

Committee:	Governance and Constitution Review Committee Full Council
Report Title	Constitutional updates - Scheme of Delegation to Officers and Planning Committee Responsibilities
Date of Meetings	Committee – 03 March 2026 Full Council – 17 March 2026
Report Author	Mike Jones, Monitoring Officer and Service Director Governance
Lead Officer	Mike Jones, Monitoring Officer and Service Director Governance
Wards Affected	All
Identify exempt information and exemption category	Not applicable
Appendices (if any)	<ol style="list-style-type: none"> 1. Part 2.10 - Scheme of Delegation to Officers – Updated 2. Part 2.8 – Committees Responsibilities and Terms of Reference - Planning Committee

1. Executive Summary

- 1.1 This report seeks approval to update Part 2.10 Scheme of Delegation to Officers and Part 2.8 Committee Responsibilities and Terms of Reference relating to the Planning Committee within the Council's Constitution. The revisions ensure processes are clear, consistent, and transparent, improving oversight effectiveness and supporting robust monitoring of Council performance and outcomes.

2. Recommendations:

For the reasons set out in the report, the Governance and Constitution Review Committee recommend to Full Council that:-

- 2.1 Approval be granted to proposed changes to Part 2.10 – Scheme of Delegation and Part 2.8 – Committee Responsibilities and Terms of Reference (Planning Committee) highlighted in yellow within Appendices 1 and 2 to the report submitted; and

- 2.2 Approval be granted to further proposed changes to Part 2.10 – Scheme of Delegation to Officers highlighted in yellow within Appendix 1 to the report submitted to provide an additional delegation on the Chief Executive, exercisable only in the period between an all-out election and the Annual Council Meeting, enabling the Chief Executive to appoint councillors to the Licensing and Gambling Committee for the sole purpose of ensuring the Council can discharge its statutory duties under the Licensing Act 2003 in relation to expedited reviews and interim steps hearings.

3. Proposals – Reasons for the Recommendations

Amendments to Scheme of Delegation

- 3.1 The changes within this report provide ensures proper governance by clearly defining decision-making authority and financial limits. The revised Scheme forms part of the Council’s Constitution and sets out the delegation of Executive and Non-Executive functions to Officers to enable the efficient and lawful discharge of the Council’s business. The key changes are summarised below -
- 3.1.1. Updated Financial Limits: New thresholds for expenditure have been set for different officer tiers to ensure proper financial oversight.
 - 3.1.2. Enhanced Governance: The revised Scheme emphasises transparency, accountability, and compliance with equality duties.
 - 3.1.3. Statutory and Proper Officer Appointments: An updated list of statutory and proper officers is included to align with current legal requirements.
 - 3.1.4. Emergency Powers: Provisions for urgent decision-making in emergencies have been clarified.

Additional delegation to Chief Executive to appoint Members to the Licensing and Gambling Committee

- 3.2 Following an all-out election, the Council will not have an appointed Licensing and Gambling Committee until the Annual Meeting formally constitutes its committees. During this period, should the authority receive an application for an expedited review under ss.51–53A of the Licensing Act 2003, the statutory requirement to convene an urgent hearing within 48 hours cannot be met. The legislation and statutory guidance do not permit the function to be delegated to an officer, nor do they provide for an alternative decision-maker when the committee temporarily does not exist.
- 3.3 To ensure continuity of statutory decision-making and avoid failure to discharge the licensing authority’s duties, a narrow and time-limited delegation is proposed. This would allow the Chief Executive, between polling day and the Annual Meeting only, to appoint councillors to the Licensing and Gambling Committee for the exclusive purpose of enabling the Council to constitute a lawful sub-committee to hear any interim steps matter. The proposed wording is as follows, to be inserted in the Scheme of Delegation to Officers under specific delegations to the Chief Executive –

“Between the date of an all-out election and the subsequent Annual Council Meeting, the Chief Executive is delegated authority to appoint councillors to the Licensing and Gambling Committee for the sole purpose of enabling the Council to lawfully constitute a Licensing Sub-Committee to discharge its statutory duties under ss.51–53A of the Licensing Act 2003 in relation to

expedited reviews and interim steps hearings. This delegation may only be exercised where an expedited review application has been received or is reasonably anticipated and shall cease upon the appointment of the Committee at the Annual Council Meeting.”

- 3.4 The delegation does not enable the Chief Executive to determine licensing matters, nor to appoint any sub-committee directly; the appointment would relate solely to the parent committee to comply with the statutory structure of the 2003 Act. This approach is consistent with sector practice where similar delegations have been implemented to ensure compliance with the 48-hour statutory timeframe. As with other changes proposed to the scheme, this amendment is highlighted in yellow for emphasis.

Amendment to Planning Committee responsibilities

- 3.5 As part of the ongoing review of the Council’s Constitution, a new requirement is proposed in relation to any application concerning material departures from the Development Plan that are considered by the Planning Committee.
- 3.6 It is proposed that paragraph 4.7.7 of the existing responsibilities be amended to require that when a material departure from the Development Plan (Local Plan) is being considered by the Planning Committee, a formal written notice must be provided to the relevant Ward Councillors. This amendment ensure that Ward Councillors are adequately informed about significant planning matters that may impact their Wards, allowing for greater transparency and engagement. The amendment is highlighted in yellow for emphasis.
- 3.7 This reflects the additional specialist training requirements placed on Planning Committee Members to discharge these statutory functions. Revisions and the ultimate adoption of the Local Plan are reserved to Full Council and unaffected by this approach which is consistent with sector best practice.

Next steps

- 3.8 Full Council will consider further additions to the Constitution as and when required, ensuring that all remaining sections are reviewed, modernised and are consistent with the Council’s new governance model.
- 3.9 The new arrangements will be incorporated into the existing Member Development Programme and reflected in induction arrangements from May 2026. A comprehensive programme of training and awareness will also be developed for officers to improve their awareness of the delegations and Committee responsibilities.
- 3.10 The Council’s website continues to be used to promote awareness of the openness of the Council’s culture and decision-making processes with a view to greater public engagement and involvement in and oversight of the Council’s decisions.

4. Background

- 4.1 The Council is required to have a Constitution. The main functions of a Constitution are to set out clearly
 - 4.1.1 Who makes decisions;
 - 4.1.2 How those decisions are made;
 - 4.1.3 The checks and balances on decision-making; and
 - 4.1.4 The governance and ethical framework.
- 4.2 The Monitoring Officer submitted proposals in 2025 for a new model Constitution. That proposal set out a review approach based on transparency and agility of decision making, innovation, openness to challenge and involvement of all stakeholders, aligned with the strategic vision of the Council.
- 4.3 Several key components of the Constitution were considered and approved by Full Council in May 2025. The Council has clear stated objectives to be brilliant at the basics and become an outstanding Council. The Constitution and associated governance frameworks provide the foundation on which this will be assured, and therefore transformation was essential. This report and the accompanying new model Constitution deliver on that objective.
- 4.4 Following approval by Full Council of the new Constitution, further work has been undertaken. This included the review of the scheme of delegations to Officers and changes to the Committee responsibilities. These documents form part of Parts 2.08 and 2.10 within the new model Constitution and are to be considered by the Governance and Constitution Review Committee prior to submission to Full Council on 17 March 2026

5. Alternative Options Considered

- 5.1 The following alternative options have been considered –
 - 5.1.1 **Option 1 – Undertake a comprehensive review and refresh of the Constitution.** This option ensures all sections are reviewed and updated to ensure consistency and accuracy allowing greater clarity in structure and content to be applied. This option is delivered through this report.
 - 5.1.2 **Option 2 – Continue to update individual sections of the Constitution.** This reflects historic practices within the Council over several years and has resulted in a complicated and at times inconsistent Constitution which does not offer clarity or assurance. This option was therefore dismissed.
 - 5.1.3 **Option 3 – Not to update the Constitution.** The Council is obligated to continuously review its governance and decision-making arrangements in response to ongoing changes to legislation and regulations. This option was therefore dismissed.

6. Consultation

- 6.1 The approach set out in the report and review programme is founded on continued consultation and engagement with key stakeholders including elected Members and Officers.
- 6.2 Feedback gathered through internal approval processes for key elements of the Constitution review has and will continue to shape content put forward to Members for consideration and approval. The proposals relating to the Planning Committee respond to member feedback and ensure Ward Councillors are fully engaged and sighted on decision-making.
- 6.3 Any amendments arising from Governance and Constitution Review Committee will be incorporated prior to submission to Full Council.

7. Financial Implications

- 7.1 There are no direct financial implications to this report. Any future training and awareness will be delivered through existing budgets. The change is administrative.
- 7.2 The Scheme of Delegation establishes financial transaction limits for senior officers and clarifies virement and write-off thresholds.

8. Legal and Governance Implications

- 8.1 The Council is required to adopt a Constitution as best practice is to continuously review arrangements to ensure these are fit for purpose, clear and effective.
- 8.2 Proposals in this report include changes to the Scheme of Delegation which determines how functions and decisions are made by Officers on behalf of the Council. Arrangements established through the Scheme ensure compliance with:
 - 8.2.1 S.101 Local Government Act 1972 (delegation of functions);
 - 8.2.2 S.9E Local Government Act 2000 (Executive delegation);
 - 8.2.3 S.37 Local Government Act 1972 (requirement to maintain a Constitution); and
 - 8.2.4 S.100G Local Government Act 1972 (recording of decisions); and
 - 8.2.5 relevant service-specific statutory frameworks.

9. Risks

- 9.1 Undertaking a comprehensive review of the Constitution in form, structure and content will ensure governance, decision-making and accountability frameworks are enhanced and subject to regular review. Failure to maintain an up-to-date Scheme of Delegation exposes the Council to:
 - 9.1.1 legal challenge;
 - 9.1.2 unlawful decision-making;
 - 9.1.3 governance weakness;
 - 9.1.4 financial risk; and
 - 9.1.5 reputational damage.

9.2 Adoption of the revised Scheme mitigates these risks by clarifying accountability and decision-making authority.

10. Equality and Diversity Implications (including the public sector equality duty)

10.1 The report makes minor technical adjustments to the Council's new Constitution. The Constitution's content is determined by statute, as described above. Proposals to amend the Constitution will be made at Committee meetings where the public can attend and, subject to Committee approval, can participate.

10.2 The Scheme of Delegation embeds requirements for Officers exercising delegated authority to have due regard to the Public Sector Equality Duty under s.149 Equality Act 2010. The Scheme itself does not change service delivery but governs internal decision-making processes.

11. Other Relevant Implications

11.1 The Constitution is designed to assure effective governance arrangements operate across the Council as an organisation and will impact on the practices, processes and procedures for all aspects of decision-making.

12. How does this deliver the objectives of the Strategic Themes?

12.1 This report will support the delivery of all the Council's Strategic Themes, comprising:

- Growing up in Sandwell
- Living in Sandwell
- Healthy in Sandwell
- Thriving Economy in Sandwell
- One Council One Team Approach.

12.2 Effective governance and decision-making provides the foundation from which the Council delivers and commissions all its services, and the processes by which quality, best value and accountability are ensured. An effective, clear Constitutional model will support delivery against all of the strategic themes.

Relevance Check**Budget Reduction/Service Area:** Legal**Service Lead:** Governance**Date:** 12 February 2026

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? No