **'Directorate' and like terms:** All powers delegated to an Officer will apply to all services and functions within their direct line management or responsibility, except where expressly stated and the terms "directorate", "service", "division", "team" or "business unit" or other organisational term shall be interpreted to include such services and functions under the responsibility of the Officer.
- 3.4 **Post and directorate names and like terms:** Any reference in this Scheme to a post title, service or directorate name will include shall be deemed to include a reference to any successor post title, service or directorate name carrying out the functions discharged under this Scheme.

- 3.5 **Financial limits:** Unless stated, all financial limits in this Scheme:
- 3.5.1. include any expenditure up to and including the figure stated; and
 - 3.5.2. where no figure is stated, Key Decision Thresholds will apply by default.
- 3.6 **Legislation:** Any reference in this Scheme to any legislation or to any Council procedure or rule shall be deemed to include a reference to any successor legislation, procedure, rule or constitutional provision (as the case may be) as may be introduced or enacted by way of substitution, revision or amendment or by Council agreement.
- 3.7 Where it is uncertain if an Officer has delegated authority, the Monitoring Officer shall decide which if any officer has delegated authority. If the matter remains unclear, the Leader has power to determine the delegation or make a further express delegation in relation to executive functions (either incorporated into this Scheme or as an individual delegation as set out below). Where a matter remains unclear in respect of non-executive functions, the Monitoring Officer will propose an amendment to the Scheme of Delegation to full Council for approval.
- 3.8 The Monitoring Officer is delegated authority to update this Scheme to reflect changes to terminology and council organisational structure, arising from legislative changes or service reviews and restructures within the Council.

4. Structure

- 4.1 The Officers' Scheme of Delegation has two parts:
- 4.1.1. Delegations of general management powers to the Chief Executive and second tier officers, as defined in this Scheme.
 - 4.1.2. Directorate schemes of delegation agreed by second tier officers for specialist functions and the onward delegation of general powers to directorate managers.
- 4.2 Directorate schemes must comply with the rules set out in Part 2 of this Constitution.

4.3 Where a function or power falls to be discharged by an officer, it may also be discharged by a more senior post holder in the directorate, division or service etc, unless the Officer has been expressly prohibited from doing so.

4.4 **Delegation of General Management Powers**

4.5 Officer delegations in this Scheme shall be allocated by seniority in accordance with the Council's Management Structure and the following table or by professional or statutory specialism, as set out in the Scheme.

Tier of Authority	Posts
1	The Chief Executive
2	Officers reporting directly to the Chief Executive
3	Officers reporting to tier 2 posts
4	Officers reporting to tier 3 posts

4.6 Further tiers of Officers may be delegated powers to ensure that the Council is able to discharge its statutory duties and powers. The table above excludes support or administrative roles and one or more posts may be expressly excluded from the delegation of powers.

4.7 **Directorate Schemes of Delegation**

4.8 The Scheme of Delegation authorises officers with delegated powers to further authorise other Officers to discharge those powers subject to the following:

4.8.1. Delegations must be in writing;

4.8.2. Delegations may only be to Officers within the authorising Officer's directorate, except that Tier 2 Officers and the Chief Executive may authorise other officers with the Chief Executive's agreement.

4.9 The delegating person or body may prohibit further delegation of the delegated power.

Sandwell MBC

Constitution

Delegation of General Management Powers to Officers

Date Approved:

Version Number

1.x

Document Owner:

Monitoring Officer

1. Chief Executive

- 1.1. The Chief Executive is delegated the powers in the tables set out below and has power to undertake the duties delegated to any other officer, save where prohibited by law.

2. Assistant Chief Executive

- 2.1. The Assistant Chief Executive may discharge the powers of the Chief Executive where:
- 2.1.1. the Chief Executive is unable to act for any reason (in respect of an individual decision or for a finite period or on an ongoing basis);
 - 2.1.2. identified in the table below;
 - 2.1.3. the Chief Executive authorises the Assistant Chief Executive in writing to discharge any of their powers in respect of an individual decision or for a finite period or on an ongoing basis.

3. Second Tier Officers (Executive Directors and Directors reporting directly to the Chief Executive)

- 3.1. Second tier officers are delegated the powers set out in the table below.
- 3.2. Where a specific post or posts are identified, only those posts may exercise the delegated powers.

4. Third Tier Officers (Service Directors, Assistant Directors or Heads of Service reporting to the Executive Directors)

- 4.1. Third tier officers are delegated the powers set out in the table below.
- 4.2. Where a specific post or posts are identified, only those posts may exercise the delegated powers.

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
CHIEF EXECUTIVE POWERS					
1.	To carry out the functions and responsibilities of the Head of Paid Service	✓	Assistant Chief Executive		s.4 Local Government & Housing Act 1989
2.	To exercise any function delegated to any other officer of the council, with the exception of the Chief Finance Officer or the Monitoring Officer or where otherwise prohibited by law.	✓	Assistant Chief Executive		s.101 Local Government Act 1972 s.9E Local Government Act 2000
3.	To make any key decision which is urgent on the grounds of health and safety of any person or to protect the legal or financial interests of the authority and following consultation with the Leader, or in their absence the Deputy Leader, and on receiving advice from the Monitoring Officer or their representative. (excluding any powers that cannot be delegated to officers by law)	✓	Assistant Chief Executive		s.101 Local Government Act 1972 s.9E Local Government Act 2000
4.	To make any non-executive decision reserved to the Council or a Committee which is urgent on the grounds of health and safety of any person or to protect the legal or financial interests of the authority and	✓	Assistant Chief Executive		s.101, Local Government Act 1972

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
	following consultation with the Leader, or in their absence the Deputy Leader. (excluding any powers that cannot be delegated to officers by law)				
5.	To act as the Council's Gold Command and incur any expenditure and making grants and loans where an emergency or disaster involves danger to life or property or is imminent and to incur expenditure for the purposes for contingency planning.	✓	Assistant Chief Executive		Civil Contingencies Act 2004
GENERAL MANAGEMENT POWERS					
1.	To approve new expenditure up to the key decision threshold to the delivery of the functions of the Directorate and / or services for which the Officer is responsible	✓	✓		
2.	To authorise payments where the Council is under a legal obligation to make the payment e.g. a contractual payment, legal settlement or damages award.	Unlimited value	s. 151 Officer = Unlimited value All other officers = £5M		

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
3.	To make all non-key decisions to discharge the functions and powers of services under their management.	✓	✓		s.101 Local Government Act 1972 / s.9E Local Government Act 2000
4.	In addition to any of their general and/or specific delegated functions set out in this Scheme or in the Constitution, to make all decisions which are calculated to facilitate, or are conducive or incidental to the discharge of such delegated functions.	✓	✓		s.101 Local Government Act 1972 s.9E Local Government Act 2000
5.	To authorise or delegate to officers under his/her management (or with the agreement of the Chief Executive any other Council Officer) to perform any or all of the functions and powers set out in this Scheme.	✓	✓		s.101 Local Government Act 1972 s.9E Local Government Act 2000
FINANCE					
6.	To be the Chief Finance Officer and Responsible Officer for the proper administration of the Council's financial affairs		Executive Director Finance and Transformation		s.151 Local Government Act 1972
7.	Calculating and determining the Council Tax Base for each financial year.		s.151 officer only		Local Government & Finance Act 1992, Local Authorities (Calculation of Council Tax

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
					Base) (England) Regulations 2012
8.	To set the surplus/deficit on the Collection Fund annually in consultation with the Cabinet Member for Finance and Transformation		Executive Director Finance and Transformation and s.151 Officer		
9.	Approving Business Rates income and NNDR 1 return each year in consultation with the Cabinet Member for Finance and Transformation		Executive Director Finance and Transformation and s.151 Officer		
10.	To carry out the virement of budgets (with s.151 Officer approval for virement of Capital financing, support service/internal recharges, rates, insurance and pensions).	✓	✓		s.9E Local Government Act 2000 financial procedure rules 7.6
11.	To agree to write off a debt owed to the Council up to key decision threshold	£100,000*	£100,000* (s.151 offer up to key decision threshold)		*with the agreement of the s.151 officer s.101 Local Government Act 1972 s.9E Local Government Act 2000

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
12.	All powers to collect and enforce any debt owed to the Council including the instruction of legal services and / or debt collection agencies and all legal powers available to the Council.	Unlimited	Unlimited		s.101 Local Government Act 1972 s.9E Local Government Act 2000
13.	To act as the Council's Money Laundering Regulations Officer		Executive Director Finance and Transformation and s.151 Officer		Money Laundering Regulations 2007
14.	To approve grants to voluntary and community organisations.	✓	✓		s.101 Local Government Act 1972 s.9E Local Government Act 2000
15.	To approve indemnities to member and / or officers (including insurance cover) with the agreement of the s.151 and the Monitoring Officer (or their nominees) of any value.	✓		Monitoring Officer, Assistant Director – Legal and Assurance	LGA 2000 s.101, 105 Local Authorities (Indemnities for Members and Officers) Order 2004/3082 / s.1 Localism Act 2011
16.	To exercise the Council's powers to borrow, invest or lend money , including raising, varying, repaying loans, taking overdrafts, bonds and stock and arranging for investment of funds.		Executive Director Finance and Transformation and s.151 Officer		s.1 and 12 Local Government Act 2003

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
17.	Approving all loans or other financial assistance .		Executive Director Finance and Transformation and s.151 Officer		
18.	Suspending financial delegation to any school where there is a failure to comply with requirements of Financial Management.		Executive Director Finance and Transformation and s.151 Officer		s.51 School Standards and Framework Act 1998.
19.	To levy and collect all mandatory statutory fees and charges , including increasing fees and charges where changed by legislation.	✓	✓	✓	To cover all fees which are fixed by statute. Various powers.
20.	To introduce, vary or remove discretionary fees or charges for a Council service up to the key decision threshold.	✓	✓	✓	Including powers under s.93 Local Government Act 2003; s.1-4 Localism Act 2011 (and any other charging powers)
21.	To agree and submit a bid for or enter into contract for goods, services and / or works for third parties or for a council tendered service (i.e. an "in house bid").	✓	✓	✓	Local Authorities (Goods & Services) Act 1970 s.93 & 95 Local Government Act 2003; s.1-4 Localism Act 2011

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
					(and any other charging or trading powers)
22.	To agree and submit a bid for a grant or other funding from central or regional government or another third party for the provision of services, works or any other council function.	✓	✓	✓	s.1-4 Localism Act 2011
23.	<p>To enter into a grant agreement with central or regional government or any other third party including the acceptance of a grant or other funding for the provision of goods, services or works or any other council function, where either;</p> <p>(a) the total grant value is under the key decision threshold; or</p> <p>(b) a grant of <u>any value</u> only if</p> <p>i. the Council has no material discretion in how the grant is used or applied, including where a mandatory statutory formula applies to its distribution to third parties or its use; or</p> <p>ii. an existing executive decision or approved policy has determined the application or use of the grant.</p>	<p>✓</p> <p>(b) any value</p>	<p>✓</p> <p>(b) any value</p>	<p>✓</p>	<p>s.1 Localism Act 2011</p> <p>s.31 Local Government Act 2003</p> <p>various grant legislation</p>

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
24.	To undertake shareholder representative functions in respect of a Council owned company, subject to any relevant executive decision in respect of the company.	✓ (including the power to nominate any officer to perform this function in respect of any company)	✓ (in respect of companies where the client function falls within the officer's directorate)		s.1-4 Localism Act 2011 Companies Act
GOVERNANCE					
25.	To make any decisions arising from the Ombudsman's reports and to approve local settlements of Ombudsman's complaints and payments, and to report to the relevant committee.	✓	✓	✓	Local Government Act 1974, S.92 Local Government Act 2000
26.	To approve and submit reports to the Executive, Council and Committees and Overview and Scrutiny Committees.	✓	✓	✓	
27.	To maintain and amend the Constitution where necessary to ensure it remains up to date and accurate reflecting changes in the law, the Council's executive arrangements, committee structure, the delegation of powers to officers and members, the management structure and such changes as are necessary			Monitoring Officer, Assistant Director – Legal and Assurance	Constitution; s.37 Local Government Act 1972

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
	to ensure the Constitution and Scheme of Delegation remains up to date, consistent and readily understandable.				
28.	To determine requests from councillors for dispensations under the Councillors' Code of Conduct from the declaration of interests.			Monitoring Officer, Assistant Director – Legal and Assurance (or Appointed Deputy)	s.33 Localism Act 2011
PROCUREMENT & CONTRACTS (subject to compliance with the Council's Contract Standing Orders)					
29.	Approval to commence a procurement process and the procurement process for the award of any contract, subject to powers reserved to Cabinet set out above.	All decisions / unlimited value	✓ Unlimited value	✓	Contract Standing Orders
30.	The award of contracts (including the selection of a contractor from a framework).	✓	✓	✓	Contract Standing Orders
31.	To exercise an option to extend a contract.	✓	✓	✓	Contract Standing Orders
32.	To agree the variation of a contract .	✓	✓	✓	Contract Standing Orders

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
33.	To agree exemptions and waivers as allowed in the Council's Standing Orders.	✓	✓		Contract Standing Orders
34.	To make all other procurement decisions in accordance with the rules set out in the Council's Contract Standing Orders, including but not limited to: a. to establish a framework or dynamic purchasing system (or equivalent) of any value; b. to agree to join any external framework agreements, dynamic purchasing systems or similar purchasing arrangements (irrespective of the value of the proposed arrangement); c. to end a procurement process; d. all decisions that are ancillary to other delegated powers	✓	✓		s.101 Local Government Act 1972 s.9E Local Government Act 2000 Contract Standing Orders
35.	To sign contractual documents, grants or other legally binding agreement on the Council's behalf. (where there is a pre-existing decision to enter into the agreement and excluding agreements for the acquisition or disposal of land)	✓ Any value	✓ Any value Monitoring Officer can sign any contract		Contract Standing Orders NB requirements for contracts (only) over the key decision threshold must be entered into under seal witnesses by the Monitoring

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
					Officer, Assistant Director Legal and Assurance or their nominees.
36.	To make all contract management decisions including but not limited to: a. Suspending payments; b. Exercising provisions relating to liquidated damages; c. To refer a matter to arbitration.	Any value	Any value		Contract Standing Orders and subject to receiving legal and / or procurement advice
37.	Terminating contracts for breach of contract or otherwise, in accordance with the terms of the contract.	✓	✓		
38.	Drafting and maintaining Standing Orders with regard to the making of contracts for the supply of works, goods and services (contained in the Contract Standing Orders and Procedure Rules).		Executive Director Finance and Transformation and s.151 Officer		Contract Standing Orders Local Government Act 1972 s.135
HUMAN RESOURCES & EMPLOYMENT					
39.	To agree all the Council's policies and procedures in respect of the employment of officers, including but not limited to	Chief Executive	Assistant Chief Executive		S.112 Local Government Act 1972.

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
	recruitment, retention, terms and conditions of employment, change/reorganisation, redundancy, redeployment, capability, conduct and dismissal of staff (and any other matter that is subject to local agreement under the Council's collective agreements with recognised trade unions).				Local Authorities (Standing Orders) (England) Regulations 2001/3384, Sch 2, Part 1, para 2 n.b. excluding powers reserved for member decision in the Officer Employment Procedure Rules in the Constitution)
40.	To make all decisions relating to the Council's duties to inform and consult trade unions and workers under any statute or Council policy or procedure.	Chief Executive*	Assistant Chief Executive		s.188 Trade Union and Labour Relations (Consolidation) Act 1992 TUPE Regulations 2006
41.	To exercise all powers as employer in respect of its recognised trade unions.	Chief Executive*	Assistant Chief Executive		Trade Union and Labour Relations (Consolidation) Act 1992
42.	To make all decisions in respect of the employment and management of individual officers, where the power is not delegated elsewhere in this Scheme or reserved for member decision in the Constitution, including but not limited to:	✓	✓		s.112 & s.113 Local Government Act 1972 and applicable employment legislation. Superannuation Act 1972 and LGPS regulations made thereunder

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
e.	Recruitment, including probation, acting up and promotion;				Local Authorities (Standing Orders) (England) Regulations 2001 – for all officers under Deputy Chief Officer grade)
f.	Discipline and capability (including sickness);				
g.	Termination of employment				
h.	Restructuring, redeployment and redundancy				
i.	Pay and remuneration				
j.	Grievances				
k.	Appeals under any procedure				
l.	Applications for any statutory or contractual right or benefit,				
m.	Secondment				
n.	All other powers of an employer to ensure the efficient discharge of functions and services.				

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
43.	To make all decisions in respect of the Council's Pension Scheme, where the power is not delegated elsewhere in this Scheme or reserved for member decision in the Constitution, and including but not limited to approval of: a. Early retirements, ill-health retirement and release of frozen benefits; b. Flexible retirement; c. Any discretionary payments or benefits; d. Determining any statutory appeal against determinations under the LGPS regulations or otherwise.	(see across)	Executive Director of Finance and Transformation, following consultation with the Chief Executive and Monitoring Officer		Superannuation Act 1972 and LGPS regulations made thereunder)
44.	To administer the Council's Pension Scheme.		Executive Director – Finance and Transformation, s.151 officer		Superannuation Act 1972 and regulations made thereunder
45.	To exercise all powers and duties relating to the Council's corporate health and safety duties (excluding managerial responsibility for the operational health and safety of employees, workers and visitors).	✓	✓		Health & Safety at Work Act 1974 and regulations.

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
46.	To meet all duties relating to the operational health and safety of employees, workers, visitors and others as defined in the Council's Health & Safety Policy.	✓	✓		Health & Safety at Work Act 197 and regulations
LEGAL REPRESENTATION & PROCEEDINGS <i>(Note: legal powers should only be exercised following the receipt of legal advice as set out below)</i>					

Power	Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
	All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
<p>47. In respect of the discharge of any Council functions, powers or legal duties for which the officer is responsible, to instruct the Assistant Director – Legal and Assurance (or his/her nominee) or with the agreement of the Assistant Director – Legal and Assurance (or his/her nominee) to instruct an external provider of legal services to:</p> <ul style="list-style-type: none"> a. issue, prosecute, defend, enforce or otherwise participate in any legal proceedings in any court or tribunal; b. prepare and serve any statutory demand/notice/order or other legal document; c. prepare any agreement, contract, bond, certificate, deed, guarantee, licence, notice, order and/or other document to protect or advance the Council's interests; <p>provide legal advice and representation on any matter in any way affecting the Council's interests.</p>	<p>✓</p> <p>Any value</p>	<p>✓</p> <p>Any value</p>		Relevant legislative powers.

48.	<p>To exercise the following powers on instruction or using Constitutional or statutory powers:</p> <ul style="list-style-type: none"> a. To issue, prosecute, defend, enforce or otherwise participate or take any action in any legal proceedings in any court or tribunal; b. To prepare and serve any statutory demand/notice/order or other legal document; c. To prepare any agreement, contract, bond, certificate, deed, guarantee, licence, notice, order and/or other document to protect or advance the Council's interests or otherwise required by law; d. To provide legal advice and any other representation on any matter on behalf of the Council, its members and officers; e. To instruct a third party legal provider to advise and / or represent the Council on any matter or category of matters (e.g. debt recovery claims); f. To negotiate and agree the settlement any legal or other dispute whether prior to or after the commencement of legal proceedings. 			<p>Monitoring Officer, Assistant Director – Legal and Assurance</p> <p>– to include settlement at any value on or on terms but on the receipt of instructions.</p>	<p>s.222 Local Government Act 1972</p> <p>and any legislation to commence and prosecute legal proceedings.</p> <p>s.5 Local Government & Housing Act 1989</p>
49.	<p>Authorisation of officers to appear on behalf of the Council in the Magistrates Court and / or the County Court (in respect of housing matters prescribed by law).</p>			<p>Monitoring Officer, Assistant Director – Legal and Assurance</p>	<p>s.223 Local Government Act 1972</p> <p>s.60 County Court Act 1984</p>

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
50.	To instruct the settlement of any legal or other dispute brought against the Council, its member or officers whether prior to or after the commencement of legal proceedings following the receipt of legal advice. <i>(For the avoidance of doubt, this delegation includes the power to sign settlement agreements on the authority's behalf and the power to settle claims before any formal proceedings have commenced)</i>	✓	✓	Monitoring Officer, Assistant Director – Legal and Assurance – all powers to settle claims or contemplated claims including where a key decision	s.1 Localism Act 2011 s.111 and s.112 Local Government Act 1972
51.	To issue cautions where a criminal offence is admitted by a potential defendant.			Monitoring Officer, Assistant Director – Legal and Assurance	All enabling legislation
52.	To authorise the entry to and/or the inspection of any private land or premises and any powers of seizure in respect of which the Council has a statutory power or duty to enter or inspect including the obtaining and enforcement of a search warrant.			Monitoring Officer, Assistant Director – Legal and Assurance	All enabling legislation.

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
53.	To exercise all powers for enforcement in any civil or criminal proceedings, including but not limited to charging orders, deductions of wages, injunctions (including agreeing undertakings by a third party to the Council) and confiscation orders.			Monitoring Officer, Assistant Director – Legal and Assurance (following the receipt of legal advice)	All enabling legislation
54.	Authorising/affixing the Authority's seal to deeds and other documents where required by the Constitution or law. (currently all contracts with a value over £500,000)				Constitution Part 2.4, section 7.6
55.	To authenticate documents on behalf of the Council.			Monitoring Officer, Assistant Director – Legal and Assurance	Constitution, Part 2.4 s.234(1) Local Government Act 1872
PROPERTY AND ASSET MANAGEMENT <i>(Note:.. legal powers should only be exercised following the receipt of legal advice as set out below)</i>					
56.	All powers and duties in relation to the ownership, management, maintenance and use of the Council's land and other property (including applying for any necessary licences or consents in respect of the use of the land or property).		Executive Director, Place		All powers under the Local Government Act 1972 any other enabling legislation

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
57.	The making of Compulsory Purchase Orders.		Executive Director, Place		All enabling legislation
58.	All powers to give effect to a decision to make a Compulsory Purchase Order.		Executive Director, Place	Monitoring Officer, Assistant Director – Legal and Assurance	All enabling legislation
59.	the disposal of land (based on estimated land value).	✓	Executive Director, Place	Assistant Directors in Place	s.123 Local Government Act 1972, s.1 Localism Act 2011 and all other enabling legislation
60.	Acquisition of Land (based on estimated land value).	✓	Executive Director, Place	Assistant Directors in Place	ss.120-22 Local Government Act 1972, s.1 Localism Act 2011 and all other enabling legislation
61.	Disposal of assets other than land (based on estimated value).	✓	Executive Director, Finance and Transformation and s.151 Officer	Assistant Director, Finance & Deputy s151	s.1 Localism Act 2011
62.	The Council's powers and duties in respect of assets of community value.		✓	Assistant Directors in Place	Localism Act 2011, ss.87-92

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
69.	To be the Council's Data Protection Officer			Legal Services Manager – Governance and Regulatory Team	Data Protection Act 2018
ADULT SOCIAL CARE					
70.	To be the responsible Officer for Adult Social Care		Director of Adult Social Care		s.6 Local Authority Social Services Act 1970
71.	To exercise all powers and duties in connection with the effective deliver and administration of the Council's Adult Social Care Functions.		Executive Director – People Director of Adult Social Care		Care Act 2014 Local Authority Social Services Act 1970
CHILDREN AND EDUCATION					
72.	To be the responsible Officer for Children's Services		Director of Children and Education		s.18 Children Act 2004
73.	To exercise all powers and duties in connection with the effective deliver and administration of the Council's Children's and Education Services		Executive Director – People Director of Children and Education		Children Act 2004

Power		Chief Executive	ACE and Executive Directors	Service Directors	Source/Notes
		All powers marked ✓ apply up to and including the key decision threshold for executive decisions save where stated			
LICENSING					
74.					
HIGHWAYS					
75.					

Sandwell Metropolitan Borough Council

Constitution

List of Statutory and Proper Officers

Date Approved:

Version Number

1.x

Document Owner:

Monitoring Officer

Statutory Officers

1 List of Statutory Officers

- 1.1 The table sets out the posts holding statutory offices on behalf of the Council. An officer will hold the statutory office during any period of employment in the post, either as an employee or on a temporary, acting up or interim basis.
- 1.2 The Statutory Officers may appoint deputies, if allowed by law, but cannot delegate their statutory responsibilities.
- 1.3 The Monitoring Officer is delegated authority to amend the list of Statutory Officers to remove and replace redundant posts or provisions or to change appointments.

Statutory Office	Post holding the statutory office
Head of Paid Service (s.4 – Local Government & Housing Act 1989)	Chief Executive
Monitoring Officer (s.5 – Local Government & Housing Act 1989)	Assistant Director, Legal and Assurance
Chief Finance Officer (s.151 - Local Government Act 1972)	Executive Director, Finance and Resources
Electoral Registration Officer Returning Officer / Assistant Returning Officer (ss.8,28 and 35 Representation of the People Act 1983)	Chief Executive

Statutory Office	Post holding the statutory office
Director of Children's Services (s.18 Children Act 2004)	Director, Children and Education Services
Director of Adult Social Services (s.6 Local Authority Social Services Act 1970)	Director of Adult Social Care
Director of Public Health (s.73A National Health Service Act 2006)	Director of Public Health
Scrutiny Officer (s9.FB Local Government Act 2000 as amended)	Head of Democratic Services
Data Protection Officer (Article 37-39 General Data Protection Regulation 2018, Data Protection Act 2018)	Legal Services Manager – Governance Regulatory
Qualified person for the purposes of s.36 of the Freedom of Information Act 2000	Monitoring Officer, Assistant Director – Legal and Assurance

Appointment of Proper Officers

1 List of Proper Officers

- 1.1 The officers set out in the table below are appointed to be the Council's Proper Officer for the stated legislative provisions.
- 1.2 The appointed Deputy Proper Officer is given in brackets. The Deputy Proper Officer is appointed to act where the Proper Officer is absent and/or unable to act for any reason.
- 1.3 In absence of the appointment of a Proper Officer in this Constitution:
- 1.3.1 the Monitoring Officer will be the Council's Proper Officer and has power to delegate this power, until an appointment is made by Full Council; and
- 1.3.2 The Deputy Monitoring Officer will be the Council's Deputy Proper Officer.
- 1.4 The Monitoring Officer is delegated authority to amend the list of Proper Officers to remove and replace redundant posts or provisions or to change appointments.

Local Government Act 1972

Section	Function	Proper Officer
83 (1)-(4)	Officer to whom persons elected as councillors shall make declaration of acceptance of office.	Monitoring Officer, Assistant Director – Legal and Assurance (Chief Executive)
84	Officer to whom councillors may give written notice or resignation.	Monitoring Officer, Assistant Director – Legal and Assurance (Chief Executive)
88 (2)	Officer who may convene a Council meeting to fill a vacancy in the office of the Mayor.	Chief Executive

Section	Function	Proper Officer
89 (1) (b)	Officer who may receive notice in writing of a casual vacancy in the office of councillor from two local Government electors.	Chief Executive (Monitoring Officer, Assistant Director – Legal and Assurance)
100	All references to proper officer in connection with the access to information provisions of the Local Government Act.	Monitoring Officer, Assistant Director – Legal and Assurance
115	Officer to whom all officers shall pay monies received by them and due to the local authority.	Executive Director, Finance and Resources (Chief Executive)
146 (1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority.	Executive Director, Finance and Resources (Chief Executive)
225 (1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer, Assistant Director – Legal and Assurance
229 (4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council.	Monitoring Officer, Assistant Director – Legal and Assurance

Section	Function	Proper Officer
233 LGA 1972	Receive documents required to be served on the Council.	Monitoring Officer, Assistant Director – Legal and Assurance
234(1)	Officer who may authenticate documents.	Monitoring Officer, Assistant Director – Legal and Assurance
238	Officer who may endorse a copy of a byelaw.	Monitoring Officer, Assistant Director – Legal and Assurance
Sch.12, Part 1, para 4(1A)	Officer who may sign a summons to Council meetings and may receive notice from a member of address to which a summons to a meeting is to be sent.	Chief Executive (Assistant Chief Executive)

Local Government Act 1974

Section	Function	Proper Officer
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint.	Monitoring Officer, Assistant Director – Legal and Assurance

Local Government (Miscellaneous Provisions) Act 1976

Section	Description	Proper Officer
41	Officer responsible for certifying copies of resolutions, minutes and other documents.	Monitoring Officer, Assistant Director – Legal and Assurance

Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988

Section	Description	Proper Officer
	All references to the Proper Officer.	Director of Public Health

Weights & Measures Act 1985

Section	Description	Proper Officer
72	Functions of Chief Inspector of Weights and Measures.	Director, Environmental Services (relevant Head of Service)

Local Government Finance Act 1988

Section	Description	Proper Officer
114 and 114A	Officer responsible for making a report under this section to the authority concerning unlawful expenditure and the Council's budget.	Executive Director, Finance and Transformation (deputy appointed by the Executive Director of Finance and Transformation)

Local Government & Housing Act 1989

Section	Description	Proper Officer
2 LGHA 1989	Deposit of list of "politically restricted posts" under LGHA 1989.	Monitoring Officer, Assistant Director – Legal and Assurance

Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989

Section	Description	Proper Officer
Reg. 23	Certification of the Local Non-Domestic List.	Executive Director of Finance and Resources (Director of Transactional Services)

Local Government (Committees and Political Groups) Regulations 1990

Section	Description	Proper Officer
8 (1) and (5), 9 and 10, 13, 14	<p>Officer to whom:</p> <ol style="list-style-type: none"> notice is delivered about the constitution of a political group, or the change of name of a political group notice is delivered about a Councillor's membership of, or cessation of membership of, a political group the wishes of a political group are expressed <p>Officer responsible for notifying a political group about allocations and vacations of seats</p>	Monitoring Officer, Assistant Director – Legal and Assurance

The Local Authorities (Standing Orders) (England) Regulations 2000

Section	Description	Proper Officer
Paras 5 and 6 of Part II of Schedule 1	<p>Officer to receive notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment from executive members, if any.</p> <p>(as set out in the Employment Procedure Rules)</p>	Chief Executive (Assistant Chief Executive, Monitoring Officer, Assistant Director – Legal and Assurance)

Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

Section	Description	Proper Officer
	All references to the responsible officer	Director of Adult Social Care

Local Authorities (Referendums)(Petitions)(England) Regulations 2011

Section	Description	Proper Officer
Reg. 4	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area.	Monitoring Officer, Assistant Director – Legal and Assurance
Regs. 11,13,14	To be the Proper Officer for the receipt and validation of petitions.	Monitoring Officer, Assistant Director – Legal and Assurance

Local Authorities (Conduct of Referendums) (England) Regulations 2011

Section	Description	Proper Officer
	All references to the Proper Officer.	Monitoring Officer, Assistant Director – Legal and Assurance

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Section	Description	Proper Officer
	All references to the Proper Officer	Monitoring Officer, Assistant Director – Legal and Assurance

Registration Service Act 1953

Section	Description	Proper Officer
	All references to the Proper Officer / registration officer	Head of Registration Services

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Sandwell Metropolitan Borough Council

Constitution

Part 2.11 – Management Structure

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 2.12 – Indemnities to Members and Officers

Date Approved:

Version Number

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Monitoring Officer



Indemnities for Members and Officers

1. Introduction

- 1.1 The Council has power to provide indemnities to its Members (including Co-opted Members and independent persons) and officers, including former Members and Officers.
- 1.2 The purpose of providing indemnities is to support those involved in making decisions and providing services on behalf of the Council, so that where they act in good faith in performance of their duties, they do not face personal liability. This enables Officers and members to work in a positive environment and the Council to be better able to attract individuals to carry out these roles.
- 1.3 The need to provide reassurance and support to Officers needs to be balanced against the Council's fiduciary duty to the Council taxpayer to spend public funds wisely. Therefore, in deciding the extent of indemnities to officers and members, the Council will consider each case on its merits, taking account of the benefits of providing the indemnity and the costs involved in doing so.

2. Decision making on indemnities

- 2.1 The Monitoring Officer has delegated authority to make any decision on whether the Council will indemnify a Member or Officer in any situation under this policy.
- 2.2 It is the member/officer's obligation to demonstrate to the Monitoring Officer that they are entitled to an indemnity under this policy.
- 2.3 In making any decision the Monitoring Officer will consult with the Council's Chief Finance Officer appointed under s.151 of the Local Government Act 1972 and the Chief Executive. The Monitoring Officer may consult with the Council's Independent Person for the Ethical Standards and Member Development Committee.
- 2.4 The Monitoring Officer may obtain external legal advice to advise on any matter.

- 2.5 The Monitoring Officer may seek any information or other evidence from the member / officer who is seeking the indemnity which s/he considers relevant to whether the Member/Officer should be granted the indemnity under this policy.
- 2.6 If the Monitoring Officer themselves is seeking an indemnity a decision will be made by the s.151 Officer (following consultation as set out above) and who will seek independent legal advice.
- 2.7 These indemnities are without prejudice to the rights of the Council to take disciplinary action against an Officer in respect of any act or failure to act.
- 2.8 The decision will be made taking into account the following factors:
- 2.8.1 The Officer/Member's actions which have given rise to the request for an indemnity;
 - 2.8.2 The likely cost of providing an indemnity;
 - 2.8.3 The wider implications for the Council of granting or not granting the indemnity, such as the impact on Officer/Member confidence in acting and making decisions;
 - 2.8.4 Whether the member/officer acted with due diligence and in accordance with Council policies and procedures;
 - 2.8.5 Whether the Member/Officer sought and / or received any legal, finance or other advice in respect of the subject matter of the indemnity or should have done and whether they followed the advice or should have done so (such advice can include advice contained in reports or documents that was or should reasonably have been considered by the Member/Officer);
 - 2.8.6 Whether the Member/Officer carried out appropriate consultation (for example, with finance, legal, audit etc.) before acting and whether they followed any advice provided;
 - 2.8.7 Whether the Council has insurance in place to cover the costs of the indemnity;
 - 2.8.8 The Council's fiduciary duty to the Council taxpayer; and

2.8.9 Any other relevant factors.

3. Extent of indemnity

- 3.1 An indemnity will be granted to any Member or Officer only in respect of the reasonable costs which they may incur in securing necessary legal advice and representation in respect of any civil or criminal proceedings to which they are subject that arise from their action or failure to act in their capacity as a Member or Officer of the Council.
- 3.2 Any indemnity will only extend to cover actual loss and expense reasonably incurred and evidenced by the Officer or Member to the satisfaction of the s.151 Officer or the Monitoring Officer.

4. Costs not covered by this policy

- 4.1 Any indemnity will not:
 - 4.1.1 cover any fines or other costs imposed in criminal proceedings;
 - 4.1.2 damages or other compensation or costs awarded against an individual in civil proceedings;
 - 4.1.3 support civil action taken by an Officer arising out of their employment, save in exceptional circumstances to be agreed by the Monitoring Officer; or
 - 4.1.4 cover any loss or expense in respect of which the employee or Member can obtain reimbursement from any other source, including any policy of insurance, whether taken out by the Council or the employee or Member by any other person.

5. Matters not covered by this policy

- 5.1 Indemnities will not be provided for the following:
 - 5.1.1 the bringing of any claim for defamation;

- 5.1.2 legal fees incurred by a member in respect of any complaint that they have failed to comply with the Code of Conduct for Members;
- 5.1.3 acts or omissions carried out by a Member as a result of him/her obtaining a position on an outside body in a personal capacity without the Council making the appointment;
- 5.1.4 if a Member or Officer, without the express permission of the Council or of the appropriate officer of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this indemnity; or
- 5.1.5 if a Member or Officer refuses an offer of settlement which the Monitoring Officer considers it would be reasonable for the Member or Officer to accept.

6. Conditions

- 6.1 The Monitoring Officer may agree to grant an indemnity subject to all or any of the following conditions:
 - 6.1.1 That the Officer/Member provides information requested by the Monitoring Officer to the Council and/or its insurer;
 - 6.1.2 That the Officer/Member provides any legal advice which they receive or have received to the Council and/or its insurer on the merits of their case;
 - 6.1.3 That the Officer/Member must not agree to any settlement of any claim without first obtaining the consent of the Council;
 - 6.1.4 The amount payable pursuant to the indemnity may be limited to a set amount, an individual act or acts of legal representation or specific legal advice or a specified stage in any legal proceedings;
 - 6.1.5 That any payments made in respect of legal fees be limited to the equivalent of legal aid rates;

- 6.1.6 That if the payments relate to legal fees in relation to any criminal investigation or prosecution, these will be repaid if the Member/Officer is convicted of any offence;
 - 6.1.7 That the Member/Officer provides security (for example a charge on property owned by them) against the eventuality that they become obliged to repay fees payable pursuant to an indemnity;
 - 6.1.8 That the Officer/Member meet any legal costs via other means if they are available to them, for example any insurance they hold; and
 - 6.1.9 Any other reasonable conditions.
- 6.2 The Monitoring Officer may also refuse consent for the continued retention of independent Solicitors or Counsel at the expense of the Council:
- 6.2.1 if he/she considers that unnecessary or excessive costs are being or have been incurred; and/or
 - 6.2.2 unless the member or officer supplies a written opinion from Solicitors or Counsel that the member or officer concerned has reasonable grounds to defend the proceedings.

7. Duty of Members or Officers

- 7.1 Any member or officer who seeks an indemnity shall have a duty to:
- 7.1.1 inform the Council's Monitoring Officer immediately when they become aware of any claim, or potential claim, against the Council or any circumstances likely to result in any financial loss to the Council; and
 - 7.1.2 co-operate with and assist the Council in the conduct of any legal proceedings to which the indemnity relates including, where required, giving evidence.

8. Insurance

- 8.1 Where the Council has taken out insurance cover, under which the insurers provide cover to the member or officer for the act or failure to act, then this indemnity will be provided by that insurance cover.
- 8.2 Subject to the Council's consent, that consent may be given or refused by the Monitoring Officer. Any terms, conditions and limitations of the policy will apply if insurance cover is provided to the member or officer and in any event the Council will not be obliged to pay any greater amount under the terms of this indemnity than would have been payable under the terms of such insurance had it been taken out.

9. Dispute resolution

- 9.1 Any decision on the application of this policy shall be taken by the Monitoring Officer. Any dispute over the application of the indemnity to an officer shall be referred to the Chief Executive, save for where the request is made by the Chief Executive in which case it will be referred to the s.151 Officer.

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Sandwell Metropolitan Borough Council

Constitution

Part 2.13 – Budget and Policy Framework Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 3.1 – Scrutiny Protocol

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

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Part 3.2 – Scrutiny Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

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Part 3.3 – Scrutiny Boards Terms of Reference

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 3.4 – Access to Information Procedure Rules

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Explanatory Note: What are the ‘Access to Information Rules’?

The Access to Information Rules promote transparency and open governance. They are the statutory rules that allow the press and public to have:

- At least five clear days’ notice of any formal meetings the Council, the Cabinet and Committees and Sub-Committees;
- Access to the agenda and reports to be considered at meetings;
- A right to attend meetings and film or record proceedings;
- Access to the agenda, minutes and reports at past meetings for at least six years after the meeting.

Additional rights of access to executive meetings

Where the Cabinet, Cabinet committees and individual cabinet members make a “key decision”, the following additional rights of access apply:

- 28 days notice of key decisions to be made by the executive through publication on the Council’s **Forward Plan**
- Additional notice requirements if an urgent decision is made without the Forward Plan notice.
- Requirements to report urgent decisions to full Council.
- Overview and scrutiny members have additional rights about decisions they are scrutinising.

A key decision is an executive decision with significant value or which has a significant impact on two or more wards. The Leader sets a threshold for the value of key decisions in the Executive Procedure Rules.

Limitations on Access

The law allows the Council to withhold access to documentation and to hold meetings or parts of a meeting in private where:

- A meeting is considering information falling into specified categories of exempt information
- The Council can say that the public interest in withholding the information outweighs the public interest in disclosure.

Categories of exempt information includes financial or commercial data, personal data or legally privileged advice.

Any rights in these rules are additional to any other legal rights of access.

Responsibility for Functions: Powers of Full Council

1. Scope

- 1.1 These rules apply to all meetings of full Council, Overview and Scrutiny Boards, Regulatory Committees, Sub-Committees, Joint Committees and Town Boards as applicable, and to public meetings of the Cabinet and its Committees and Individual Cabinet Member decision-making, save where set out in this Rule.
- 1.2 The words 'meeting' and 'meetings' shall apply to all of the above meetings, save where identified in this Rule.
- 1.3 References to the Proper Officer or Monitoring Officer shall include Officers authorised by those officers to act on their behalf in respect of any act in this Rule.

2. Additional rights to information

- 2.1 These rules do not affect any other public rights of access or to information contained elsewhere in this Constitution or the law.
- 2.2 Councillors' rights set out in these Rules are additional to any other right (s)he has under common law or statute.

3. Rights to attend and record meetings

- 3.1 Members of the public and press are welcomed and encouraged to attend all meetings subject only to the exceptions in this Constitution.
- 3.2 Members of the public may record or film by any means subject to the rules set out in this Constitution.
- 3.3 The rights at 3.1 and 3.2 are without prejudice to the Council's power to suppress or prevent disorderly conduct or other misbehaviour at any meeting set out in this Constitution.

4. Notices of meeting

- 4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting at Oldbury Council House and on the Council website at www.sandwell.gov.uk.

4.2 Where the meeting is convened at shorter notice, details of the meeting will be posted at Oldbury Council House and on the Council website at www.sandwell.gov.uk at the time that the meeting is convened.

4.3 When a meeting is adjourned and reconvened, there must be at least five clear days' notice of the date of that reconvened meeting.

5. Access to agenda and reports before the meeting

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at Oldbury Council House and on the Council website at least five clear days before the meeting unless the matter is urgent.

5.2 Where there are special circumstances requiring an item to be added to the agenda after publication, as an item of urgent business at the direction of the Chair, the Proper Officer will make each such report available to the public and press and open for inspection as soon as the report is available to Councillors attending the meeting.

5.3 The special circumstances requiring an item of urgent business to be added, and the Chair's direction to do so, will be recorded in the minutes of the meeting.

6. Supply of copies of agendas and reports

6.1 The Council will supply copies of the following documents to any person on payment of a charge for postage, copying and any other necessary charge for transmission:

6.1.1 any agenda and reports which are open to public inspection; and

6.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda;

6.1.3 any written record of an executive decision;

6.1.4 any reports considered by an individual decision maker which are open to public inspection;

6.1.5 a list of background information (and the information on request); or

6.1.6 if the Monitoring Officer thinks fit any other documents supplied to Councillors in connection with an item.

6.2 The information will also be made available on the Council's website.

7. Access to minutes and other documents after the meeting

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

7.1.1 the minutes of the meeting or records of decisions taken together with reasons for all meetings of the Cabinet and Council, Committees or Executive decisions made by any Cabinet Member, or record of any Executive decision made by an officer which is to be published under this Constitution, excluding any part of the minutes of proceedings or decision record when the meeting was not open to the public or which disclose exempt or confidential information; and

7.1.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record; and

7.1.3 the agenda and reports for the meeting relating to items when the meeting was open to the public.

8. Public Inspection of Minutes and Reports

8.1 The Council will make available for public inspection for six years after the date of the meeting a copy of the agendas, minutes and reports relating to meetings.

9. Background Papers

9.1 List of background papers

9.2 The author of a report will set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in their opinion:

9.2.1 disclose any facts or matters on which the report or an important part of the report is based; and

9.2.2 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 these Rules and in respect of Cabinet reports, the advice of a political advisor, if any.

- 9.3 'Published works,' includes previous Council, Cabinet or Committee reports relevant to the decision and do not need to be listed.

9.4 Public inspection of background papers

- 9.5 The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers except where in the opinion of the Proper Officer to do so would be likely to disclose confidential or exempt information or the advice of a political adviser or assistant.

10. Exclusion of public and press access

10.1 Confidential information – requirement to exclude press and public

- 10.2 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 in breach of the obligation of confidence.

- 10.3 Reports containing confidential information must not be published as part of the agenda of the meeting.

- 10.4 Confidential information means:

10.4.1 information given to the Council by a government department on terms (however expressed) which forbid its public disclosure; or

10.4.2 information which cannot be publicly disclosed by Court Order the disclosure of which to the public is prohibited by or under any enactment or by order of the Court.

10.5 Exempt information – discretion to exclude public

- 10.6 The Proper Officer may if (s)he thinks fit exclude from public inspection in advance of a meeting reports, or parts of reports, which are considered to contain exempt information and which a meeting where such reports are to be discussed is likely to exclude the public on the grounds that the report contains exempt information.

10.7 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 provided that:

10.7.1 the meeting resolves to exclude the public, and that resolution:

- a. identifies the proceedings or part of the proceedings to which it applies; and
- b. states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (see below) the description of the exempt information giving rise to the exclusion of the public; and
- c. by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.8 Where the meeting will determine any person's civil rights or obligations or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.9 Meaning of exempt information

10.10 Exempt information means information falling within the following categories defined by Schedule 12A of the Local Government Act 1972:

Category / schedule 12A paragraph number	Conditions
1. Information relating to an individual.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of	Information is not exempt information if it is required to be registered under:

Category / schedule 12A paragraph number	Conditions
any particular person (including the authority holding the information) and includes contemplated, as well as past or current, activities.	<p>(a) the Companies Acts (as defined by s.2 of the Companies Act 2006);</p> <p>(b) the Friendly Societies Act 1974;</p> <p>(c) the Friendly Societies Act 1992;</p> <p>(d) the Co-operative and Community Benefit Societies Act 2014;</p> <p>(e) the Building Societies Act 1986; or</p> <p>(f) the Charities Act 2011.</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 matters arising between the authority or a minister of the crown and employees of, or office holders under, the authority.</p>	<p>“labour relations matter” means—</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) 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</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>“employee” means a person employed under a contract of service;</p> <p>“office-holder”, in relation to the authority, means the holder of any paid office appointments to 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>
<p>5. Information in respect of which a claim to legal professional</p>	

Category / schedule 12A paragraph number	Conditions
privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes – (b) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

10.11 Public interest test and planning applications by the Council

10.12 Information which falls within paragraphs 1 to 7 can only be exempt information if:

10.12.1 it does not relate to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992, and / or

10.12.2 in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Rules applying to Executive Decisions

- 11.1 The following rules apply to executive meetings where key decisions are made.

12. Key Decisions

- 12.1 A decision taken by Cabinet or a Cabinet Committee, the Leader or a Cabinet Member or an Officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:

12.1.1 Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

12.1.2 be significant in terms of its effects on communities living or working in an area comprising two or more Wards in Sandwell.

- 12.2 The Leader shall set the thresholds (the Key Decision Threshold) at which executive decisions will be key decisions in accordance with the definition above and any statutory guidance.

- 12.3 The Key Decision Threshold is published in Part 2 of this Constitution.

13. The Forward Plan

- 13.1 Subject to the rules below relating to General Exception and Special Urgency, a key decision may not be taken unless a Forward Plan has been published at least 28 days in advance containing the information set out below in respect of the decision.

- 13.2 The Forward Plan must be made available for inspection by the public both at the Council's offices and on the Council's website.

- 13.3 The Forward Plan will usually be published on a monthly basis.

13.4 Content of the Forward Plan

- 13.5 The Forward Plan will contain the following information in respect of each key decision to be made:

13.5.1 the matter in respect of which the decision is to be made;

13.5.2 the identity of the decision maker, whether a body or individual;

- 13.5.3 the date on which, or the period within which, the decision is to be made;
 - 13.5.4 a list of documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - 13.5.5 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from any document listed is available;
 - 13.5.6 that other documents relevant to those matters may be submitted to the decision maker; and
 - 13.5.7 the procedure for requesting details of those documents (if any) as they become available.
- 13.6 The Forward Plan may not contain any confidential information or exempt information or particulars of the advice of a political assistant.
- 14. General exception to publication of key decisions on the Forward Plan**
- 14.1 If it is impracticable to include a key decision on the Forward Plan, then subject to Rule 15 (special urgency), the decision may still be taken if:
- 14.1.1 the Monitoring Officer informs the Chair of the relevant Overview and Scrutiny Board by notice in writing of the proposed key decision, or, if there is no appointed Chair or they are unavailable, each member of the relevant Overview and Scrutiny Board;
 - 14.1.2 the Monitoring Officer publishes a notice that the key decision will be taken and the reasons why it is impracticable to give the 28 days notice required by the Forward Plan before making the decision. The notice must be published at Oldbury Council House and on the Council's website; and
 - 14.1.3 there are at least five clear days between the day the notice is published and the day the decision is made.
- 14.2 This rule is referred to as the General Exception.

15. Special Urgency for Key Decisions

- 15.1 If by virtue of the date by which a decision must be taken, the General Exception rule cannot be followed, then the decision can only be taken:
- 15.1.1 if the Chair of relevant Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred to a meeting where the General Exception rule can be met;
 - 15.1.2 if there is no Chair of the relevant Overview and Scrutiny Board or (s)he is not available, the Mayor's agreement must be obtained in writing; or
 - 15.1.3 if the Mayor is not available, the Deputy Mayor's agreement must be obtained in writing.
- 15.2 As soon as reasonably practicable after the decision maker has obtained agreement under this Rule, the Monitoring Officer must make available at the Council offices and publish on the Council's website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.
- 15.3 This rule is referred to as the Special Urgency rule.

16. Key Decisions reported to Full Council

16.1 Overview and Scrutiny Board powers to require a report

- 16.2 If an Overview and Scrutiny Board thinks that a decision has been taken which was not:
- 16.2.1 treated as a key decision; and
 - 16.2.2 the Overview and Scrutiny Board considers it should have been treated as a key decision,
- the Overview and Scrutiny Board may by a resolution require by written notice that the Cabinet submit a report to the full Council in respect of the decision.
- 16.3 The Overview and Scrutiny Board may delegate the request for a Cabinet report to the Monitoring Officer.

16.4 Cabinet Report to Council

- 16.5 The Cabinet will submit a report to the next ordinary full Council meeting.

- 16.6 If the notice from the overview and scrutiny committee is received within 14 days of the next full Council meeting, the Leader may elect to report to the following ordinary full Council meeting.
- 16.7 The report must set out particulars of the decision, the decision maker and if the Cabinet consider the decision was not a key decision, the reasons for that opinion.

16.8 Reports on Special Urgency Decisions on Key Decisions

- 16.9 The Leader will submit to the Council a report on any key decisions taken applying the Special Urgency rule to the next ordinary full Council meeting with the particulars of the decision.

17. Procedures Prior to Private Meetings of Cabinet

- 17.1 The Leader and Cabinet intend to hold all its meeting in public (with discretion to hold matters in private if exempt information is being considered) but the Executive has the following powers to hold meetings in private.
- 17.2 If the Cabinet intends to hold all or any part of a meeting in private, it will:
- 17.2.1 publish this intention on the Forward Plan; and
 - 17.2.2 at least five clear days before the meeting give a further notice of the private meeting and make this available for public inspection at the Council offices and on its website.
- 17.3 The notice will include:
- 17.3.1 a statement of the reasons for the meeting to be held in private;
 - 17.3.2 details of any representations received as to why the meeting should be open to the public; and
 - 17.3.3 a statement of its response to any such representations.
- 17.4 Where the date by which a meeting must be held means that the notice requirements above are impracticable, the meeting will only be held in private if;
- 17.4.1 the Chair of the relevant Overview and Scrutiny Board agrees that the meeting is urgent and cannot reasonably be deferred;

- 17.4.2 if there is no Chair of the relevant Overview and Scrutiny Committee or (s)he is not available, the Mayor's agreement must be obtained in writing; or
- 17.4.3 if the Mayor is not available, the Deputy Mayor's agreement must be obtained in writing.
- 17.5 As soon as reasonably practicable after agreement is obtained, the Cabinet will make available for public inspection at Oldbury Council House, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred. The notice will also be published on the Council's website.

18. Record of Decisions

18.1 Cabinet or Cabinet Committee Meetings

- 18.2 After any meeting of the Cabinet or a Cabinet Committee, the Monitoring Officer or the person presiding at the meeting, will produce a written record of every decision taken at that meeting including:
 - 18.2.1 a record of the decision and the date it was made;
 - 18.2.2 a statement of the reasons for each decision and any alternative options considered and rejected at that meeting; and
 - 18.2.3 a record of any declarations of interest made by any member of the decision-making body and a note of any dispensation granted in respect of any declaration.

18.3 Individual Cabinet Members

- 18.4 After an individual Cabinet member makes a decision, the Monitoring Officer will produce a written statement of that decision including:
 - 18.4.1 a record of the decision and the date it was made;
 - 18.4.2 a statement of the reasons for each decision and any alternative options considered and rejected by the Cabinet Member when making the decision; and
 - 18.4.3 a record of any declarations of interest made by the Cabinet member of the decision-making body and a note of any dispensation granted in respect of any declaration.

18.5 Officers

18.6 Officers making key decisions must comply with the Rules set out above except that a meeting need to be held to make the decision.

18.7 Rules relating to the publication of records of other Executive decisions made by officers are set out in the Scheme of Delegation to Officers in this Constitution.

19. Additional rights of access to documents for overview and scrutiny committee members

19.1 Rights to Copies

19.2 Subject to the rules below, an overview and scrutiny committee member is entitled to copies of any document which is in the possession or control of the executive and which contains material relating to:

19.2.1 any business transacted at a Cabinet meeting or a Cabinet committee;

19.2.2 any decision taken by an individual Cabinet Member; or

19.2.3 any key decision or published decision taken by an Officer.

19.3 Any documents requested must be provided as soon as is practicable and, in any case, no later than 10 clear days after receipt of the request.

19.4 Limit of Rights

19.5 An Overview and Scrutiny Committee Member will not be entitled to:

19.5.1 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

19.5.2 be entitled to a copy of a document or part of a document containing the advice of a political assistant (if any are established).

20. Additional rights of access for all councillors

20.1 Material relating to business to be transacted

20.2 Any Councillor will be entitled to inspect any document:

- 20.2.1 in the possession or under the control of the Council
 - 20.2.2 which relates to any business to be transacted at a meeting of the full Council, a Committee or a Sub Committee,
 - 20.2.3 except any part of a document that contains exempt information.
- 20.3 Any Councillor will be entitled to inspect any document (except those available only in draft form):
- 20.3.1 in the possession or under the control of the Cabinet or a Cabinet Committee;
 - 20.3.2 which relates to any business to be transacted at a public meeting
 - 20.3.3 except any part of a document that contains exempt information; or advice of a political assistant.
- 20.4 **Material relating to previous business**
- 20.5 Any Councillor is entitled to inspect at the conclusion of a meeting of the Cabinet or a Cabinet Committee or, in the case of an executive decision made by an Officer, immediately after that decision has been made:
- 20.5.1 any document which is in the possession, or under the control, of the Cabinet or a Cabinet Committee and which contains material relating to any business previously transacted at a private meeting;
 - 20.5.2 or any decision taken by an Individual Cabinet Member; or
 - 20.5.3 any executive decision made by an officer.
- 20.6 Councillors may not inspect any part of a document that contains exempt information or advice of a political assistant except if it falls within:
- 20.6.1 Category 3 in the table above unless it contains information that relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
 - 20.6.2 Category 6 in the table above.

Publication Requirements for Executive Decisions Delegated to Officers

21. Overview

21.1 These rules apply to the recording and publication of Executive decisions made by officers under delegated powers. It is a mandatory requirement for Officers making delegated to decisions to make and retain the appropriate clear record of the decision including reasons and any supporting evidence and documentation in accordance with these Rules.

21.2 These Rules set a minimum standard for record keeping and Officers must also comply with any Council policies on the retention of records.

21.3 There are three categories of decisions with proportionate requirements for record keeping and publication of decisions. The three categories of Officer delegated decisions are:

21.3.1 key decisions;

21.3.2 delegated Executive decisions; and

21.3.3 delegated operational decisions.

21.4 Key Decisions

21.5 An Officer may be delegated power to make a key decision by the Executive. Key decisions by Officers must:

21.5.1 be published on the Council's Forward Plan; and

21.5.2 be recorded in writing and published as set out in these Rules.

21.6 Delegated executive decisions

21.7 Delegated Executive decisions are decisions delegated to Officers in the following categories:

21.7.1 Decisions to incur or commit to expenditure that materially affects the Council's financial position, which is determined to be decision up to £100,000;

21.7.2 Decisions in respect of a grant of a permission or a license to any person;

21.7.3 Decisions that affect the legal rights of an individual; and

21.7.4 Decisions taken under an express delegation from the executive.

21.8 The Monitoring Officer is authorised to set the financial thresholds above following consultation with the s.151 officer and the Chief Executive.

21.9 Requirements: delegated authority reports (DAR)

21.10 A written record of a delegated Executive decision must be produced containing the following information and should be made on the Delegated Authority Report template or an equivalent template:

21.10.1 the delegating power (whether under the Constitution, the Scheme of Delegation or an express delegation in relation to a decision);

21.10.2 a record of the decision including the date it was made;

21.10.3 a record of the reasons for the decision;

21.10.4 a record of any conflict of interest relating to the matter declared by any decision-making officer and any action taken;

21.10.5 details of any alternative options considered and rejected when making the decision;

21.10.6 consideration of the legal and financial implications of the decision;

21.10.7 due regard to the Council's duty under s.149 of the Equality Act 2010;

21.10.8 a record of consultation outcomes; and

21.10.9 any relevant supporting information contained in appendices.

21.11 Publication

21.12 The written record must be made available to the public as soon as reasonably practicable after the decision as follows:

21.13 sending a copy of all documentation to Democratic Services within seven days of the date of the decision; and

21.14 publication on the relevant Council register on the website.

21.15 Exempt and confidential information

21.16 The exemptions from public and press access to reports and decisions in the

Access to Information Rules apply to delegated decisions made by Officers.

21.17 Delegated Operational Decisions

21.18 Delegated decisions that are not delegated Executive decisions are called delegated operational decisions (operational decisions).

21.19 Only the following rules on recording decisions apply to operational decisions and there is no requirement for publication. However, all decisions are subject to disclosure under the Freedom of Information Act 2000 or other access legislation on request, subject to the application of exemptions.

21.20 The decision-making officer must make keep and retain a clear written record of the decision including the following:

21.20.1 the delegating power (whether under the Constitution, the Scheme of Delegation or an express delegation in relation to a decision);

21.20.2 a record of the decision including the date it was made;

21.20.3 a record of the reasons for the decision; and

21.20.4 records required by another Council procedure, e.g. Contract Standing Orders.

21.20.5 There is no mandatory format for delegated operational decisions and may be one or more of the following:

21.20.6 the delegated authority report template; and

21.20.7 the records required by another Council procedure e.g. Contract Standing Orders.

21.21 Officers making delegated decisions are responsible for retaining a record of any delegated administrative decisions for any period required by the Council's Retention Policy.

21.22 Consultation with members

21.23 Directors will ensure lead members are informed of delegated decisions taken within their portfolio, except operational decisions.

21.24 Officers will inform ward members (usually by email or by way of member updates) of decisions with a significant impact in their wards in advance of the

decision being made and will consider any responses. Decisions may still be made where there is no response from ward members.

21.25 Failure to consult with members will not affect the legality of decisions made by Officers.

Sandwell Metropolitan Borough Council

Constitution

Part 3.5 – Citizens’ Rights

Date Approved: May 2025

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Citizens' Rights

1. Citizens' Rights

- 1.1 The Council's duties and powers are to be exercised for the benefit of Sandwell, its six distinct towns and all its citizens. This includes all those who live, work and study in Sandwell.
- 1.2 These duties may be universal and owed to everyone in Sandwell or may arise only for a section of the community, such as children at risk of harm or vulnerable adults.
- 1.3 Sandwell's citizens have to understand the Council's decisions and the reasons for them by having rights of access to meetings where decisions are made and to information held by the Council.
- 1.4 Citizens have powers to influence and shape how the Council carries out its duties through the ballot box but also participation in consultations and other engagement, either directly or through ward councillors.

2. Voting and petitions

- 2.1 Citizens who are over 18 and registered to vote may vote in local elections and referenda.
- 2.2 Electors may also sign a petition to request a referendum for a change of governance arrangements.
- 2.3 As well as residents, those who work or study in the borough may present petitions on other matters either directly or through their ward councillor.

3. Information and attending meetings

- 3.1 Citizens have rights under the Access to Information Rules in Part 3 of this Constitution including the right to:
 - 3.1.1 attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting, or part of it, is therefore held in private;

- 3.1.2 find out from the Forward Plan what key decisions will be taken by the Executive and when. The Forward Plan is available for inspection at the Council's reception and on its website; and
 - 3.1.3 see reports and background papers, and any records of decisions made by the Council and the Leader and Cabinet.
 - 3.2 Electors also have the right to inspect the Council's accounts and make their views known to the external auditor including questioning items of account.
 - 3.3 Any person has the right to request recorded information or personal information about themselves under data protection and information governance law.
- 4. Participation**
- 4.1 Citizens have the right:
 - 4.1.1 to participate in Council and committee meetings in accordance with procedures set out in this Constitution;
 - 4.1.2 to seek permission to participate in Cabinet meetings;
 - 4.1.3 to contribute to reviews and evidence gathering exercises undertaken by the Overview and Scrutiny Boards;
 - 4.1.4 take part in public consultation processes commenced by the Council. The Council will ensure that its decision makers will take into account consultation responses when making a final decision where legally required to do so; and
 - 4.1.5 to participate in activities and groups to determine community priorities under the Council's Neighbourhood Strategy.

5. Complaints and Reporting

- 5.1 Citizens have the right to complain to:
 - 5.1.1 the Council under its Complaints Scheme;
 - 5.1.2 the Local Government Ombudsman if dissatisfied with the outcome of the Council's Complaints Scheme;

- 5.1.3 other statutory complaints mechanisms where available, e.g. social care; and
- 5.1.4 the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct by a Councillor.
- 5.2 Citizens may also refer allegations of malpractice or illegality in the Council or its contractors under the Council's Whistleblowing Policy or may report them to the Police where there is evidence of a criminal offence.

6. Citizens' Responsibilities

- 6.1 When participating in meetings, or in dealings with the Council, citizens must:
 - 6.1.1 not be disruptive, violent, abusive or threatening to councillors or Officers;
 - 6.1.2 not wilfully damage property owned by the Council, Councillors or Officers; and
 - 6.1.3 comply with any procedural rules applicable to public participation and the rulings of the chair of any meeting.
- 6.2 When contacting or in contact with the Council, its Councillors or Officers, citizens must not be abusive, violent or act in a threatening way.
- 6.3 Subject to any legal provision, the Council has a right to consider the proportionate use of its finite human and other resources when corresponding with citizens.
- 6.4 The Council has a duty of care and right to protect its Officers and Councillors from such conduct and may restrict any individual's rights to contact or communication to meet this duty. Citizens will be given a right to make representations when the Council proposes to take such any action, and any response will be considered before any action is taken.

Sandwell Metropolitan Borough Council

Constitution

Part 3.6 – Members' Rights of Access to Information

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Members' Right of Access to Information: Balancing Transparency and Confidentiality

1. Purpose

- 1.1 This guidance summarises Members' right of access to information and where members have obligations to maintain confidentiality of information disclosed to them as Councillors.
- 1.2 By raising awareness amongst Councillors and Officers of Members' rights and obligations, the guidance aims to ensure that information can be shared with Members safely and quickly within the limits on those rights of access.
- 1.3 This is a complex area of law. This guide provides general advice and is not a complete statement of the law or advice on specific documents or information. If in doubt, Members are recommended to seek further advice from the Monitoring Officer.

2. Members' Rights - Transparency

- 2.1 Effective local democracy requires members to exercise their rights of access to information as:
 - 2.1.1 A Ward Councillor representing constituents;
 - 2.1.2 An Executive or Committee Member making decisions on behalf of the Council; and
 - 2.1.3 An Overview and Scrutiny Board member reviewing the decisions and policies of the Executive.
- 2.2 Members' rights of access will vary with the positions they hold in the Council.
- 2.3 Members, as residents of the borough, also have the same rights as other citizens to access their personal data and non-personal Council held information. Members may also wish to challenge the grounds on which information is claimed to be confidential or restricted from public access.

3. Members' Obligations - Confidentiality

- 3.1 Members and officers must be aware of and respect the limits on their access:

- 3.1.1 Receiving confidential information as a Councillor does not mean the information is public and can be shared with other Members, constituents or the public. It remains confidential unless there is consent to disclosure or it is published. Consent can be given to disclosure either to specific persons or generally;
 - 3.1.2 Individual's data protection rights and privacy must still be respected; and
 - 3.1.3 Confidential and personal information received as a Councillor cannot be used for party political purposes, e.g. to create a mailing list for political campaigning purposes.
- 3.2 A breach of confidentiality is likely to be a breach of the Members' Code of Conduct and place the Council at legal, financial and reputational risk. It potentially leaves the Councillor and Council at risk of legal action for breach of confidentiality and, for personal data, at risk of enforcement action by the Information Commissioner's Office.

4. Council, Committee and Executive Meetings

- 4.1 The following rights apply to formal meetings of the following bodies:
- 4.1.1 The Executive (e.g. Cabinet);
 - 4.1.2 Full Council;
 - 4.1.3 Committees and Sub-Committees; and
 - 4.1.4 Overview & Scrutiny Boards.
- 4.2 Full details of the Council's rules can be found in the Access to Information Rules within the Council's Constitution.

5. General Right of Access to Papers and Meetings

- 5.1 The default legal position as set out in the Council's Constitution is that there is:
- 5.1.1 A right of access to all agendas, reports and minutes of Cabinet, Council, Committee and Scrutiny Board meetings;

5.1.2 All these bodies are subject to statutory requirements to hold meetings in public and publish agendas five clear days in advance of the meeting; and

5.1.3 Access to all meetings held in public.

6. Advance Notice of Meetings and Decisions

6.1 All the formal meetings of Cabinet, Council, Committees and Overview and Scrutiny Boards must be held with 5 clear days public notice ('clear days' means working days and excludes the date of publication and the date of the meeting).

6.2 Additionally, Cabinet meetings making key decisions (as defined in the Access to Information Rules) must publish a summary of those decisions at least 28 days before the decision is made. This is called the Forward Plan.

6.3 In cases of urgency, decisions which are not published on the Forward Plan may be made with notice to the Chair of the relevant Overview and Scrutiny Board and, if less than five clear days' notice can be given, with the agreement that the decision is urgent and can be made by the relevant Chair of Overview and Scrutiny Board.

7. When can Access to Meetings and Papers be Restricted from Public Access?

7.1 Exempt and Confidential Information

7.2 The law provides for categories of information which may be excluded from public access:

7.2.1 before the meeting when publishing the agenda and papers (as stated below, such papers are often a different colour and are often called Part 2 papers); and

7.2.2 at the meeting by agreement of the Committee itself with the effect that this part of the meeting will be held in private and the press and public asked to withdraw.

- 7.3 Members who are not members of the decision-making committee are considered in law as members of the public so may also be asked to leave or seek permission to stay from the Committee.

7.4 Categories of Exempt Information

- 7.5 “Exempt Information” is also colloquially known as “private” papers. In summary, the categories of exempt information are:

1.	Information relating to an individual
2.	Information which is likely to reveal the identity of an individual
3.	Information relating to the financial or business affairs of any particular person (including the authority holding the information)
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters
5.	Information of which a claim to legal professional privilege could be mentioned in legal proceedings
6.	Information which reveals that the authority proposes:(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
7.	Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

- 7.6 Full details can be found in the Access to Information Rules.

7.7 The Public Interest Test

- 7.8 To be classed as exempt information, the Council must also satisfy a ‘public interest test.’ In other words, the Council must show that it is in the public interest not to disclose the exempt information. In addressing this test, the Council should look at a range of factors including the content of the information and the possible consequences of disclosure or non-disclosure. It may also consider whether the exempt information may become public at a later date, for example. the price paid for a property which would be

- 7.9 prejudicial to the Council's position if disclosed before contracts were exchanged.
- 7.10 Reports should address how the public interest test has been met.
- 7.11 Confidential Information under the Local Government Act 1972**
- 7.12 The 1972 Act defines categories of what it calls 'confidential information' which must not be published or considered in public. Confidential information in this context has a narrow statutory meaning in this situation (and is rarely used in practice). It is defined as any information which the council is prohibited from disclosing by law or a court order or any information provided to the council by a government department on terms which forbid the disclosure of the information to the public.

8. Rights of Access for Members of Cabinet, Committees and Overview and Scrutiny

- 8.1 For the avoidance of doubt, a member appointed to a formal Council body such as Cabinet or a Committee has the following rights:
- 8.1.1 To receive a copy of the agenda and papers for a meeting at least five clear days in advance of the meeting; and
- 8.1.2 In cases of urgency, a copy may be provided at shorter notice but no shorter than to members of the public and other committee members.
- 8.2 Members should not be required to hand back agenda papers unless they choose to do so (and it is often advisable to do so) but noting that exempt papers must not be disclosed in any way and must be securely destroyed.

9. Members' Additional Rights of Access

- 9.1 In the above sections, a member's right of access is the same as that of the general public. The following outlines the additional rights of access for members.
- 9.2 Documents relevant to be transacted at a Cabinet, Council, Committee or Sub-Committee hearing**
- 9.3 Members have the right to inspect or receive copies of any document in the possession or under the control of the Council and containing material relating

to any business to be transacted at a Council, Committee, or Sub-Committee meeting.

9.4 It is important to note that the right is limited in the following ways;

9.4.1 It applies to access before a meeting; and

9.4.2 It only applies to documents held at that time.

9.5 Members also have similar but not identical rights of access to documents relating to executive decisions and further advice can be provided on request.

9.6 Where documents for inspection contain exempt information

9.7 If the report is designated as containing exempt information, the right to inspect does not apply, except where the information falls within the following categories of exempt information:

9.7.1 Paragraph 3 – information about the financial or business affairs of any person (including the Council) where the information is not about terms proposed during contract negotiations.

9.7.2 Paragraph 6 – proposals to issue statutory notices, directions or other orders.

9.8 Overview and Scrutiny Board Members' Rights of Access to Executive documents

9.9 Members of Scrutiny Boards have additional rights of access to executive papers.

9.10 Scrutiny Board members are entitled to a copy of any document which is in the possession or under the control of the executive of that authority, and that contains material relating to one of the following:

9.10.1 Any business transacted at a private or public meeting of a decision-making body of that authority.

9.10.2 Any decision made by an individual Cabinet member.

9.10.3 Any decision made by an Officer of the authority in accordance with Executive arrangements.

10. There are limitations on this right. No Scrutiny Board Member is entitled to:

- 10.1.1 A copy of such document or part of a document as contains exempt or confidential information under Schedule 12A, unless that information is relevant to an action or decision that they are reviewing or scrutinising, or which is relevant to any review contained in any programme of work of the Committee or one of its Sub-Committees.
- 10.1.2 A copy of a document or part of a document containing advice provided by a political adviser or assistant.
- 10.2 Where Scrutiny Board Members have access to exempt or confidential information, they must maintain the exempt or confidential status of the information and do not have a right to disclose it to the public, press or non-Scrutiny Members.
- 10.3 The Executive must provide such information as soon as reasonably practicable and in any case no later than 10 clear days after receipt of a request from Scrutiny.
- 11. Working Groups and Task Groups**
 - 11.1 Not all bodies involving members are subject to the access to information rules described above and so the rights of access described will not apply. Access will depend on consensual disclosure by the body concerned or rights under information legislation (see below).
 - 11.2 Examples are:
 - 11.2.1 Member / Officer working parties – e.g. to address performance or a particular policy development;
 - 11.2.2 Member briefings e.g. by Officers to a political group or on a topic of interest; and
 - 11.2.3 Overview and Scrutiny Board Task and Finish Groups.
 - 11.3 Such meetings need not be subject to access to information rules but care needs to be taken that such bodies do not act like a Committee in practice and that any decisions must be referred to a formal Committee to be made.
- 12. Other Legal Rights**

12.1 Common Law: the ‘need to know’

12.2 Case law has developed members’ rights of access under the principle called “the need to know”. This right has largely been superseded by the statutory rights and duties outlined in this Guidance, e.g. exempt information and data protection rights.

12.3 The right is not unlimited and the key points are set out below:

12.3.1 Members have rights of access to information so far as access is reasonably necessary for them to perform their duties.

12.3.2 The “need to know” will vary with a Councillor’s role. For example, an Audit Committee Member will have a greater ‘need to know’ about financial matters than other Members.

12.3.3 This is not a “roving commission” to access any documents; the member needs to prove they have a right to know.

12.3.4 The right can only be used to further official duties, not private or political aims.

12.3.5 Refusals can take into account the effects on disclosure on third parties and the need to know must be in ‘good faith.’

12.3.6 Information disclosed that is confidential in nature (or under any statutory regime) remains confidential and the member is legally required to maintain that confidentiality.

12.4 Information Law Rights

12.5 Members have a right to request information under information legislation, such as the Freedom of Information Act 2000 or the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

12.6 The Freedom of Information Act 2000 gives anyone the right to request information held by the Council. The Council is under a duty to confirm or deny that it holds the information and, if it does, to supply the information. The Council has 20 working days to supply the information, although in certain cases, this time limit can be extended. This right of access is subject a

number of exempt categories of information. Fees are payable for requests that take over 18 hours to provide a response.

- 12.7 Environmental information is available under the Environmental Information Regulations 2005, again with 20 working days for straightforward requests, although a fee may be charged immediately for all responses.

12.8 Constituents' personal data

- 12.9 The UK General Data Protection Regulation (GDPR) and Data Protection Act 2018 provides for members to request and have access to personal information about constituents they are representing within specified limits. There may still be restrictions on accessing personal information about people members are not representing. Advice should be sought in individual cases and see the link to Information Commissioners Office (ICO) Guidance on this subject.

13. Members' Obligations – Respecting Privacy & Confidentiality

- 13.1 Members have wide rights of access to information held by the Council, but this does not mean that they may share all this information with other people or the public.
- 13.2 Much of the information disclosed under the “need to know” or the additional rights of access to Council and Executive documents will include access to confidential information, either about individuals, the Council or other persons/organisations.
- 13.3 Disclosure of confidential information or personal data may result in:
- 13.3.1 Legal or regulatory action against the Council;
 - 13.3.2 Legal or regulatory action against the member personally; or
 - 13.3.3 A complaint under the Code of Conduct against the Member.
- 13.4 Disclosure of information may also damage the Council's financial or legal position, for example the disclosure of the Council's negotiating position may mean the Council incurs greater cost to the public purse than if confidentiality had been maintained.

- 13.5 Members are strongly advised to seek confidential legal advice from the Council's Monitoring Officer before considering the disclosure of information given to them in confidential or otherwise restricted circumstances.

14. Further Advice and Sources

- 14.1 If there are any questions or queries arising from this guidance note, please do not hesitate to contact the Monitoring Officer or the Head of Governance.
- 14.2 Sources of further information and the Council's rules can be found at:
- Access to Information Rules
 - Local Government Act 1972, see in particular s.100 and 100A and Schedule 12A
 - The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
 - ICO guidance on disclosure of personal information by local authorities to Councillors.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.1 – Protocol for Member and Officer Relations

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.2 – Councillors Code of Conduct

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.3 – Complaints Process - Councillor Code of Conduct

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.4 – Employment Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.5 – Protocol for Regulatory Committees (Planning, Licensing, Gambling)

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Regulatory Committees Protocols

1. Introduction

- 1.1 Sandwell Council is under a duty to promote and maintain high standards of conduct by Members and voting Co-opted Members of the authority. Sandwell Council expects that Elected and Co-opted Members of this authority carry out their duties in line with the principles of public life and abide by the obligations outlined within this Code of Conduct.
- 1.2 These Protocols governs how Members of the Council engage and participate in the regulatory decision-making processes of the Council which includes those relating to Planning, Licensing Committees and Sub-Committees.
- 1.3 It is the responsibility of all Elected and Co-opted Members to maintain high standards of conduct when dealing with matters relating to the regulatory decision-making processes of the Council.

2. Definitions

- 2.1 For the purposes of this Code of Conduct, a 'Councillor' means a Member or Co-opted Member of Sandwell Council.
- 2.2 A 'Co-opted Member' is defined in the Localism Act 2011 Section 27(4) as 'a person who is not a Member of the Council but who
 - 2.2.1 is a member of any Committee or Sub-Committee of the Council, or;
 - 2.2.2 is a member of, and represents the Council on, any Joint Committee or Joint Sub-Committee of the Council;and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.'
- 2.3 A Regulatory Committee is defined as one of the following decision-making bodies –
 - 2.3.1 Planning Committee; or

2.3.2 Licensing Committees and Sub-Committees.

3 Purpose of the Protocols

- 3.1 The purpose of these Protocols are to assist you, as a Councillor , in understanding the behaviour that is expected of you when dealing with matters relating to the regulatory decision-making processes of Sandwell Council, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you.
- 3.2 It is also to protect you, the public, fellow Councillors, local authority Officers and the reputation of local government together with providing assurance of the impartiality and transparency of decision-making processes relating to the regulatory processes which govern planning, licensing, gambling and street trading matters.
- 3.3 The fundamental aim of this Protocol is to create and maintain public confidence in the role of Councillors, local government and the decision- making processes relating to the regulatory processes which govern planning, licensing, gambling and street trading matters.

4 Application of the Protocols

- 4.1 This Protocols apply to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Councillor.
- 4.2 These Protocols apply to you in relation to the regulatory decision-making processes of Sandwell Council and when –
 - 4.2.1 you are acting in your capacity as a Councillor and/or as a representative of Sandwell Council;
 - 4.2.2 you are claiming to act as a Councillor and/or as a representative of Sandwell Council;
 - 4.2.3 you are giving the impression that you are acting as a Councillor and/or as a representative of Sandwell Council; or

- 4.2.4 you refer publicly to your role as a Councillor or use knowledge you could only obtain in your role as a Councillor.
- 4.3 The Protocols apply to all forms of communication and interaction, including:
 - 4.3.1 at face-to-face meetings;
 - 4.3.2 at online or telephone meetings;
 - 4.3.3 in written communication;
 - 4.3.4 in verbal communication;
 - 4.3.5 in non-verbal communication; and
 - 4.3.6 in electronic and social media communication, posts, statements and comments.
- 4.4 You are also expected to uphold high standards of conduct and always show leadership.
- 4.5 The Council's Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer and Deputy Monitoring Officers on any matters that may relate to the Code of Conduct.

5 Commitment to attend and participation in Development Programmes for Members of Regulatory Committees

- 5.1 As a Councillor, I will undertake and complete any mandatory development programmes offered by the Council as a requirement of Membership of a Regulatory Committee.
- 5.2 It is extremely important for you as a Councillor to have the knowledge and skills necessary to undertake the roles and responsibilities of Councillor effectively, in terms of both decision-making and representing residents and local communities to best effect.
- 5.3 The Leader and all other Group Leaders have given a commitment that Councillors from all the represented political groups will be required to undertake

and complete mandatory development and training programmes offered throughout the course of each year.

- 5.4 Member Development Programmes are overseen by the Ethical Standards and Member Development Committee comprising cross party representation and are submitted to Annual Council for approval. The Development Programmes are delivered both in-house and through external partner support at local, regional and national level comprising a range of core knowledge
- 5.5 If you identify any additional development, training or support requirements, you should raise this with the Deputy Monitoring Officers.

Planning Decision-Making Protocol

(Committee and Non-Committee Members)

Planning Committee Members

1. Introduction

- 1.1 This Protocol applies to all Councillors (including Cabinet Members) and is intended to explain and supplement the Code of Conduct for Councillors and Co-opted Members (the Code of Conduct) and forms part of the Council's Constitution. The Council expects that Councillors of this authority will carry out their duties in line with the principles of public life and abide by the obligations outlined within the Code of Conduct and this Protocol.
- 1.2 This Protocol governs how Councillors engage and participate in all stages of the town and country planning decision-making processes of the Council including enforcement matters. This includes pre-application contact and all stages of the town and country planning application process including committee hearings and the exercise of delegated powers by officers.
- 1.3 It also covers less formal occasions, such as meetings with Officers or the public and consultative meetings. 'Pre-application' includes at any stage in the development process where it is reasonably foreseeable that an application for planning permission or other development consent (such as prior-approval or discharge of condition) will be required for delivery of the project.
- 1.4 It is the responsibility of all Councillors to maintain high standards of conduct when dealing with matters relating to the decision-making processes of the Council, including those related to planning matters.

2. Purpose and Application of this Protocol

- 2.1 The purpose of this Protocol is to assist you, as a Councillor, in understanding the behaviour that is expected of you when dealing with decision-making processes of the Council relating to planning, to provide a personal check and

balance, and to set out the type of conduct that could lead to action being taken against you.

- 2.2 It is also to protect you, the public, fellow Councillors, Council Officers and the reputation of local government together with providing assurance of the impartiality and transparency of decision-making processes which govern planning, thus creating and maintaining public confidence in those processes.
- 2.3 This Protocol applies to you as soon as you sign your declaration of acceptance of the office of Councillor and continues to apply to you until you cease to be a Councillor.
- 2.4 This Protocol applies to you in relation to the planning decision-making processes of the Council and when –
 - 2.4.1 you are acting in your capacity as a Councillor and/or as a representative of the Council;
 - 2.4.2 you are claiming to act as a Councillor and/or as a representative of the Council;
 - 2.4.3 you are giving the impression that you are acting as a Councillor and/or as a representative of the Council; or
 - 2.4.4 you refer publicly to your role as a Councillor or use knowledge you could only obtain in your role as a Councillor.
- 2.5 This includes when taking part in decision-making meetings of the Council, when exercising the functions of the Local Planning Authority or when becoming involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies to enforcement matters or site-specific policy issues as well as to planning applications.
- 2.6 This Protocol applies to all forms of communication and interaction, including:
 - 2.6.1 at face-to-face meetings;
 - 2.6.2 at online or telephone meetings;
 - 2.6.3 in written communication;
 - 2.6.4 in verbal communication;

- 2.6.5 in non-verbal communication; and
- 2.6.6 in electronic and social media communication, posts, statements and comments.
- 2.7 You are also expected to uphold high standards of conduct and show leadership at all times.
- 2.8 The Council's Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer and Deputy Monitoring Officers on any matters that may relate to the Code of Conduct or this Protocol.

3. Relationship to the Code of Conduct

- 3.1 Do apply the rules in the Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary, personal and prejudicial interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 3.2 Do then apply the rules in this Protocol, which seek to explain and supplement the Code of Conduct for the purposes of engagement and participation in planning related decision making. If you do not abide by this Protocol, you may put:
 - 3.2.1 the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - 3.2.2 yourself at risk of a complaint about your conduct under the Code of Conduct, being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- 3.3 Do be aware that, like the Code of Conduct, this Protocol is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of the Monitoring Officer or their staff advising at the meeting.

4. Development Proposals and Interests under the Code of Conduct

- 4.1 If you have an interest in development proposals under consideration by the Council, do disclose the existence and nature of your interest as required by the Code of Conduct, including a situation where a body you are a member of makes representations to Planning Committee in respect of an application.
- 4.2 Do take into account when approaching a decision that the Nolan Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that
- ‘Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.’
- 4.3 Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include a situation where you have a disclosable or other personal conflict of interest in a proposal and use your position to discuss that proposal with Officers or Members of Planning Committee when members of the public would not have the same opportunity to do so.
- 4.4 Do note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Code of Conduct may place additional limitations on you in representing that proposal.
- 4.5 Do notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
- 4.5.1 you must send the notification no later than submission of that application where you can;
- 4.5.2 you must not get involved in the processing of the application; and

- 4.5.3 it is recommended that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and for public speaking at Planning Committee.

5. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)

- 5.1 Do not fetter your discretion and therefore your ability to participate in planning decision making at Committee by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 5.2 To avoid accusations of pre-determination or bias, Planning Committee members must not attend any meetings or presentations on planning matters or otherwise discuss such matters with any person other than a fellow committee member or an Officer. Members of Planning Committee must leave the room whenever such matters are discussed other than at Planning Committee itself.
- 5.3 Do keep at the front of your mind that, when you come to make the decision, you;
- 5.3.4 must keep an open mind and hear all of the evidence before you, both the Officers' presentation of the facts and their advice and the arguments from all sides;
- 5.3.5 are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Councillor, in giving fair consideration to points raised;
- 5.3.6 are only entitled to take account of material considerations and must disregard considerations irrelevant to the question and legal context at hand; and

- 5.3.7 are to come to a decision after giving what you feel is the right weight to those material considerations.
- 5.4 Planning Committee Members who have been involved in the preparation, submission or advocacy of a proposal must declare an interest and withdraw from the Planning Committee meeting.
- 5.5 As a member of Planning Committee you do have the opportunity to exercise your separate speaking rights as a ward/local Councillor where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Alternatively, you may prefer to refer the elector to your fellow Ward Councillor or (in a single member ward) to a Councillor from another Ward.
- 5.6 Where you do exercise speaking rights as a Ward/local Councillor, you must:
- 5.6.1 advise the Proper Officer or Chair that you wish to speak in this capacity before commencement of the item;
 - 5.6.2 not vote or speak as a committee member in respect of the item and remove yourself from the seating area for members of the Committee for the duration of its consideration; and
 - 5.6.3 ensure that your actions are recorded.
- 5.7 Planning Committee Members must not decide or discuss how to vote on any application at any political group meeting or lobby any other Committee Member to do so. Political group meetings must never dictate how Councillors should vote on a planning issue.
- 5.8 Planning Committee members who have a disclosable or other personal conflict of interest in an item before Committee may speak as a member of the public but must declare their interest, sit apart from committee members and leave the room immediately after addressing Committee.

6. Contact with Applicants, Developers and Objectors

- 6.1 Do refer those who approach you for planning, procedural or technical advice to Officers.
- 6.2 **Planning Committee Members** – you must be careful in your dealings with applicants, developers and objectors. Do not attend any meetings or presentations on planning matters or otherwise discuss such matters with any person other than a fellow Committee Member or an Officer.
- 6.3 **Other Councillors** – follow the rules set out in the Protocol for Councillor contact with Applicants, Developers, Contractors, Agents and Investors and do not agree to any formal meeting with such persons or their representatives except where you feel that a formal meeting would be useful in clarifying the issues. You must seek to arrange that meeting through a request to the Director for Planning and Building Control to organise it. The Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Planning Committee.

Note: the above requirements do not apply to contact between non-Planning Committee members and any constituent who is unconnected with the planning applicant and who supports the application, or with any objectors or campaign groups and such meetings do not need to be registered or organised and attended by Officers.

- 6.4 Do otherwise:
- 6.4.1 follow the rules on lobbying;
 - 6.4.2 consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - 6.4.3 report to the Assistant Director and Head of Planning any significant contact with the applicant and other parties, explaining the nature

and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

6.5 In addition, in respect of presentations by applicants/developers:

- 6.5.1 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers.
- 6.5.2 Do ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 6.5.3 Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the Planning Committee or an Officer under delegated powers.
- 6.5.4 Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you must never state how Councillors would intend to vote at a Committee.

7. Lobbying of Councillors

7.1 "Lobbying" describes where an individual, organisation or a group tries to influence Councillors or Officers to support a particular policy or course of action or make a certain decision. Lobbying can take any form including those set out at paragraph 6.5 above, for example;

- 7.1.1 at face-to-face meetings;
- 7.1.2 at online or telephone meetings;
- 7.1.3 in written communication;
- 7.1.4 in verbal communication;
- 7.1.5 in non-verbal communication; and
- 7.1.6 in electronic and social media communication, posts, statements and comments.

7.2 All Councillors - Do remember that your overriding duty is to the whole community not just to the people in your ward and that you must not

improperly favour, or appear to improperly favour, any person, company, group or locality.

- 7.3 Do copy or pass on any lobbying correspondence you receive to the Director for Planning and Building Control at the earliest opportunity.
- 7.4 Do promptly refer to the Director for Planning and Building Control any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 7.5 Do inform the Monitoring Officer where you feel you have been exposed to abuse or harassment (including over social media) or undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 7.6 **Planning Committee Members** – Do not speak to anyone about planning matters other than Officers or fellow Committee Members. Any correspondence received on planning matters must be forwarded unread to Officers.
- 7.7 **Other Councillors** – Do note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have breached this Protocol through:
 - 7.7.1 listening or receiving viewpoints from residents or other interested parties;
 - 7.7.2 making comments to residents, interested parties, other Councillors or appropriate Officers (making clear that you must keep an open mind);
 - 7.7.3 seeking information through appropriate channels; or
 - 7.7.4 being a vehicle for the expression of opinion of others in your role as a Ward Councillor.
- 7.8 Do not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum and its acceptance is declared as soon as possible, including its addition to your register of interests where relevant. You must follow the guidance for Councillors on gifts and hospitality.

8. Lobbying by Councillors

- 8.1 As a Planning Committee Member, do not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- 8.2 Do join general interest groups which reflect your areas of interest, and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you must disclose an interest and not vote on the grounds of transparency where the organisation has made representations on a particular proposal.
- 8.3 Do not lobby committee members regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. Such concerns or views should be referred to Planning Officers in order that they may be recorded and reported in the usual way.
- 8.4 Do be aware of the power of social media posts or re-posting and be careful to not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- 8.5 Do not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Councillor to do so. Political Group Meetings must never dictate how members of Planning Committee Members should vote on a planning issue.
- 8.6 If you are lobbied or think you have been lobbied DO NOT approach any other Planning Committee or Member. Notify the

9. Site Visits/Inspections

- 9.1 Do attend site visits organised by the Council. You may not vote on a matter unless you have attended the relevant site visit.

- 9.2 Site Visits must only be attended by Planning Committee Members together with Ward/local Councillors for the application and relevant Officers.
- 9.3 Don't request a site visit unless you feel it is strictly necessary because:
- 9.3.1 particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - 9.3.2 there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 9.4 Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site and do not express opinions or views to anyone during a site visit.
- 9.5 Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 9.6 Do not hear representations from any other party, including the ward/local Councillor(s) who may speak only to point out relevant site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer present. To facilitate this, officers will offer to point out any relevant physical factors on behalf of any objectors or applicants who attend on site. Officers may assist Planning Committee members at the site visit by explaining the scheme and/or matters raised by third parties.
- 9.7 Do not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

10. Public Speaking at Meetings

- 10.1 Do not allow non-Planning Committee Members, members of the public or applicants to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

- 10.2 Do not participate in social media or exchanges by texting as a member of the Committee during the Committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- 10.3 Do ensure that you comply with the Committee's procedures in respect of public speaking.

11. Officers

- 11.1 Do not put pressure on Officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Assistant Director and Head of Planning, which may be incorporated into any committee report).
- 11.2 Do recognise that Officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Assistant Director and Head of Planning Control or those Officers who are authorised by the Director to deal with the proposal at a Councillor level.
- 11.3 Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, Planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

12. Decision Making

- 12.1 Do ensure that, if you request a proposal to go before the Planning Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- 12.2 Do come to meetings with an open mind and demonstrate that you are open-minded.

- 12.3 Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 12.4 Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 12.5 Do consider and have due regard to advice provided by Council Officers in making any decisions including -
- 12.5.1 the Assistant Director and Head of Planning
 - 12.5.2 the legal advisor to Planning Committee;
 - 12.5.3 any other relevant or appropriate officer giving advice to Councillors during the course of a decision-making by Planning Committee.
- 12.6 Do not vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the introduction to the matter and have attended any associated site visit. (Where a matter is deferred or adjourned and its consideration recommences at a subsequent meeting, only Councillors who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- 12.7 Do have recorded the reasons for Committee's decision.
- 12.8 Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- 12.9 In order to ensure that its members are properly advised as to the planning basis of their decision, when Committee proposes to determine an application

contrary to planning officers' recommendations, it is recommended that the item is deferred to allow officers to prepare a further report on the policy and legal aspects of Committee's proposed grounds for refusal, or to draft appropriate grounds and conditions to be attached to an approval.

13. Training

- 13.1 Do not participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 13.2 Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, codes of practice and the Development Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively. Do request officers to provide any training you feel would assist you in your work as a Councillor
- 13.3 Do participate in the annual review of a sample of planning decisions to ensure that Councillors' judgements have been based on proper planning considerations.

Non-Planning Committee Members

14. Overview

- 14.1 Non-Committee Members should not attend a presentation on planning matters unless an Officer is present and/or it has been organised by Officers.
- 14.2 Non-Committee Members should not agree to any formal meeting with applicants, developers or their agents unless this would serve a useful purpose. They should never seek to arrange such meetings but should request the Head of Planning to organise it. They should also register the meeting with the Chief Executive by letter or e-mail.
- 14.3 Officers will then attend to ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the

application file and the record of the meeting is disclosed when the application is considered by Committee.

Note: these requirements do not apply to meetings between non-Planning Committee Members and any supporters who are their constituents or any other objectors or campaign groups and such meetings do not need to be registered or organised and attended by Officers.

15. Lobbying of Planning Committee Members

- 15.1 Non-Committee Members should not excessively lobby Planning Committee Members regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. This is particularly relevant in relation to Planning Committee Members attending Neighbourhood Committee or other consultee bodies.

16. Members' Relationship with Officers

- 16.1 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent them from asking questions or submitting views to the Planning Manager, which may be incorporated into any Committee report).

17. Compliance with Developer Code of Practice

- 17.1 As a Councillor –

17.1.1 I will comply with the requirements of the Developer Code of Practice as set out in the Constitution.

- 17.2 It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance.

- 17.3 This is even more important when dealing with communications or representations from developers (and/or their representatives) for proposed or active planning applications or attending meetings about particular developments.

Licensing Decision-making Processes

Committee Members

1. Licensing Process, Committees and Sub-Committees

- 1.1 These requirements apply to Members at all times when involving themselves in the licensing process. (This includes when taking part in decision-making meetings of the Council, when exercising the functions of the Licensing Authority or when becoming involved on less formal occasions, such as meetings with Officers or the public and consultative meetings). It applies to licensing enforcement matters or site-specific policy issues as well as to licensing applications.
- 1.2 As a Councillor –
 - 1.2.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.
- 1.3 The role of the Licensing Committee and Sub-Committees are to determine an application in an impartial and even-handed manner following a fair hearing which is free from bias and the appearance of bias.
- 1.4 Each Member should consider the application and representations with an open mind and make a determination in accordance with the provisions of the relevant legislation, guidance and the Licensing Authority's Policy.
- 1.5 Licensing or gambling applications received on behalf of the Council (or an application involving the Council and another party) should be treated in the same way as those from other persons.
- 1.6 Decisions must be made strictly in accordance with the relevant legislation and without regard to any financial or other gain that may accrue to the Council if the application is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.
- 1.7 Any Member who took part in the Authority's decision to apply for a licence should not also sit on the Licensing Committees and Sub-Committees which considers the application, except where the Member has been part of the

Council meeting which approved a Licensing Policy Statement published in accordance with the Licensing Act 2003 which included a provision for the Authority to licence its own land.

- 1.8 A decision can only be taken by the Licensing Committee and Sub-Committees after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to Committee meetings must not be used to decide how Councillors should vote at the Licensing Committee and Sub-Committees. Decisions can only be taken after full consideration of the Officer's report, and any representation considered at the Licensing Committee and Sub-Committees.
- 1.9 Councillors involved in the decision-making on a particular licensing or gambling application should not also have been involved in organising support or opposition to the same application.

2. Contact with non-Committee Members, Applicants and Objectors

- 2.1 Licensing Committee and Sub-Committees Members should not attend any presentations on licensing matters or otherwise discuss such matters with any person other than a fellow Member or an Officer.
- 2.2 Licensing Committee and Sub-Committees Members must declare an interest where a body they are a Member of makes representations to licensing Committee in respect of an application.
- 2.3 Licensing Committee and Sub-Committees Members should not allow non-Committee Members, Members of the public or applicants to communicate with them during the Committee's proceedings (orally or in writing) other than through the application for public speaking, as this may give the impression of bias.
- 2.4 Licensing Committee and Sub-Committee Members should not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire submissions and debate, including the Officers' introduction to the matter and have attended at any associated site visit.

3. Elected Members Contact with Applicants and Objectors

- 3.1 Members should inform the Monitoring Officer where they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality). The Officer will then arrange for the matter to be followed up.
- 3.2 Members should not act as agent for any person in a licensing matter.

4. Members' Relationship with Officers

- 4.1 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent them from asking questions or non-Committee Members from submitting views to the Licensing Manager, which may be incorporated into any relevant Committee report).
- 4.2 As a Councillor I undertake to consider and have due regard to advice provided by Council Officers in making any decisions.
- 4.3 When reaching decisions on any matter you must have regard to any relevant advice provided to you by —
 - 4.3.1 the Head of Licensing;
 - 4.3.2 the Solicitor and Secretary to Licensing Committee and Sub-Committees;
 - 4.3.3 any other relevant or appropriate Officer designated or otherwise giving advice to Elected Members during the course of a decision-making by a Regulatory Committee.
- 4.4 You must give reasons for decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

5. Participation at Licensing Committees and Sub-Committees Meetings

- 5.1 Licensing Committees and Sub-Committees Members should not allow non-Committee Members, Members of the public or applicants to communicate

- 5.2 with them during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the impression of bias.
- 5.3 Committee and Sub-Committee Members should not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire submissions and debate, including the Officers' introduction to the matter and have attended at any associated site visit.

Non-Committee Members

6. Licensing Process, Licensing Committee and Sub-Committees

- 6.1 Members who do not sit on the Licensing Committee and Sub-Committees need to be careful when discussing issues with a Licensing Committee and Sub-Committees Member relating to matters which may come before that Member to avoid an accusation of bias being made.

Sandwell Metropolitan Borough Council

Constitution

Part 4.6 – Protocol for Councillor and Officer Engagement with Applicants and Developers

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.7 – Councillor Social Media Protocol

Date Approved:

Version Number

1.x

Document Owner:

Monitoring Officer



Use of Social Media by Elected Members – Guidance

1. Introduction

- 1.1 Social media is an important and growing communications tool for individuals and businesses. The Council welcomes and recognises Councillors increasing use of social media and would like to offer support and advice in relation to appropriate usage. This protocol is intended to provide such guidance and complements the general rules under the Code of Conduct for Councillors.
- 1.2 Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision of the Council, or result in complaints for breaching the Council's Code of Conduct for Councillors, especially in the areas such as failing to show respect to others and bringing the Council or their office into disrepute. Councillors are asked to follow these guidelines to assist them in complying with proper standards of behaviour.

2. What is Social Media?

- 2.1 'Social Media' is the collective term used to describe easy ways to create and publish on the internet and other electronic communication platforms. People generally use the term to describe how organisations and individuals share content - text, video and pictures - and create conversations on the web.
- 2.2 As a sector, Social Media has grown substantially over recent years as a means of communicating and sharing information, with a number of well-known sites including 'X' (formerly known as Twitter, Facebook, Pinterest, Blogger, Wordpress and YouTube to name a few.
- 2.3 When you engage online it is important you use common sense. This Guide seeks to assist elected Members in their use of Social Media and will be appended to the Council's Member and Officer Protocol.
- 2.4 Sandwell acknowledges social media as a useful tool for Elected Members. However, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the Council to security litigation or reputational risks or breach the Data Protection Act 2018.

3. Practical considerations

3.1 Councillors, just like anyone, should use common sense and have due regard of internet security and, to ensure that communications remain proper and appropriate, the following practical points may assist:

3.1.1 **Think before you publish.** You are personally responsible for what you publish on Social Media. Words cannot be unspoken and even if you delete a hastily fired off blog post or tweet, it will probably have already been read, shared and referenced or duplicated in places on the web beyond your reach. If you include photographs or other images, you may need to consider whether anyone shown in the photographs or images might reasonably object or whether subject images are subject to copyright by third parties.

3.1.2 **Check the content of what you post.** Social media sites are in the public domain and a posting constitutes a publication for the purposes for the law of defamation. It is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

3.1.3 **Check your privacy settings.** Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public or beyond a known circle of readers. Read the Terms of Service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

3.1.4 **Make your commenting policy clear.** You will need to take note of the comments that other people make on your site. It may be a fine line to tread, but if you allow offensive or disrespectful comments to stand on your site then it can put off other members of your community, and you may even be called to account under the Code of Conduct for Elected Members. For blogs, the easiest way to handle this is to moderate comments and to state clearly on your site that you're doing so and reasons why comments may be rejected. For Facebook or other social networks, including multi-media sites like YouTube and Flickr where

people can post public or semi-public messages to your profile, you will need to regularly check on messages (you can be notified by email) or disable message posting.

- 3.1.5 **Allow disagreement.** Some comments may not accord with your views and you may want to consider removing these comments. On the other hand, deleting the comments of people who disagree with you will backfire. You cannot stop them from posting the same comment elsewhere, then linking back to your site and saying you are gagging those who disagree with you.
- 3.1.6 **'Following' and 'friending'** Some of the terminology in social media, like 'following' or 'friending' can imply an intimacy that is not really there. You must think carefully about who you request to be 'friends' with or accept 'friend' requests from. Requesting or accepting, for example, an Officer of the Council as a 'friend' on a social network site must not compromise the professional and impartial relationship between Officers and Elected Members. Generally, this should be avoided.
- 3.1.7 **Do make use of other communication functions that social media allows you.** X's 'list' function, for example, can help you to follow local people in a less direct way. Bloggers are, however, almost invariably happy for you to link to them.
- 3.1.8 **If you make a mistake Social Media is transparent.** The best bloggers admit mistakes rather than try to cover them up (which is not possible online). Amending your text and acknowledging your mistake, perhaps by putting a line through the offending words and inserting a correction, or providing an update section at the bottom of a blog post shows you are not pretending it never happened, and it's much better than just deleting it when dealing with online misfires.
- 3.1.9 **Avoid the difficult users.** As you begin to use social media, you will find some argumentative characters out there. Do not get bogged down. You do not have to respond to everything. Ignore if necessary.

4. Legal Considerations

4.1 In the main, Members have the same legal duties online as anyone else (see below), but failures to comply with the law may have more serious consequences. There are some additional duties around using a Member's website for electoral campaigning and extra care needs to be taken when writing on planning, licensing and other quasi-judicial matters.

4.1.1 **Libel.** If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and don't take prompt action to remove it. A successful libel claim against you will result in an award of damages against you. Whilst the Council can apply an indemnity in support of Members in certain legal actions if cannot do so when the Member in question has acted recklessly, so it is important that consideration is given to the appropriateness of the content posted.

4.1.2 **Copyright.** Placing images or text on your site from a copyrighted source (for example extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission in advance. Breach of copyright may result in an award of damages against you.

4.1.3 **Data Protection.** Avoid publishing the personal data of individuals unless you have their express written permission.

4.1.4 **Bias and Pre-determination.** If you are involved in determining planning or licensing applications or other quasi-judicial decisions, avoid publishing anything on your blog that might suggest you don't have an open mind about a matter you may be involved in determining. If not, the decision runs the risk of being invalidated.

4.1.5 **Obscene Material.** It goes without saying that you should avoid publishing anything in your blog that people would consider obscene. Publication of obscene material is a criminal offence.

- 4.1.6 **Bullying and Discriminatory Comments.** Behaving in a discriminatory, bullying or harassing way towards any individual including making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age via social media by posting images or links or comments could, in certain circumstances, result in criminal sanction.
- 4.1.7 **Election Periods.** The Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and that includes web advertising. There are additional requirements – such as imprint standards – for materials, which can be downloaded from a website. Full guidance for candidates can be found at – www.electoralcommission.org.uk

5. The Members' Code of Conduct

- 5.1 It is worth pointing out that Members can have 'blurred identities' when they have a social media account where they comment both as a Member and as a private individual.
- 5.2 For example, you may have a Facebook account where you have posted about a great night out (in your personal/private capacity) and another time explained the Council's position on pothole repair (in your councillor capacity).
- 5.3 It may be clear in your mind when you are posting in a private capacity or as a Councillor, but it could be less than clear to others.
- 5.3.1 **In what capacity am I posting?** Such blurred identities might, for example, have implications where your views are taken as those of the Council or political party, rather than your personal opinion. It is important to be clear in your social media accounts/profiles, then you can be confident as to what you can and cannot say while you are representing the Council or political party.
- 5.3.2 **Do not use the Council's logo on a personal account or website.** How you use your online identity will also determine how online content will be treated in respect of the Members' Code of Conduct.

Councillors are expected to communicate politically. As explained above there is a difference between communicating on behalf of the Council, for example blogging as a Councillor or as a private citizen, and the former will be held to a higher standard than the latter. The key to whether your online activity is subject to the Code of Conduct for Members is whether you are giving the impression that you are acting as a councillor, and that is the case whether you are in fact acting in an official capacity or simply giving the impression that you are doing so.

5.3.3 Separate Accounts for Council and Personal Use. One way to separate your personal/private business from your activities as a councillor is to have two separate accounts - one for personal/private business and the other for Councillor activities. The latter account would have the title of Councillor in the profile name to clearly identify the role you are undertaking when using that account. This separation of accounts will assist in managing friends' lists and the content of any tweets/post etc. However, even then, you still need to be careful to ensure that what you say on your personal/private business account does not compromise your position as a Councillor.

5.3.4 What does the Elected Members Code of Conduct say? Aspects of the Members' Code of Conduct will apply to your online activity in the same way it does to other written or verbal communication you undertake. Councillors should comply with the general principles of the Code in what they publish and what they allow others to publish. You will need to be particularly aware of the following sections of the code and their practical application:-

- treat others with respect. Avoid personal attacks and disrespectful, rude or offensive comments;
- avoid conducting yourself in a manner or behaving in such a way so as to give a reasonable person the impression you have brought your office or the Council

into disrepute;

- comply with equality laws. Take care not to publish anything that might be considered as sexist, racist, ageist, homophobic or anti-faith;
- refrain from publishing anything which is confidential or breaches the Data Protection Act;
- ensure that readers are not misled into believing that any material published by you is on behalf of the Council, authorised by the Council or official Council policy if it is not;
- ensure all content that relates to the Council or Council business is accurate, fairly balanced, not misleading and complies with any relevant Council policy;
- comply with the terms and conditions of the social media site being used; and
- be mindful if using social media during an official Council meeting or event that the use does not negatively impact on the proceedings or contravene the Constitution or other Council protocol.

5.3.5 **Personal Safety and Safeguarding.** It is of paramount importance of all times to ensure the safety of both yourself and family members.

5.3.6 **What information to post?** Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable (For example, holidays). Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the Council's Data Protection Policy Statement. Safeguarding issues are paramount because social media sites are often misused by offenders. Everyone has a responsibility for protecting and safeguarding children and adults

who may be vulnerable as elected member make yourself aware of relevant reporting processes if you have any concerns.

- 5.3.7 **What if I receive threats, abuse or harassment via my Social Media feeds?** Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group Leader, Democratic Services and/or the police.
- 5.3.8 **How do I get a post deleted?** Posts made using third party sites such as Facebook or X are not held or within the control of the council - posts can be deleted by site administrators without knowledge or consent of the council. In exceptional circumstances, copies of posts may be made and retained by the council, (e.g. as evidence of inappropriate posts) in line with relevant council procedures, (depending on the nature of the allegation). These copies will be held for a period dependent on the type of investigation they are subject to, (e.g. disciplinary, audit, criminal, etc). (Note: Training will be provided for Elected Members on the effective use of social media and online safety).

6. Additional advice and support

- 6.1 The overriding aim of this Guidance is to assist Members and Officers.
- 6.2 If Members require additional clarification please contact Mike Jones, Monitoring Officer at Mike_Jones1@sandwell.gov.uk or Matt More, Head of Communications at Matthew_More@sandwell.gov.uk

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Sandwell Metropolitan Borough Council

Constitution

Part 4.8 – Councillors Allowances Scheme

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.9 – Property Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.10 – Contracts and Procurement Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.11 –Financial Procedure Rules

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.12 – Code of Governance

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.13 – Companies Governance Protocol

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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Sandwell Metropolitan Borough Council

Constitution

Part 4.14 – Anti-Fraud and Corruption Strategy

Note: Existing constitutional arrangements are carried forward. Revised arrangements will be submitted to full Council for adoption in due course.

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