

# Agenda Council

**You are hereby summoned to attend a meeting of the Sandwell Metropolitan Borough Council, to be held on Tuesday, 8 November 2022 at 6.30 pm for the purpose of transacting the following business:-**

**The Mayor of Sandwell, Councillor Richard Jones, In the Chair**

## REVISED AGENDA

- |   |  |         |
|---|--|---------|
| 1 | <b>Apologies for Absence</b>   | 9 - 10  |
|   | To receive any apologies for absence.  |         |
| 2 | <b>Declarations of Interest</b>  | 11 - 12 |
|   | Members to declare any interests in matters to be discussed at the meeting.                |         |
| 3 | <b>Minutes</b>   | 13 - 22 |
|   | To confirm the minutes of the meeting of Council held on 26 July 2022 as a correct record. |         |
| 4 | <b>Urgent Business</b>   | 23 - 24 |
|   | To consider any urgent business (with prior approval by the Mayor).                        |         |
| 5 | <b>Mayor's Announcements</b>   | 25 - 26 |
|   | To receive announcements from the Mayor.   |         |



6	<b>Petitions</b>	27 - 28
	To receive petitions under Standing Order No. 5.	
7	<b>Written Questions</b>	29 - 30
	To consider written questions under Standing Order No. 6 to:-	
	(a) the Mayor;	
	(b) the Leader of the Council;	
	(c) any other member of the Cabinet;	
	(d) any person appointed to preside at a committee, sub-committee or panel;	
	(e) the members of the Council nominated pursuant to Section 41 of the Local Government Act 1985, on the discharge of the functions of the following Joint Authorities:-	
	(i) West Midlands Combined Authority (the Leader);	
	(ii) West Midlands Fire and Rescue Authority (Councillor Jalil);	
	(iii) Transport for the West Midlands (Councillor Webb);	
	(f) a nominated member appointed by the Council to the Board of Sandwell Leisure Trust;	
	(g) a member of the Council who is, as a result of action taken by or on behalf of the Council, a member or director of any company.	
8	<b>Governance Review - Proposed Changes to the Council's Constitution</b>	31 - 220

To consider proposed changes to the Council's Constitution.

9 **Scrutiny Review** 221 - 268

To approve changes as part of the Scrutiny Review.

10 **Constitution and Political Balance of Committees and Boards and Revised Appointments to Committees, Boards and Other Bodies** 269 - 274

To consider the revised political balance and appointments to committees.

11 **Annual Report of Scrutiny Boards 2021-2022** 275 - 302

To receive the annual report of Scrutiny Boards for 2021-2022.

12 **Annual Report of the Audit and Risk Committee 2021-2022** 303 - 314

To receive the annual report of the Audit and Risk Committee 2021- 2022.

13 **Section 41 of the Local Government Act 1985 Update** 315 - 360

To receive updates from the Council's lead representatives on:-

- (a) West Midlands Fire and Rescue Authority;
- (b) Transport for the West Midlands;
- (c) West Midlands Police and Crime Panel;
- (d) West Midlands Combined Authority.

14 **To receive the minutes of Cabinet** 361 - 462

To receive the minutes of the meeting of the Cabinet held on 20 July, 17 August and 28 September 2022 and consider the recommendation arising:-

- (a) Proposal to Declare the Whole of Sandwell as a Smoke Control Area.

- 15 **To receive the minutes of the Budget and Corporate Scrutiny Management Board** 463 - 494

To receive the minutes of the Budget and Corporate Scrutiny Management Board held on 28 July, 8 August, 22 September and 13 October 2022.

- 16 **To receive the minutes of the Audit and Risk Assurance Committee** 495 - 506

To receive the minutes of the Audit and Risk Assurance Committee held on 21 July 2022.

- 17 **Notice of Motions**

To consider the following motions received under Standing Order No. 7:-

17(a) **NHS**

**Proposer: Councillor Padda**  
**Seconder: Councillor Webb**

This council notes:

1. The vital role played by NHS staff and other essential workers during the Covid-19 pandemic in the UK.
2. The demands by the Royal College of Nursing for urgent action by governments across the UK to tackle the issues of nursing shortages and fair pay for nursing staff.
3. A recent survey of 150 hospital chief



executives, by NHS Providers, revealed 27 per cent have set up food banks to support staff

4. Only 56% of new people joining the UK nursing register in 2021 were educated and trained in the UK, exposing a longstanding over-reliance on international recruitment potentially at a cost to other countries needing to retain their workforce. Giving nurses a fair pay rise would be cheaper than recruiting new nurses from abroad as nursing staff seek opportunities elsewhere.

This Council calls upon the Leader of the Council to write to the Prime Minister and the Secretary of State for Health and Social Care urging them to take action to deal with the issue of low pay amongst nursing and other NHS staff by agreeing to a pay increase in line with inflation in order to prevent the drift away from nursing, and avoid having to recruit from abroad or using agency staff to fill vacancies.

#### **17(b) Road Closures for Coronation**

**Proposer: Councillor W Gill**  
**Secunder: Councillor Dunn**

That this Council recognises the historical significance of the coronation of HRH King Charles III which is planned for May 6<sup>th</sup>, 2023, and therefore resolves to invite the executive to consider waiving the fees for temporary road closures over this weekend to allow the residents of Sandwell to come together to celebrate.

18 **To receive the recommendations of the Chief Officers Terms and Conditions Committee**

507 - 510

To receive the recommendations of the Chief

Officers Terms and Conditions Committee.



**Kim Bromley-Derry CBE DL**  
**Managing Director Commissioner**  
Sandwell Council House  
Freeth Street  
Oldbury  
West Midlands

**Distribution**  
All Members of the Council

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

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## **Apologies**

To receive any apologies from members

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## **Declarations of Interest**

Members to declare any interests in matters to be discussed at the meeting.

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## Minutes of Council

**Tuesday 26 July 2022 at 6.00pm  
in the Council Chamber, Sandwell Council House, Oldbury**

**Present:** His Worshipful The Mayor, Councillor R Jones;  
Deputy Mayor, Councillor Taylor;

Councillor Abrahams, Ahmed, Akhtar, Akpoteni, Allcock, Allen, Anandou, Ashman, Bhullar, Carmichael, Chapman, Choudhry, Costigan, Crompton, Davies, Dhallu, Dhariwal, Dunn, Fenton, Fisher, Gavan, M Gill, W Gill, Hackett, Hartwell, Hughes, A Hussain, Z Hussain, Jalil, O Jones, S Jones, Kalari, Khatun MBE, Lewis, Melia, Millar, Millard, Moore, Owen, Padda, Piper, Preece, Rahman, Randhawa, Rollins, Shaeen, Simms, K Singh, N Singh, Smith, Trumpeter, Webb, Wilkes and Williams.

**Also present:** Kim Bromley-Derry – Managing Director Commissioner; Surjit Tour – Director of Law and Governance and Monitoring Officer; Elaine Newsome – Services Manager – Democracy; Trisha Newton – Senior Democratic Services Officer; Connor Robinson – Democratic Services Officer and Keith Cutler – Sergeant at Arms.

### 96/22 **Apologies for Absence**

Apologies for absence were received from Councillor Bostan, Chambers, E M Giles, E A Giles, J Giles, L Giles, G Gill, S Gill, Hinchliff, Kaur, Mabena, McVittie, Shackleton and Uddin.



97/22 **Declarations of Interest**

There were no interests declared.

98/22 **Minutes**

**Resolved** that the minutes of the meeting of Annual Council held on 24 May and the ordinary meeting of Council held on 7 June 2022 be approved as a correct record and signed by the Chair.

99/22 **Additional Item of Business**

There were no additional items of business to consider.

100/22 **Mayor's Announcements**

Details of Mayoral and Deputy Mayoral engagements since the last meeting of Council had been circulated to members.

In particular, the Mayor congratulated Sandwell Children's Trust following the Ofsted announcement which showed an improvement from 'Inadequate' to 'Requires Improvement to be Good'.

To raise awareness related to gambling, a Harmful Gambling Charter had been developed which outlined seven key principles to tackling gambling related harm in the workplace to reinforce the Council's commitment to supporting employees. The Council, along with the Trade Unions, recognised the harm and social concern caused by gambling and its impact on debt, poverty and people's physical and mental health.

The Deputy Leader of the Council, Councillor Piper, Matthew Law - Unite Union, Darren James - GMB Union and Tony Barnsley - Unison Union signed the Harmful Gambling Charter.



**101/22 Petitions**

No petitions were received under Standing Order No. 5.

**102/22 Written Questions**

Questions received under Standing Order No. 6 were asked of the relevant members and responses provided.

**103/22 Governance Review - Proposed Changes to the Council's Constitution**

The Council had commenced a review of its governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review.

A number of key governance issues had been identified and the reviews specifically addressed underlying constitutional and procedural deficiencies that directly and indirectly undermined or hindered the Council's governance arrangements, decision making ability and key working relationships.

An Officer Governance Review Project Team had been established to help coordinate and oversee the delivery of the Governance Review. Support had also been provided by the Local Government Association, Centre for Governance and Scrutiny, Chartered Institute of Public Finance and Accountancy and the Commissioners.

The Governance and Constitution Review Committee had established a cross-party Member Working Group to oversee the process for, and coordination of, constitution revisions and proposals and the following areas of the Constitution had been considered and recommendations made to Council:-

- a) key decision financial thresholds;
- b) Contract and Procurement Rules;
- c) Protocol for the Disposal of Council Owned Land and Buildings.



**Resolved:-**

- (1) that the Key Decision financial threshold in the Constitution:
  - be raised to £1m for decisions to be taken by Cabinet;
  - that individual Cabinet Members be delegated to make financial decisions between £500,001 and £999,999;
  - that the limit of Chief Officers' financial delegations be raised to £500,000;
- (2) that the revised Contract and Procurement Procedure Rules be approved;
- (3) that the revised Protocol for the Disposal of Council Owned Land and Buildings, forming part of the Financial Regulations and Procedures, be approved;
- (4) in connection with the above recommendations, the Director of Law & Governance/Monitoring Officer, in consultation with the Director of Finance (and S151 Officer), be authorised to make all necessary consequential changes to the Constitution to give effect to the approved changes.



104/22

**Council Election Cycle - consultation to explore a change to the current schedule of elections in Sandwell**

Approval was sought to commence a public consultation process from 1 August to 16 September 2022, in accordance with Local Government & Public Involvement in Health Act 2007, on whether the Council should move from the current election cycle of elections by thirds, to whole council elections once every four years.

The consultation would seek public opinion and views on either retaining the current electoral arrangements of elections by thirds taking place in three years out of four, or moving to a cycle of whole council elections that would take place once every four years.

A further report would be submitted on the outcome of the consultation.

**Resolved:-**

- (1) that a public consultation be launched on 1 August 2022 on changing the Council’s election cycle from the current system of election by thirds to whole Council elections occurring once every four years;
- (2) that the MD Commissioner be authorised, in consultation with both Group Leaders, to progress all necessary actions to enable Council, at a specially convened meeting, to determine whether to change the Council’s electoral cycle to whole Council elections.



105/22

**Proposed Departure from the Development Plan - Newcomen Drive Open Space, Newcomen Drive, Tipton**

At its meeting on 19 July 2022, Planning Committee gave approval to planning application DC/21/66125, which sought approval for an industrial/warehousing development together with associated access, servicing, parking and landscaping, subject to the departure from the development plan, being considered and ratified by Council.

The site, which had remained undeveloped and attracted fly-tipping, was on land allocated for residential use and, as such, was contrary to adopted Council policy. The proposal would add to the Council's need for quality industrial land.

The site was currently allocated for residential use under the Site Allocations and Delivery Plan Policies Map but had been in private ownership for a number of years. The site had remained undeveloped due to viability issues and ground conditions. It was necessary for Council to consider whether or not to grant an exception to adopted policy to allow the application to proceed.

**Resolved** that approval be given to an exception to the development plan in respect of planning application DC/21/66125 - land at Newcomen Drive Open Space, Newcomen Drive, Tipton.

106/22

**Delegation of decision-making authority to Birmingham City Council to determine cross-boundary planning application for proposed demolition of structures at land to the rear of Anderson Road, Smethwick and erection of two-storey building to provide 17 assisted living units with associated car parking and landscaping**

At its meeting on 22 June 2002, Planning Committee resolved to recommend to Council that the Council's decision-making function should be delegated to Birmingham City Council in respect of planning application DC/22/66919.





The majority of the application site lay within the administrative area of Birmingham City Council, except for a small triangular area of land at the southwest boundary which lay within the administrative boundary of Sandwell. Given that there were no strategic cross-boundary implications associated with the proposal, and much of the site area and access was within Birmingham City Council's administrative area, it was recommended that Birmingham City Council was granted the authority to determine the application.

**Resolved** that, in respect of cross-boundary planning application DC/22/66919 – land to the rear of Anderson Road, Smethwick, decision-making authority be delegated to Birmingham City Council.

### 107/22 **Annual Report of Licensing Committee 2021-2022**

Council received the Annual Report of the Licensing Committee and Licensing Sub-Committees for the municipal year 2021-22.

### 108/22 **Constitution and Political Balance of Committees and Boards and Revised Appointments to Committees, Boards and Other Bodies**

Council considered revisions to the political balance of committees and boards and appointments to committees, boards and other bodies.

#### **Resolved:-**

- (1) that the political balance of the committees, boards and other fora for the remainder of 2022-23, be approved;
- (2) that, in respect of Licensing Committee, Councillor W Gill replaces Councillor Bostan, with immediate effect.



**109/22 To receive the minutes of Cabinet**

The minutes of the meeting of the Cabinet held on 22 June 2022 were received.

In response to questions, the Leader confirmed:-

- enquiries would be made in respect of the Greenspace Strategy consultation letters;
- levelling up funding was agreed in consultation with the MP.

**110/22 To receive the minutes of the Budget and Corporate Scrutiny Management Board**

The minutes of the meeting of the Budget and Corporate Scrutiny Management Board held on 13 July 2022 were received.

In addition, the Chair gave an update on recent improvements in Scrutiny, including regular meetings with the Statutory Scrutiny Officer and Monitoring Officer, meetings involving Scrutiny Chairs/Directors/Cabinet Members, at least one in-depth topic per Board, action trackers, training sessions and pre-meetings.

**111/22 To receive the minutes of the Audit and Risk Assurance Committee**

The minutes of the meeting of the Audit and Risk Assurance Committee held on 28 June 2022 were received.

**112/22 To receive the minutes of the Ethical Standards and Member Development Committee**

The minutes of the meeting of the Ethical Standards and Member Development Committee held on 21 June 2022 were received.





113/22 **Notice of Motions**

The Council considered motions received under Standing Order No. 7:-

113/22(a) **Programme of Investment in Infrastructure and Community Resources**

It was moved by Councillor Williams and seconded by Councillor Wilkes:-

"This council requests that the cabinet member for Regeneration and Growth together with the Cabinet Member for Finance and Resources explore options to increase funding to wards within the Borough that have the highest levels of deprivation with a view to creating a programme of investment in infrastructure and community resources including community centres, youth provision and parks; to help increase pride within the local communities, support vulnerable people and reduce crime."

In accordance with Standing Order No.7, Councillor Piper moved the following amendment to the motion, which was seconded by Councillor Hughes:-

"This council requests that the cabinet member for Regeneration and Growth together with the Cabinet Member for Finance and Resources to continue to explore options to increase funding to wards within the Borough that have the highest levels of deprivation with a view to creating a programme of investment in infrastructure and community resources including community centres, youth provision and parks; to help increase pride within the local communities, support vulnerable people and reduce crime."

The motion as amended was put to the vote and, having been carried, it was **RESOLVED** accordingly.



## Council – 26 July 2022

### 113/22(b) Revision to Standing Orders

It was moved by Councillor W Gill and seconded by Councillor Chapman: -

“That this Council welcomes the ongoing governance review through a recognition of the need for scrutiny from members of the Council and members of the public. That this Council reaffirms its commitment to openness and transparency by recognising the position of other local authorities like Birmingham City Council and calling on the Governance and Constitution Review Committee to consider an amendment to the constitution that enables the introduction of a standing agenda item that allows for written questions from members of the public in line with the draft standing order which is attached as Appendix A. This Council consequently resolves through a request that this matter is referred to the Government and Constitution Review Meeting of 13 September which would enable any decision to be ratified by the Council at the earliest available opportunity which would be the October 25 Council.”

The motion was put to the vote and, having been carried, it was **RESOLVED** accordingly.

Meeting ended at 7.44pm

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)





## **Urgent Business**

To consider any urgent business (with prior approval by the Mayor).

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## **MAYOR'S ANNOUNCEMENTS** **EVENTS ATTENDED SINCE 26TH JULY 2022**

Tour of Issac H Grainger & Sons Factory  
Opening Ceremony of the Birmingham 2022 Commonwealth Games  
Sikh Helpline Scotland to Birmingham 350 Bike Ride  
Play Day Event  
291 Creative Hub Arts & Craft Exhibition  
Closing Ceremony of the Birmingham 2022 Commonwealth Games  
Places of Welcome - Hill Top Methodist Church  
Places of Welcome - St. Mark's Parish Church  
National Citizen Service - Young Peoples Community Projects  
Careers in Sandwell - Apprentice Event  
Places of Welcome - St. Mary Magdalene Church  
Places of Welcome - Wednesbury Baptist Church  
Places of Welcome - St. Francis of Assisi  
Places of Welcome - Wednesbury Library  
Places of Welcome - Jubilee Park Centre  
Stepways Community Fun Day  
Wednesbury In Bloom Presentations  
Community Learn to Ride a Bike Session  
Kaleidoscope Plus Group  
Midland Langar Seva Society  
Go Play Sandwell - Friar Park  
Go Play Sandwell - Brickhouse Estate Green Space  
Launch of the Leisurely Pedal  
Smethwick CAN  
Buds Summer Fair  
National Citizen Service - Young People's Community Project  
Launch of Good Hope CIC  
Go Play Sandwell - Lewisham Park, Smethwick  
Street Orchestra Live  
Smethwick Mela  
Brushstrokes Staff & Volunteer BBQ  
Places of Welcome - Thimblemill Library  
Places of Welcome - Brushstrokes

Women's Health Day  
Medal and Certificate Presentation  
Presentation of Sandwell Shield to Veterans Club  
Pension Signing  
Citizenship Ceremony  
Borough Proclamation  
Escorting the Lord Lieutenant to Sign Book of Condolence at Oldbury  
Council House  
Visit to 6 Libraries to thank staff - Condolence books  
Civic Commemorative Church Service for her Majesty Queen Elizabeth II  
Funeral of her Majesty Queen Elizabeth II at Dartmouth Park - Big Screen  
Stories of Hope Annual Conference  
British Empire Medal Investiture  
Citizenship Ceremony  
Visit from Perryfields Primary School  
Geopark Photography Competition  
BBC Radio WM - Make a Difference Awards  
Macmillan Coffee Morning  
Adult Services Health & Wellbeing Programme  
World Mental Health Day at West Bromwich Town Hall  
Careers Day at Holy Trinity Primary School  
Just Straight Talking 10th Year Anniversary  
Essex Avenue Tenants & Residents Awards Ceremony  
Citizenship Ceremony  
Pension Signing  
Centenary Celebrations at Haden Hill Park  
Annual Literature Festival  
Open Day for Dorothy House SEND Respite Home  
Breaking Down Barriers  
Care Leavers Award Ceremony  
Residents Visit to the Big House  
Chance Heritage Trust - 200th Anniversary of Chance Brothers  
Launch of the Blackheath RBL Poppy Appeal  
Queens Awards for Voluntary Service  
Launch of Oldbury RBL Poppy Appeal  
Smethwick Safer 6 Launch Event  
Citizenship Ceremony  
Sandwell Community Dementia Launch  
Girlguiding West Mercia Annual Review  
Places of Welcome - Dorothy Parkes Centre  
Sandwell Firework Display  
Launch of Your Pantry



## **Petitions**

To receive any petitions under Standing Order No. 5 (strategic policy issues or which are of a Borough-wide significance if they are relevant to some matter to which the Council has functions and responsibilities, or which affects the Borough, or part of it, or its citizens or a number of them).

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## Report to Council

**8 November 2022**

<b>Subject:</b>	Written Questions
<b>Director:</b>	Surjit Tour – Director of Law and Governance and Monitoring Officer

The following written questions have been received:-

### **7(a) From Councillor McVittie to the Leader of the Council**

What are the leaders thoughts on the current living crisis in Sandwell and the impact it will have on residents? Has any feedback been provided from local MP's on the current situation.

### **7(b) From Councillor Trumpeter to the Cabinet Member for Regeneration and Growth**

I recently had the pleasure of dealing with a large notable funfair and leisure business. Their representative spoke to me in great detail about how they would like to relocate their business to Sandwell, and had even identified a derelict council owned plot which has now stood empty for more than 15 years. The operator wanted to bring this site back into full use for the benefit of both the public and the borough.

However, I was later disappointed to learn that they were rebuffed at every turn, with reasons such as 'ongoing strategic reviews' cited, which meant dialogue quickly stopped and the operator is now exploring other options.

Could the cabinet member for Regeneration and Growth reassure the chamber that we do want to encourage both new and established businesses into the borough? And what actions are we taking to ensure this happens, when it seems approaches are not welcomed.



## 7(c) From Councillor Dunn to the Leader of the Council

For the second time in only a few months, SMBC has been forced to apologise for contracts that have caused distress with some of the most vulnerable in our society. The first being the onerous clauses in the council tenants contract stating they would be evicted if they criticised the Council, and the second being that transport would be taken away from children receiving SEND transport, should their parents complain via social media. These climb downs have only come after massive public outcries against these heavyhanded measures. Is the Leader content that these errors in judgement continue to be made or does she agree with us in the Conservative Group that trying to deny the voice of the most vulnerable in our communities by threats of deprivation of service is morally wrong?



## Report to Council

8 November 2022

<b>Subject:</b>	Governance Review – Proposed Changes to the Council’s Constitution
<b>Director:</b>	Surjit Tour Director of Law and Governance & Monitoring Officer
<b>Contact Officer:</b>	Elaine Newsome Service Manager – Democracy

### 1 Recommendations

- 1.1 That approval be given to the proposed revisions to the constitution including:
- Part 3 - The Scheme of Delegation to Officers
  - Part 4 - Council Procedure Rules
  - Part 4 - Executive Procedure Rules and associated Articles:  
7 – The Executive and 13 – Decision Making
  - Part 4 - Access to Information Procedure Rules
  - Part 4 – Officer Employment Procedure Rules
  - Part 5 – Officer Code of Conduct
  - Part 5 - Protocol for Member/Employee Relations
- 1.2 That approval be given to the protocol for public questions at Council meetings;
- 1.3 That, subject to the approval of the above recommendations, the Director of Law & Governance/Monitoring Officer be authorised to make all necessary consequential changes to the Constitution to give effect to the approved changes.









## 2 Reasons for Recommendations

- 2.1 The Council commenced a review of the Council's governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review. These reviews identified a number of key governance issues that need to be addressed.
- 2.2 The reviews specifically identified the requirement to address underlying constitutional and procedural deficiencies that directly and indirectly undermine or hinder the Council's governance arrangements, decision making ability and key working relationships.
- 2.3 An Officer Governance Review Project Team has been established to help coordinate and oversee the delivery of the Governance Review. Support has also been provided by the Local Government Association, Centre for Governance and Scrutiny, Chartered Institute of Public Finance and Accountancy and the Commissioners.
- 2.4 The Governance and Constitution Review Committee, on 27 May 2022, established a cross-party Member Working Group to oversee the process for and coordination of constitution revisions and proposals. The Working Group considered the proposed changes to the Constitution at meetings on 15<sup>th</sup> September and 13<sup>th</sup> October 2022 and approved them for wider consultation with elected Members during September and October.
- 2.5 The changes to the Constitution proposed in this report have been recommended by the cross-party Member Working Group. In order for any of the changes to take effect Full Council approval is required.
- 2.6 Demonstrating progress in respect of the Governance Review is a key area of focus for the Secretary of State and ensuring necessary changes to the Council's Constitution are delivered at pace considered critical to the Council's improvement.



### 3 How does this deliver objectives of the Corporate Plan?

	An effective governance framework supports delivery of all the objectives within the Corporate Plan.
	Best start in life for children and young people
	People live well and age well
	Strong resilient communities
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell

### 4 Context and Key Issues

#### BACKGROUND

- 4.1 Earlier this year, the Council commenced a review of its governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review. These reviews identified a number of key governance issues that required consideration and refresh.
- 4.2 The review also identified a need to address underlying cultural and behaviour issues that directly and indirectly undermined the Council's governance arrangements, decision-making ability and key relationships.
- 4.3 An Officer Governance Project Team has been established to help coordinate and oversee the delivery of the Governance Review. Support has also been provided by the Local Government Association, Centre for Governance and Scrutiny, Chartered Institute of Public Finance and Accountancy and the Commissioners.
- 4.4 The Governance and Constitution Review Committee has met and established a cross-party Member Working Group consisting of 10 members – namely, all the members of the Committee and two



additional Conservative Group members. The Working Group has considered a series of draft constitution proposals and worked with other Committees and Boards/Groups to ensure proposed change are joined up, for example, any development and training needs are being fed into the Member Development Programme as training and development needs are identified.

## KEY AREAS OF FOCUS

- 4.5 The Governance Review is refreshing the Council's decision-making mechanisms and updating the constitutional arrangements to enable: the achievement of the Council's strategic direction and ambition, in particular:
- efficient and effective decision-making;
  - a more open, transparent and accountable Council;
  - greater engagement with residents, communities and stakeholders in relation to democratic functions;
  - more effective support to Elected Members to enable them to be confident and successful in their various roles;
  - corporate governance documentation, policies and procedures to be updated and revised so that they are consistent with national guidance, align to best practice and are fit for purpose;
  - strong and healthy relationships between Elected Members and Officers.
- 4.6 The Governance Review will review all elements of the Council's Constitution in line with the indicative timetable set out below. Where possible, the various work strands will be expedited to ensure the Constitution review is completed and expeditiously as possible, and in any event by the end of the calendar year.



## Timetable

Phase 1 of the review concluded in July 2022 with Council approval of the revised Key Decision Thresholds, Contract and Procurement Procedures and the Sale of Land & Buildings Protocol.

The outcomes of Phase 2 of the review are presented for consideration by Council. This includes a series of proposed changes to the following elements of the constitution:

- Scheme of Delegation to Officers
- Council Procedure Rules
- Executive Procedure Rules
- Access to Information Rules
- Officer Employment Procedure Rules
- Protocol Member and Employee Relations
- Officers' Code of Conduct

Following Council in July 2022, Council is also requested to consider the introduction of public questions at Council meetings, in line with the objective of wider public participation in democratic functions.

Phase 3 proposals will be recommended for approval by Full Council on 13 December 2022 as follows:

- Budget & Policy Framework Procedure Rules
- Financial Regulations and Procedure Rules
- Remaining Articles
- Responsibility for Functions





## KEY WORK STRANDS for COUNCIL (8<sup>th</sup> November 2022)

### Part 3 - Scheme of Delegation to Officers

- 4.7 The Scheme of Delegation outlines the authority for the exercise of functions by Officers. These functions can be non-executive (Council) or Executive and are established in the legislative framework governing the activities and provision of services by local authorities.
- 4.8 The delegations contained in the scheme enable officers to efficiently carry out routine operational activity and functions of the Council. Council, Cabinet, Committees and Boards are additionally able to delegate responsibilities to officers in line with decisions to be enacted.
- 4.9 The Scheme in its current format is comprehensive however, is an extensive document that can be disengaging to the user. There are a number of model schemes in use across the country and it is for each Council to adopt a scheme that best fits the needs of the individual organisation. In reviewing the Sandwell scheme, officers have consulted with Elected Member, Directors and senior managers to understand their views existing arrangements and a preferred future direction. On the basis of the proximity, close working relationship and joint ventures between Sandwell and Birmingham City, their scheme was identified as a preferred model for Sandwell's new Scheme.

The proposed scheme of delegation attached at appendix 1 moves away from the current model and adopts a more general approach which would be supported by a detailed sub-scheme of delegation.

### Part 4 – Council Procedure Rules

- 4.10 Council Procedure Rules outline to format for the conduct of business at meetings of Full Council.





The proposed changes to the rules aim to offer a more efficient and effective platform for the conduct of Council meetings and provide further clarity on a number of procedural areas.

Key changes include:

- An increase in time permitted for a quorum to be achieved
- A proposal for a maximum length of time for Council meetings – this is in line with the majority of the benchmarked model constitutions
- A reduction in the time for speeches to afford additional time for debate on Council business
- Additional reporting provisions for Member to report into Council

These proposed Council Procedure Rules are attached at appendix 2.

The rules are then transposed to give effect to similar arrangements at Committees.

#### Part 4 - Executive Procedure Rules and associated Articles (7 and 13)

4.11 The Constitution provides a framework for the conduct of meetings of the Council and its Committees, Boards and other fora in line with the provisions of the Local Government Act 1972. As meetings of the Executive and Scrutiny are primarily conducted in line with the Local Government Act 2000 (alongside subsequent legislation), arrangements for the transaction of their business vary and are captured in constitutional provisions bespoke to those arrangements.

The current Executive Procedure rules have been reviewed and updated in line with current arrangements for collective and individual cabinet member decisions. For ease of access and completeness, it is proposed also to include relevant sections of the Access to Information rules as they relate to Cabinet meetings.



Additional changes include:

- The increase in time permitted for a quorum to be achieved – this is in line with Council and Committee Procedure Rules proposals
- Attendance at meetings by non-executive members
- Arrangements for the appointment of a Chair in the absence of the Leader and Deputy Leader
- Referral of reports from Scrutiny Boards

4.12 The proposed procedures for consideration is attached at appendix 3.

4.13 The proposed changes have impacted on Articles 7 and 13 of the constitution which have been amended to reflect proposals. These are attached at appendices 4 and 5.

#### Access to Information Rules

4.14 The access to information rules describe the council's obligations and processes in accordance with the Local Government Act 1972 as amended, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Openness of Local Government Bodies Regulations 2014 and any other relevant statute.

4.15 The rules apply to all meetings of the Council, Scrutiny Boards, committees and panels, the Ethical Standards and Member Development Committee and, Regulatory Committees and meetings of other non-executive meetings of the Council.

4.16 The rules, attached at appendix 6 were subject, as all elements of the constitution review, to wider member engagement and now reflect the proposed changes to the Executive Procedure Rules.



## Officer Employment Procedure Rules

- 4.17 The Officer Employment Procedure Rules outline the process for recruitment of Council Officers. A review was last completed in July 2017.
- 4.18 The review has updated the legislation and amended the process to reflect the current council senior officer structure. Proposals are attached at appendix 7.

## Officer Code of Conduct

- 4.19 In 1995, Sandwell Metropolitan Borough Council (“Council”) voluntarily agreed to adopt the Code of Conduct for Local Government Employees (“the Code”).
- 4.20 Since this time, various governments have stated their intention to update the Code, but in 2011, the proposal to carry this out was dropped by the new Government.
- 4.21 It has therefore fallen to individual authorities to update the Code as they consider appropriate. The Council adopted a new code of conduct for its Members, which sets out high standards of Conduct for its Members. The Council expects the same principles of honesty and integrity from its employees.
- 4.22 The Council recognises the need to promote high ethical standards among its workforce and has updated the Code of Conduct for Employees. Consultation on the Code with Unions has taken place, and on the 26 May 2015 the Code was adopted by the Council.



4.23 A review of the Officer Code of conduct has been completed. The proposed changes are minimal as the substance of the code is sound. The changes propose to bring the code in line with current council policies and procedures, hyperlinks will be added to related policies and procedures for ease of navigation and to provide a single point of access. The proposed Officer Code of Conduct is attached at appendix 8

#### Protocol for Member Officer Relations

4.24 The Council have adopted an Officer Code of Conduct (as referred to above) that was last reviewed in 2015 and a Member's Code of Conduct, that was adopted on 23 March 2021. Both codes recognise and embrace the Nolan principles and the expected behaviours for both officers and elected members.

4.25 A protocol was adopted to guide members and officers in their relations with one another in such a way as to ensure the smooth running of the Council. It is important that any dealings between Members and Employees should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.

4.26 The current protocol was last reviewed in March 2013. A review of the protocol has demonstrated that the protocol remains broadly current and reflects the principles of both the Member and Officer codes of conduct. The review has proposed to update terminology and add hyperlinks to documents where appropriate. Further changes to the protocol may be required following consideration of any outcomes from the LGA facilitated workshops on member/officer working relationships. The protocol is attached at appendix 9

#### Written questions from member of the public at Council Meetings

4.27 At its July meeting, Council considered and approved a motion to explore options for wider public engagement in Council meetings. The working group reviewed and considered proposals for the introduction of a facility for members of the public to ask questions at meetings of Council. The proposed protocol attached at appendix 10 provides a



format similar to the provisions in the Council procedure rules affording Sandwell residents and business rate payers to submit and ask questions to Council.

## 5 Implications

<b>Resources:</b>	There are no direct resources implications arising from this report. However, the changes proposed enables more effective decision making, greater financial oversight and management. The changes ensure greater clarity around obligations, approach and expectations which are essential to promote and embed good governance.
<b>Legal and Governance:</b>	<p>The proposals will enable high standards of decision making across the authority and addresses the recommendations contained within the Council's Improvement Plan.</p> <p>The council must ensure good governance underpins its decision making which needs to be informed and timely. The proposed changes seek to achieve this whilst striking a balance between the necessary safeguards necessary tom provide assurance to the Council.</p> <p>Any constitutional changes require Full Council approval.</p>
<b>Risk:</b>	The proposed changes will reduce the Council risk of challenge as more informed and effective decision making will be achieved. Mitigation of risks associated with decision making is essential and protects the council from avoidable challenge and reputational harm.
<b>Equality:</b>	There are no direct equality implications arising from this report save that all decision making needs to be compliant with the Equality Act 2010 and the public sector equality duty. All decisions must therefore



	consider relevant equality, diversity and inclusion implications.
<b>Health and Wellbeing:</b>	There are no direct implications for health and wellbeing from this report.
<b>Social Value</b>	The changes proposed to the Contract and Procurement Rules promote and emphasise the need to ensure social value is properly considered and encouraged wherever possible.
<b>Climate Change</b>	The proposals will not have a detrimental impact on climate change. However, a fit for purpose Constitution will play an important role to ensure the council drives and delivers upon its climate change objectives and targets.

## 6 Appendices

1. Appendix 1 Scheme of Delegation to Officers
2. Appendix 2 Council Procedure Rules
3. Appendix 3 Executive Procedure Rules
4. Appendix 4 Article 7 The Executive
5. Appendix 5 Article 13 Decision Making
6. Appendix 6 Access to Information Rules
7. Appendix 7 Officer Employment Procedure Rules
8. Appendix 8 Officer Code of Conduct
9. Appendix 9 Protocol on Member/Employee Relations
10. Appendix 10 Protocol on Written Questions to Meetings of the Council.

## 7. Background Papers

Constitutions of Salford City Council, Manchester City Council, Brent LBC, Birmingham City Council, Durham County Council, Nuneaton and Bedworth Borough Council, Gateshead Metropolitan Borough Council, Nottinghamshire County Council, Hertfordshire County Council, Liverpool City Council.





# Sandwell Metropolitan Borough Council

## 22 (e) Part 3 Scheme of Delegation October 2022



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GLOSSARY

Term	Meaning
<b>Chief Officers</b>	Directors and Chief Executive
<b>Committee</b>	Any reference to a Committee shall be read to include Panel, Board or Sub-Committee and shall be deemed to include reference to a successor Committee, Panel, Board or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
<b>Court</b>	To be construed widely including but not limited to tribunals, inquiries and other quasi-judicial hearings.
<b>Decision Notice</b>	As per the Council's Decision-Making Guidance.
<b>Executive Decisions</b>	Decisions made in connection with a function of the Council which are the responsibility of the executive or which have been designated by the Council as an executive function.
<b>Local Authority Incident Director</b>	The Incident Director may be the Chief Executive, or another Chief Officer appointed to the role by the Chief Executive (as a deputising officer). This is laid out in the Council's Emergency Plan ( <a href="https://intranet.sandwell.gov.uk/info/20397/resilience_team/3540/emergency_plans">https://intranet.sandwell.gov.uk/info/20397/resilience_team/3540/emergency_plans</a> ).
<b>Non-Executive Decisions</b>	Decisions made in connection with a function of the Council which are not the responsibility of the executive or which have not been designated executive functions by the Council.

## **E1. SUMMARY AND EXPLANATION**

- 1.1 Unless otherwise stated or delegated in the Constitution, each Chief Officer has a number of delegations which are set out below. The following sections set out the delegations to officers:
- Officer delegated decision making – setting out general notes on the parameters of the delegations and the process for taking officer delegated decisions;
  - Financial delegations to Chief Officers – setting out the financial and governance delegations to all Chief Officers (the Chief Executive and Directors);
  - Functional Delegations to each of the Chief Officers.
- 1.2 Each of these delegations must be supplemented by a written Scheme of Sub-Delegations, which confirms the delegated authorisations by Chief Officers to officers within their directorate and/or under their management and/or control.

## **E2. OFFICER DELEGATED DECISION MAKING – GENERAL**

- 2.1 Officers may take all routine and day-to-day operational service decisions consistent with their roles within agreed policies and or in accordance with the officer sub-delegation scheme provided that any decision can be implemented within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution.
- 2.2 All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
- 2.3 The exercise/discharge of a delegated power, duty or function shall:
- i) Be in accordance with the law (including primary and secondary legislation and bye-laws);
  - ii) be subject to the Council's Budget and Policy Framework;
  - iii) be subject to the provisions of the Council's Constitution;
  - iv) comply and/or adhere to all relevant and applicable codes and protocols, and statutory and Council guidance.
- 2.4 An officer to whom a power, duty or function is delegated may authorise another officer, to exercise that power, duty or function, subject to the requirements that follow:
- i) such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power, duty or function has control;
  - ii) such authorisations should only be given where there is significant administrative convenience in doing so;
  - iii) the officer authorised by the other may act in their own name or in the name of the officer who received the original delegation unless otherwise stated in the

Scheme of Delegation;

- iv) no authorisation may be given if statute or the law prohibits it.
- 2.5 Onward authorisations referred to in paragraph 2.3 involving significant issues or matters should not be considered to be the norm but used only in appropriate circumstances and after assessing the risk. There can be no additional such delegation.
- 2.6 Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.
- 2.7 References to any Act, Regulation, Order or Byelaw shall be construed as including any re- enactment or re-making of the same, whether or not with amendments.
- 2.8 Any reference to any Act of Parliament includes reference to Regulations or subordinate legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 2.9 Where the exercise of powers is subject to prior consultation with another officer, that officer may give their views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
- 2.10 Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 2.11 Delegations to officers are subject to:
  - i) The right of the delegating body to decide any matter in a particular case;
  - ii) The officer may, in lieu of exercising their delegated power, refer to the delegating body for a decision;
  - iii) Any restrictions, conditions, or directions of the delegating body;
  - iv) The overarching discretion of the officer to not exercise the delegated power, but refer the matter for determination by the executive, relevant committee/board, or full Council as appropriate.
- 2.12 In exercising delegated powers, the officer shall:
  - i) Take account of the requirements of this Constitution and shall address all legal, financial, risk and other relevant implications including professional safeguards as if the matter were not delegated;
  - ii) Shall exercise the delegation so as to promote the efficient, effective and economic running of that Directorate and the Council, and in furtherance of the Council's vision values, and priorities; and
  - iii) Where and when appropriate and/or necessary, report back to the appropriate delegating body as to the exercise of those delegated powers.
- 2.13 Except where otherwise expressly provided either within the Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to the Council's Budget and Policy Framework.

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- 2.14 Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Director.
- 2.15 The Scheme of Delegation is maintained by the Director Law and Governance and shall be available on the Council's internet and intranet pages.
- 2.16 Officers shall notify the Director of Law and Governance of any changes in legislation, legal duties and obligations that may impact upon or require changes to the Scheme of Delegations.
- 2.17 The Director Law and Governance shall have the power to amend the Scheme of Delegations to reflect legislative changes, re-organisations, changes in job titles and vacancies, minor errors or omissions and other administrative requirements where said changes result in re-distributing existing delegations and not the creation of new ones.
- 2.18 Any post specifically referred to in the Scheme of Delegations shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Scheme in anticipation of any reorganisation may be exercised in accordance with the preceding Scheme to the date of that reorganisation.
- 2.19 Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
- 2.20 All matters of interpretation of this document will be determined by the Director Law and Governance.
- 2.21 Advice on procedures and matters to be taken into account in exercising officer delegated powers, is set out in guidance on decision-making issued by the Director Law and Governance.
- 2.22 If a power is delegated to an officer, but that delegation cannot be exercised, that must be reported to the delegating body.
- 2.23 Functions, matters, powers, authorisations, delegations, duties and responsibilities etc within this Scheme shall be construed in a broad and inclusive manner and shall include actions that are deemed necessary to facilitate or deemed incidental or conducive to the discharge of anything specified.
- 2.24 Non-Executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any function that is not therefore specified must be assumed to be an

Executive function.

- 2.25 For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees, or charges, the delegation shall include the power to take all necessary action to recover such fees, costs or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
- 2.26 Where there is doubt over the responsibility for the exercise of the delegated function and/or power, the Chief Executive shall be authorised to determine the issue and determine which officer shall exercise the function/power.

### **E3. OFFICER DELEGATED DECISION MAKING – PROCESS AND RECORDING OF DELEGATED DECISIONS**

- 3.1 Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and also put appropriate systems in place for recording the exercise of delegated powers in the following manner and circumstances:
- i) All decisions with a value of between £10,000 and £25,000 made by Officers under delegated powers should be recorded in writing. Utilising the Council's procurement portal shall be sufficient for the purposes of meeting the requirement to be in writing;
  - ii) All decisions with a value of between £25,001 and £100,000 made by Officers under delegated powers shall be recorded in writing and that record of decision shall be produced to the relevant Cabinet Member on a quarterly basis (March, June, September and December) each year;
  - iii) All decisions with a value of between £100,001 and £500,000 made by Officers under delegated powers shall be recorded in a formal Decision Notice following consultation with the relevant Cabinet Member(s) and accompanied by a detailed report, which includes all material and relevant considerations such as finance, legal, HR, equality implications. Such decisions shall be reported to the next available Cabinet Meeting following the date of decision;
  - iv) All non-monetary decisions that are significant or high profile shall be recorded in writing following consultation with the relevant Cabinet Member. For the purposes of this specific provision, significant means any decision that is considered likely to attract considerable media attention or scrutiny from Scrutiny Boards, Audit and Risk Assurance Committee, External Auditor and the like. High profile for the purposes of this provision means any decision or proposed decision in respect of which there is a significant public interest.
- 3.2 Additionally, all decisions taken by Cabinet Members (based on a written report by the Chief Officer) should be recorded in a formal Decision Notice. These decisions are only effective and actionable when posted on the Council's website by Democratic Services and subject to call-in.

## **E4. DELEGATIONS TO CHIEF OFFICERS**

### **4.1 Summary**

- 4.1.1 The Council, its Committees or the Executive will make decisions on matters of significant policy. The Chief Executive and Chief Officers are given express authority to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources within agreed budgets, as set out below.
- 4.1.2 In relation to all delegated authorities conferred on Chief Officers, the Chief Executive, in consultation with the Director of Law and Governance and Director of Finance, may allocate or reallocate responsibility for exercising particular delegations in the interests of the effective use of resources as they think fit.
- 4.1.3 Chief Officers may take all decisions necessary to give effect to implement the contents of any approved Budget and Policy Framework plan (including approved capital programme), in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.

### **4.2 General Delegations**

- 4.2.1 The Chief Executive and Chief Officers have the following delegated powers in respect of all matters which are not “key decisions” or not reserved for decision by the Council or by a Committee, Panel, Board or other fora of the Council, or reserved for decision by the Leader, Cabinet Member, Cabinet or Cabinet Committee:

#### **4.2.1.1 Expenditure and Payments**

- (i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:
- The sum expended is within the approved budget for the Directorate and/or relevant portfolio, and
  - The amount in relation to any single matter does not exceed £500,000 or
  - The amount in relation to any single matter that is between £500,001 and £999,999 and is approved by the relevant Cabinet Member(s) via a valid Decision Notice (see Executive Procedure Rules);
  - The requirements of the Financial Regulations and Procedures in this Constitution and other requirements in the Constitution are complied with.
- (ii) The Chief Executive and Chief Officers have delegated authority to approve and make payments in connection with the duties of the council where it holds monies in the capacity of an “Accountable Body”. In all such cases where the Council is the Accountable Body, the Chief Executive or any Chief Officer

has authority to make lawful payments in compliance with the terms under which the Council holds monies as the Accountable Body and in accordance with any requirements approved by the Council as Accountable Body, up to but not exceeding the total amount held under each agreement with the grant giver.

- (iii) To agree in-year changes (increases or decreases) to fees and charges, up to a maximum of 10%, in consultation with the Leader, relevant cabinet member(s), Chief Executive and Director of Finance.

#### **4.2.1.2 Employment**

- (iv) With the exception of posts which are defined as Chief Officer posts in accordance with the Local Government and Housing Act 1989; where funding is available within existing budgets, from direct specific grants or other sources of external funding or has been approved by the relevant cabinet member, the Council or a committee and acting within current employment law, the Council's corporate pay, terms and conditions and grading structure:
- To deal with the appointment, promotion, redesignation, resignation, redundancy (voluntary or otherwise), and secondment of employees, including the deletion of posts, the establishment of new posts and the submission of individual posts for a salary review under the approved corporate job evaluation process.
  - Determine employment matters relating to staff including all changes to staffing structures below Deputy Chief Officer level (as defined in the Officer Employment Procedure Rules) and the annual implementation of the contractual pay increment system. These powers will not include changes to terms and conditions of employment (the Sandwell Contract).
- (v) Chief Officers have authority to approve and sign off severance payments in accordance with approved Council policies and financial limits and other compensatory sums below £20,000.

#### **4.2.1.3 Contracts and Procurement**

- (vi) To approve tender strategies and award contracts in accordance with the Contract Procedure Rules where the supplies, materials, or services to be purchased or the works to be executed are between the prevailing National Procurement Thresholds over the contract length.
- (vii) Where the relevant Chief Officer determines that no other viable alternative exists, to approve contract extensions, where no extension option in the contract exists, in accordance with the Contract Procedure Rules where the supplies, materials, or services to be purchased or the works to be executed do not exceed £100,000 in consultation with the Head of Procurement. Contract extensions between £100,001 and £500,000 will also require approval from the Director of Finance, Director of Law and Governance, and where considered appropriate by the Chief Officer, in consultation with the relevant Cabinet Member.



#### **4.2.1.4 Grants**

- (viii) To approve and submit grant applications for external funding, in consultation with the Director of Finance, and the relevant Cabinet Member.
- (ix) To accept grant funding offers, in consultation with the Director of Finance, and the relevant Cabinet Member.
- (x) To authorise the allocation of external funding awarded to the Council, subject to prior consultation with the Director of Finance and relevant Cabinet Member.

#### **4.2.1.5 General**

- (xi) To take any action to give effect to a decision of Full Council, the Executive, Committees, Boards, Panels and other fora;
- (xii) To authorise Council officers to attend and conduct legal matters in court (as appropriate).

### **4.3 Chief Executive and the Director of Finance**

4.3.1 The Chief Executive and the Director of Finance together have the following additional powers to make decisions, in consultation with the Leader or relevant Cabinet Member, in relation to:

- i) All future forms of indemnity on behalf of the Council including the signing of certificates under the Local Government (Contracts) Act 1997;
- ii) The Council's loan and investment portfolios in accordance with the statutory borrowing limits determined by the Council and the Council's Treasury Management Strategy Statement and Annual Investment Strategy as approved from time to time by the Council;
- iii) Trust fund and accountable body investments;
- iv) Banking arrangements including opening bank accounts and credit card facilities;
- v) Non land and building leases;
- vi) The application for financial assistance to the Council and the authorisation of any grant schemes, proposals and/or claims;

### **4.4 Chief Executive and the Director of Regeneration and Growth and Director of Housing**

4.4.1 The Chief Executive, the Director of Regeneration and Growth and Director of Housing have the following additional powers to make decisions in relation to:

- i) The acquisition and disposal of leasehold interests for rent (including the granting and surrendering of any rights over such land and property) provided that any rental does not exceed £200,000 per annum and is consistent with

the Protocol for the Disposal of Council Owned Land and Buildings. This should be in consultation with Director of Finance;

- ii) The acquisition and disposal of freehold and leasehold interests at a premium, provided that the premium does not exceed £500,000 and is consistent with the Protocol for the Disposal of Council Owned Land and Buildings. This should be in consultation with the Director of Finance;
- iii) The management of all of the Council's land and properties, including the authorising and payment of discretionary contributions towards trade/loss and or removal expenses and all payments due under an approved Compulsory Purchase Order

#### **4.5 Director of Children and Education**

4.5.1 The Director of Children and Education (and in their absence the Director of Finance) have the authority to authorise and approve the completion of (but not limited to) the grant of long-term leases, commercial transfer agreements and any other ancillary documentation relating to the changing status of schools, as well as requesting the making and varying of instruments of government or maintaining Schools, subject to the agreement of the Director Law and Governance.

#### **4.6 Chief Executive, Director of Finance and Director of Law and Governance – Birmingham International Airport.**

4.6.1 The Chief Executive and Director of Finance be authorised severally, in conjunction with the Leader and the Deputy Leader of the Council, to take such action as may be required for the purpose of implementing any decision of the Cabinet in relation to the sale or purchase of shares in Birmingham Airport Holdings Ltd, or Birmingham International Airport Ltd.

4.6.2 The Chief Executive, or in their absence, be appointed Deputy Chief Executive, in consultation with the Chair or Vice Chair of the Joint Committee, be authorised to discharge all functions in relation to Birmingham Airport Holdings Limited, as provided for at Clause 5.4 of the Birmingham Airport Districts Side Agreement, and to sign and attest the fixing of the common seal of the Council to any documents in connection therewith, in consultation with the Council's Director of Law and Governance and Director of Finance, where appropriate and reasonably practicable.

4.6.3 The Chief Executive and Director of Law and Governance is authorised severally to sign, witness the seal or execute on behalf of the Council any document including any legal agreement, written resolution, notice, form or proxy, consent to short notice or other document or to attend any meeting of shareholders as representatives of the Council as may be required for the purpose of any decision in relation to the sale or purchase of shares in Birmingham Airport Holdings Limited or Birmingham International Airport Limited.

4.6.4 The Director of Law and Governance is authorised, in consultation with the Leader, or in their absence or inability to act, the Deputy Leader of the Council, to determine any request from Birmingham Airport Holdings Limited for the consent of the Council to any proposal affecting Birmingham International Airport and to sign and attest the fixing of the Common Seal of the Council to any documents in connection therewith;

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4.6.5 The Director of Law and Governance is authorised to consider and determine any applications for consent from Birmingham Airport Holdings Limited to enter into easements and wayleave agreements with third party utility companies for the supply of gas water, electricity, communication cabling and foul and surface water drainage in the circumstances that such a proposal affects Birmingham International Airport and to sign and attest the fixing of the Common Seal of the Council to any documents in connection therewith.

### **4.7 Emergency Planning/Business Continuity**

4.7.1 Chief Officers and Statutory Officers (or deputising officers) are empowered to authorise all necessary actions in relation to emergencies and business disruptions as designated under the Council's Emergency Plan when activated.

4.7.2 In the event of the Emergency Plan being activated, and following action taken, the Chief Officer must notify the Director of Finance and Chief Executive in writing of the circumstances and estimated financial impact and report formally to the relevant Cabinet Member or, for non-executive matters, to the next available meeting of the relevant committee.

4.7.3 Where it is considered necessary or appropriate the Chief Executive or the Director of Law and Governance shall convene a meeting of the Council's Emergency Committee (Part 3 – Responsibility for Functions – Constitutional Committees) to consider the Council's further response in the event of an emergency or business disruption.

4.7.4 The principles of decision-making set out in Article 13 (Decision Making) and Part 3s and 4 of the Constitution will apply.

## **E5. CHIEF EXECUTIVE AND HEAD OF PAID SERVICE**

### **5.1 Overall Responsibility**

5.1.1 The Chief Executive shall be the Head of Paid Service and be provided by the authority with such resources as they deem necessary to perform that role, as set out in Article 12 of the Constitution.

5.1.2 The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services, and includes the following functions:

- i) The Chief Executive may discharge all functions and exercise all powers (including Proper Officer powers) in cases of emergency and/or significant urgency where action is needed to prevent significant risk and/or harm to the Council or residents of the borough.
- ii) The Chief Executive has all the authority in respect of all approved executive and non-executive expenditure, and as may be necessary and subject to the provisions in the constitution, determine which Directorate discharges any particular Council function if this is not clear.
- iii) The Chief Executive, where no other Director is appointed or is unable to act may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

- iv) The Chief Executive has, in accordance with statutory guidance on the making and disclosure of Special Severance Payments by Local Authorities, authority to approve, in conjunction with the Leader, and sign off Special Severance Payments between £20,000 and £99,999. The Leader's approval must be recorded in writing.

## **5.2 Returning Officer and Electoral Registration Officer**

- 5.2.1 The Chief Executive shall act as the Registration Officer for the purposes of s8(2) Representation of the People Act 1983 (officer of the Council to be the Registration Officer), and shall be authorised to undertake all necessary functions and responsibilities of an Electoral Registration Officer in accordance with the relevant legislation.
- 5.2.2 The Chief Executive shall act as the Returning Officer for the purposes of Representation of the People Act 1983 and shall be authorised to undertake all necessary functions and responsibilities of a Returning Officer in accordance with the relevant legislation.

## **5.3 Emergency Reports**

- 5.3.1 Part 3 of the Constitution states that:

*“In the event of a serious incidents and/or major emergencies where the District Emergency Co-ordinator (or equivalent) considers that the Emergency Committee is required to be convened, the Committee shall:*

*(1) consider and approve requests for funding above and beyond normal allocated budget expenditure;*

*(2) provide guidance on issues of national significance;*

*(3) assist in briefing Council Members as appropriate;*

*(4) authorise any other actions that may be deemed appropriate under the prevailing circumstances which would otherwise require a decision of the Cabinet, an individual Cabinet Member or the full Council.”*

- 5.3.2 In either case, if the Chief Executive is satisfied that it is not expedient, practicable or necessary in the circumstances to convene the Emergency Committee then the following shall apply:

- i) The Chief Executive shall have the power (or may designate a Director who will then have power) to determine the question or matter or to implement the recommendation (as the case may be) in the name of and without further reference to the Cabinet.
- ii) The exercise by the Chief Executive, and Director of any powers under this delegation, shall be subject to the following conditions:
  - that the determination of the question or other matter or implementation of the recommendation is capable of determination under law in this manner;
  - that the Chief Executive, or designated Director, before making a

decision shall consult with the Leader (or in their absence the Deputy Leader);

- that the Chief Executive, or designated Director, before making a decision shall consult with the Director of Law and Governance and the Director of Finance or their nominated deputies;
- Any decision to be taken under this section shall not exceed £1m;
- that a record of all decisions made or recommendations implemented, together with the consultations referred to in (ii) and (iii) above shall be published on the Council's website within 10 working days; and
- that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Cabinet (for noting).

5.3.3 Each Director (in their service area) and Director Law and Governance (all areas) may each exercise the powers of the Chief Executive in the event of their incapacity, absence or unavailability.

#### **5.4 Immediate Implementation**

5.4.1 If the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in their absence), Director of Law and Governance, and Director of Finance may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period.

5.4.2 The exercise of such power shall be clearly noted on the record of the decision, which shall clearly detail the reasons for urgency.

5.4.3 In the event of the Emergency Plan being activated, the Chief Executive (or deputising officer) is empowered to authorise all necessary actions as the Local Authority Incident Director. All authorities relevant to the management of the incident are delegated to duty officers as set out in the plan.

## **E6. DIRECTOR OF FINANCE**

6.1 The Director of Finance shall be the Council's Chief Finance Officer and the responsible officer for the proper administration of the Council's financial affairs under the Local Government Act 1972, Section 151. A summary of the functions of the Director of Finance are set out in Article 12 (Officers) of this Constitution.

6.2 The Director of Finance is authorised to take all action as is necessary or expedient to fulfil the statutory obligations under Section 151 Local Government Act 1972.

6.3 The Director of Finance is nominated as the Council's Money Laundering Regulations Officer in accordance with the Money Laundering Regulations 2007.

6.4 The Director of Finance may appoint one or more deputy Section 151 Officers each of whom has power to exercise all the powers and duties of the Section 151 Officer during the absence or incapacity of or during the vacancy of the role of,

6.5 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director of Finance, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions falling within the Finance Directorate, including:

- Ensuring effective financial management and controls, including:
- Reporting on the robustness of the Council's financial plans;
- Managing the Council's borrowing and investment requirements;
- Managing and monitoring the Council's revenue budget and capital programme;
- Preparation and closure of the Council's financial accounts;
- Managing the Council's tax affairs; and
- Internal audit.
- Setting, supporting and monitoring the council's policies and procedures for managing:
  - Budgets;
  - Procurement and purchasing;
  - Commissioning;
  - Contract management;
  - Internal trading operations;
  - Business Charter for Social Responsibility;
  - Risk management and Insurance.
- To make standing orders in relation to Finance and contracts;
- Appointeeship and Deputyship for Adults;
- Charging and financial assessments including undertaking financial assessments and the provision of deferred payments;
- Council Tax, Business Rates, Housing Benefit and Sundry Debt collection;
- Investigation of Fraud;
- Money Laundering;
- Right to Buy sign off;
- Mortgage Applications;
- Matters relating to the transfer of pension rights.

- 6.6 Set the surplus/deficit on the Collection Fund annually in consultation with the Cabinet Member for Finance and Corporate Resources.
- 6.7 Approving Business Rates income and NNDR 1 return each year in consultation with the Cabinet Member for Finance and Corporate Resources.

### **6.8 Write offs**

- 6.8.1 To write off any individual debt(s) (including any associated court costs and bailiffs' fees) up to the value of £25,000 per individual or organisation, which is considered to be uneconomical to collect or is irrecoverable. All individual debts above this amount shall be done in consultation with the Cabinet Member for Finance and Corporate Resources, and Director of Law and Governance.

### **6.9 Revenues and Benefits**

- 6.9.1 The Director of Finance shall be responsible for the following and is authorised to undertake all necessary action in connection with the effective administration/delivery of:

- Revenues and Benefits services including:
  - i) Council tax processing and billing arrangements including Council Tax Reduction Scheme;
  - ii) Local Council Tax Reduction and recoverability of excess Council Tax Reduction payments;
  - iii) National non domestic rates;
  - iv) Local hardship schemes;
  - v) Housing benefit, including recoverability of overpayments;
  - vi) Financial and social inclusion initiatives;
  - vii) Discretionary Housing Payments.

## **E7. Director of Law and Governance**

- 7.1 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Law and Governance, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions falling within the Law and Governance Directorate, including:

### **7.1.1 Law and Governance**

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- i) To give effect to a decision of the Council (including decisions taken by a Council committee in accordance with its terms of reference or by a Director in accordance with this scheme of delegation).
- ii) To institute, defend or participate in any legal proceedings or settle (up to the value of £250,000 excluding legal costs and disbursements), if appropriate, any actual or threatened legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director Law and Governance considers that such action is necessary to safeguard and protect the Council's interests. Decisions above this financial threshold will be made by the Director of Finance and/or the Chief Executive in consultation with the Director Law and Governance and Leader of the Council or relevant Cabinet Member.
- iii) Legal advice and related support services.

### 7.1.1 Registration Services

- i) To appoint a Proper Officer under Registration Service Act 1953 to carry out functions under the Act, including births, marriages, deaths, and exercising powers under a local registration scheme.
- ii) The Proper Officer will have responsibilities under the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 which govern the process for the approval of premises for the solemnization of marriages and the formation of civil partnerships.
- iii) To appoint a Registrar for burials and cremation for the purposes of Cremation Regulations 2008 and Local Authorities Cemeteries Order 1977.
- iv) The Director of Law and Governance is authorised in applying fees and charges to take into account individual circumstances and make flexible commercial fee related decisions to ensure the charges are appropriate whilst also seeking opportunities to maximize income.
- v) To provide service to support the Council's role as the relevant authority for the Black Country Coroners Services.
- vi) Bereavement Services (Cemeteries, Crematoria, closed churchyards including the authority's role as burial and cremation authority)
- vii) Citizenship Ceremonies.

### 7.1.2 Equality, Diversity and Inclusion

- i) The Director of Law and Governance is the Lead Officer for Equality, Diversity and Inclusion Agenda.
- ii) The Director of Law and Governance has responsibility for and is authorised to undertake all necessary action in connection with the effective administration/delivery of the Council's EDI Agenda.



7.1.3 **Monitoring Officer**

- i) The Director Law and Governance is the Monitoring Officer for the Council. The Monitoring Officer is a statutory appointment and provides advice to protect and safeguard the Council. The functions are summarised in Article 12 and the Protocol on the Discharge of the Functions of the Monitoring Officer.
- ii) Supporting the corporate governance of the council, particularly in respect of:
  - Setting, supporting and monitoring the council's policies and procedures for managing and access to information including data protection laws;
  - To administer the Members' Allowance Scheme;
  - The power to make, amend or revoke byelaws;
  - To report to the Council or the Cabinet in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority has given rise to maladministration or injustice;
  - To determine whether the disclosure of information by the authority in response to a request under the Freedom of Information Act would, or would be likely to, prejudice the effective conduct of public affairs;
  - To investigate any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority which he/she has reason to believe may have given rise to or is likely to or would give rise to:
    - Illegality;
    - Maladministration;
    - failure to observe the Members' Code of Conduct.
  - To secure the lawfulness and fairness of decision-making, including advising on whether a decision or proposed decision is an executive or non-executive decision, and whether it is contrary to or not in accordance with the authority's approved budget and policy framework;
  - Responsibility for co-ordinating Ombudsman matters and whistleblowing functions of the Authority;
  - Appointment as Proper Officer for the Data Protection Act 2018, the Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2001;
  - To consult regularly with the Chief Executive, the Chief Finance Officer, Assistant Chief Executive and the Chief Internal Auditor to

identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions.

#### 7.1.4 Democracy Services

- i) Democracy Services including support to elected members in their responsibilities, particularly in respect of:
  - The Leader and Deputy Leader of the Council and Cabinet Members;
  - The Mayor;
  - Councillors via group support offices;
  - The full Council meeting;
  - Cabinet;
  - Committees, Boards, Panels, other fora appointed by full Council;
  - Overview & Scrutiny;
  - Training and development of councillors.
- ii) To make any necessary appointments to fill casual vacancies that may arise on Committees, boards and outside bodies carrying out or relating to non-executive functions, in consultation with the relevant political group leader, where the need to make the appointment is considered necessary for business efficacy by the Director of Law and Governance before the next meeting of Council.
- iii) To make arrangements for appeals against exclusion of pupils from maintained Schools;
- iv) To make arrangements for appeals regarding school admissions;
- v) To make arrangements for appeals by governing bodies, under s87 School Standards and Framework Act 1998.

#### 7.1.5 Information Governance:

- i) Director of Law and Governance shall be the Council's Senior Information Risk Owner.
- ii) The Director of Law and Governance is authorised to designate an officer of the Council to be the Data Protection Officer pursuant to the Data Protection Act 2018 and UK GDPR.

## E8. DIRECTOR OF PUBLIC HEALTH

- 8.1 The Director of Public Health is a statutory appointment as a Chief Officer of the Council appointed jointly with the Secretary of State for Health and Social Care.

8.2 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Public Health, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of public health, including the following:

- Responsibility to protect and improve the health of the local population;
- Responsibility to ensure arrangements for planning for, and responding to, emergencies;
- Ensuring co-operation with police, probation and prison services in relation to violent and sexual offenders;
- Provide public health response as a responsible authority to Licensing applications;
- Responsibility for ensuring provision of Healthy Start vitamins where child health clinics and maternity services are commissioned by the local authority;
- Write an annual Director of Public Health report;
- Be an active member of the Health and Wellbeing Board.
- Such other public health functions as the Secretary of State specifies in regulations.
- Public Health Protection and Control of Statutory Nuisance including:
  - Domestic, commercial and industrial noise, fumes and odours;
  - Air quality management; and
  - Other forms of pollution harmful to public health.
- Environmental Health including:
  - Monitoring and control of infectious diseases;
  - Any function relating to contaminated land;
  - To serve an abatement notice in respect of a statutory nuisance;
  - To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
  - To inspect the authority's area to detect any statutory nuisance;
  - To investigate any complaint about the existence of a statutory nuisance;
  - The control of pollution or the management of air quality.
- To have the day-to-day responsibility for the ring-fenced public health grant along with overall responsibility for ensuring that this is invested in order to improve health locally.

## E9. DIRECTOR OF ADULT SOCIAL CARE

### Summary

9.1 The Director of Adult Social Care, is the responsible officer for the Adult Social Services.<sup>1</sup>

9.2 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Adult Social Care, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of adult social care, including the following :

9.2.1 Provisions of the Care Act 2014;

9.2.2 Services to support adults including:

- Delivering an integrated whole system approach to supporting communities by working in partnership with the wider Council and Integrated Care System;
- Integration and personalisation of health and social care services across the borough for the benefit and health and well-being of Sandwell citizens;
- Prevention and Recovery: to take steps to prevent, reduce or delay the need for care and support for all people including:
  - i) Information, advice and advocacy;
  - ii) Preventative Services: Provision or arrangement of community and home-based services to adults with less intensive needs; and
  - iii) Re-ablement Services: Provision or arrangement of early intervention time-limited services to meet the immediate requirements of adults with short-term social care needs.
- Long Term Care and Support;
- Home care;
- Extra care;
- Supported Living;
- Day Opportunities;
- Residential and Nursing Care;
- Social Work and Therapy.

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<sup>1</sup> Appointed under Section 6 Local Authority Social Services Act 1970

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### 9.2.3 Safeguarding including:

- Ensuring the safety of vulnerable adults in Sandwell;
- Co-ordination of multiagency arrangements to ensure that resources are deployed in safeguarding vulnerable adults;
- To promote and enable identification of and appropriate action for vulnerable adults at risk of abuse or neglect;
- Ensure effective compliance to the Deprivation of Liberty Safeguards (Liberty Protection Safeguards) under the Mental Health Act and Mental Capacity Act; and
- Delivery of safeguarding training.

### 9.2.4 Assessment and eligibility;

### 9.2.5 Charging and financial assessments including undertaking financial assessments and the provision of deferred payments;

### 9.2.6 Accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services;

### 9.2.7 Creating a diverse and sustainable market;

### 9.2.8 Addressing market failure;

### 9.2.9 Monitoring quality and safety.

## E10. DIRECTOR OF CHILDREN AND EDUCATION

### Summary

10.1 The Director of Children and Education, is the responsible officer for the Children's Services<sup>2</sup>.

10.2 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Children and Education, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of children and education services, including the following:

#### 10.2.1 Education of Children and Young People including:

- School improvement and educational attainment;
- School places and travel to and from school;
- Oversight of the Dedicated Schools Grant;

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<sup>2</sup> Appointed under Section 18 Children Act 2004

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- School Attendance.
- 10.2.2 Elective Home Education and Children Missing Education;
- 10.2.3 Special Educational Needs and Disability (SEND) and alternative provision;
- 10.2.4 Special Educational Needs and Disability Information and Advisory Support Services;
- 10.2.5 Early Years and Childcare Provision;
- 10.2.6 Children’s Services and Safeguarding, including:
  - Oversight and management of the contract with Sandwell’s Children’s Trust;
  - Safeguarding and Child Protection;
  - Services for Looked After Children;
  - Early Help;
- 10.2.7 Youth Offending Services;
- 10.2.8 Fostering and adoption;
- 10.2.9 Corporate Parenting;
- 10.2.10 Skills and employability;
- 10.2.11 Skills and entrepreneurship in schools;
- 10.2.12 Employment Opportunities;
- 10.2.13 Youth Services;
- 10.2.14 Family Information Service;
- 10.2.15 Residential/Activity Centres;
- 10.2.16 Schools and Governors Support including appointment of local authority Governors.

### **E11. DIRECTOR, REGENERATION AND GROWTH**

- 11.1 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Regeneration and Growth, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of regeneration and growth, including the following:
- 11.1.1 International and domestic inward economic investment including tourism and the visitor economy.

11.1.2 Economic growth, including:

- Development programmes;
- Land use planning;
- Housing development.

11.1.3 Transport & Connectivity including:

- Development of the Council's transport strategies and programmes;
- The authority's strategic traffic management role and network planning;
- Street naming and numbering;
- Design of minor and major transport and highways projects;
- The making of agreements for the execution of highways works under S278 Highways Act 1980;
- Powers and duties relating to rights of way (including closures) under the Wildlife and Countryside Act, Highways Act, Town and Country Planning Act or Clean Neighbourhoods Act;
- Air Quality via the Clean Air Zone.

11.1.4 Local Land Charges functions including:

- Maintenance of the Local Land Charges Register;
- Responsibility for processing local authority searches;
- Management of the planning service;
- Building conservation and urban design;
- Obtaining of information as to interests in land.

11.1.5 Property Services including:

- Council land use and property;
- Operational Property Management;
- Asset Management;
- Facilities Management;
- Valuations and Acquisitions;
- Property Sales;
- Property Strategy Delivery;
- Investment Estate & Property Management;
- Property Asset Management and Income;
- Strategic Investment Property Management;

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- Property Development;
- Security Services.

11.1.6 Compulsory Purchase Orders.

11.1.7 Disposal of Assets as follows:

- In consultation with the Cabinet Member for Regeneration & Growth, with Ward Members as appropriate and with the Director of Finance and s151 Officer, declaring assets between £100,000 and £500,000 in value surplus;
- In consultation with the Director of Finance and s151 officer, approving the disposal of assets between £100,000 and £500,000;
- In consultation with the Cabinet Member and with Ward Members as appropriate, declaring assets up to £100,000 surplus;
- Approving the disposal of assets up to £100,000 in value;
- Overseeing the negotiation of property transactions;
- Approving the details of transactions in accordance with delegations put in place by Cabinet;

11.1.8 Building Control;

11.1.9 To undertake the functions of the local planning authority including:

- Deal with any applications for planning permission and other related applications;
- Enforcement action (both Planning and Building Control) and the ability to investigate/ issue notices/take prosecution/direct action;
- Development of the Council's planning and transport policies;

11.1.10 Power to create footpaths and bridleways;

11.1.11 Power to stop up footpaths and bridleways;

11.1.12 Power to divert footpaths and bridleways;

11.1.13 Powers relating to the preservation of trees;

11.1.14 Powers relating to the protection of important hedgerows;

11.1.15 The control of pollution or the management of air quality;

11.1.16 To obtain information about interests in land;

11.1.17 To obtain particulars of persons interested in land;

11.1.18 To make agreements for the execution of highways works.

## **E12. DIRECTOR OF HOUSING**

12.1 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of



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the Council (in respect of executive functions), the Director, Housing, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of housing, including the following :

### 12.1.1 Housing Services including:

- i) Rent administration and collection;
- ii) Maintenance and monitoring of Housing Revenue Account 30-yr Business Plan;
- iii) Council housing management including:
  - repairs and maintenance;
  - housing allocations/options;
  - Anti-Social Behaviour.
- iv) Liaison with Registered Social Landlords;
- v) Tenant engagement in social housing;
- vi) Homelessness (Strategic Housing);
- vii) Landlord Licensing Schemes, including Overcrowding Notices;
- viii) Tenancy Management;
- ix) House in Multiple Occupation;
- x) Housing Enforcement:
  - Debt collection, including enforced sale.
  - Compulsory Purchase, Demolition and Prohibition Orders (extended from just Demolition Orders);
- xi) Private Rented Sector;
- xii) Declaration of Clearance Areas;
- xiii) Disabled Facilities Grants;
- xiv) Enforcement of Grant Conditions;
- xv) Housing Fraud Investigations;
- xvi) Enforcement of Housing Standards;
- xvii) Powers of Entry;
- xviii) Housing Developments.

## **E13. DIRECTOR OF BOROUGH ECONOMY**

13.1 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director of Borough Economy, has

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responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of borough economy, including the following :

### 13.1.1 Regulation and Enforcement, including

- Environmental Health Service, Trading Standards Service, Regional Investigation team, the Licensing Services, the Environmental Enforcement;
- Enforcement activities, including the authorisation of proceedings and defending proceedings on behalf of the council in relation to civil and criminal matters in respect of these services and other services as appropriate.

### 13.1.2 Licensing functions including:

- Functions of a licensing authority including (but not restricted to):
  - The administration of licenses for entertainment, gambling and the sale of alcohol;
  - Taxi and Private Hire;
  - Miscellaneous licensing functions.

### 13.1.3 Environmental Health including:

- Food hygiene and safety;
- Health and safety at work;
- Monitoring and control of infectious diseases;
- Private water supply monitoring; and
- Animal health and welfare enforcement.

### 13.1.4 Trading Standards including:

- Appointing the Chief Inspector for Weights and Measures and their deputy;
- Tackling rogue traders;
- Product safety;
- Misleading claims, scams and illegal trading practices;
- Underage sales;
- Illegal advertising.

### 13.1.5 Public Health Protection and Control of Statutory Nuisance including:

- Fly tipping, commercial and household Duty of Care and rubbish accumulations;
- Domestic, commercial and industrial noise, fumes and odours;
- To serve an abatement notice in respect of a statutory nuisance;

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- To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
  - To inspect the authority's area to detect any statutory nuisance;
  - To investigate any complaint about the existence of a statutory nuisance;
  - Air quality management; and
  - Other forms of pollution harmful to public health.
- 13.1.6 To authorise action and exercise powers in relation to the Anti-Social Behaviour, Crime & Policing Act 2014;
- 13.1.7 Setting, supporting and monitoring the council's policy on Community Safety including:
- CCTV;
  - Safer communities, including Modern Day Slavery;
  - Domestic abuse;
  - Prevent and Counter-terrorism;
  - To discharge local authority approvals for S35 Dispersal Orders and other statutory instruments relating to local community safety;
  - To Host the Community Safety Partnership and produce a Community Safety Strategy including reducing reoffending and serious violence strategies.
- 13.1.8 Waste Strategy and Services including:
- Waste collection;
  - Waste disposal;
  - Recycling;
  - Waste Policy and Enforcement.
- 13.1.9 Cleaner Neighbourhoods including:
- Street cleansing;
  - Pest control;
  - Litter bin provision and maintenance;
  - Provision and cleaning of public conveniences;
  - Graffiti removal;
  - Dog control and dog warden service;
  - Enforcement.
- 13.1.10 Arts, Culture and Sports, including:
- Museums and galleries;
  - Arts;
  - Sporting events.

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13.1.11 Leisure Services, including facilities;

13.1.12 Community sports provision;

13.1.13 Library provision;

13.1.14 Parks and Allotments including:

- Creation, management and enhancement of green spaces;
- Creation, management and enhancement of related visitor attractions and facilities;
- Public rights of way and provision and maintenance of footpaths and bridleways;
- Woodland and tree management;
- Provision of educational events and programmes;
- Grass cutting and grounds maintenance;
- Management of designated conservation sites.

13.1.15 To discharge the Council's statutory obligations in relation to the operation of the Community Right to Bid for Assets of Community Value and the Community Right to Challenge;

13.1.16 Compulsory Purchase Orders;

13.1.17 All Highways and Infrastructure and related functions, including:

- Duty to assert and protect the rights of the public to the use and enjoyment of highways;
- The making of agreements for the execution of highways works under S38 Highways Act 1980;
- The making of agreements for the execution of highways works under S278 Highways Act 1980;
- Powers and duties relating to rights of way (including closures) under the Road traffic Act and Traffic Regulation Act;
- The authority's role as a highways, traffic and streetworks authorities;
- Maintenance of highway assets of roads, bridges, retaining walls, street lighting and associated infrastructure;
- Design and delivery of major and minor highway schemes;
- The making of agreements for the execution of highways works under S278 Highways Act 1980;
- Powers and duties relating to rights of way (including closures) under the Wildlife and Countryside Act, Highways Act, Town and Country Planning Act or Clean Neighbourhoods Act;

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- Powers relating to the removal of things so deposited on highways as to be a nuisance;
- Duty to keep a definitive map and statement under review;
- Duty to reclassify roads used as public paths;
- Power to make limestone pavement order;
- Discharging statutory duties with respect to the delivery of operational parking functions, including Civil Parking Enforcement;
- Flood and water management including:
  - Discharging duties as Lead Local Flood Authority and other duties and responsibilities associated with the Flood Water Management Act;
  - Land drainage activities;
  - The delivery and maintenance of flood alleviation schemes;
  - Flood response.

13.1.18 The council's borough-wide resilience and emergency planning functions;

13.1.19 Neighbourhood Management;

13.1.20 Any function relating to contaminated land;

13.1.21 Event management, subject to the following:

- Events above 500 people with community impact must be in consultation with the relevant Cabinet Member;
- Events above 5,000 people (one day) must have approval from the relevant Cabinet Member;
- Events above 5,000 people (multiple days) must have approval from Cabinet.

## **E14. DIRECTOR - BUSINESS STRATEGY AND CHANGE**

14.1 Unless otherwise stated or delegated in the Constitution or confirmed by the Leader of the Council (in respect of executive functions), the Director, Business Strategy and Change, has responsibility for and is authorised to undertake/exercise/discharge all responsibilities, duties, powers in connection with the effective administration/delivery of all executive and non-executive functions of business strategy and change, including the following:

### **14.1.1 Human Resources**

- i) Setting, supporting and monitoring the council's policies and procedures for managing human resources and effective organisational development (including Occupational Health and Wellbeing, and Health and Safety);

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- ii) Recruitment of staff and to determine terms and conditions of employment;
- iii) To undertake the payroll function for all Council employees and associated bodies;
- iv) To make arrangements to consider and determine employee appeals in relation to grievances, grading and dismissal;
- v) To implement standing orders in relation to officer employment;
- vi) Unless otherwise delegated to the Director of Finance, discharge functions relating to local government pensions.

### **14.1.2 Information and Communications Technology**

- i) Enabling effective ICT support, hardware, software, and necessary ICT infrastructure to ensure compliance with relevant ICT security standards including requisite connectivity to business applications and information that reside either on-premise or Cloud hosted;
- ii) Delivering the Council's Information and Communications Technology Digital Strategy (or equivalent).

### **14.1.3 Customer Services and Business Support**

- i) Delivery of the Council's Customer Access Strategy;
- ii) The Council's corporate customer services and business support functions including:
  - The telephone contact centre and front-facing customer service;
  - Digital access including the council's website and e-services;
  - Customer feedback.
- iii) Communications and Corporate Affairs;
- iv) Corporate Transformation;
- v) Corporate Strategy and Performance.

## **E15. SANDWELL CHILDREN'S TRUST**

### **15.1 The Director of Children's and Education:**

- 15.1.1 As the statutorily responsible individual for the delivery of children's social care the Director of Children and Education will be the Council's duly authorised individual in respect of the Service Delivery Contract between the Council and

## SANDWELL MBC SCHEME OF DELEGATIONS – OCTOBER 2022

Sandwell Children's Trust and shall be deemed to be empowered and authorised to act on behalf of the Council (in accordance with the relevant delegations set out in Part 3 (Responsibility for Functions) in the Council's constitution for such purposes connected with this Agreement.

### 15.2 The Director of Finance is authorised to:

- 15.2.1 enter into any future borrowing, credit facility or investment arrangement (other than trade credit in the ordinary course of business) that has not been approved in the Business Plan; (Articles of Association ref. 9.2.3);
- 15.2.2 deal with any future surpluses of the Sandwell Children's Trust, other than those surpluses which are agreed, pursuant to the Services Delivery Contract, shall be retained by the Sandwell Children's Trust (Articles of Association ref. 9.2.4);
- 15.2.3 amend the Sandwell Children's Trust's bank mandates (Articles of Association ref. 9.2.5);
- 15.2.4 acquire or dispose of any assets of the Sandwell Children's Trust with an aggregate value not exceeding £250,000 (two hundred and fifty thousand pounds) (Articles of Association ref. 9.2.8);
- 15.2.5 approve or amend the Business Plan (Articles of Association ref. 9.2.13);
- 15.2.6 enter into any new third-party contracts (which the Sandwell Children's Trust proposes to enter into outside the scope of the Services Delivery Contract for the provision of services by third parties to the Sandwell Children's Trust) with a capital value greater than £250,000 (two hundred and fifty thousand pounds) or revenue value greater than £250,000 (two hundred and fifty thousand pounds) (Articles of Association ref. 9.2.15);
- 15.2.7 enter into any new third-party contracts (which the Sandwell Children's Trust proposes to enter into outside the scope of the Services Delivery Contract for the provision of services by the Sandwell Children's Trust to third parties) with either a capital value greater than £250,000 (two hundred and fifty thousand pounds) or revenue value greater than £250,000 (two hundred and fifty thousand pounds) (Articles of Association ref. 9.2.16);
- 15.2.8 Approve the appointment of the external auditor.

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## **Part 4 Council Procedure Rules**

# Standing Orders of the Council

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Definitions

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**1. Scope of These Standing Orders**

- (1) Only the Council can change or revoke these Standing Orders.
- (2) Council shall only consider a motion to change or revoke any of these Standing Orders upon receiving a written report from the Chief Executive and/or the Monitoring Officer.
- (3) Apart from this Standing Order, the other Standing Orders may be suspended during a meeting of the Council provided that either:-
  - (a) notice of intention to move such a suspension has been included in the agenda for the meeting;
  - (b) at least one half of the number of members present and voting of the Council support the suspension.
- (4) The ruling of the person presiding at any meeting to which these Standing Orders apply, concerning the interpretation or application of any of these Standing Orders, is final.

## Part 1 – The Council

### 2. Annual Meeting of the Council

This Standing Order shall apply unless special or emergency circumstances prevail.

- (1) The Annual Meeting of the Council shall be held in Sandwell during May on a date and time to be determined by the Council. In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place on the third Tuesday in May, or such other day in the month of March, April or May that year as the Council may decide.
- (2) At the Annual Meeting, the Council shall:-
  - (a) elect members of the Council to the offices of Mayor and Deputy Mayor if those offices are vacant;
  - (b) elect a member to the office of Leader of the Council [if the Leader's term of office has expired or if that office is vacant, including following a resolution of the Council to remove the existing Leader from office];
  - (c) receive notice from the Leader of the Council of the members they have appointed to the executive, including their portfolio responsibilities, and the member to be appointed as the statutory Deputy Leader;
  - (d) receive the scheme of delegation of executive functions to officers as determined by the Leader of the Council and determine the scheme of non-executive delegations to officers;
  - (e) receive announcements from the person presiding and/or the Head of the Paid Service;
  - (f) receive and approve the minutes of the last meeting of the Council;

- (g) unless otherwise determined by Council, fix the dates and times of ordinary meetings of the Council for the municipal year;
- (h) decide on the following matters for the ensuing municipal year, subject to the relevant legislation relating to the appointment, constitution and political composition of committees:-
  - the size, membership, political composition of any committees, panels and fora to be established for the discharge of the Council's functions;
  - the appointment of voting and non-voting members to committees, panels and fora and the election of chairs and vice-chairs where necessary;
- (i) make appointments to any relevant outside bodies;
- (j) consider any additional business set out in the summons and agenda for the meeting.

### **3. Person Presiding at Meetings of the Council**

- (1) The Mayor shall preside at meetings of the Council. In their absence, the Deputy Mayor shall preside at meetings of the Council.
- (2) In the absence of the Mayor and the Deputy Mayor, the Proper Officer shall invite Council to nominate a member to preside at that meeting.

Such a nomination, and any alternative nomination, shall be moved and seconded and voted on (see Standing Order No. 12). The member receiving the most votes shall be appointed to preside at that meeting of Council only

- (3) Any power of the Mayor/Deputy Mayor in relation to the conduct of a meeting of Council may be exercised by the person presiding at that meeting.

- (4) If debate arises about any nomination to preside at a meeting, the Proper Officer shall exercise the powers of the person presiding to regulate the debate and to maintain order at the meeting, until such time as a person is appointed to preside.
- (5) In the case of an equality of votes, the person presiding at any meeting of the Council, who is also entitled to vote at that meeting, shall have a second or casting vote. There is no restriction on how the person presiding chooses to exercise the casting vote.

#### **4. Quorum and Duration of Meetings of the Council**

- (1) 18 members who are eligible to vote shall form the quorum of Council. No business shall be transacted at any meeting of Council unless a quorum is present.
- (2) No meeting of Council shall commence unless there is a quorum present. If a meeting has not started within 30 minutes of the time specified on the summons and agenda, the meeting shall be postponed.

All business which would have been considered at that meeting shall stand referred to the next ordinary meeting of the Council, unless an extraordinary Council meeting is called to consider that business or the business is dealt with under the Council's urgency provisions.

- (3) If during any meeting of the Council, the person presiding declares that there is not a quorum present, the meeting shall be adjourned for 30 minutes.
- (4) If, after 30 minutes, there is still no quorum present, the meeting shall be adjourned.

All business which has not been completed at such a meeting which has been adjourned, shall stand referred to the next ordinary meeting of Council, unless an extraordinary Council meeting is called to consider that business or the business is dealt with under the Council's urgency provisions.



(5) Duration of meeting

Any meeting that has lasted for 3 hours will adjourn immediately without debate. A motion to continue the meeting shall be moved no earlier than 30 minutes prior to the expiration of 3 hours and unless the majority of those present agree to suspend the standing order, the person presiding shall declare the meeting closed on expiry of the 3 hour period. Any remaining business will be considered at a time and date fixed by the person presiding. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

The following exemption applies to this rule

- a. statutory or other business on the agenda which, by law, must be transacted at any such meeting e.g. Council Tax Setting.
- b. matters of urgency
- c. extraordinary or special meetings

## **5. Extraordinary Meeting of the Council**

(1) The following persons may request the Proper Officer to call a meeting of the Council in addition to the programme of ordinary meetings :-

- Council by resolution;
- the Mayor (or in their absence, the Deputy Mayor);
- the Proper Officer where they consider that it is necessary for Council to meet to determine an issue at any time;
- the Monitoring Officer;
- the Chief Finance Officer

- if any of the above are unable to act for any reason, or if the offices are vacant, the Leader of the Council may call an extraordinary meeting of Council at any time.
- a minimum of any five members of the Council may request the Mayor, or in their absence the Deputy Mayor of the Council, to call an extraordinary meeting of Council. Such a request must be in writing, include the proposed motion, identify the Proposer and Secunder and be signed by all the members concerned.

The Mayor or Deputy Mayor will provide a response in respect of the request within 7 days.

- (2) Once the Mayor or Deputy Mayor have agreed for an extraordinary meeting, the Proper Officer shall arrange for the extra-ordinary meeting to be held within 21 days of the receipt of the request made pursuant to Standing Order 5(1). If, after such a request has been made, and for whatever reason no meeting has been called within seven days, the members concerned shall inform the Proper Officer of their intention to call an extraordinary meeting of the Council, the business to be transacted and the date and time of the meeting.
- (3) An extraordinary meeting shall only be called to consider a specific matter or matters for which the Council has responsibility or which affect the Borough, or any part of it, or any of its citizens, or a number of them.

## **6. Order of Business At Ordinary Meetings of the Council**

- (1) Ordinary meetings of the Council will take place in accordance with a programme of dates decided at the Council's Annual Meeting (unless otherwise determined earlier by Council).
- (2) As a general rule, the order of business shall be:-

- (a) at any meeting after the office of Mayor has become vacant, to elect a Mayor;
  - (b) at any meeting after the office of Deputy Mayor has become vacant, to appoint a Deputy Mayor;
  - (c) in the absence of both the Mayor and Deputy Mayor to appoint a person to preside at the meeting;
  - (d) to receive apologies for absence;
  - (e) to receive disclosures of interests by members and employees of the Council;
  - (f) to approve as a correct record, the minutes of previous meeting(s);
  - (g) to receive announcements from the person presiding and/or the Head of the Paid Service;
  - (h) any other item of business, not on the agenda, but which the person presiding is of the opinion should be considered at the meeting as a matter of urgency.
  - (i) to receive petitions under Standing Order 8;
  - (j) to consider written questions under Standing Order 9
  - (k) to consider any other specific items of business for determination included in the summons and agenda;
  - (l) to receive a highlight report from the Leader of the Council and/or Cabinet Portfolio Holders, committees and scrutiny boards and receive questions and answers on any of those reports;
  - (m) to consider notices of motion under Standing Order 8;
  - (n) to receive reports pursuant to standing order 11 (section 41 reports and annual reports);
  - (o) to receive a highlight report from Town Leads, Lead Performance Champion (Bi-annually).
- (3) With the exception of (a) to (g) above, the order of business can be varied:-
- (a) at the direction of the person presiding;
  - (b) by resolution of the Council. Such a motion will be moved, seconded and put to the vote without discussion.
- (4) Subject to any directions given by the Mayor (or in their absence the Deputy Mayor) the items of business for any meeting of the Council shall be arranged in such order as the Proper Officer thinks will ensure the effective transaction of business. The Proper Officer shall also be authorised to structure the agenda of Council

Meetings in accordance with any instructions given by the Council from time to time.

## **7. Confirmation of Council Minutes as a Correct Record**

- (1) The person presiding shall put the question that the minutes submitted to the meeting be approved as a correct record.
- (2) No discussion shall take place on the minutes, except upon their accuracy. Any question of their accuracy shall be raised by notice of a motion seeking a specified amendment. If no such question is raised or, if it is raised then as soon as it is disposed of, the minutes shall be confirmed by Council either as a correct record or subject to amendment and signed by the person presiding.
- (3) Confirmation of any Council Minutes as a correct record under Standing Order 7(1) and 7(2) above, shall be considered at the next scheduled ordinary meeting of Council.

## **8. Presentation of Petitions to Meetings of the Council**

- (1) Any relevant petition (including any debates relating thereto) shall be considered by Council in accordance with the Council's Petition Scheme.

## **9. Written Questions from Members at Meetings of the Council**

- (1) Any member may give written notice of a question to be asked at a meeting of Council to any of the persons listed below
  - (a) the Mayor (or in their absence the person presiding);
  - (b) the Leader of the Council;
  - (c) any other member of the cabinet;
  - (d) any person appointed to preside at a committee or sub-committee;
  - (e) the member or members of the Council nominated pursuant to Section 41 of the Local Government Act

1985, on the discharge of the functions of any joint authority or any joint board of which the Council is a constituent authority;

- (f) a member appointed by the Council to an Outside Body (which shall include any trust or company);

Any written notice under this standing order shall be submitted to the Proper Officer no later than 12.00 midnight, 10 working days before the day of the meeting at which the question is to be asked, but not including the day of the meeting itself.

- (2) Every question under 10(1) above, must be relevant to some matter to which the Council has functions and responsibilities, or which affects all or part of the Borough, or its citizens.

Copies of all questions will be circulated to all members of the Council with the summons and agenda for the meeting. The questions received and accepted shall be listed on the agenda in order of receipt. Copies will also be available to the public attending the meeting.

- (3) A member can only submit one written question to each Council meeting.

- (4) The Proper Officer may reject a question if it

- fails to comply with the requirements of standing order 10(1) to 10(3);
- is or is substantially the same as a question that has been put at a meeting of the Council in the last six months;
- is or is substantially the same as a question that has already been submitted by a member to the same Council meeting;
- in the opinion of the Monitoring Officer is or is likely to be defamatory, and/or inflammatory, and/or frivolous and/or offensive;
- in the opinion of the Monitoring Officer is or is likely to expose the Council to significant legal challenge and/or claim;

- cannot be responded to without disclosing confidential information, information given in confidence, personal data, personal sensitive data or exempt information;
  - in the opinion of the Monitoring Officer is or is likely to contravene a court order/direction or otherwise undermine the ability of the Council to discharge its legal duties and responsibilities;
  - directly relates to the person asking the question, their personal circumstances, situation or any other matter which only directly affects them, their partners, their families and/or relatives;
  - may breach or cause to be breached, any direction given which relates to publicity, between a Notice of Election being issued and the date of that Election.
- (5) The Proper Officer will keep a record of each question submitted, which will be open to public inspection and retained for a period of 12 months. Details of all rejected questions will include the reasons for their rejection.
- (6) A member may withdraw a question they have submitted by giving written notice to the Proper Officer in accordance with standing order 10(1) above. That member shall then be entitled to give notice of an alternative question providing this is done within the timescales set out in this Standing Order.
- (7) In special circumstances, and providing it is not rejected under standing order 10(4), if the person presiding at the meeting considers that there is merit in a question(s) being asked although the required notice has not been given, they may permit the question(s) to be asked provided that the question is given to the Proper Officer not later than 12 noon on the day of the meeting.
- (8) Every question shall be asked as reproduced under Standing Order (10)2 and answered without discussion. The person to whom it was put may, however, seek clarification as to its meaning. The person to whom the question has been asked may decline to answer it.

- (9) Where the Member, having given notice of the question, is not present at the meeting, the person presiding will direct that a written response be provided.
- (10) A member asking a question under this Standing Order may, once their question has been responded to, ask one relevant supplementary question which must arise directly out of the original question, whether it is answered or not, or arising from the reply. The question must be put as a direct question and not preceded by a statement.

The person presiding at the meeting will determine if the supplementary question is valid in accordance with the criteria in paragraph (10) 4 above. The supplementary question shall otherwise be responded to without discussion. The person to whom it is asked may ask for clarification or further detail of the meaning of the question.

- (11) A response to a question or supplementary question may be given by the person to whom it has been asked, or by a person on their behalf, in the form of:-
- (a) a verbal response;
  - (b) a reference to information contained in a publication of the Council or other published work;
  - (c) a written response to the member asking the question.

## **10. Consideration of Section 41 Reports and Annual Reports at Meetings of Council**

- (a) Members nominated pursuant to Section 41 of the Local Government Act 1985 to answer questions on the discharge of the functions of any joint authority or any joint board of which the Council is a constituent authority, and the Council's representative on the West Midlands Police and Crime Panel, will report to Council twice a year on matters of importance relating to the joint authority/board/ panel, and on any other occasion by exception.

Any member of the Council shall be entitled to ask questions of the relevant members on their report and Council may discuss matters arising from the reports and recommendations.

(b) Chairs of the following committees:

- Audit and Risk Assurance Committee
- Budget and Corporate Management Scrutiny Board (on behalf of all Scrutiny Boards)
- Ethical Standards and Member Development Committee
- Licensing Committee
- Planning Committee
- Corporate Parenting Board
- Sandwell Safeguarding Adult Board

will report annually on matters of importance relating to the area of responsibility.

If the Chair is not present at the meeting, the Chair may nominate another Member to deliver their report to Council.

Any member of the Council shall be entitled to ask questions of the relevant members on their report and the Council may discuss matters arising from the reports.

## **11. Matters requiring Consideration and Approval at Meetings of Council**

(1) Council will undertake the following:

- (a) To receive recommendations in respect of the Council's Budget and Policy Framework;
- (b) To consider reports and determine recommendations from the Council's Executive, Committees, Boards, Panels and other fora;
- (c) To receive nomination(s) in respect of appointment(s) to Committees, Boards, Panels and other fora arising from in year vacancies (in accordance with the political proportionality rules, as applicable);



- (d) To receive nomination(s) in respect of appointment(s) to Outside Bodies (including any trust or company) arising from in year vacancies;
  - (e) To consider requests to bestow honorary titles and rights;
  - (f) To determine any requests for a dispensation in relation to the '6 month rule' under section 85, Local Government Act 1972 (as amended);
  - (g) To receive reports and recommendations from the Council's Statutory Officers and/or External Auditor;
  - (h) To consider and approve Charters and Protocols.
  - (i) Any other reports and recommendations considered necessary and/or urgent by the Chief Executive.
- (2) Members shall be allowed to move any motions which are relevant to the reports and recommendations under consideration.

## **12. Notices of Motion from Members at Council Meetings**

- (1) With the exception of (13)<sup>2</sup> below, any member of the Council may give notice of not more than one motion for consideration at any ordinary meeting of the Council. Such a motion may be considered at the request of that member without prior reference to a committee, the Cabinet or a cabinet member.

Where a motion raised by a member under this Standing Order was deferred from a previous meeting, that member may still submit a further motion under (1) above

Where the motion seeks to remove the Leader of the Council from that office, the motion must be signed by at least 6 members of the Council, who must be present at the meeting and eligible to vote.

- (2) The Leader of the Council may give notice of more than one motion for consideration at any ordinary meeting of the Council.
- (3) Unless the person presiding at any meeting of the Council is of the opinion that a motion should be considered as a matter of urgency, notice of every motion to be moved at any meeting of the Council shall:-
  - (a) be given in writing and signed by the Proposer and Seconder of the motion;
  - (b) state the date of the Council meeting at which it is proposed to be moved;
  - (c) be delivered to the Proper Officer not later than 12 midnight on the tenth working day before the day of the Council meeting, but not including the day of the meeting itself.
- (4) Motions will be listed on the agenda in the order of which notice is received by the Proper Officer unless the member giving notice states in writing that they propose to move it to a later meeting or withdraw it.
- (5) The Proper Officer shall only accept a notice of motion which relates to those matters for which the Council has powers and duties and responsibility or which affect all or part of the Borough or its citizens, and shall keep a record of the date and time at which every motion is delivered to them. That record shall be open to inspection by the public for a period of 12 months.
- (6) A motion shall only be moved by the person who has submitted it or by another member nominated by them, in writing, prior to the commencement of the meeting.
- (7) Where a member has given notice of their intention to move a motion under this Standing Order, which relates to any matter which has already been determined by the Cabinet, Leader, a Cabinet Member, committee or an

officer acting under delegated powers, such a motion shall not seek to amend the decision

- (8) The mover of a motion, under this Standing Order, may speak in support of that motion for no more than 5 minutes.

At the close of the debate on the motion, and immediately before it is put to the vote, the mover has a right of reply for not more than 3 minutes.

If an amendment to the motion is moved and seconded, the mover of the original motion shall have a right of reply on the amendment of not more than 3 minutes, but shall not otherwise speak on the amendment.

The Chair of Council will have the discretion to extend the length of time for speeches.

- (9) Where notice of a motion has been given and has been included on the agenda for a meeting of the Council, but the motion has not been moved and/or seconded (for whatever reason) that motion shall lapse.
- (10) Where a meeting of the Council is cancelled, postponed or adjourned to a later date under Standing Order 4, any unconsidered motions will be considered at the next meeting of the Council or at a later meeting selected by the member proposing the motion.
- (11) At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding 6 months or which has the same effect as one which has been rejected within that period unless:
- (a) it is a recommendation of the Cabinet, a cabinet member or a committee; or
  - (b) notice of such motion has been given by 18 members of the Council under Standing Order 13 (notices of motion).

## **Previous Decisions and Motions**

- (12) At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding 6 months or which has the same effect as one which has been rejected within that period unless:
- (a) it is a recommendation of the Cabinet, a cabinet member or a committee; or
  - (b) notice of such motion has been given by 18 members of the Council under Standing Order 13 (notices of motion).

## **13. Rules of Debate At Council Meetings**

### **Speeches**

- (1) While a member is speaking, the other members shall not speak, unless raising a point of order or a point of personal explanation.
- (2) Whenever, during a debate, the person presiding rises or issues a clear instruction of intent, members shall resume their seats, and the Council shall be silent.
- (3) If two or more members ask to speak, the person presiding shall determine the order in which they may address the Council.
- (4) When speaking, a member shall address the person presiding.
- (5) A member shall direct their speech to the matter under discussion, or to a personal explanation or a point of order.
- (6) No member shall speak for more than 3 minutes on any matter without the consent of the person presiding provided that:-

- (a) the mover of a motion, notice of which has been given under Standing Order 13, may speak in support of such a motion for no more than 5 minutes;
  - (b) no time limit shall be set on the length of speeches of those persons responding to questions under Standing Order 10 or on the members responding to questions under Standing Order 6.
- (7) A member who has already spoken on any motion shall not speak on that same motion again while it is the subject of debate, except:-
- (a) to speak once on an amendment moved by another member;
  - (b) if the motion has been amended since they last spoke, to move a further amendment;
  - (c) if their first speech was on an amendment moved by another member (whether or not the amendment was carried) but their wishes to speak on the main issue;
  - (d) in exercise of a right of reply (see paragraph (18) below);
  - (e) on a point of order or by way of personal explanation (see paragraph (19) below);
  - (f) where the person presiding is of the opinion that it would be prudent to provide an opportunity for clarification to be given or to allow the debate to proceed to an effective conclusion.

### **Motions Which May Be Moved During A Debate**

- (8) When a motion is under debate, no other motion shall be moved except the following procedural motions:-
- (a) to amend the motion;
  - (b) to withdraw the motion;
  - (c) a closure motion;

- (d) a motion under Standing Order 32 (prevention of disorderly conduct);
- (e) a motion to exclude the public and press;
- (f) to not hear further from a named member or to exclude them from the meeting (see Standing Order 32).

### **Motions during the debate**

- (9) A motion shall not be discussed unless it has been moved and seconded.
- (10) When seconding a motion, a member may reserve their speech until a later period of the debate by declaring their intention to do so.
- (11) The following motions may be moved at any meeting:-
  - (a) to elect a person to preside, in the absence of the Mayor and Deputy Mayor, for the duration of the meeting;
  - (b) relating to the accuracy of the minutes;
  - (c) to change the order of business (see Standing Order 6);
  - (d) to refer a matter to an appropriate body or individual;
  - (e) to establish a committee or appoint a member arising from an item on the agenda for the meeting;
  - (f) to receive reports or adopt recommendations of the Cabinet, cabinet members, committees or officers and any relevant resolutions;
  - (g) to extend the time limit for speeches;
  - (h) closure motions (see paragraph (15) below);

- (i) the suspension of Standing Orders without notice (see Standing Order 1(3));
  - (j) to exclude the public and press from a meeting where there is likely to be disclosure of exempt or confidential information;
  - (k) to give the consent of the Council where it is required by the Constitution;
  - (l) to prevent disorderly conduct (see Standing Order 32).
- (12) When any motion, notice of which has not been given in writing, has been moved and seconded, the person presiding may require that it shall be put into writing and handed to him/her before it is further discussed.
- (13) With the consent of the meeting, signified without discussion, a member may:-
- (a) alter a motion of which they have given notice; or
  - (b) with the consent of the seconder, alter a motion which has been moved and seconded.
- (14) With the consent of the seconder (if they are still present) and of the meeting, signified without discussion, the mover of a motion may withdraw it. No member shall speak on a motion that is withdrawn.

### **Amendments to Motions**

- (15) An amendment shall be relevant to the motion and shall either be:-
- (a) to refer the matter to the appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words; or
  - (c) to insert or add other words;

but such omission, insertion or addition of words shall not have the effect of simply negating the motion before the meeting.

- (16) An amendment shall not be discussed unless it has been moved and seconded.
- (17) When seconding an amendment, a member may reserve their speech until a later period of the debate by declaring their intention to do so.
- (18) No amendment shall be moved to an amendment.
- (19) When any amendment has been moved and seconded, the person presiding may require that it shall be put into writing and handed to them before it is further discussed. Where the amendments are substantive in nature, unless exceptional, advance written notice of the amendment shall be given to the Chief Executive at least 6 hours before the start of the meeting.
- (20) With the consent of the seconder (if they are still present) and of the meeting, signified without discussion, the mover of an amendment may amend it or withdraw it. No member shall speak on an amendment that has been withdrawn.
- (21) The mover and seconder (in agreement) of the original motion may indicate to the person presiding that they are willing to accept an amendment (duly moved and seconded) during the debate. The person presiding shall invite the mover and seconder of the original motion to confirm their acceptance of the amendment. Once accepted there shall be no debate (or further debate) or vote on the amendment and the original motion shall stand amended and become the substantive motion.
- (22) Under normal circumstances, only one amendment may be moved and discussed at a time, and no further amendment shall be moved until the amendment under discussion has been disposed of.

However, the person presiding may permit two or more amendments to be discussed together (but not voted



upon) if circumstances suggest that this course would facilitate the proper conduct of business, and may direct the order in which such amendments are to be put to the vote.

- (23) If an amendment is not carried, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

### **Closure Motions**

- (24) At the conclusion of a speech by a member on a motion before the Council, any other member may move, without comment, a motion:-
- (a) that the meeting proceed to the next business;
  - (b) that the matter be put to the vote
  - (c) to adjourn the debate or
  - (d) that the meeting is adjourned.
- (25) If the closure motion is seconded, then the person presiding shall proceed as follows:-
- (a) on a motion that the meeting proceed to the next business or that the matter be put to the vote, the person presiding shall first put the closure motion to the vote, without discussion. If this is passed, the mover of the original motion may exercise their right of reply under paragraph (18) below, before the original motion is put to the vote;
  - (b) on a motion to adjourn the meeting, the person presiding shall put the adjournment motion to the vote without discussion and without giving the mover of the original motion their right of reply on that occasion.

If the meeting is not reconvened, the original motion or remaining business shall then stand referred as uncompleted business until the next ordinary meeting, unless arrangements have been made for an extraordinary meeting to consider that business or the business is dealt with as a matter of urgency.

- (c) Closure motions not seconded shall lapse.
- (26) If the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, they may move from the Chair, that the matter be put to the vote.

### **Right of Reply**

- (27) The mover of any motion has a right of reply, immediately before the motion is put to the vote. The mover shall speak for no more than 3 minutes.

If an amendment is moved and seconded, the mover of the original motion shall, have a right of reply at the close of the debate on the amendment, of not more than 3 minutes, but they shall not otherwise speak on the amendment.

The mover of an amendment shall have no right of reply to the debate on their amendment.

(For the purposes of this paragraph a person who moves an amendment is not moving a motion).

### **Points of Order or Personal Explanation**

- (28) A member may ask to speak on a point of order or in personal explanation. The member must be allowed to put the point of order or personal explanation immediately and without interruption.

A point of order shall only relate to an alleged breach of a statutory provision, a Standing Order or procedural rule, which must be specifically identified. The member

raising it must also explain how they consider it has been broken.

A personal explanation shall be confined to some material part of a former speech by them in the current debate which may appear to have been misunderstood.

- (29) The ruling of the person presiding, on a point of order or on the admissibility of a personal explanation, shall be final and not open to discussion..

### **Consent of the Council**

- (30) Where the consent of the Council is required for anything, that consent may be given either:-
- (a) by the person presiding asking the meeting whether there are objections to the consent being given, and if no objection is raised, giving that consent; or
  - (b) if an objection is raised, or if the person presiding so chooses, by a motion moved, seconded and put to the meeting.

## **14. Voting at Meetings of the Council**

- (1) Unless the Constitution requires otherwise, any matter will be decided upon by a simple majority of those members present in the room and eligible to vote at the time the question was put. The person presiding will take the vote by a show of hands or other means of showing a clear intention, or if there is no dissent clearly demonstrated, by the general affirmation of the meeting.
- (2) Immediately after any vote is taken and before the next business commences, any member may request the Proper Officer to record in the minutes of that meeting the way they voted (or abstained).
- (3) Immediately before any matter is put to the vote, any member may request that a named vote be taken. Such a request must be supported by at least five other voting

members, and all six members shall clearly signify their support of this request.

At the request for a named vote the Proper Officer shall individually call upon all voting members then present to provide a clear indication whether they wish to vote for or against the question then under debate or whether they wish to abstain from voting. A record shall be made in the minutes of that meeting of the way members voted.

(4) Decisions relating to Budget and Council Tax:

A named vote must be taken on any decision relating to the calculation of the budget requirement and the calculation of council tax and on any amendments proposed in relation thereto. The vote must be recorded in the minutes of the proceedings of the meeting, to include the names of the persons who cast a vote for the decision, against the decision or who abstained from voting.

(5) When a vote is required to appoint or elect members of the Council or other persons to positions to be filled by the authority:-

- (a) if no more than two nominations are received, the nominations to such positions shall be moved, seconded and determined in accordance with the motions and amendments procedure (see Standing Order No. 14);
- (b) if there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken.

The process will continue until there is a majority of votes for one person.

(6) In the case of an equality of votes on any motion, the person presiding at any meeting of the Council, who is also entitled to vote at that meeting, shall have a second

or casting vote. There is no restriction on how the person presiding chooses to exercise the casting vote.

## **15. Appointment of the Cabinet and Committees**

- (1) The establishment and appointment of the Cabinet shall be in accordance with the requirements of Article 7 of the Constitution. In particular, the Leader of the Council will decide the number of members to comprise the Executive; and will appoint the Statutory Deputy Leader and any other Deputy Leader(s) and other elected members to serve on the Executive and their respective Portfolios.
- (2) Council shall make appointments to Committees, Boards, Panels, other Fora and Outside Bodies unless otherwise reserved for or to the Leader of the Council.
- (3) Following the receipt of a report from the Proper Officer, the Council may, at any time during the municipal year, make changes to the terms of reference, functions and political composition of any of its Committees, Boards, Panels, other fora.
- (4) Every Committees, Boards, Panels, other fora constituted by the Council shall continue in being, exercising the functions allocated to it, until such time as it is disestablished by the Council
- (4) Any person appointed to serve on a committee shall continue to serve on it until such time as their appointment to that committee is terminated or they resign, becomes disqualified from office or ceases to be a member of the Council for any reason.
- (5) Whenever the Council resolves, or is required by statute, Government or legal directive to review the allocation of seats on committees between political groups, the Proper Officer shall, as soon as practicable, submit a report to the Council showing what allocation of seats would, in their opinion, best meet the requirement for the allocation of seats on committees to be in proportion to the political composition of the Council.

- (6) Where the Proper Officer has been notified by a Political Group of a proposed change to the membership of a Committee, Board, Panel or other fora, (which is consistent with the rules of political proportionality) the Proper Officer shall make arrangements to report the change to the next Council meeting.
- (7) Unless an executive function, any other sub-committee/board/panel shall be appointed only with the prior approval of the Council.

## **Part II – Committees, Panels and Other Fora**

### **16. Substitute Members**

- (1) In cases where any political group has only one representative on a committee, panel, forum or board, that group shall be entitled to appoint a named substitute for the member concerned.
- (2) Where the appointment is to a body external to the Council, a substitute may only be appointed where the rules governing that organisation permit.
- (3) Unless otherwise provided for by statute or direction, the appointment of a substitute member is permitted for each and every member on a quasi-judicial body where it is important for that body to be of a prescribed size, to be representational of the make up of the Council or there is a need to comply with the requirements of any statutory requirement or Government guidance subject to meeting compulsory training requirements.
- (4) Substitute members may attend meetings in that capacity only:
  - (a) to take the place of the ordinary member for whom they are the designated substitute;
  - (b) where the ordinary member will be absent for the whole of the meeting except, in the case of a quasi-judicial body, where a member is required to

withdraw for, or cannot attend to hear a particular case, when substitution will be permitted;

- (c) after they or the member they are substituting for has provided the proper officer with notice of the substitution before the commencement of the meeting in question;
  - (d) where an adjourned meeting is reconvened and it is essential for that substitute member to continue to attend to comply with the spirit of natural justice. In such instances, the substantive member may not attend other than as an observer.
- (5) Substitute members will have all the same powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are the substitute.

## **17. Ordinary Meetings of Committees**

- (1) Unless otherwise agreed in the preceding municipal year, the Council, at its Annual Meeting, shall fix the date, time and place of ordinary meetings of committees, panels or other fora as appropriate
- (2) If the date, time or place of an ordinary meeting of a committee, panel or other forum has not been fixed by the Council, then it may fix its own dates, times and venues.
- (3) The arrangements for any committee, board, panel or other fora can be altered at the discretion of the person appointed to preside, subject to consultation with the lead representative of the political groups on that committee, as far as practicable where the change is for a prolonged period

## **18. Persons Presiding At Meetings of Committees**

- (1) Unless the Council makes an appointment itself, a committee shall elect, from amongst its membership, a person to preside at its meetings and a person to preside in their absence.

- (2) If both the appointed persons referred to in (1) above are absent, the committee shall choose, from amongst its membership, a person to preside at that meeting.
- (3) If it is necessary to choose a person to preside, the Proper Officer shall invite the committee to nominate a member to preside at that meeting.

Such a nomination and any amendments shall be moved and seconded and put to the vote (see Standing Order No. 27).

- (4) All legal powers in relation to the conduct of a meeting may be exercised by the person appointed to preside at that meeting.
- (5) If discussion arises about the appointment of a person to preside at a meeting, the Proper Officer shall regulate that discussion and maintain order at that meeting, until such time as a person is appointed to preside.
- (6) In the case of an equality of votes, a person presiding at any meeting of a committee who is also entitled to vote at that meeting, shall have a second or casting vote. There is no restriction on how the person presiding chooses to exercise the casting vote.
- (7) The ruling of any person presiding at any meeting of a committee as to the interpretation or application of any of these Standing Orders shall not be challenged at that meeting.

## **19. Quorum of Committees**

- (1) No business may be transacted at any meeting to which these Standing Orders apply unless a quorum is present.

The quorum is equal to one quarter of the total number of voting members or at least 2 voting members (whichever is the greater).

The exceptions to the above are:-



- in respect of the Ethical Standards & Member Development Committee and its sub-committees, where the quorum shall be 3 voting members of the committee/sub-committee;
  - any committee or sub-committee, or part thereof, held for the purposes of determining a quasi-judicial matter, where the quorum shall be at least 3 voting members of the committee/sub-committee.
- (2) No meeting shall commence unless there is a quorum present. If a meeting has not started within 30 minutes of the time specified on the agenda, the meeting shall be postponed.
- (3) If during any meeting of a committee, the person presiding declares that there is not a quorum present, the meeting shall be adjourned for 15 minutes.

If after 15 minutes there is still no quorum, the meeting shall be adjourned to a date and time to be agreed by the person presiding.

- (4) If a meeting is not to be reconvened, all business which has not been completed at a meeting which has been postponed or adjourned shall stand referred to the next ordinary meeting, unless arrangements are made for a special meeting to consider that business or the business is dealt with as a matter of urgency.

### Overview and Scrutiny Bodies

- (5) The following provisions shall apply in respect of overview and scrutiny bodies in place of (2) and (3) above.

In the event of a quorum not being obtained:-

- a) at the commencement of a meeting of an overview and scrutiny committee, or
- b) at any point during the meeting and at the discretion of the person presiding,

the meeting may continue for the purpose of examining the business before it, provided as follows:-

- (i) no formal decisions may be made whilst the meeting is inquorate;
- (ii) any recommendation, comment or advice by the members present to the Council, a cabinet member, other committees or other persons or bodies shall be qualified by a statement clearly indicating that the recommendation, comment or advice is not that of the full committee due to the meeting having been inquorate;
- (iii) any notes or minutes of the meeting shall clearly record that the meeting was inquorate or the point in the record of events at which the meeting became inquorate.

## **20. Committee Business Raised At Members' Request**

- (1) Any member of a committee (whether voting or not) may give notice of not more than one item for consideration at any meeting of that committee.
- (2) Unless the person presiding at any meeting is of the opinion that an item should be considered as a matter of urgency, notice of every item proposed by a member of a committee for consideration at a meeting shall:-
  - (a) be given in writing and signed by the member concerned. This provision shall be applied to email communications provided by the member using a Council email account;
  - (b) state the name of the committee to which the item should be referred;
  - (c) be delivered to the Proper Officer at least 10 working days before the date of the next scheduled meeting of the committee concerned;

The Proper Officer shall arrange for the matter to be included on the agenda for that meeting.

- (3) The Proper Officer shall only accept matters which fall within the terms of reference of the committee concerned.
- (4) In the event of a meeting being cancelled, postponed or adjourned in accordance with the provisions of these Standing Orders; the business proposed for that meeting or the remaining business if the meeting has been adjourned, but in either case including any item proposed by a member for consideration at that meeting; shall stand over as uncompleted business until the next ordinary meeting, unless arrangements have been made to consider that business or the business is dealt with as a matter of urgency.

## **21. Order of Business in Committees**

- (1) As a general rule the order of business shall be:-
  - (a) unless determined by the Council at its Annual Meeting, at the first ordinary meeting and at any other meeting after the office(s) have become vacant, to appoint a person to preside at meetings of the committee (and a person to preside in his or her absence);
  - (b) to appoint a person to preside at the meeting if both of the people appointed under (a) above are absent;
  - (c) to receive apologies for absence;
  - (d) disclosure of interests by members and employees of the Council;
  - (e) to approve, as a correct record, the minutes of the previous meeting(s);
  - (f) all items of business which have been, or are deemed to have been, referred to the committee by the Council, the Cabinet or by another committee;
  - (g) all reports submitted to the committee by the Head of Paid Service or any chief officer;

- (h) any items of business directed to be included by the Chair of the committee;
  - (l) any other item of business of which the requisite notice has been given to the Proper Officer by a member of the committee (whether voting or not);
  - (j) any other item of business, not on the agenda, but which the person presiding is of the opinion should be considered at the meeting as a matter of urgency.
- (2) With the exception of (a) to (e) above, the order of business can be varied:-
- (a) at the direction of the person presiding;
  - (b) by resolution of the committee;

The Chair may, without debate, withdraw items from the agenda if they deems it appropriate to do so, except:

- (a) for items included on an agenda under Standing Order 21 unless the member calling for the item to be included, consents to the withdrawal;
  - (b) where the item has been called in for scrutiny in accordance with Part 4 (Overview and Scrutiny Rules) of the Council's Constitution, unless the member calling in the item consents to the withdrawal.
- (3) Subject to any directions given by the person appointed to preside at a meeting of a committee, the items of business for that meeting shall be arranged in such order as the Proper Officer thinks will best ensure the effective transaction of business.

## **22. Special Meetings of Committees**

- (1) The person appointed to preside at meetings of a committee or, in their absence, their deputy may call a special meeting of the committee at any time.

- (2) One quarter of the voting members of a committee, or any 2 voting members of that committee (whichever is the greater) may request that a special meeting is called.

Such a request must be in writing and must be signed by the members concerned. This provision shall be applied to email communications provided by the member using a Council email account;

- (3) If, after such a request has been made and for whatever reason no meeting has been called within 7 days of the request, the members concerned shall inform the Proper Officer of their intention to call a special meeting, the business to be transacted and the date and time of the meeting.

In determining the date and time of the meeting, the members must take account of the statutory timescales and requirements for the calling of meetings, contained in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended, and the consequent practical implications.

Within 7 days of the request, the Proper Officer shall arrange a suitable venue, issue the summons and agenda for the meeting and shall publish the necessary notices of the meeting.

- (4) A special meeting shall only be called to consider a matter which falls within the terms of reference of that committee.

## **23. Arrangements for Officers to Act in Matters of Urgency**

- (1) The Leader of the Council and, unless the Council resolves otherwise, and with the exceptions listed below, every committee shall make arrangements for functions to be discharged in cases of urgency by delegation to a chief officer.

The exceptions to the above are functions undertaken by:-

- Ethical Standards & Member Development Committee;

- Audit & Risk Assurance Committee
  - Scrutiny Boards;
  - Chief Officer Terms and Conditions Committee
  - General Purposes and Arbitration Committee
- (2) Where a chief officer proposes to act on a matter of urgency, such action must be within approved Council policy. A chief officer proposing to act under these arrangements must:-
- (a) seek the agreement of the Proper Officer that they are satisfied that the matter in question constitutes a genuine matter of urgency, that all other avenues for the determination of the matter have been exhausted and that the urgency has not arisen due to a failure to finalise reports in time under normal procedures;
  - (b) seek the written agreement of the chair of the relevant scrutiny board or in their absence, the vice chair that they are satisfied that to delay the matter in question would prejudice the Council's or the public interest;
  - (c) consult the appropriate cabinet member or chair of the appropriate committee (or in their absence, vice-chair) on the action the chief officer proposes to take.
- (3) The chief officer concerned shall maintain a record of the urgent circumstances that make it necessary for action to be taken before the next ordinary meeting of the relevant committee concerned or before the appropriate cabinet member is able to take executive decisions in accordance with the Executive Procedure Rules and the Access to Information Procedure Rules contained in Part 4 of the Constitution.
- (4) Where action is taken under any such arrangement, a report of that action, including a note of the circumstances which made it necessary, must be reported to the next ordinary meeting of the appropriate committee(s) concerned or to the appropriate cabinet member as referred to in (3) above.

## **24. Reference-up of Decisions**

- (1) Any committee may resolve to refer a matter to the Council, to the Cabinet or to another committee in accordance with the scheme of delegations as set out in the Constitution, provided that to do so does not compromise the necessary division of functions between the executive and overview and scrutiny.
- (2) This Standing Order shall not apply to the business of quasi-judicial bodies when they are considering individual matters before them. However, such bodies shall be required to refer any issues which are contrary to Council policy or do not fall within their terms of reference, in accordance with (1) above.

## **25. Rules of Debate at Committee Meetings**

These rules of debate do not apply to fora at which individual decisions are being made by cabinet members. These shall be conducted in accordance with access to information requirements and otherwise in accordance with any protocols adopted by the Cabinet.

### **Speeches**

- (1) While a member is speaking, the other members shall not speak, unless raising a point of order or a point of personal explanation.
- (2) Whenever the person presiding rises or issues a clear instruction of intent during a debate, members shall resume their seats and the committee shall be silent.
- (3) If two or more members ask to speak, the person presiding shall decide the order in which they may address the committee.
- (4) When speaking, a member shall address the person presiding.

- (5) A member shall direct their speech to the matter under discussion, or to a personal explanation or a point of order.

### **Motions**

- (6) A motion shall not be discussed unless it has been moved and seconded except in a committee of nine members or less where motions do not need to be seconded.
- (7) When seconding a motion, a member may reserve their speech until a later period of the debate by declaring their intention to do so.
- (8) On consideration of a report or a recommendation from another committee or a chief officer, the adoption of the report or recommendation and any resolutions relevant to that adoption may be moved.
- (9) The following motions may be moved at any meeting at which they would be in order:
- (a) relating to the accuracy of the minutes;
  - (b) to change the order of business (see Standing Order 21 (2));
  - (c) closure motions (see paragraph (14) below);
  - (d) to exclude the public and press from a meeting where there is likely to be disclosure of exempt or confidential information;
  - (e) to give the consent of the committee where it is required by the Constitution;
  - (f) to prevent disorderly conduct (see Standing Order 33).
- (10) When any motion has been moved and seconded, the person presiding may require that it shall be put into writing and handed to him/her before it is further discussed.



- (11) With the consent of the meeting, signified without discussion, a member may:
- (a) alter a motion which they has moved; or
  - (b) with the further consent of the seconder, alter a motion which has been moved and seconded;
- (12) With the consent of the seconder (if they are still present) and of the meeting, signified without discussion, the mover of a motion may withdraw it. No member shall speak on a motion which has been withdrawn.

### **Motions Which May Be Moved During a Debate**

- (13) When a motion is under debate, no other motion shall be moved except the following:
- (a) to amend the motion;
  - (b) to withdraw the motion;
  - (c) a closure motion;
  - (d) a motion under Standing Order No. 33 (prevention of disorderly conduct);
  - (e) a motion to exclude the public.

### **Closure Motions**

- (14) At the conclusion of a speech by a member on a motion before a committee, any member may move without comment, a motion:-
- that the meeting proceed to the next business;
  - that the matter be put to the vote;
  - that the meeting is adjourned.

If the closure motion is seconded, then the person presiding shall proceed as follows:

- (a) on a motion that the meeting proceed to the next business or that the matter be put to the vote, the person presiding shall first put the closure motion to the vote, without discussion. If this is passed, the mover of the original motion may exercise their right of reply under paragraph (16) below, before the original motion is put to the vote;
- (b) on a motion to adjourn the meeting, the person presiding shall put the adjournment motion to the vote without discussion and without giving the mover of the original motion their right of reply on that occasion.

If the meeting is not reconvened, the original motion or remaining business shall then stand over as uncompleted business until the next ordinary meeting, unless arrangements have been made for a special meeting to consider that business or the business is dealt with as a matter of urgency.

- (15) If the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, they may move, from the Chair, that the matter be put to the vote.

### **Right of Reply**

- (16) The mover of any motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved and seconded, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but they shall not otherwise speak on the amendment.

The mover of an amendment shall have no right of reply to the debate on their amendment.

(For the purposes of this paragraph a person who moves an amendment is not moving a motion).

### **Points of Order or Personal Explanation**

- (17) A member may ask to speak on a point of order or in personal explanation. The member must be allowed to put the point of order or personal explanation immediately and without interruption.

A point of order shall only relate to an alleged breach of a specified statutory provision or a specified Standing Order or procedural rule, and the way in which the member raising it considers that it has been broken.

A personal explanation shall be confined to some material part of a former speech by him/her in the current debate which may appear to have been misunderstood.

- (18) The ruling of the person presiding, on a point of order or on the admissibility of a personal explanation, shall be final and not challenged at that meeting.

### **Amendments to Motions**

- (19) An amendment shall be relevant to the motion and shall either be:-

- (a) to refer the matter to the appropriate body or individual, another committee or a chief officer for consideration (or reconsideration);
- (b) to leave out words; or
- (c) to insert or add other words;

but such omission, insertion or addition of words shall not have the effect of simply negating the motion before the meeting.

- (20) An amendment shall not be discussed unless it has been moved and seconded except in a committee of 9 members or less, where amendments do not need to be seconded.

- (21) When seconding an amendment, a member may reserve their speech until a later period of the debate by declaring their intention to do so.
- (22) No amendment shall be moved to an amendment.
- (23) When any amendment has been moved and seconded, the person presiding may require that it shall be put into writing and handed to him/her before it is further discussed.
- (24) With the consent of the seconder (if they are still present) and of the meeting, signified without discussion, the mover of an amendment may withdraw it. No member shall speak on an amendment that has been withdrawn.
- (25) Under normal circumstances, only one amendment may be moved and discussed at a time, and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the person presiding may permit two or more amendments to be discussed together (but not voted upon) if circumstances suggest that this course would facilitate the proper conduct of business, and may direct the order in which such amendments are to be put to the vote.
- (26) If an amendment is not carried, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

### **Consent of the Committee**

- (27) Where the consent of the committee is required for anything, that consent may be given either:-
  - (a) by the person presiding asking the meeting whether there are objections to the consent being given, and if no objection is raised, giving that consent; or

- (b) if an objection is raised, or if the person presiding so chooses, by a motion moved, seconded and put to the meeting.

## **26. Voting at Committee Meetings**

- (1) Unless the Constitution requires otherwise, any matter will be decided upon by a simple majority of those members present in the room and eligible to vote at the time the question was put. The person presiding will take the vote by a show of hands or other means of showing a clear intention, or if there is no dissent clearly demonstrated, by general the affirmation of the meeting.
- (2) Immediately after any vote is taken and before the next business is commenced, any member may request the Proper Officer to record in the minutes of that meeting the way they voted (or abstained).
- (3) Immediately before any matter is put to the vote, any member may request that a named vote be taken. Such a request must be supported by at least one third of the other voting members present, who must clearly signify their support of this request.

At the request for a named vote the Proper Officer shall individually call upon all voting members then present to provide a clear indication of whether they wish to vote for or against the question then under debate or whether they wish to abstain from voting. A record shall be made in the minutes of that meeting of the way members voted.

- (4) When a vote is required to appoint or elect members of the Council or other persons to positions to be filled by the authority -
  - (a) if no more than two nominations are received, the nominations to such positions shall be moved, seconded and determined in accordance with the motions and amendments procedure (see Standing Order 26);
  - (b) if there are more than two people nominated for any position to be filled and there is not a clear

majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

- (5) In the case of an equality of votes, the person presiding at any meeting of any committee who is also entitled to vote at that meeting shall have a second or casting vote. There is no restriction on how the person presiding chooses to exercise the casting vote.

## **27. Confirmation of Committee Minutes as a Correct Record**

- (1) The person presiding shall put the question that the minutes submitted to the meeting be approved as a correct record.
- (2) No discussion shall take place on the minutes, except upon their accuracy. Any question of their accuracy shall be raised by notice of a motion seeking a specified amendment. If no such question is raised or, if it is raised then as soon as it is disposed of, the minutes shall be confirmed by the committee either as a correct record or subject to amendment and signed in due course by the person presiding.

## **Part III – General Provisions**

### **28. Papers and Advice**

- (1) The Proper Officer shall be responsible for the distribution of the agenda and supporting documents for all Council, cabinet and committee meetings and also to cabinet members to enable them to take decisions in accordance with the Executive Procedure Rules.

Any questions regarding the entitlement of any person to receive such papers shall be determined by the Proper Officer.

- (2) At their request, the Cabinet, cabinet members and every committee shall give a chief officer who is concerned with the work of that body or person an opportunity to advise on any matter under consideration either in writing or orally.
- (3) If the Council considers a matter which has not previously been the subject of consideration or report by the Cabinet, a cabinet member or relevant committee, the person presiding shall ensure that the question is not put to the vote before any chief officer who has responsibilities relating to the matter or the Head of Paid Service has had the opportunity, if requested, to advise the Council orally.

## **29. Attendance Register**

- (1) The Proper Officer shall keep an attendance register for meetings of the Council and each of its committees.
- (2) It is the responsibility of any member attending any meeting of the Council or a committee, either as a member of that committee or as an observer, to sign the attendance register for that meeting.

## **30. Observers At Meetings**

- (1) The Leader of the Council and Deputy Leader/s of the Council may attend the whole of the proceedings of any meeting of any committee of which they are not a member. They may speak, but may not vote, at meetings of a committee of which they are not a voting member.
- (2) Any member of the Council may attend any meeting of a committee, to which they have not been appointed, to observe the public part of the proceedings of that committee. Members attending meetings as observers shall not be entitled to vote and shall only speak at such meetings:-
  - (a) on a matter relating to a motion of which they gave notice or seconded at a Council meeting and which has been referred to that committee;

- (b) with the agreement of the person presiding at that meeting.
- (3) A member's attendance as an observer during the confidential proceedings of any committee shall be at the discretion of the person presiding at that meeting, subject to that member satisfying the person presiding of their need to know and that their attendance does not breach a statutory or local requirement or code.

### **31. Prevention of Disorderly Conduct**

- (1) If the person presiding is of the opinion that any member has misconducted or is misconducting themselves by persistently disregarding the ruling of the person presiding or by behaving irregularly, improperly or offensively or wilfully obstructing the conduct of business, they shall inform the meeting and may take the following course of action:-
- (a) the person presiding may move that the named member be not further heard. The motion shall be put and decided without comment. If it is carried the member named shall not speak further at that meeting;
  - (b) if the member continues to behave improperly, the person presiding may move that the named member shall leave the meeting. This motion shall not require to be seconded, but shall be put and decided without comment. If it is carried the member named shall forthwith leave the meeting;
  - (c) at any time, the person presiding may adjourn the meeting for an appropriate period.
- (2) If a member or members of the public interrupt the proceedings at any meeting, or in the event of a general disturbance at any meeting, the person presiding may take the following action as appropriate to the circumstances:-
- (a) warn the person(s) concerned;



- (b) order the person(s) to leave the room;
  - (c) order the person(s) to be removed from the room;
  - (d) adjourn the meeting for an appropriate period.
- (3) The provisions of this Standing Order are additional to any other powers which the person presiding may lawfully exercise.

### **32. Members' Interests**

- (1) Members shall be required to declare interests in accordance with any relevant statutory provisions and the Members' Code of Conduct as set out in Part 5 of the Constitution.
- (2) Where a member has a disclosable pecuniary interest or pecuniary interest in the business of the authority they must withdraw from the room or chamber where the meeting considering the business is being held unless the member has obtained a dispensation from the authority's Standards Committee.
- (3) The requirements for members to disclose their interests shall apply equally to any co-opted members/persons appointed to discharge any functions in connection with a committee whether they have voting rights or not.
- (4) The Proper Officer shall be responsible for keeping a register of members' interests and making it open for public inspection during office hours and for publication on the authority's web site.

### **33. Officers' Interests**

- (1) Officers shall be required to declare any interests in accordance with their terms and conditions of employment, any relevant statutory provisions, the Officers' Code of Conduct as set out in Part 5 of the Constitution and any other local provisions as may from time to time be approved and adopted by the Council.

- (2) Where any employee submits a written report to any meeting on any matter in which they has disclosed an interest, the report should contain a separate paragraph setting out those details of the nature of the interest.
- (3) If an employee advises any meeting verbally on any matter in which they has disclosed an interest, they should state the nature of the interest and this should be recorded in the minutes of that meeting.

#### **34. Delegation of Powers to Chief Officers**

- (1) The Proper Officer shall maintain a register of powers delegated to chief officers where such arrangements are made for an unspecified period or a specified period of more than six months. This register shall be open for inspection by the public during office hours.
- (2) A member of the Council may inspect any document relating to action taken by chief officers under delegated powers subject to any restrictions on access to information referred to in Standing Order 37.
- (3) Where a chief officer is given delegated authority to act on any matter, the Council, cabinet member or a committee may require that chief officer to submit reports as appropriate on the action they has taken under those arrangements.
- (4) Every chief officer shall be required to maintain a written record of the actions taken under their delegated powers as referred to in paragraph (1) above.

#### **35. Access to Documents, Information and Land**

- (1) In addition to their legal rights, but subject to certain restrictions, the following persons shall have access to information as follows:-
  - (a) any member of the Council may have access to any document held by the Council or any other information which it is necessary for the member to have access to for the proper discharge of their

function as a councillor, cabinet member or as a member of any committee;

- (b) any co-opted member of any committee may have access to any document or any other information held by the Council relating to a matter under consideration by a committee or sub-committee of which they are a member, which is necessary for that person to properly discharge their functions/duties as a member of that committee;
- (c) any employee of the Council may have access to any document or any other information held by the Council which is necessary for him/her to properly discharge their duties as an employee of the Council.

- (2) No Councillor, co-opted member of a committee or any employee of the Council shall be entitled to inspect any document or to have access to any information relating to a matter in which they has a personal or prejudicial interest other than that information that any other person would generally be able to access.

A person has a personal or prejudicial interest in a matter if, on the assumption that if they were a member of the Council, the interest would have to be declared at a meeting in accordance with the Member Code of Conduct set out in Part 5 of the Constitution.

- (3) A Councillor, co-opted member or an employee may be refused the right to inspect a document which, in the opinion of the Proper Officer, it is not necessary for them to inspect for the proper discharge of their functions as a councillor, cabinet member, member of a committee or as an employee, or if there is good reason why such access should be refused.
- (4) The Proper Officer shall be responsible for deciding whether any councillor, co-opted member or employee of the Council shall be entitled to inspect a document or have access to certain categories of information taking account of issues such as legislative access rights, "the need to know" and potential legal restrictions.

- (5) Access to information not in the form of a document need not be given where the cost of providing the information would be unreasonably high or in cases where the period of time required to provide the information would unreasonably disrupt the work of the Council.
- (6) Where a person exercises their right to inspect a document and the authority may lawfully make a copy of it, they shall be entitled to a copy on request, provided that:-
  - (a) a reasonable charge, at a level to be determined by the Council, may be made for the copy, unless the Proper Officer directs otherwise;
  - (b) a copy may be refused if the Proper Officer considers it impractical to make a copy.
- (7) If any councillor, co-opted member or employee is dissatisfied with any decision of an officer relating to access to information, they may refer the matter to the Monitoring Officer for consideration. This is additional to any other statutory rights which they may have in relation to access to information.
- (8) No member of the Council and no other member (whether voting or non voting) of a committee shall have any claim by virtue of their position:-
  - (a) to enter any land or buildings occupied by the authority to which the public do not have access or to which members of the Council do not regularly have access except with the permission of the chief officer responsible for the service of the Council for which the land or buildings are occupied;
  - (b) to exercise any power of the authority to enter or inspect other land or buildings, except where specifically authorised to do so by the authority;
  - (c) to exercise any other power of the authority unless such power has been specifically delegated by the

Council to a member in their capacity as a cabinet member;

(d) to issue any order with respect to any works which are being carried out by, or on behalf of the authority, or with respect to any goods or services which are being, or might be, purchased by the authority.

(9) If a member of the Council or a co-opted member of a committee wishes to have access to land or buildings in the occupation of the Council to which the public or councillors do not regularly have access, they should apply to the chief officer responsible for the service area to which the request relates.

The chief officer shall determine the request and may attach such conditions as are necessary including that the member be accompanied by an employee.

### **36. Public Disclosure of Information Relating to Council Employees**

If any question arises at any meeting about the appointment, promotion, dismissal, salary, superannuation or conditions of service or about the conduct of any named person employed by the Council, such a question shall not be the subject of discussion until it has been decided whether or not the public should be excluded from the meeting.

### **37. Common Seal of the Council**

- (1) The Common Seal of the Council shall be kept by the Proper Officer in a safe place.
- (2) The Common Seal of the Council shall only be affixed to a document on the authority of:
  - (a) a resolution of the Council;
  - (b) a resolution of a committee which has been empowered by the Council to authorise the use of the Seal;

(c) a decision of the Council, the Cabinet, an authorised committee or chief officer, to do anything where it is necessary to affix the Common Seal to complete the action.

- (3) The affixing of the Common Seal shall be witnessed by the Proper Officer or by a deputy authorised by the Council.

An entry of every sealing of a document shall be made and numbered consecutively in a book kept for that purpose. The book should be signed by the person who has witnessed the affixing of the Seal.

- (4) In addition to any other person who may be authorised by resolution of the Council, the Proper Officer for the purposes of Section 234 of the Local Government Act 1972 relating to the authentication of documents shall be the Chief Executive or any other chief officer who may be specified in a resolution of the Council.

### **38. Appointment, Dismissal and Disciplinary Action Against Staff**

- (1) Subject to paragraphs (2) and (3) below, the appointment, dismissal and taking disciplinary action against a member of staff must be carried out by the head of the paid service or by an officer nominated by them in accordance with the Part 4 Officer Employment Procedure Rules of the Council's Constitution.
- (2) Paragraph (1) shall not apply to the appointment, dismissal or taking of disciplinary action against a chief officer. In this circumstance, the Council will follow the processes set out in Part 4 Officer Employment Procedure Rules of the Council's Constitution.
- (3) No disciplinary action in respect of the Head of Paid Service, its Monitoring Officer or its Chief Finance Officer, except action described in paragraph (4), may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with Part 4 – Officer Employment Rules.

- (4) The action mentioned in paragraph (3) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

### **39. Regulation of Proceedings and Business**

- (1) Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph (2).
- (2) Before the authority –
  - (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- (3) Where the authority gives instructions in accordance with paragraph (2), it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may –
  - (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any

amendments made to the draft plan or strategy, to the authority for the authority's consideration; or

- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.
- (4) When the period specified by the authority, referred to in paragraph (3), has expired, the authority must, when –
- (a) amending the draft plan or strategy or, if there is one, the revised plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

- (5) Subject to paragraph (9), where, before 8<sup>th</sup> February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year –
- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;



- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph (6).

- (6) Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (5)(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
- (7) Where the authority gives instructions in accordance with paragraph (6), it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may –
  - (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
  - (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.
- (8) When the period specified by the authority, referred to in paragraph (7), has expired, the authority must, when making calculations (where originally or by way of substitute) in accordance with the sections referred to in paragraph (5)(a),

or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement,

which the executive leader submitted to the authority, or informed the authority of, within the period specified.

- (9) Paragraphs (5) to (8) shall not apply in relation to –
  - (a) calculations or substitute calculations which an authority is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## Definitions

- (1) The Interpretation Act 1978 applies to these Standing Orders as it applies for the interpretation of an Act of Parliament.
- (2) In these Standing Orders, unless the context otherwise demands or unless specified in (3) and (4) below, the following terms have the meanings listed below:-

"Council" or "authority"	Sandwell Metropolitan Borough Council.
"Committee"	- (a) Any body established by the Council under Section 102 of the Local Government Act 1972; (b) Any body established by the Council under Section 18 (area committees) and Section 21 (overview and scrutiny committees) of the Local Government Act 2000 (known as Scrutiny Boards, committees or panels); (c) Any sub-committee established by a committee referred to in (a) or (b) above; (d) Any committee established under other powers to the extent that there is no other statutory provision dealing with the conduct of its meetings; (e) Any other relevant fora
"Quasi-Judicial Committee"	- Any committee, sub-committee or panel which the Council may from time to time establish to determine matters where the rules of natural justice are required to be applied to the making of a decision and the maker of the decision is required to give prior notice to persons affected by it and afford them the opportunity to make representations.
Cabinet, Cabinet Member	- The cabinet executive, and a member of that body, as referred to in Part II of the Local Government Act 2000 (as

amended)

“Overview and Scrutiny Committee”	As defined in Part II of the Local Government Act 2000 (as amended) . Also referred to as a Scrutiny Panel.
"Member"	In relation to the Council - A duly elected member of the Council  In relation to any committee, a person appointed as a member of that committee, whether entitled to vote or not.
"Leader of the Council"	- a person designated by a Council resolution.
"Meeting"	- a meeting of the Council, a committee or a sub-committee, panel or forum as the case may be.
"Person Presiding"	- The person entitled or appointed to preside at any meeting of the Council or a committee.
"Chief Officer"	- a statutory or non-statutory chief officer as defined in Section 2 of the Local Government and Housing Act 1989.
"Officer/Employee"	- a paid officer/employee of the authority
"Head of the Authority's Paid Service"	- The officer designated as such under Section 4 of the Local Government and Housing Act 1989.
"Monitoring Officer"	- The officer designated as such under Section 5 of the Local Government and Housing Act 1989 or if that person is unable to act owing to illness or absence, the person nominated as their deputy.
"Proper Officer"	- The Chief Executive or any other officer designated as such by the authority

- "without comment" - In relation to the moving, seconding or putting the motion
- "In writing" - Includes any documents and communications which are transmitted by fax, e-mail, or text.
- "working days" - Monday to Friday inclusive, excluding bank holidays or days on which the principal offices of the Council are generally closed to the public

(3) In relation to Standing Order 40:

- "the 1989 Act" - The Local Government and Housing Act 1989
- "the 2000 Act" - The Local Government Act 2000 (as amended)
- "disciplinary action" - Has the same meaning as in the Local Authorities (Standing Orders)(England) Regulations 2001;
- "executive" and "executive leader" - Have the same meaning as in Part II of the 2000 Act (as amended)
- "member of staff" - A person appointed to or holding a paid office or employment under the authority
- "proper officer" - An officer appointed by the authority for the purposes of the provisions in this Part
- "chief officer" - As defined in Part 4 Officer Employment Procedure Rules of the Council's Constitution
- "chief finance officer", "council manager", "disciplinary action", "head of" - Have the same meaning as in regulation 2 of the Local Authorities (Standing Orders)(England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those

the authority’s  
paid service”  
and “monitoring  
officer” Regulations.

(4) In relation to Standing Order 41:-

“executive” and  
“executive  
leader” - Have the same meaning as in Part II of  
the Local Government Act 2000 (as  
amended)

“plan or  
strategy” and  
“working day” - Have the same meaning as in the Local  
Authorities (Standing Orders)(England)  
Regulations 2001

(5) Any reference in the Standing Orders to a numbered paragraph is, unless the context otherwise requires, a reference to the paragraph of the Standing Order bearing that number.

(6) Any reference to a committee or sub-committee by name shall be substituted by the name of any successor committee or sub-committee as the Council may from time to time feel it appropriate to establish.

## **Part 4 – Executive Procedure Rules**

### **1.0 How Does the Executive Operate?**

#### **1.1 Who may make executive decisions**

The arrangements for the discharge of executive functions are set out in the Constitution adopted by the Council. If they are not set out by the Council, then the Leader may decide how they are to be exercised. In either case, the arrangements approved by Council or the Leader may provide for executive functions to be discharged by means of:

- (i) the executive as a whole (The Cabinet);
- (ii) a committee of the executive (Cabinet Committee);
- (iii) an individual member of the executive (Cabinet Member);
- (iv) an officer;
- (v) arrangements with third party organisations;
- (vi) joint arrangements; or
- (vii) another local authority.

#### **1.2 Delegation by the Leader**

- (1) All of the authority's executive functions, by law, vest in the executive leader and they have the power to determine how these powers are to be discharged: either by them; or they can delegate them to the Cabinet, a Cabinet Committee, individual Cabinet Members or officers.
  
- (2) At the Annual Meeting of the Council, the Leader will submit a written record of delegations to individual Cabinet Members for inclusion in the Council's scheme of delegation at part 3 to this Constitution. Documents presented to the Annual Meeting will include the following information about the executive functions in relation to the coming year:
  - (i) the names, addresses and wards of the people to be appointed to the Cabinet;

- (ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
  - (iii) the terms of reference and constitution of any Cabinet Committees it is intended to appoint and the names of members to be appointed to them;
  - (iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year;
  - (v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;
  - (vi) the terms of reference and constitution of any Cabinet Committees it is intended to appoint and the names of members to be appointed to them. No executive function may be delegated to a Cabinet Group.
- (3) Once reported to the Annual Meeting of the Council, the Leader may amend the scheme of delegation relating to executive functions at any time during the year, provided that the Proper Officer reports on the changes made by the Leader to the next ordinary meeting of the Council.

### **1.3 Sub-Delegation of Executive Functions**

- (a) Unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the executive or to an officer;
- (b) Unless the Leader directs otherwise, a committee of the executive to whom functions have been delegated by the Leader, may delegate further to an officer;
- (c) Even where executive functions have been delegated, nothing shall prevent the person or body who delegated the function from discharging that function providing that a



decision on the particular issue has not already been made under the delegation.

#### **1.4 Conflicts of Interest**

Where the Leader or any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for members set out in Part 5 of this Constitution.

#### **1.5 Cabinet Meetings - When and Where?**

- (a) The Cabinet shall meet in accordance with a programme of meetings or otherwise at times to be agreed by the Leader.
- (b) The Cabinet will normally meet at Sandwell Council House or otherwise at an alternative location to be agreed by the Leader. Notice of meetings will be given as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

#### **1.6 Public and Private Meetings of the Executive**

- (a) Meetings of the Cabinet will be held in public except during consideration of confidential or exempt items as defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) the Chairs of the Scrutiny Boards, Vice Chairs of Scrutiny Boards and the Leader of each opposition group (or in their absence, their Deputy Leader) may attend meetings of the Cabinet as observers and speak, with the agreement of the Chair, but cannot vote. However, such members will be required to withdraw from the meeting where an item is to be considered in which they would have to declare an interest either as a member or as if they were a member of the Cabinet.
- (c) Attendance by persons during consideration of confidential or exempt items at meetings of the executive shall be by invitation of the Leader, or in their absence, the Deputy Leader, only.

## 1.7 Quorum

- (a) The quorum for a meeting of the Cabinet shall be 3.

The quorum for a meeting of a Cabinet Committee shall be one quarter of the members appointed to it

- (b) An executive meeting may not commence unless there is a quorum present. If a meeting has not started within 30 minutes of the time specified on the agenda, the meeting shall be postponed.
- (c) If during any meeting, the person presiding declares that there is not a quorum present, the person presiding shall either:-
  - (i) adjourn the meeting to a date to be agreed; or
  - (ii) adjourn the meeting for a specified period. If, after the expiration of the period, there is still no quorum, the meeting shall then stand adjourned to a date to be agreed.
- (d) All business which has not been completed at a meeting which has been postponed or adjourned shall stand referred to the next ordinary meeting, unless arrangements are made for a special meeting to consider that business, or the business is dealt with as a matter of urgency, or the item is withdrawn from consideration.

## 1.8 How are Decisions to be Taken in the Executive?

- (a) Decisions to be taken by the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules contained in Part 4 of the Constitution;
- (b) Executive decisions may only be taken on the basis of a completed report made available in accordance with the clear days, key decisions and private meetings principles within the Access to Information Rules contained in Part 4 of

the Constitution and the urgency provisions within the Constitution.

- (c) Where executive decisions are delegated to a Cabinet committee, the rules applying to executive decisions taken by the executive, will apply.

## **2.0 How are Cabinet Meetings Conducted**

### **2.1 Who Presides?**

Where the Leader is present, they will preside. In their absence, or inability to act as Chair, the Deputy Leader will preside. In the absence of the Leader and Deputy Leader, then another Cabinet Member shall be appointed to preside for the duration of that meeting only.

### **2.2 What Business will be Conducted?**

At each meeting of the executive, the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) to receive announcements from the person presiding or the Head of Paid Service (or their representative) or with the prior approval of the person presiding, any other Cabinet Member;
- (d) matters referred to the executive for reconsideration in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (e) consideration of reports from scrutiny boards;
- (f) to receive and consider any recommendations of any Cabinet Committee or any other fora required to report to the Cabinet;

- (g) matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution; and
- (h) the executive must ensure that any decisions it takes are consistent with the agreed strategic policy framework and take into account the needs and aspirations of the local community. The executive may, however, consider and determine matters of operational policy and may make recommendations to the Council on matters which are not in accordance with the strategic policy framework.

### **2.3 Consultation**

All reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny boards and the outcome of consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate and proportionate to the nature of the matter under consideration.

### **2.4 Who Can Put Items on the Executive Agenda?**

- (a) The Leader may put any matter on the agenda for a Cabinet meeting
- (b) With the prior consent of the Leader, or in their absence, the Deputy Leader, any member of the Cabinet may require the Proper Officer to place an item on the agenda for the next available meeting of the Cabinet for consideration subject to the Access to Information Rules contained in Part 4 of the Constitution.
- (c) The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Board or the full Council have resolved that an item be considered by the Cabinet.

*Revised September 2022ILO -  
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- (d) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and, if the Leader agrees, the item will be considered at the next available meeting of the Cabinet.
- (e) The Head of Paid Service, the Monitoring Officer or Chief Finance Officer may include an item on the agenda for a meeting of the Cabinet in pursuance of their statutory duties. In other circumstances, where any two of the statutory officers (Head of Paid Service, Monitoring Officer and Chief Finance Officer) are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision and there is no meeting soon enough to deal with the issue, a meeting shall be convened at which the matter will be considered and they may jointly include an item on the agenda for that meeting.

## **2.5 Questions**

- (a) If two days' notice in writing has been given to the Monitoring Officer, a Scrutiny Board Chair, Scrutiny Board Vice Chair or an Opposition Leader or Opposition Deputy Leader in their absence, may ask the Cabinet Member a question on a matter set out on the Cabinet agenda for that meeting.
- (b) Every question of which notice has been given under Rule 2.5(a) shall be put and answered without discussion.
- (c) A member under Rule 2.5(a) asking a question, once their question has been responded to, ask one relevant supplementary question which must arise directly out of the original question, whether it is answered or not, or arising from the reply. The question must be put as a direct question and not preceded by a statement.

## 2.6 How Are Decisions to be Taken by Individual Cabinet Members and/or Cabinet Committees

### Decision Notice

- (a) Where a decision is to be made by an individual Cabinet Member, a draft decision notice outlining the proposals will be published at least five clear working days before the date on which the decision is to be taken. The draft Decision Notice will be published on the Council's website subject to the restrictions on the publication of any confidential or exempt information.
- (b) As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, the final Decision Notice will be published on the Council's website. Subject to the restrictions on the publication of any confidential or exempt information. This will include a statement of the reasons for the decision and any alternative options considered and rejected. The decision shall then be subject to the call-in process as set out in the Scrutiny Procedure Rules.
- (c) Decisions to be taken by Cabinet Committees will be made in accordance with the Access to Information Rules contained in Part 4 of the Constitution.
- (d) A Cabinet Member and/or Cabinet committee must ensure that any decisions they take are consistent with the agreed policy framework and take into account the needs and aspirations of the local community. A Cabinet Member and/or Cabinet committee may, however, consider and make recommendations to the Cabinet on matters which are not in accordance with the policy framework.

## 2.7 Key Decisions

### 28 Day Notice (Forward Plan)

A list of key decisions will be prepared to cover a period of 28 days. A key decision is an Executive decision which is likely:

- to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough;
- to result in the Council incurring expenditure which exceeds that included in any approved revenue or capital budget or the limits set out within an approved borrowing or investment strategy and was not the subject of specific grants or;
- to result in the Council incurring expenditure, the making of savings or the generation of income amounting to £1million or more.

The Forward Plan details key decisions that will be taken by the Cabinet over the coming months. It will include the following information:

- a. the matter in respect of which a decision is to be made without confidential or exempt information being disclosed;
- b. where the decision maker is an individual, their name and title and where the decision is to be taken by a body, its name and details of membership;
- c. the date on which, or the period within which, the decision will be taken;
- d. a list of the documents to be submitted to the decision maker in relation to the matter.
- e. how to obtain copies of documents listed under (d), subject to any prohibition or restriction on their disclosure,
- f. how, to whom and by when representations (about the "key decision") can be made;
- g. what reports/papers are, or will be, available for public inspection;
- h. whether the report is a private report with reasons.

### 2.6 General Exception

If a matter which is likely to be a key decision has not been included in the Forward Plan, the key decision may still be taken if:

- a. the decision must be taken because it is impracticable to defer the decision, in the opinion of the Proper Officer
- b. the relevant employee has informed the Chair of the Scrutiny Board or the Vice Chair in their absence, in writing, by notice, of the matter to which the decision is to be made and the reasons why rule 2.7 above cannot be complied with;
- c. Democratic Services publishes a notice available for the public; and
- d. at least five clear days have elapsed since compliance with (a) and (b).

## **2.9 Special Urgency Exception to the 28 Day notice**

If the date by which a decision must be taken, makes compliance with section 2.8 above (general exception) impracticable, then the decision can only be taken if:

the decision maker obtains the agreement of the relevant Chair of the Scrutiny Board, or Vice-Chair of the Scrutiny Board, that the taking of the decision cannot be reasonably deferred. If there is no such Chair, or if the Chair is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor, should be sought to agree to the matter proceeding;

- a. Democratic Services publishes a notice available to the public setting out the reasons for the urgency;
- b. The notice under (b) is published in accordance with Rule 13.5 of the Access to Information Rules.

The Leader of the Council will submit reports to each meeting of the Council on the executive decisions taken since the preceding Council meeting under this Rule. The report will include the particulars of each decision taken and a summary of the matters in respect of which those decisions were taken.

## **2.10 Report to Council where the key decision procedure is not followed**



If the Scrutiny Board thinks that a key decision has been taken which was not:

- a. included in the Forward Plan; or
- b. the subject of the general exception procedure; or
- c. the subject of an agreement with a relevant Chair, or the Mayor/Deputy Mayor of the Council under section 2.9 above (special urgency);

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

The report must include:

- (a) details of the decision and the reasons for the decision;
- (b) details of the decision maker;
- (c) the reasons the decision was not considered a key decision and the opinion of the decision maker as to why this was the case.

Nothing within these Rules provides for the Council to overrule an executive decision for which it has no locus or to require the decision maker to reconsider their decision.

### **3.0 Record of Decisions**

After any meeting of the Cabinet, a Cabinet Committee or after a decision has been made by an individual Cabinet Member, whether held in public or private, the Proper Officer will produce a record of every decision taken, as soon as practicable.

The record will include:

- (a) the decision, the reasons for it and the date it was made;
- (b) any alternative options considered and rejected by the Cabinet, committee or Cabinet Member;
- (c) any conflict of interests declared by any member of the Cabinet or committee and any dispensations granted by the Head of Paid Service.

As soon as is reasonably practicable after an officer has made an executive decision, the officer must produce a written statement, to include:

(a) the decision, the reasons for it and the date it was made;

- (b) any alternative options considered and rejected by the Cabinet, committee or Cabinet Member
- (c) any conflict of interests declared by any member of the Cabinet who is consulted on the decision and any dispensations granted by the Head of the Paid Service.

### **3.3 Provision of Copies of Reports to Scrutiny Boards**

On submitting a report to an executive member to be taken into account in making any key decision, the report author will give a copy of the report to the chair of every relevant scrutiny board as soon as reasonably practicable and make it publicly available at the same time subject to the report not containing exempt or confidential information as defined under these rules.

### **3.4 Additional Rights of Access for Councillors**

#### **3.41 Material relating to previous business**

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

a. it appears to the Proper Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A

b. it contains the advice of a political adviser.

But a document referred to in (a.) will be available for inspection if:

- the information relates to the financial and business affairs of any particular person (including the Council) except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract or
- the information reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.

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## **Article 7 - The Executive**

### **7.01 Role**

The Executive (which is also known as the Cabinet) will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution.

### **7.02 Form and composition of the executive**

The Executive will consist of:-

1. the Leader of the Council (the "Leader"); and
2. at least two but not more than 9 Councillors appointed to the Cabinet by the Leader.

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

Members of the Cabinet cannot be members of a Scrutiny Board Audit and Risk Committee, Planning Committee or Licensing and Regulatory Committee.

Detailed portfolios for each member of the Executive are contained in Part 3 (Responsibility for Functions) of the Constitution.

### **7.03 Leader of the Council**

The Leader must be elected by the Council at its Annual Meeting following the Local Government Elections for a period of 4 years or up to the end of their term of office as a Councillor whichever is shorter. The Leader will hold office until: -

- a. they resign from the office; or
- b. they are disqualified from being a Councillor; or
- c. they are no longer a Councillor; or
- d. where the Council passes a resolution removing them from office.

in the event of any casual vacancy in the position of Leader the Deputy Leader shall act in the Leader's place until the appointment of a new Leader by the Council.

**(Note:** Upon any change in the political control of the Council, the Leader will resign from office without the need for 6.3(d) above to be invoked.)

### Motion for the Removal of the Leader

A motion for the removal of the Leader by resolution of the Council as referred to in (a) above requires the support of at least six elected members of Council. The procedure for this is set out in the Council Procedure Rules (Standing Orders) under paragraph 13(1) (Written Notices of Motion from Members at Council Meetings) (Part 4 of the Council's Constitution). If such a resolution is passed, the Council will elect a new executive leader at the same meeting or at a subsequent meeting of the Council.

## **7.04 Statutory Deputy Leader**

The Leader may designate one of the members of the Cabinet as Deputy Leader.

The statutory deputy executive leader, unless they resign as statutory deputy executive leader or ceases to be a member of the Council, will hold office until the end of the term of office of the executive leader.

The executive leader may, if they thinks fit, remove the statutory deputy executive leader from office.

Where a vacancy occurs in the office of statutory deputy executive leader, the executive leader must appoint another person in their place.

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

### **7.05 Inability of the Leader or Statutory Deputy Leader to act:**

If for any reason:

- the executive leader is unable to act or the office of the executive leader is vacant, and
- the statutory deputy executive leader is unable to act or the office of the statutory deputy executive leader is vacant;

the executive must act collectively in the executive leader's place or must meet and agree a member of the executive to act in their place.

### **7.06 Appointment of Cabinet Members and Allocation of Cabinet Portfolios**

The Leader may also appoint up to a further eight other Councillors as Cabinet Members. The Leader together with the Deputy Leader and the Cabinet Member(s) appointed by the Leader will form the Cabinet. The Leader may appoint one of these Cabinet Members to act as a second Deputy Leader.

The appointment of the Deputy Leader and Cabinet Member(s) shall take effect upon the date that written notification of such an appointment is received by the Proper Officer.

The Leader will determine those matters reserved to the executive and the content of each Cabinet Member portfolio so as to ensure that the Executive Functions of the Council are properly and effectively discharged.

The Leader may remove the Deputy Leader and any Cabinet Member from office. Such removal from office will take effect upon the date that written notification is received by the Proper Officer.

The Leader may, as they see fit, delegate Executive Powers to employees and may amend such a scheme of delegation from time to time. Any such arrangements shall take effect upon the date that written notification is received by the Proper Officer. The Leader shall report upon any such scheme of delegation or any changes to it at the next available Full Council meeting.

Where the Leader is removed mid-term or retires, their executive appointees shall continue in office until such time that a new Leader is appointed.

Cabinet Members shall be appointed annually by the Leader and will hold office until:

- a.
- (a) they are removed by the Leader; or
  - (b) they resign from office; or
  - (c) they are disqualified from being a councillor; or
  - (d) they are no longer councillors.

The Leader may appoint one of these other executive members to act as a second Deputy Leader.

#### **7.07 Proceedings of the Executive**

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

#### **7.08 Responsibility for functions**

All of the authority's executive functions shall vest in the executive leader and they will have the power to determine how these powers are to be discharged: either by themselves; or they can delegate them to the executive, a committee of the executive, individual cabinet members or officers. This includes the power of the executive leader to remove or replace members of the executive or to change their delegations.

The Leader will maintain a list in Part 3 of this Constitution setting out which individual cabinet members, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions.



## **Article 13 - Decision Making**

### **13.01 Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution (Responsibility for Functions).

### **13.02 Principles of Decision Making**

The Council aims to ensure that all its decisions whether they are the responsibility of the executive or not, are made in accordance with the following principles:

#### **Principles of Decision Making**

- Proportionality (i.e. the action taken is proportionate to the desired outcome);
- Decisions are taken on the basis of due consultation and professional advice from officers (Decisions taken by elected members will be based on information provided in a written report prepared by the responsible officer/s);
- Respect for human rights and giving due regard to the Public Sector Equality Duty;
- A presumption in favour of openness (Reports will only be considered in private where they contain exempt information as defined in Schedule 12A to the Local Government Act 1972 (as amended)(see Part 4 Access to Information Rules – Rule 10);
- Clarity of aims and desired outcomes (The written reports submitted to elected members will contain a clear recommendation of the professional officer for every decision they are asked to take).

### 13.03 **Types of Decision**

- (i) **Decisions reserved to Full Council.**  
Decisions relating to the functions listed in Article 4.02 will be made by the Full Council and not delegated.
- (ii) **Key decisions** - an executive decision which is likely:
  - (a) to result in the Council incurring expenditure which exceeds that included in any approved revenue or capital budget or the limits set out within an approved borrowing or investment strategy and was not the subject of specific grant; or
  - (b) to result in the Council incurring expenditure, the making of savings or the generation of income amounting to £1million or more:
  - (c) to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.

### 13.04 **Decision Making by the Full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this constitution when considering any matter.

### 13.05 **Decision Making by the Executive**

Subject to Article 13.08, the executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**13.06 Decision Making by Scrutiny Bodies**

Scrutiny Boards and Panels will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**13.07 Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

**13.08 Decision Making by Council Bodies Acting as Tribunals**

The Council, a councillor or an officer, when acting as a tribunal or in a quasi-judicial manner or when determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

**13.09 Decision Making by Partners and Service Delivery Organisations**

Where the Council has entered into partnering or service delivery arrangements, as referred to in Article 11.06 of this Constitution, the Council will expect the partner or service delivery organisation (“the body”) to comply with such terms and procedures as may be set out in the partnering agreement, contract or other legal arrangement between the body and the Council, regarding the consideration and determination of relevant matters.

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# **Part 4 – Access to Information Rules**

## **Part 4 - Access to Information Procedure Rules**

The Council will act in accordance with the Local Government Act 1972 as amended, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Openness of Local Government Bodies Regulations 2014 or any other relevant statute.

In addition to making documents available in hard copy as indicated in these Rules, the Council also maintains an electronic database of documents relating to meetings as defined below. The Committee Management System ([Modern.gov](http://Modern.gov)) is available for public use via the Council's website. It contains all committee documents (agendas, reports and minutes) for an eight year period in accordance with the Council's retention policy that are open to public inspection. Minutes are kept in perpetuity. Documents will be placed on Modern.gov as well as made available in hard copy, upon request, within the statutory timescales referred to in the sections below.

### **Non-Executive Meetings**

#### **1. Scope**

These rules apply to all meetings of the Council, Scrutiny Boards, Committees and Panels, the Ethical Standards and Member Development Committee, Regulatory Committees and meetings of other non-executive bodies of the Council.

#### **2. Additional Rights to Information**

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

#### **3. Rights to Attend Meetings**

Members of the public may attend all meetings under 1 above, subject only to the exceptions in these rules.

Attendance does not provide an automatic or guaranteed right to speak at meetings.

Public meetings may be filmed or recorded in accordance with the provisions of Article 3 of the Constitution (Citizens of the Council).

#### **4. Notices of Meeting**

The Council will normally give at least five clear days' notice of any non-executive meeting subject to the Constitution. This will be achieved by:

- a) posting details of the meeting at the Sandwell Council House, Freeth Street, Oldbury West Midlands (the designated office); and/or
- b) placing details of the meeting on the Committee Management System ([Modern.gov](https://www.modern.gov)) on the Council's website.

The Council reserves the right to give a shorter period of notice in accordance with the law, when circumstances require it.

#### **5. Access to Agenda and Reports Before the Meeting**

- (a) The Council will endeavour to make copies of the agenda and those reports which are open to the public, available for inspection at the designated office and via Modern.gov on the Council's website, at least five clear days before the meeting unless prevented from doing so due to the urgency of the matter and where any of the urgency provisions provided by the Constitution apply.
- (b) If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.
- (c) Nothing within this provision requires a copy of the agenda or any report to be made available to the public until a copy is available to the Chair and members of the committee/Board, Cabinet, Cabinet Committee or individual Cabinet Member.

- (d) The Council will provide copies of the agenda and reports in an electronic format unless specifically requested otherwise.

## **6. Access to Documents after a Meeting**

The Council will make available for public inspection paper copies and on payment of a charge for postage and other reasonable costs as determined appropriate, supply to any person, paper copies of the following, for up to four years after a meeting:

- any agenda and reports which are open to public inspection;
- any further statements or particulars necessary to indicate the nature of the items on the agenda;
- if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

The Council will make available for public inspection paper copies and on payment of a charge for postage and other reasonable costs as determined appropriate, supply to any person, paper copies of the following, for up to six years after a meeting:

- the minutes of the meeting or where minutes have not been produced, the record of the decisions taken together with the reasons for the decision, excluding any part of the minutes of the proceedings where the meeting was not open to the public and which disclose exempt or confidential information;
- on request, a summary of any proceedings not open to the public where the minutes which are open to public inspection would not provide a reasonably fair and coherent record.

## **7. Background Papers:**

The Proper Officer will set out in every report, a list of those documents (background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based;



- (b) have been relied on to a material extent in preparing the report.

The above requirement does not apply to published works, or documents which disclose exempt or confidential information as defined in Rule 9.

For four years after the date of the meeting, the Council will retain for public inspection, documents on the list of background papers, except for the documents, which may disclose exempt or confidential information.

## **8. Summary of Public Rights**

This Constitution will be kept available to the public via the Council’s website as a written summary of the public’s rights to attend meetings and to inspect and copy documents.

It will also be available for inspection at the designated office during normal office hours.

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication” together with the category of information likely to be disclosed.

## **9 Exclusion of the Public and Press from Meetings**

### **9.1 Confidential Information - Requirement to Exclude the Public and Press**

The public will be excluded from meetings whenever it is likely that in view of the nature of the business to be transacted or the nature of the proceedings, exempt or confidential information would be disclosed.

## **9.2 Exempt Information - Discretion to Exclude the Public**

Further to Rule 9.1 above, 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 held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

## **9.3 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by statute or by Court Order.

## **9.4 Meaning of Exempt Information**

In accordance with Schedule 12A of the Local Government Act 1972 (as amended), exempt information means information falling within the following 7 categories (subject to any condition)

- 1 Information relating to any individual.
2. Information that is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes:-
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**NOTE - Qualifications on the application of the Exemptions**

Information falling within Paragraph 3 above is not exempt information if it is required to be registered under any of the following Acts:-

The Companies Act 1985  
The Friendly Societies Acts 1974 or 1992  
The Industrial and Provident Societies Acts 1965 to 1978  
The Building Societies Act 1986  
The Charities Act 1993.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:-

- a. falls within any of Paragraphs 1 to 7 above; and
- b. is not prevented from being exempt by virtue of paragraphs 8 or 9 above,

is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **Executive Meetings**

### **10. Scope**

These rules apply to all meetings of the Cabinet and Cabinet Committees.

### **11. Additional Rights to Information**

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

### **12. Rights to Attend Meetings**

Members of the public may attend all meetings of the Cabinet, Cabinet Committees under 10 above, subject only to the exceptions in these rules.

In relation to Cabinet, the Leader; the Chair of a Cabinet Committee; or where appropriate a Cabinet Member will determine whether meetings relating to matters that are not key decisions, will be held in public or private.

Attendance does not provide an automatic or guaranteed right to speak at meetings.

Public meetings may be filmed or recorded in accordance with the provisions of Article 3 of the Constitution (Citizens of the Council).

### **13. Notices of Meeting**

- 13.1 The Council will normally give at least five clear days notice of any Cabinet meeting, or Cabinet Committee subject to the following provisions of this Constitution.

**Consideration in private:**

- 13.2 Where the Cabinet or a Cabinet Committee\* has need to consider a matter in private, 28 clear days before the matter is considered, the Council will publish a notice of its intention to meet in private detailing the reasons for meeting in private.
- 13.3 Further, five clear days before the private meeting, the Council will publish a second notice of its intention to meet in private reiterating the reasons for doing so and detailing any representations received to the notice under 13.2 and the Council's response to those representations.
- 13.4 Where the date by which a meeting must be held makes 13.2 and 13.3 impracticable, consent must be obtained from the Chair, or in their absence the Vice-Chair, of the relevant Scrutiny Board that the meeting is urgent and cannot reasonably be deferred. Notice of this consent, including the reasons for it, will be published as soon as is reasonably practicable.
- 13.5 The publication of notices under this section will be achieved by:
- a) posting details of the meeting at the Sandwell Council House, Freeth Street, Oldbury West Midlands (the designated office);
  - b) placing details of the meeting on the Committee Management System ([Modern.gov](https://www.modern.gov)) on the Council's website.

**14. Attendance at Private Meetings of the Cabinet or a Cabinet Committee**

- (a) All members of the Cabinet will be served notice of all private meetings of the Cabinet;
- (b) Only members of a Cabinet Committee will receive notice of a private meeting of that committee but all members of the Cabinet are entitled to attend and speak with the prior approval of the person presiding at that meeting;

- (c) Where it is necessary to aid the debate on any matter before a private meeting of the Cabinet or a Cabinet Committee, any other member or person may be invited to attend with the prior agreement of the person presiding.

**15. Access to Agenda and Reports Before the Meeting**

The provisions under section 5 above apply to Cabinet Meetings, and Cabinet Committees.

**16. Access to Documents after a Meeting**

The provisions under section 6 above apply to Cabinet Meetings and Cabinet Committees.

**17. Access to Minutes etc after the Meeting**

The minutes of any meeting of the Cabinet or Cabinet Committee and the record of any decisions taken by an individual Cabinet Member, will be available in accordance with the provisions of section 6 above.

**18. Background Papers:**

The provisions of section 7 above apply to Cabinet Meetings, and Cabinet Committees except that in respect of reports to the executive or executive members, a document or that part of a document containing the advice of a political advisor or assistant is exempt from the provisions.

**19. Confidential Information - Requirement to Exclude the Public and Press**

The public will be excluded from meetings whenever it is likely that in view of the nature of the business to be transacted or the nature of the proceedings, exempt or confidential information would be disclosed, however, without prejudice to any power of exclusion or suppression of disorderly conduct, a member of the public cannot be excluded from the public session of a meeting.

## **20. Meaning of Confidential and Exempt Information**

The provisions of sections 9.3 and 9.4 above apply to Cabinet Meetings, and Cabinet Committees.

## **21. Additional rights of Members to information**

These provisions apply to documents which are in the possession or control of the executive and concern business to be transacted at a private meeting of the Cabinet, a Cabinet Committee, decisions made by an individual member under executive powers; or any decision by an officer under executive arrangements.

21.1 Even though a document may not be required to be available for inspection on the grounds that it contains exempt information under Schedule 12A, it nevertheless must be made available for inspection by a member or members if the information is information of a description for the time being falling within:-

- (a) paragraph 3 of Schedule 12A (Information relating to the financial or business affairs of any particular person including the authority holding that information) except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) paragraph 6 of Schedule 12A (Information that reveals that the authority is to give notice of requirements on a person or make an order).

21.2 All documents covered by 21.1 must be available at the conclusion of the private meeting or immediately after the decision by a Cabinet Member or officer has been made or in any event, after 24 hours.

21.3 Nothing within these provisions requires a document or part of a document to be made available if it contains the advice of a political advisor or political assistant.

- 21.4 A member of a scrutiny board or other scrutiny body, who is not a member of the local authority has similar rights of access as a member of the local authority but only in relation to matters that they are directly scrutinising or are in the work programme of the scrutiny body they are appointed to and in that the documents only need to be made available as soon as is practicable or no later than 10 clear days after the request for access is received.
- 21.5 Where the executive determines that access cannot be granted to a document or part of it, the executive must submit a statement of its reasons to the scrutiny board/body.

## 22 **Key Decisions**

If the Cabinet, a Cabinet Committee or an individual cabinet Member intends to consider a matter falling within the definition of a key decision then it must also comply with the Rules applying to the executive detailed above unless any of the following special provisions apply.

NB *(A key decision is as defined in Article 13.03 of this Constitution and set out in the Executive Procedure Rules)*

## 23. **Procedure Before Taking Key Decision**

Subject to Rule 2.8 (General Exceptions) and Rule 2.9 (Special Urgency) under Executive Procedure Rules, a key decision may not be taken unless:

- (a) a notice (called here the 28 Day Notice) has been published in connection with the matter in question 28 days before the decision is made;
- (b) a notice under (a) is published in accordance with Rule 13.5



## Part 4 - Officer Employment Procedure Rules

### 1. Definition of a Chief Officer and Deputy Chief Officer

For the purposes of these Rules:-

(a) a chief officer shall mean:-

a statutory chief officer -

- (i) the director of children's services appointed under Section 18 of the Children Act 2004;
- (ii) the director of adult social services appointed under Section 6(A1) of the Local Authority Social Services Act 1970;
- (iii) the officer having responsibility for the purposes of Section 151 of the Local Government Act 1972, Section 73 of the Local Government Act 1985, Section 112 of the Local Government Finance Act 1988, for the administration of the authority's financial affairs;
- (iv) The Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 as amended by paragraph 24 of Schedule 5 Local Government Act 2000;

a non-statutory chief officer;

- (v) a person for whom the Head of the Paid Service is directly responsible (e.g. Directors);
  - (vi) a person who, as respects all or most of the duties of the post, is required to report directly or is directly accountable to the Head of Paid Service
  - (vii) a person who, as respects all or most of the duties of the post, is required to report directly or is directly accountable to the local authority themselves or any committee of the authority;
- (b) a deputy chief officer means a person who is, as respects all or most of the duties of the post, required to report directly or is directly accountable to one or more of the statutory (Head of Paid Service/ Chief Finance Officer/Monitoring Officer/the

director of children's services/the director of adult social services) or non-statutory chief officers (Directors).

A person whose duties are solely secretarial or clerical or otherwise in the nature of support services shall not be regarded as any of the persons in (a) or (b) above.

## 2. **Recruitment and Appointment**

- (a) Unless specified otherwise in these Rules or in the Council Procedure Rules (Standing Orders of the Council), the recruitment and appointment of the Head of Paid Service, chief officers, officers below chief or deputy chief officer and assistants to political groups shall be in accordance with the procedures contained in any scheme of recruitment and selection which has been approved or amended by the Council and is in force at the time.
- (b) Copies of any scheme under (a) shall be made available to any person on request to the Head of Paid Service.
- (c) **Declarations**
  - (i) Any candidate for appointment as an officer will be required to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council, or the partner of such persons.
  - (ii) No candidate related to a councillor or officer as described above will be appointed without the agreement of the Head of Paid Service.
- (d) **Seeking Support for Appointment**
  - (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council.

- (ii) No councillor will seek support for any person for any appointment with the Council.

### **3. Recruitment of Chief Officer or Deputy Chief Officer**

Subject to Rule 2(a) above, where the Council proposes to appoint a chief officer or deputy chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council:-

- (a) will draw up a statement specifying:
  - (i) the duties of the officer concerned: and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) will make arrangements for a copy of the statement mentioned in paragraph (a) to be available to all applicants for any particular post and to any other person on request.

### **4. Appointment of Head of Paid Service**

Subject to Rule 2(a) above:-

- (a) the Full Council will approve the appointment of the Head of Paid Service following the recommendation of an appointment by a committee of the Council established for that purpose. The committee must include at least one member of the Executive.

- (b) the Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Executive.

**5. Appointment of Chief Officers, Interim Chief Officers and Deputy Chief Officers (Graded SM2)**

Subject to Rule 2(a) above:-

- (a) a committee of the Council will appoint chief officers. The committee must include at least one member of the Executive. A sub-committee will appoint Deputy Chief graded SM2 or above. At least one member of the sub-committee must be a member of the Executive
- (b) the appointment of chief officers to organisations for whom the Council is the responsible authority, who would otherwise fall within the definition in (a) above, shall be appointed by a person or persons nominated by the Council for that purpose.
- (c) the temporary filling of a vacancy for a post of chief officer or Deputy Chief Officer (SM2) for a period of no more than twelve months, shall be made by the Head of Paid Service from amongst the Council's employees, and shall be in accordance with the Council's Acting Up arrangements. Any appointment would be subject of a satisfactory performance review at month six of the appointment. The appropriate Cabinet Member shall be informed of the process and invited to be a Member of any interview panel.
- (d) in the event of no suitable internal candidates for an interim appointment being identified, the Head of Paid Service may authorise that an external appointment shall be made for a period of no more than twelve months, subject to a satisfactory performance review at month six of the appointment.
- (e) an appointment under (d) above shall be made by the Head of Paid Service and the appropriate Cabinet Member shall be

informed of the process and invited to be a Member of an interview panel.

- (f) an offer of employment as a chief officer, interim chief officer or deputy chief officer shall only be made where no well founded objection has been made by any member of the Executive under the recruitment and selection process.
- (g) in the event of a reasoned objection being received, the matter shall be referred to a specially convened meeting of a committee established in accordance with paragraph (a) above, whose decision shall be final.

## 6. **Other Appointments**

(a) The appointment of officers below Deputy chief officer (graded SM1 or below) is the responsibility of the Head of Paid Service.

### (b) **Assistants to Political Groups**

Subject to Rule 2(a) above, the appointment of an assistant to a political group shall be made by a committee of the Council and shall comply with the requirements of the Local Government and Housing Act 1989.

## 7. **Disciplinary Action**

### 1. **Disciplinary action in respect of the Head of Paid Service, Monitoring Officer or Chief Finance (s.151) Officer**

- (a) **Suspension** - The Head of Paid Service, Monitoring Officer or Chief Finance Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months without a review of such suspension first taking place by a Committee of the Council, which must include at least one member of the Executive.

- (b) **Potential for dismissal** - Disciplinary action or situations in which there is the potential to dismiss either the Head of Paid Service, Monitoring Officer or Chief Finance Officer on the grounds of misconduct and potential to dismiss for other reasons such as capability and some other substantial reason will require the involvement of an Independent Investigator. Where it results in a proposal to dismiss, it will require the involvement of an Independent Panel before the Council considers the proposal (in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015)).
- (c) Procedure - Paragraphs 13 and 13A and Model Procedure A (England) of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives (13th October 2016) give effect to these provisions and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer or s151 Officer is contemplated.
- (d) The Full Council can approve the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer following a recommendation of dismissal made by a committee appointed pursuant to the Local Authorities (Standing Orders) (England (Amendment) Regulations 2015. The committee must include at least one member of the Executive.
- (e) The Council may only approve the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer where the process set out in the Local Authorities (Standing Orders (England Amendment) Regulations 2015 has been followed and no well-founded objection has been made by any member of the Executive under the process detailed within the Council's disciplinary, capability and related procedures, copies of relevant procedures shall be made available to any person on request to the Head of Paid Service.

**(f) Independent Person to be on a committee**

No disciplinary action may be taken in respect of the Head of Paid Service, S151 Officer or Monitoring Officer except in accordance with a recommendation in a report made by an independent panel appointed pursuant to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 containing at least two independent persons appointed under section 28(7) of the Localism Act 2011.

**2. Disciplinary Action in relation to other Chief Officers and Deputy Chief Officers (SM2 and above)**

(a) Suspension: The holders of all other chief officer posts (including interim) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay.

The decision to suspend shall be made by the Head of Paid Service. The Leader and or Deputy Leader will be informed.

(b) Potential for Dismissal of other Chief Officers:

A committee of the Council can dismiss chief officers. The committee must include at least one member of the Executive. A sub-Committee of the Council can dismiss Deputy Chief Officers (SM2 graded or above). At least one member of the sub-committee must be a member of the Executive.

Dismissal of a chief officer or deputy chief officer shall only take effect where no well-founded objection has been made by any member of the Executive under the process detailed within the Council's disciplinary, capability and related procedures.

The dismissal of chief officers of organisations for whom the Council is the responsible authority and who would otherwise fall within the definition of a chief officer, shall be undertaken by a person or persons nominated by the Council for that purpose.

(c) Procedure: Any action to dismiss a chief officer shall be taken in accordance with the procedures contained in any disciplinary, capability or related procedures which have been approved or amended by the Council and are in force at the time. Copies of relevant procedures shall be made available to any person on request to the Head of Paid Service.

### **(3) Disciplinary Action in relation to Officers below Deputy Chief Officer (graded SM2)**

#### **(a) Suspension**

Councillors will not be involved in the disciplinary action against any officer below deputy chief officer (graded SM2) level except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

(b) Potential dismissal of officers below deputy chief officer (graded SM2) is the responsibility of the Head of Paid Service or their nominee.

#### **(c) Procedure**

Unless specified otherwise in these Rules or in the Council Procedure Rules (Standing Orders of the Council), any action to dismiss officers below chief officers shall be taken in accordance with the procedures contained in any disciplinary, capability or related procedures which have been approved or amended by the Council and are in force at the time. Copies of relevant procedures shall be made available to any person on request to the Head of Paid Service.



#### **(4) Dismissal of Assistants to Political Groups**

Dismissal of Assistants to Political Groups shall be made by a Committee of the Council.

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# **Officer Code of Conduct**

# CODE OF CONDUCT FOR SANDWELL METROPOLITAN BOROUGH COUNCIL EMPLOYEES

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## INTRODUCTION AND BACKGROUND

In 1995, Sandwell Metropolitan Borough Council (“Council”) voluntarily agreed to adopt the Code of Conduct for Local Government Employees (“the Code”).

Since this time, various governments have stated their intention to update the Code, but in 2011, the proposal to carry this out was dropped by the new Government.

It has therefore fallen to individual authorities to update the Code as they consider appropriate. The Council adopted a new code of conduct for its Members, which sets out high standards of Conduct for its Members. The Council expects the same principles of honesty and integrity from its employees.

The Council recognises the need to promote high ethical standards among its workforce and has updated the Code of Conduct for Employees.

Consultation on the Code with Unions has taken place, and on the 26 May 2015 the Code was adopted by the Council.

## **1. Purpose of the Code**

- 1.1 This Code outlines existing law, regulations and conditions of service and provides further guidance to assist employees of the Council in their day-to-day work with the principles of integrity, honesty, impartiality and objectivity.
- 1.2 The Code lays down guidelines which will help maintain and improve standards and protect employees from misunderstanding or criticism. It also provides the openness and accountability necessary to re-enforce public confidence.
- 1.3 Employees must act in accordance with the principles set out in this Code, recognising the duty they have to discharge public functions reasonably and according with the law.

## **2. Scope of the Code**

- 2.1 The Code applies to all employees of the Council, although, inevitably, some of the issues covered by the Code will affect some employees more than it will others.
- 2.2 Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.
- 2.3 The Code is complementary to, and should be read in conjunction with, those obligations which apply to employees that fall within the scope of related policies and Codes, specifically, but not exclusively:
  - 
  - Anti-Corruption and Bribery Policy
  - Corporate Information Security Policy
  - Confidential Reporting Code (“Whistleblowing”)
  - Contract Procedure Rules
  - Disciplinary Policy and Rules

- Financial Regulations
- United Kingdom General Data Protection Regulations (UKGDPR)
- Grievance Policy
- Guidance on the role of the Council's Funding Officers
- Guidance on notification of an interest
- Information Acceptable Use Policy
- ICT and Electronic Communications Acceptable Use Policy
- Information Governance Framework
- Officer/Member protocol
- Register of Gifts and Hospitality
- Recruitment and Selection processes
- Standing Orders/Council procedure rules
- Equality Diversity and Inclusion Policy
- Social Media Policy
- Statement of Policy regarding Access to Information
- The role of Council employees in the management of funded voluntary organisations

### **3. General Principles of Conduct**

The public is entitled to expect the highest standards of conduct from all employees who work for local government. The role of such employees is to serve the Council in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with selflessness, integrity, objectivity, honesty and impartiality.

#### **3.1 Selflessness**

Employees should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **3.2 Integrity**

Employees should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### **3.3 Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, employees should make choices on merit.

### **3.4 Honesty**

Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **3.5 Impartiality**

Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to members and fellow employees with impartiality.

## **4. Expectations of Conduct**

4.1 Employees shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and resolve any conflict between the two, at once, and in favour of the public interest.

4.2 Employees shall within their public employed capacity conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Council and never undertake any action which would bring the Council, or its members or officers into disrepute.

## **5. Disclosure of Information and Confidentiality**

5.1 In the interests of open government, the law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Employees must be aware of the Council's rules concerning the disclosure of information, and act accordingly.

- 5.2 During the course of their work, employees may come into possession of sensitive or personal information. They should not disclose this information to others except in accordance with the Council's procedures. If employees are uncertain as to the Council's procedures in a particular circumstance, they should consult with their Service Manager or relevant Director, as appropriate.
- 5.3 The confidentiality of information received in the course of an employee's duties should be respected and must never be used for personal gain. Employees must not knowingly pass information on to others who might use it in such a way. If employees believe that information should be disclosed in the public interest they should follow the Confidential Reporting Code before doing so.
- 5.4 The above should be read in conjunction with the Confidential Reporting Code (School-based employees) and the Confidential Reporting Code (Non-School-based employees).
- 5.5 Employees must ensure they maintain registration of their appropriate professional body, and notify the Council of any convictions they receive during the course of their employment.
- 5.6 The above should be read in conjunction with the [Corporate Information Security Policy](#) (*hyperlink*)

## **6. United Kingdom General Data Protection Regulations (UKGDPR)**

- 6.1 The Data Protection Act 1998 (DPA) applies to personal information about living individuals held by the Council. The DPA and UKGDPR places a number of obligations on the Council, including a statutory requirement to keep the personal information we hold in a secure fashion, to inform individuals what we will do with the personal information we collect from them and also to provide individuals, upon request, with a copy of the personal information we hold about them.
- 6.2 The loss of personal data can result in the Council receiving a substantial fine from the Information Commissioner.



- 6.3 It is therefore very important that employees take steps to ensure that they handle personal information with care and they must follow the guidance provided within the Information Management Unit's intranet pages.

([https://intranet.sandwell.gov.uk/info/20392/information\\_governance](https://intranet.sandwell.gov.uk/info/20392/information_governance))

## 7. **Political Neutrality**

- 7.1 Employees serve the Council as a whole. It follows they must serve all members and not just those of the majority political group and must ensure that the individual rights of all members are respected.
- 7.2 Employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 7.3 The posts of certain employees are classified as being “politically restricted” if it is a post specified in the Local Government and Housing Act 1989 (as amended by the Local Democracy, Economic Development and Construction Act 2009). It includes a post being regarded as being “politically sensitive”, if the duties consist of or involve giving advice on a regular basis to the Council, its executive, any committee of the executive or any cabinet member, any of its committees or sub-committees or to any joint committee on which the Council is represented or speaking on behalf of the Council on a regular basis to journalists or broadcasters. All Employees must follow every policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 7.4 The above should be read in conjunction with the Council's guidance for [Employees Politically Restricted Posts](#)

## 8. **Relationships**

### 8.1 **Members**

Employees are responsible to the Council through its senior managers. All employees are required to discharge the duties and

responsibilities of their posts and, for some employees this includes giving advice to members. Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members.

The above should be read in conjunction with the [Officer/Member Protocol](#).

## 8.2 The Public

Employees should always remember their responsibilities to the public and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

## 8.3 Contractors and/or potential contractors

8.3.1 Substantial relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager and declared in accordance with the rules set out in the guidance on notification of an interest. [https://intranet.sandwell.gov.uk/downloads/file/2420/guidance\\_on\\_notification\\_of\\_an\\_interest](https://intranet.sandwell.gov.uk/downloads/file/2420/guidance_on_notification_of_an_interest).

8.3.2 Orders and contracts must be awarded on merit, in accordance with the Council's Standing Orders and Contract Procedure rules (add hyperlink), and no inappropriate favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

8.3.3 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

8.3.4 Employees involved in the tendering process and dealing with contractors must observe the need for accountability and openness

and be fair and impartial when dealing with all customers, suppliers, other contractors and sub-contractors.

8.3.5 Employees who have access to confidential information on tenders or costs should not disclose that information to any unauthorised party or organisation.

8.3.6 Employees should ensure that no inappropriate favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a relevant capacity.

8.3.7 The above should be read in conjunction with the [Standing Orders/Council Procedure Rules, Financial Regulations and guidance on notification of an interest.](https://intranet.sandwell.gov.uk/downloads/file/2420/guidance_on_notification_of_an_interest)  
[https://intranet.sandwell.gov.uk/downloads/file/2420/guidance\\_on\\_notification\\_of\\_an\\_interest](https://intranet.sandwell.gov.uk/downloads/file/2420/guidance_on_notification_of_an_interest)

## 9. **Acceptance of Gifts and Hospitality / Sponsorship - Giving and Receiving**

9.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity whether by invitation, tender, negotiation or voluntarily, the basic convention concerning acceptance of gifts or hospitality applies. Particular care must be taken when dealing with contractors or potential contractors.

9.2 Where the Council wishes to sponsor an event or service, employees must declare to their manager any benefit that they or any partner, spouse or relative benefit from such sponsorship. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest.

9.3 The above should be read in conjunction with the [policy on Register of Gifts and Hospitality](#).

## 10. **Anti- Corruption and Bribery**

- 10.1 Bribery and/or Corruption have no place in the activities of the Council. The Council's policy is to conduct all of its business in an honest and ethical manner and employees must not promise, give, request, accept or receive a financial or other advantage to induce or reward a person with respect to the improper performance of a relevant function or activity.
- 10.2 It is a criminal offence for employees to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person.
- 10.3 Employees must ensure they use public funds entrusted to them in a responsible and lawful manner. In particular, employees should not seek to obtain financial advantage for themselves or any other person or organisation through the improper use of the Council's financial resources or application of its systems or procedures.
- 10.4 The above should be read in conjunction with the [Anti-corruption and Bribery Policy](#).

## 11. **Appointment and Other Employment Matters**

Employees involved in appointments should ensure that these are made on the basis of merit and in accordance with the Council's recruitment and selection procedures. It is unlawful for the Council to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in the recruitment appointment or any other decision relating to discipline, promotion, pay and conditions of a person to whom they are related or have a close personal relationship.

## 12. **Outside Commitments**

- 12.1 Some employees are required to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

12.2 Employees should follow their Council's rules on the ownership of intellectual property or copyright created during their employment as detailed in [Financial Procedure Rules](#).

12.3 The above should be read in conjunction with the [Financial Regulations](#) and Guidance on notification of an interest.

12.4 Any matter, or thing capable of being patented under the Patents Act 1977, made developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the Council through the appropriate service manager and subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

### 13. **Personal Interests**

13.1 Employees must declare to an appropriate manager any financial and/or non-financial interests that they consider could bring about conflict with the authority's interests.

13.2 Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

13.3 Employees must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

13.4 The above should be read in conjunction with the guidance on notification of an interest.

### 14. **Equality Issues**

All employees of the Council must ensure that policies relating to equality issues are complied with in addition to the requirements of the law. All members of the public, customers and other employees have a right to be treated with fairness and equity.

The above should be read in conjunction with the Equality Diversity and Inclusion Policy .

## **Part 5 – Protocol for Member/Employee Relations**

### **1. Introduction**

- 1.1. The purpose of this protocol is to guide Members<sup>1</sup> and Employees of the Council in their relations with one another in such a way as to ensure the smooth running of the Council. It is important that any dealings between Members and Employees should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.2. The Council has adopted a Code of Conduct for both Officers and Members. The protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3. Members and Officers must at all times observe this protocol. This protocol should be seen as a local extension of the Members' and Employees' Codes of Conduct. A breach of the provisions of this protocol may also constitute a breach of those Codes. This protocol should therefore be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Ethical Standards and Member Development Committee and/or the Monitoring Officer.
- 1.4. Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.

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<sup>1</sup> Reference to Members includes Co-opted members unless otherwise stated.

- 1.5. This protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the protocol and the Member and Officer Codes are followed it should ensure that Members receive objective and impartial advice and that Employees are protected from accusations of bias and any undue influence from Members.
- 1.6. Members and employees of the Council are servants of the public. They are indispensable to one another. Mutual respect between Members and employees is essential for good local government. Close personal familiarity between individual Members and employees can damage this relationship and prove embarrassing to other Members and employees.

## **2. Expectations**

### **2.1 Members can expect and will receive from Employees: -**

- A commitment to the Authority as a whole;
- An understanding of and support for respective roles, workloads and pressures;
- Timely response to enquiries and complaints;
- Professional and balanced advice, based on evidence and including options, not influenced by political views or preference, which does not compromise the political neutrality of Employees;
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;



- Awareness of and sensitivity to the political environment;
- Respect, dignity and courtesy;
- Training and development in order to carry out their role effectively;
- Integrity, openness, mutual support and appropriate confidentiality;
- Not to have personal issues raised with them by Employees outside the agreed procedures;
- That Employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- Employees will at all times adhere to the Officers' Code of Conduct.

2.2 Employees can expect and will receive from Members: -

- An understanding of and support for respective roles, workloads and pressures;
- Political leadership and direction;
- Respect, dignity and courtesy;
- Integrity, openness, mutual support and appropriate confidentiality;
- Not to be subject to bullying, harassment or to be put under undue pressure, regardless of grade.
- That Members will not use their position or relationship with Employees to advance their personal interests or those of others or to influence decisions improperly;

- That Members will at all times comply with the Code of Conduct for Members.

### **3. Complaints Against Employees Received by Members and Treatment of Employees**

- 3.1 A Member should not raise matters directly relating to the conduct or capability of an Employee at meetings held in public. This is not intended to prevent a Member from expressing criticism of a particular service. Such criticism should not, however, be expressed in such a way as to be a direct personal criticism of an individual employee. This is a longstanding tradition in public service. An Employee has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect or courtesy or has any concern about the conduct or capability of an Employee and fails to resolve it through direct discussion with the Employee, they should raise the matter with the relevant Service Manager. The Service Manager will then look into the facts and report back promptly to the Member. If the Member continues to feel concerned, or does not receive a prompt response, they should then report the facts to the relevant Director, who will look into the matter afresh. In the event that the Member's concern relates to a Service Manager, Assistant Director or Director, they should raise their concern with the Chief Executive. Any action taken against an Employee in respect of a complaint will be dealt with in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 3.2 There is the potential for complaints or allegations to be made against Employees in a variety of situations. Such complaints and allegations can be extremely damaging to the Council and to the Employees involved. They can easily be made, particularly in respect of Employees carrying out their duties, on behalf of the Council, to make sure that public funds are being managed responsibly and/or that legal requirements are being complied with. They can, however, be very difficult to correct in the wider public arena. If not

managed correctly, they can leave the Council open to legal challenge as well as causing considerable adverse impact on staff morale and effectiveness and great personal distress to the individuals involved and their families.

Ill-founded and malicious allegations can tarnish Employee's careers and their livelihoods and also impact on the reputation and credibility of the Council. At the same time, it should be recognised that complaints and allegations must be handled on their individual merits, in accordance with a recognised process that is transparent, prompt and as far as possible reaches unequivocal conclusions.

- 3.3 Where a Member receives a complaint about an Employee of the Council they should inform the complainant that the complaint should be made in writing to the relevant Director and/or to the Chief Executive. In the event that it is not practicable for the complainant to put their complaint in writing, the Member may do so themselves.
- 3.4 Where a Member receives a complaint about an Employee of the Council in accordance with paragraph 3.3 above, they should immediately pass on the complaint, in confidence, to the relevant Director or Chief Executive.
- 3.5 Where a complaint is made directly about an Employee of the Council at a meeting attended by Members of the Council and members of the public and/or other organisations, Members present should adopt the following procedure: -
  - a. Acknowledge the complaint as soon as reasonably practicable;
  - b. Inform the complainant that any complaint should be made in writing to the relevant director and/or to the Chief Executive.
  - c. In the event that the complainant is acting as a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.

3.6 Where an Employee feels that they have not been properly treated with respect and courtesy by a Member or has been bullied by a Member, they can either raise the matter with their Service Manager, especially if they do not feel able to discuss it directly with the Member concerned or raise that matter directly with the Monitoring Officer. This complaint will then be dealt with in accordance with the approved arrangements for dealing with standards allegations under the Localism Act 2011.

#### **4. Complaints Against Members Received by Employees**

4.1 Occasionally Employees may receive complaints or allegations against a Member. Complaints and allegations must be handled on their individual merits, in accordance with the process and procedures laid out in the Council's policy on Member complaints and referred to the Monitoring Officer as set out in paragraph 3.6 above.

4.2 Where an Employee receives an verbal complaint about a Member of the Council they should inform the complainant that the complaint should be made in writing to the Monitoring Officer. In the event that it is not practicable for the complainant to put their complaint in writing, the Employee should refer the complainant to the Monitoring Officer.

4.3 Where an Employee receives a written complaint about a Member of the Council, they should immediately pass on the complaint, in confidence, to the Council's Monitoring Officer.

4.4 Where a complaint is made directly about a Member of the Council at a meeting attended by Employees of the Council and members of the public and/or other organisations, the most senior Employee present should: -

- a. Acknowledge the complaint as soon as reasonably practicable;
- b. Inform the complainant that any complaint should be made in writing to the Council's Monitoring Officer but

that, if this is not possible, the complainant should make an appointment with the Monitoring Officer (or their nominated representative) to discuss the issue further;

- c. In the event that the complainant is acting as a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.

4.5 In appropriate cases, the Monitoring Officer will notify the relevant political group leader of the complaint and their findings. The Monitoring Officer will seek to find a resolution to the complaint which is mutually acceptable to the Member and Employees concerned. If this is not possible then the Monitoring Officer will recommend necessary actions. If the Monitoring Officer considers that in breaching the terms of this Protocol, the Member may have breached the Code of Conduct for Members then a referral will be made by the relevant senior officer or the Chief Executive.

## **5. Employee Advice to Members and Party Groups**

- 5.1 It must be recognised by all Employees and Members that in discharging their duties and responsibilities, Employees (except political assistants) serve the Council as a whole and not exclusively any party group, combination of groups or any individual Member of the Council.
- 5.2 It is now common practice for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Employees may properly be called upon to support and contribute to such deliberations by party groups and to assist independent members but must at all times maintain political neutrality. All Employees must, in their dealings with party groups and individual members, treat them in a fair and even-handed manner.

- 5.3 The support provided by Employees can take many forms, ranging from a briefing meeting with a Member of the Council Executive, Chair or Spokesperson prior to a Committee or other meeting to a presentation to a full party group meeting. Whilst in practice such Employee support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Employees alike. In particular:
- 5.4.1 Employee support must not extend beyond providing information and advice in relation to matters of Council business. Employees must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Employees are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
- 5.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- 5.4.3 Similarly, where Employees provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Executive Member, Committee or Sub-Committee when the matter in question is considered;
- 5.4.4 Subject to paragraph 5.5 below, where Employees provide information and advice to a party group meeting, they must provide all relevant information, whether or not that information supports the line of argument or option preferred by the Employees and/or any other political group.

- 5.5 Special care needs to be exercised whenever Employees are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) unless they are a co-opted Member of a Council Committee and for this and other reasons Employees may not be able to provide the same level of information and advice as they would to a Member-only meeting.
- 5.6 Employees must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 5.7 Whilst any Member may ask a relevant Service Manager, Director or the Chief Executive for written factual information about a service, such requests must be reasonable. Requests will be met subject to any overriding legal considerations (which will be determined by the Director Law and Governance), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If that is the case, they will raise the matter with the relevant Director who will discuss the issue with the relevant Group Leader(s).
- 5.8 Where a Member requests factual information from an Employee as set out in paragraph 5.7 above, that information will also be supplied to any relevant Executive Member (or Chair of any appropriate Committee), Chair of any relevant Scrutiny Board and relevant Employees.
- 5.9 Where a Member requests policy advice, that advice will not be supplied to any other Member without the consent of the requesting Member.
- 5.10 In relation to budget proposals:

- a. The Administration shall be entitled to confidential discussions with Employees regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee, Council or other meetings, whichever is the earlier; and
- b. The opposition groups shall also be entitled to confidential discussions with Employees to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee, Council or other meetings, whichever is the earlier.

5.11 It must not be assumed by any party group or Member that any Employee is supportive of any policy or strategy developed because of that Employee's assistance in the formulation of that policy or strategy.

5.12 Any particular cases of difficulty or uncertainty in this area of Employee advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## **6. Working Arrangements**

6.1 Members and Officers work together on a regular basis in meetings, committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of Member-Officer relations are upheld, the following guidance applies.

### **6.2 Forms of Address and Conduct at Meetings**

In formal Council, Executive, Committee or Sub-Committee meetings: -



- Members should normally be referred to by their office: e.g. Leader, Chairman or Councillor and, otherwise, normal courtesies shall be observed;
- Relations can be friendly and cordial but not over familiar, as the public or other members and officers could perceive this as inappropriate or favouritism;
- Criticism should be constructive and not personal;
- Employees will not allow themselves to be drawn into a party-political debate.
- This guidance also applies to informal meetings to the extent that all present consider it necessary. Members and Employees should ensure that their interaction does not embarrass others, suggest favouritism or personal dislike or otherwise damage working relationships.

### 6.3 Personal Relationships

6.3.1 If a friendship or closer relationship (including relatives) exists or forms between a Member and an Employee, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction.

In such situations: -

- Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings;
- Employees must raise the matter with their Service Manager/Director.

## 6.4 Undue Pressure

6.4.1 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position. In their dealings with both Chief Officers and Employees (especially junior Employees) Members need to be aware that it is easy for Employees to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and/or political office.

6.4.2 A Member should not apply undue pressure on an Employee either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

6.4.3 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Whistleblowing Policy.

6.4.4 Members may be in breach of the Code of Conduct for Members if they require any Employee to:

- change their professional advice; or
- take any action which the Employee considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

## 7. Overview and Scrutiny Arrangements

7.1 The Council's Scrutiny Boards will seek the advice of: -

- the Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
  - the Monitoring Officer and other relevant Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's Policy Framework.
- 7.2 When considering calling Officers to give evidence to any Scrutiny Board, the Chairman of the relevant Scrutiny Board should call the relevant Director (or their nominee, which may include a junior Officer) to give evidence to the Committee.
- 7.3 When asking Officers to give evidence before any Scrutiny Board, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in a respectful, open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
- 7.4 Where they consider it appropriate, the Chair of the relevant Scrutiny Board may ask Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Chief Officer may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, any private or confidential matter must be dealt with in a private or confidential manner.
- 7.5. The relevant Chair of the Scrutiny Board shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimizing, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a

disciplinary nature for the relevant Political Group (in respect of Members) or the relevant Service Manager/Director (in respect of Officers).

## **8. Support Services to Members and Party Groups**

- 8.1 The only basis on which the Council can lawfully provide support services (e.g. office accommodation, stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business and in accordance with the provisions of the Members Code of Conduct. They should not be used in connection with party political (unless legally permissible and authorised by the Council) or campaigning activity or for private purposes. In the event that any items, such as telephones, fax machines or computers, provided for Members are used by them other than for Council business, the cost of such use (provided that it can be separately identified) must be met by the Member concerned.

## **9. Members' Access to Information and to Council Documents**

- 9.1 Members are free to approach any Directorate of the Council to ask for information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their roles as Members of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Service Manager/Director. In cases of doubt, Members should approach the Director Law and Governance for assistance.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

- 9.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Executive, Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as an exempt or confidential item on the agenda for a meeting. The items in question are generally those which contain exempt information relating to individuals, consultations, industrial relations, negotiations, legal proceedings and criminal investigations.
- 9.4 The common law right of Members is much broader and is based on the principle that any Member has prima facie right to inspect Council documents so far as their access to the document is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.
- 9.5 The exercise of this common law right depends, therefore, upon an individual Member being able to demonstrate that they have the necessary “need to know”. In this respect a Member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Service Manager/Director who holds the document in question. In the event of dispute, the question falls to be determined by the Chief Executive. In the event that the Member is dissatisfied with the decision of the Chief Executive, they may refer the matter to the Monitoring Officer for consideration.
- 9.6 In some circumstances (e.g. a Committee Member wishing to inspect a document relating to the business of that Committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing

to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature, are either not accessible to Members or are accessible only to the party group forming the Administration and not to other party groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft reports, the disclosure of which prematurely might be against the Council's and the public interest.

- 9.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 9.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Director Law and Governance. In particular, the General Data Protection Regulation Act 2018 and the Freedom of Information Act 2000 have had a significant impact in this area.
- 9.9 The Code of Conduct prohibits the disclosure of confidential information, unless the member can show that the public interest in seeing the information outweighs the confidentiality, or unless the member can show that the information was already fully in the public domain. Such disclosure may also breach the Code by bringing the Council into disrepute or constitute the conferring of an improper advantage or disadvantage on any person. The Council may also face legal action for breach of confidentiality due to the Member's actions. Members are strongly advised to seek advice from the Monitoring Officer in the first instance before considering the disclosure of information given to them in confidential or otherwise restricted circumstances.

## **10. Employee/Executive Member Relations**

- 10.1 It is clearly important that there should be a close working relationship between the relevant Member of the Council Executive (or Chair of the relevant Committee) and the Employees who are involved in providing the service for which that Member is responsible. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Employee's ability to deal impartially with other Members and other party groups.
- 10.2 Whilst the Executive Member (or Chair of a Committee or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an Employee will be under a professional duty to submit a report. Similarly, a Director will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgment of the author of the report. This applies equally to joint Member/Employee reports. This is to be distinguished from a situation where there is a value judgment to be made. Any issues arising between a Member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 10.3 At some meetings, a resolution may be passed, which authorises named Employees to take action between meetings in consultation with the Chair and Vice-Chair or Executive Member. It must be recognised that it is the Employee, rather than the Chair, Vice-Chair or Executive Member, who takes the action in such circumstances and it is the Employee who is accountable for it. It is now, of course, permissible for Executive Members to take individual actions within the authority delegated to them by the Council.
- 10.4 It is important for Directors to keep Members informed both about the major issues concerning the Council and, more

specifically, about issues and events affecting the area that they represent.

- 10.5 Finally, it must be remembered that Employees within a Directorate are accountable to their Service Manager/Director and that, whilst Employees should always seek to assist they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Manager/Director.

## **11. Correspondence**

- 11.1 Correspondence between an individual Member and an Employee should not normally be copied (by the Employee) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of “silent copies” should not be employed.
- 11.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Employee, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. letters to Employees and representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **12. Involvement of Ward Councillors**

- 12.1 It is expected that Members will be kept informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward. Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.



### **13. Corporate communication Corporate Communications**

- 13.1 From time to time Employees and/or Members may wish to issue a corporate communication inform residents about the activities of the Council. Corporate communications are an important method of keeping in touch with the citizens of the borough and informing them of the work of the Council. They can range from those which seek comments from members of the public to those which publicise forthcoming activities.
- 13.2 Great care has to be taken that the communications on behalf of the Council are factual, informative, objective and balanced. They cannot be prejudicial or unreasoned and cannot form the basis of political promotion or of a personal nature toward individuals or organisations.
- 13.3 The nature of local government is such that there will be a multitude of opinions on any given subject and some will be more controversial than others. Care must be taken, when explaining the Council's position, and both Members and officers should ensure that all communication on behalf of the Council is directed through the Corporate Communications Team.
- 13.4 Employees who wish to issue a corporate communication should first seek the agreement of their Service Manager/Director. If this is forthcoming, then the advice and assistance of the Corporate Communications Team must be sought. The team will provide advice upon the content, method and consequences of making such a statement as well as seeking the views of the relevant Cabinet Member.
- 13.5 All corporate communications by Employees must be issued through the corporate communications team, that will exercise and maintain full editorial control. In the event that there are irreconcilable differences of opinion between the corporate communications teams and the originating Employee then the matter will be referred to the relevant

Service Manager or Director and Communications and Corporate Affairs Manager.

- 13.6 Employees, who wish to issue a communication in their capacity as Trade Union officials, will not be bound by the requirements of paragraphs 13.4 and 13.5 of this Protocol, provided that the communication makes it clear that they are speaking in their capacity as a Trade Union Official.
- 13.7 It is important that Members are supported and confident in communication Council processes, priorities, services and decisions. However, there is often a need to Councillors to distinguish between when they represent the Council or where they are representing their personal views, or those of a political group. Members should also have regard to the member code of conduct and any guidance on the use of Council resources.
- 13.8 Corporate communications will usually be issued by the Leader or Cabinet Portfolio holder or, on occasion, other Councillors with positions of special responsibility for decision making and specific functions, duties and services. The office of the Mayor may also be the appropriate spokesperson on any civic matters.
- 13.9 Members, who wish to release communications about the business of the Council and who may be perceived by the public as communicating on behalf of the Council, should discuss the matter with the relevant Director and then with the Communications Office. The Communications Office will be able to offer advice in relation to the content and style as well as seeking the views of the relevant Executive Member. This provision is not intended to discourage legitimate political comment by Members, where it is clear that they are speaking on behalf of themselves or their political group and not on behalf of the Council. Political or individual communications are a matter for Councillors and their parties to resource and implement. In such instances, Members should ensure that when issuing communications in an individual or political capacity, that they clarify they are not commenting on behalf of the Council. Council

resources should not be used where a political communication is to be issued.

13.10 When statements are issued by elected Members of the Council it has to be remembered that they may be viewed by the public as being endorsed by the Council and not just as the opinions of the individual Member. Statements made on behalf of the Council have to comply with detailed rules about their content. For this reason, the Corporate Communications Team is under a duty to inform the Monitoring Officer if they are of the opinion that the proposed release may breach the publicity rules. If the matter cannot be resolved between the Corporate Communications Team and the elected Member, the Monitoring Officer will discuss the matter with the Member concerned.

13.11 The Code of Conduct requires members to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act, 1986.

13.12 Particular care needs to be taken in the period leading up to an election i.e. the period between the notice of an election and the election itself. What might normally not appear to be designed to affect public support for a political party, might give such appearance in the lead up to an election. Council publications in this period must not give the appearance of trying to influence public opinion or of promoting a particular candidate or group of candidates. Therefore, pro-active publicity in all its forms will be precluded for candidates and other politicians involved in the election. Publicity includes corporate communications, public relations activities, paid advertising and leaflet campaigns, local authority sponsorship of exhibitions and conferences, Council magazines, photo opportunities and events.

## **14. Breaches of the Protocol**

14.1 If a Member considers that there has been a breach of this protocol by an employee they should raise the matter with

the relevant Director and/or Chief Executive without delay. The Director will investigate the matter and, if required, appropriate action may be taken in accordance with the Council's normal disciplinary procedures. Feedback on the outcome should be given to the member.

- 14.2 If an Employee feels there has been a breach by a Member they should raise the matter with their Service Manager/Director without delay. The Service Manager/Director shall inform the Chief Executive as appropriate. Attempts should then be made to resolve the issue informally by approaching the Member direct and/or Party Group Leader. Feedback on the outcome should be given to the employee.
- 14.3 Serious or repeated breaches of this protocol by a Member may be referred to the Monitoring Officer for advice. Should a breach also amount to a breach of the Members' Code of Conduct the Monitoring Officer will deal with the breach in accordance with the Council's approved Arrangements for dealing with standards allegations under the Localism Act 2011.

## **15. Conclusion**

- 15.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect represent the greatest safeguard of the integrity of the Council, its Members and Employees.

## Written Questions from the public at Council Meetings

Residents or business rate payers of Sandwell may submit a written question to any of the persons listed below at ordinary meetings of the Council:-

- (a) the Mayor (or in their absence the person presiding);
- (b) the Leader of the Council;
- (c) any other member of the cabinet;
- (d) any person appointed to preside at a committee or sub-committee;
- (e) the member or members of the Council nominated pursuant to Section 41 of the Local Government Act 1985, on the discharge of the functions of any joint authority or any joint board of which the Council is a constituent authority;
- (f) a member appointed by the Council to an Outside Body (which shall include any trust or company)

Notice of a question **must** be given in writing to the Head of Paid Service no later than 12.00 midnight, 10 working days prior to a meeting of the Council at which the question is to be asked but not including the day of the meeting itself, and **must** give the name and address of the questioner (the address of the resident/ratepayer will not be published with the question). Questions need to be submitted to [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

No more than one question per meeting can be submitted by any organisation or person who is a resident or business rate payer in Sandwell. The question must be no more than 100 words in length.

A period of no more than 15 minutes shall be allocated at each ordinary meeting of the Council for public questions. Questions shall be put in the order they are received by the Head of Paid Service, except that the person



presiding may group together similar questions. The Head of Paid Service may reject a question if it:

- is not about a matter for which the local authority has a responsibility, or that affects the borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question that has been asked at a meeting of the Council in the past 6 months;
- requires the disclosure of confidential or exempt information;
- relates to an individual/group/business or the questioner's own particular circumstances or any other matter which only directly affects them, their partners, their families and/or relatives;
- may breach or cause to be breached, any direction given that relates to publicity, between a Notice of Election being issued and the date of that Election.
- in the opinion of the Monitoring Officer is or is likely to contravene a court order/direction or otherwise undermine the ability of the Council to discharge its legal duties and responsibilities;
- relates to the personal circumstances or conduct of any officer and councillor or conditions of service of employees;
- relates to the activities and aims of a political party or organisation;
- relates to individual planning applications or policy/decisions of quasi judicial committees;
- is a statement and not a genuine question.

In addition, the person presiding at the Council meeting may rule that a question will not be answered because the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

The ruling of the person presiding at the Council meeting, as advised by the Head of Paid Service, on the matter, is final.

Copies of all questions will be circulated to all members of the Council with the summons and agenda for the meeting. The questions received and accepted shall be listed on the agenda in order of receipt.

The questioner will be asked to put their question or, if they are not present, the Head of Paid Service may put the question. No supplementary questions shall be allowed.



Every question shall be asked as set out on the agenda and answered without discussion. The person to whom it was put may, however, seek clarification as to its meaning. The person to whom the question has been asked may answer verbally, in writing, or may decline to answer it. In the event that a planned decision on the question subject matter is to be made, the question shall be referred to the appropriate body/committee for a response.

Any question that cannot be answered during public question time shall be dealt with by a written answer.

The Proper Officer will keep a record of each question submitted, which will be open to public inspection and retained for a period of 12 months. Details of all rejected questions will include the reasons for their rejection.



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## Report to Council

**8 November 2022**

<b>Subject:</b>	Scrutiny Review
<b>Director:</b>	Surjit Tour Director of Law and Governance & Monitoring Officer
<b>Contact Officer:</b>	Suky Suthi-Nagra Democratic Services Manager and Statutory Scrutiny Officer

### 1 Recommendations

- 1.1 That the work undertaken to date on the scrutiny review be noted.
- 1.2 That Council, following the improvements identified as part of the scrutiny review 2022,:-
  - (a) agrees to all scrutiny vice chairs being appointed to the Budget and Corporate Scrutiny Management Board;
  - (b) that Council agrees to increasing the membership of the Budget and Corporate Scrutiny Board to include the four vice-chairs of the other Scrutiny Boards and that the political proportionality seat allocations be amended accordingly;
  - (c) subject to the approval of (a) above, agrees to the Budget and Corporate Scrutiny Board being authorised to appoint a vice chair from amongst the revised Board membership;



- (d) agrees the role descriptions for Chairs, Vice Chairs, Overview and Scrutiny Elected Members and Co-opted members as set out in Appendix 1;
- (e) the following protocols, as set out in Appendix 2, in order to support and promote healthy working relations:-
- Scrutiny Chairs, Vice Chairs and Scrutiny Elected Members with the Executive; and
  - Scrutiny Chairs, Vice Chairs and Scrutiny Members with Officers.
- (f) Authorisation of the Director of Law and Governance and Monitoring Officer to make all necessary consequential changes to the Constitution to give effect to the approved changes.

## **1 Reasons for Recommendations**

- 2.1 The Council commenced a review of the Council's governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review. These reviews identified a number of key governance issues that needed to be addressed.
- 2.2 The reviews specifically identified the need to address underlying constitutional and procedural deficiencies that directly and indirectly undermine or hinder the Council's governance arrangements, decision-making ability and key relationships.
- 2.3. A comprehensive review of the Council's overview and scrutiny arrangements has been ongoing to ensure it remains fit for purpose and aligned to the desired outcomes of Elected Members and the Council.



- 2.4 The review has sought to embed a strong and positive culture amongst Elected Members in relation to the real opportunities that effective overview and scrutiny provides.

## Context and Key Issues

- 2.5 Nationally, it is acknowledged that a number of authorities face challenges with their scrutiny function, for e.g. lack of engagement (across the board), making an impact or adding value.
- 2.6 Sandwell Council has not undertaken a comprehensive review of its overview and scrutiny arrangements for a number of years. Good practice advocates a review should be undertaken at reasonable intervals to ensure the overview and scrutiny arrangements remain fit for purpose and aligned to the desired outcomes of Elected Members and the Council.
- 2.7 The Centre for Governance and Scrutiny (CfGS) has identified four key principles that should underpin the work of the Overview & Scrutiny Committee at all times. It should:
- provide a culture of ‘critical friend’ challenge to decision makers;
  - enable the voice and concerns of the public and its communities to be heard;
  - conduct the scrutiny function by independent-minded members who will lead and own the process;
  - drive improvements on services.
- 2.8 Statutory Guidance was released in May 2019 by the former Ministry of Housing, Communities and Local Government. This guidance placed a strong emphasis on scrutiny/executive relationship and early and regular engagement between the Cabinet and Scrutiny which is critical to scrutiny's success as well approaches on what effective scrutiny looks like and how to conduct it.



- 2.9 In undertaking the review, consideration has been given to the statutory guidance and examined how the Council's overview and scrutiny arrangements, including scrutiny outcomes, can be improved so as to reflect recognised good practice. Importantly, the review has sought to embed a strong and positive culture amongst Elected Members in relation to the real opportunities that effective overview and scrutiny provides.
- 2.10 To support the review, the CfGS consulted stakeholders in interview sessions, carried out a desktop exercise and led on an Elected Members survey. In addition to this, officers conducted wider engagement with Elected Members through three bespoke engagement sessions that explored how the Council's overview and scrutiny function and arrangements could be enhanced and the opportunities of scrutiny maximised.
- 2.11 The review collected insight and evidence gathered through engagement sessions, desktop studies, member surveys, analysis against statutory guidance and explored good practice to make evidence-based recommendations.
- 2.12 Engagement with members had revealed that culture was the single most important factor that would determine whether the Council would be able to deliver an excellent overview and scrutiny function that met the needs and expectations of the Council and Elected Members. Accordingly, promoting and encouraging a healthy culture that empowers Elected Members, promotes agile working, new ways of working and innovation is a critical driver for success.
- 2.13 Working with the Chair of the Budget and Corporate Scrutiny Management Board, a number of improvements have been embedded into the scrutiny process to strengthen the Council's overview and scrutiny function as follows:-
- **Strengthen the working relationship between Cabinet and Scrutiny** by having regular meetings between scrutiny and cabinet members to look at shaping strategy and policy/decisions as part of pre-decision scrutiny as opposed to operational detail. This way scrutiny can make an impact and be valued for its work. Protocols for scrutiny and executive



and scrutiny and officers' have been developed to be clear on roles and expectations (as set out in Appendix 2);



- **build parity of esteem with the Executive.** Scrutiny needs to be recognised for the value it brings. Historically recommendations by scrutiny have not been responded to by the Cabinet, steps are being taken to address this by regularly reporting recommendations to Cabinet and Leadership Team to ensure a response is provided within the statutory timescale;
- **Enable scrutiny members to feel confident in their scrutiny roles.** Both internal and external training on what makes good scrutiny have been conducted and will continue to build on learning and development for members by identifying key skills required, producing online training and a scrutiny handbook for members to utilise throughout the year and also bring in external support via the Centre for Governance and Scrutiny to conduct coaching and mentoring for scrutiny chairs to build confidence for them to effectively carry out their role;
- **Having a more focussed and exciting work programme.** The views of members of the public, councillors and MPs have been sought this year as part of the work programme on issues of concern and aligning them to the objectives of the Corporate Plan and Vision 2030. The aim is for the work programme to add value with clear objectives, look at policy development, performance monitoring, hold to account and support effective decision-making. The work programme has to be flexible but also interesting so that all members engage;
- **Performance Framework.** Historically there have been issues with member attendance at scrutiny boards, Scrutiny Chairs are therefore closely monitoring attendance. Job roles for scrutiny members and a performance framework has been developed (as set out in Appendix 1) so that all members of the board are clear about their role on a scrutiny board, i.e. attendance at meetings, engaging in discussion, asking meaningful questions, etc;



- **Regular meetings to develop and nurture strong, healthy working relationships with members and officers.** The Chairs of scrutiny boards are having regular agenda setting meetings with Directors and officers to be clear what the expectation is on reports coming to Scrutiny to enable a debate and not just information sharing. Scrutiny Board chairs are collectively meeting more regularly, whether it is a pre-meeting or prior to Cabinet to agree lines of questioning in advance;
- **Regular meetings take place with the Chair of Budget and Corporate Scrutiny Management Board, the Statutory Scrutiny Officer and Monitoring Officer** to discuss the scrutiny review, improvements to scrutiny including good practice from other authorities that can be embedded in Sandwell and any training that could be useful for members;
- **Elevating the status of scrutiny** at Council meetings by Chairs reporting on what they are doing at their scrutiny boards and the impact this has had;
- Having dedicated scrutiny sessions to look at how we are progressing the outcomes of the Improvement Plan;
- reviewing how the budget is scrutinised to ensure it is done effectively.

2.14 To support the improvements and good practices that continue to be made and adopted by Scrutiny Boards over the past couple of years, a Scrutiny Improvement Plan has been developed (as set out in Appendix 4) in consultation with the Chair of the Budget and Corporate Scrutiny Management Board. The Scrutiny Improvement Plan sets out a framework for embedding positive working relationships between Scrutiny Boards and the Executive, and Scrutiny Boards and officers. The changes will elevate the status of scrutiny by promoting its importance and ensuring parity of esteem with the Executive, and ensuring Members continue to engage in scrutiny through more strategic and dynamic work programmes that are outcome focussed.





2.15 It is also proposed to amend the membership of the Budget and Corporate Scrutiny Management Board, which currently consists of all scrutiny chairs and 1 opposition member, to also now include all scrutiny vice chairs and to also appoint a Vice Chair on the Board (which is consistent with other scrutiny boards, subject to political proportionality being maintained). The additional members on the Board will help ensure greater resilience and enable a more rich debate and discussion, whilst and promoting and facilitating the desired culture, relationships and work programme that scrutiny is aiming to achieve.

2.16 The Centre for Governance and Scrutiny (CfGS) and the Local Government Association (LGA) continue to be involved in the Council's overview and scrutiny improvement plan and further reviews will continue to be undertaken to ensure overview and scrutiny continues to add value and is valued in Sandwell.

2.17 The Budget and Corporate Scrutiny Management Board met on 22 September 2022 and gave approval to:

- the Scrutiny Improvement Plan, as set out in Appendix 3 and authorised the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer to develop communication and engagement protocols/plans as set out in the Plan and provide regular updates to the Board;
- the Scrutiny Handbook, as set out in Appendix 4 and authorised the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer to develop further guidance tools and training for both members and officers in order to promote the scrutiny function;
- the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer, in consultation with the Chair of the Budget and Corporate Scrutiny Management Board, to continue to review the overview and scrutiny arrangements in Sandwell;
- all scrutiny board meetings taking place in the Council Chamber, where possible, to enable livestreaming to take place which will help to facilitate openness and transparency as well as public participation;





- that working with the Communications Team, consideration should be given to the use of the Sandwell Herald to promote overview and scrutiny work across the Borough.

### 3 How does this deliver objectives of the Corporate Plan?

		Effective governance arrangements support the delivery of all corporate objectives.
		
		

### 4 Objectives

The aim of the scrutiny review is to:-

- know the purpose of scrutiny;
- detail what good scrutiny looks like;
- how to conduct it;
- the benefits scrutiny can bring;
- raise the profile of effective scrutiny in Sandwell;
- develop a stronger understanding of roles and responsibilities - what does Sandwell see as good scrutiny? Is it policy development or performance monitoring?
- appreciation and understanding of the value that scrutiny brings – communication;
- actively engaging and encouraging participation of members, officers, partners and the public so as to address the local needs and help to drive improvement in public services;
- understanding of how scrutiny resources are used – and how effectively;
- ensure scrutiny make good quality recommendations which are responded to by Executive and the impact is measured and felt;



- ensuring that there is a strong cultural commitment which enables scrutiny to succeed and flourish;
- identifying any gaps in skills and addressing these as appropriate.

## 5 Implications

<b>Resources:</b>	<p>Additional resources have been commissioned to enable the Governance Review to deliver at pace.</p> <p>The appointment of a Vice Chair on Budget and Corporate Scrutiny Management Board from within current scrutiny chairs and vice chairs will not qualify for an additional Special Responsibility Allowance (SRA) as members can only receive one SRA.</p>
<b>Legal and Governance:</b>	<p>The scrutiny review is one element of the Governance Review. It is recognised that a strong, effective and efficient scrutiny function within a council is a significant sign of the political and governance health of a council. The Scrutiny Review demonstrates the council’s commitment to good and effective scrutiny, but also provides strong evidence of the improving nature of the scrutiny function within the council.</p>
<b>Risk:</b>	<p>There are no direct risk implications arising from this report, save that the momentum and improvements to the scrutiny function need to be maintained to avoid the council stagnating (or regressing) which would undermine the ‘check and balance’ scrutiny provides and increase the risk of potential failure</p>
<b>Equality:</b>	<p>Scrutiny Boards recognise the importance of the equality, diversity and inclusion agenda and will support the council to embed a positive EDI agenda, which includes supporting the role and work of the Equalities Commission.</p>
<b>Health and Wellbeing:</b>	<p>Scrutiny specifically focuses on health and wellbeing and will continue to examine this area to ensure the council meets its performance targets whilst examining how continuous improvement and innovative approaches can be progressed.</p>



<b>Social Value</b>	Social Value will be a key theme of the Improvement Plan with engagement and participation. Scrutiny will play a significant role in providing assurance to the council, members, partners, stakeholders and residents that the council remained committed to delivering and promoting social value where possible.
<b>Climate Change</b>	The proposals will not have a detrimental impact on climate change. However, Scrutiny will play an important role to ensure the council drives and delivers upon its climate change objectives and targets.

## 6 Appendices

Appendix 1 – Role descriptions for Chairs, Vice Chairs, Overview and Scrutiny Elected Members and Co-opted members

Appendix 2 – Protocols - Scrutiny Chairs, Vice Chairs and Scrutiny Elected Members with the Executive Scrutiny Chairs, Vice Chairs and Scrutiny Members with Officers.

Appendix 3 – [Scrutiny Improvement Plan](#)

Appendix 4 – [Scrutiny Handbook](#)

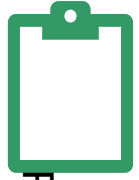
## 7. Background Papers

[Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#)

[CfPS Good Scrutiny Guide](#)



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Informed briefing sessions with relevant officers.



Regular meetings with Cabinet Members and Directors



Peer support and mentoring in collaboration with Centre for Public scrutiny and Local Government Association



Promotion of scrutiny function via dedicated webpage, newsletters and at council meetings



Flexible and agile committee approach



Incorporation of scrutiny impact within annual report to council



Inclusion of the public voice within scrutiny workshops



Creation of job roles for scrutiny members



Effective agenda setting meetings with the Chair and Vice- Chair



Creation of information management system to enable information to be readily accessible for scrutiny



Revised Terms of Reference with expectations clearly defined



Introduction of a scrutiny mission statement



Protocol clarifying relationship between scrutiny and the executive



Development of feedback mechanism to aid continuous improvement



Ongoing training and development for elected members



Prioritisation exercises used to determine which items take precedence during work programming



Production of handbook for scrutiny members






Robust and timetabled work programmes





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### Role Description: **Scrutiny Board Chair**






#### Accountabilities:

-  Full Council
-  The Public
-  The Panel

#### Responsibility:

-  Personal responsibility to represent the whole of Sandwell at scrutiny meetings.
-  To support all partnership working within the scope of the scrutiny panel function, have knowledge of the shared partnership priorities and through scrutiny, contribute to the delivery of the Vision 2030 and the Corporate Plan.
-  To contribute to the corporate duty of well-being, good community relations and the promotion of sustainability within the scope of the scrutiny committee function.
-  To ensure the full involvement of local people and communities in the decision-making process of the council, as necessary.

#### Leadership and direction:

-  To provide leadership and direction to the scrutiny panel, contribute to the development of the overview and scrutiny function and ensure that the scrutiny panel carries out the functions set out in the Constitution.
-  To contribute to the co-ordination of the work programme with other scrutiny chairs and ensure the work programme is member led and contributes to delivery of the Vision 2030 and Corporate Plan.
-  To promote the role of overview and scrutiny within and outside the council, developing effective internal relationships with officers and other members and encourage member and partners engagement in scrutiny activities developing external relationships with community representatives.
-  To actively seek out best practice in other authorities and report back to the Chair of the 2030 Panel.
-  To share best practice nationally and aim to be an exemplar of best practice.



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### Member Development:

-  To encourage continuous member development for scrutiny roles, identify training and development requirements for scrutiny chairs, vice chairs and members.
-  Share learning and experience.
-  Undertake compulsory skills training (questioning and chairing)
-  Undertake appropriate awareness training on key topics that fall under the remit of the scrutiny panel.
-  Maintain personal skill sets and develop a personal development plan (PDP) for your role.

### Effective relationships and meeting management:

-  To ensure that the scrutiny panel carries out the functions set out in the Constitution.
-  To chair meetings of the panel, including any convened to consider any items that have been called-in or referred under Call for Action.
-  To monitor and challenge members non-attendance and behaviours at meetings.
-  To develop a constructive 'critical friend' relationship with officers and executive members and attend meetings to be briefed on all matters affecting the relevant service(s) and the forward plan.
-  To make adequate and appropriate preparation for meetings, read relevant papers and reports and attend meetings with the Cabinet Member, Director and officers as appropriate.
-  To engage partner agencies in the work of the scrutiny panel and promote a constructive approach to scrutiny work.
-  To present findings of scrutiny panel work to the Executive and/or at meetings of the Council.
-  To manage and guide the panel's work, to scrutinise relevant issues relating to service delivery and decisions taken by the Executive.
-  To engage partner agencies in the work of the scrutiny panel and promote a constructive approach to scrutiny work.
-  To contribute to the development of service policy through the scrutiny function.



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## Values:

To be committed to the values of the Council:

-  **Trust:** show respect, personal impact, open and honest.
-  **Unity:** customer focus, team worker, communicate effectively.
-  **Progress:** open to change, performance focus, team results.





To hold the values in public office:

-  Openness and transparency
-  Honesty and integrity
-  Tolerance and respect
-  Equality and fairness
-  Appreciation of cultural difference
-  Sustainability









## Role Description: **Scrutiny Board Vice- Chair**





### Accountabilities

-  Full Council
-  The Public
-  The Committee
-  Chair of the appropriate scrutiny committee

### Role purpose and activity

-  Adults, Children and Education and Health Vice Chairs;
-  2030 Scrutiny Panel Vice Chairs will each take the lead on one of the following areas of work:
  -  Chair the Finance Sub-Panel
  -  Chair the Performance Management Sub-Panel
  -  Lead on the training and development of Scrutiny Members (see separate role description).
  -  Lead on co-ordinating and advising on the scrutiny reviews, task and finish groups and Inquiries (see separate role description).

### Responsibility:

-  Personal responsibility to represent the whole of Sandwell at scrutiny meetings.
-  To support all partnership working within the scope of the scrutiny panel function, have knowledge of the shared partnership priorities and through scrutiny contribute to the delivery of the Vision 2030.
-  To contribute to the corporate duty of well-being, good community relations and the promotion of sustainability within the scope of the scrutiny committee function.
-  To ensure the full involvement of local people and communities in the decision-making process of the council, as necessary.



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## Leadership and direction:

-  To provide leadership and direction to the scrutiny panel, contribute to the development of the overview and scrutiny function and ensure that the scrutiny panel carries out the functions set out in the Constitution.
-  To deputise for the Chair in the preparation for and at Scrutiny meetings as required.
-  To contribute to the co-ordination of the work programme with the scrutiny chair and ensure the work programme is member led and contributes to delivery of the Vision 2030.
-  To promote the role of overview and scrutiny within and outside the council, developing effective internal relationships with officers and other members and encourage member and partners engagement in scrutiny activities developing external relationships with community representatives.





## Member Development:

-  To encourage continuous member development for scrutiny roles, identify training and development requirements for scrutiny chairs, vice chairs and members.
-  Share learning and experience.
-  Undertake compulsory skills training (questioning and chairing)
-  Undertake appropriate awareness training on key topics that fall under the remit of the scrutiny panel.
-  Maintain personal skill sets and develop a personal development plan (PDP) for your role.

## Effective relationships and meeting management:




-  To ensure that the scrutiny panel carries out the functions set out in the Constitution.
-  To chair meetings of the panel, in the absence of the Chair, including any convened to consider any items that have been called-in or referred under Call for Action.
-  Monitor and challenge members non-attendance and behaviours at meetings.
-  Develop a constructive 'critical friend' relationship with officers and executive members and attend meetings to be briefed on all matters affecting the relevant service(s) and the forward plan.
-  To make adequate and appropriate preparation for meetings, read relevant papers and reports and attend meetings with the Cabinet Member, Director and officers as appropriate.
-  To engage partner agencies in the work of the scrutiny panel and promote a constructive approach to scrutiny work.









-  To present findings of scrutiny panel work to the committee, Executive and/or at meetings of the Council as required.
-  To assist the Chair to manage and guide the committee's work, to scrutinise relevant issues relating to service delivery and decisions taken by the Executive.
-  To engage partner agencies in the work of the scrutiny panel and promote a constructive approach to scrutiny work.
-  To contribute to the development of service policy through the scrutiny function.

### Values:

To be committed to the values of the Council:

-  **Trust:** show respect, personal impact, open and honest.
-  **Unity:** customer focus, team worker, communicate effectively.
-  **Progress:** open to change, performance focus, team results.

### To hold the values in public office:

-  Openness and transparency
-  Honesty and integrity
-  Tolerance and respect
-  Equality and fairness
-  Appreciation of cultural difference
-  Sustainability







## Role Description: **Scrutiny Board Member**






### Accountabilities:

-  Full Council
-  The Public
-  Chair of the appropriate scrutiny committee

### Responsibility:









-  Personal responsibility to represent the whole of Sandwell at scrutiny meetings.
-  To support all partnership working within the scope of the scrutiny panel function, have knowledge of the shared partnership priorities and through scrutiny contribute to the delivery of the Vision 2030.
-  To contribute to the corporate duty of well-being, good community relations and the promotion of sustainability within the scope of the scrutiny panel function.
-  To ensure the full involvement of local people and communities in the decision-making process of the council, as necessary.

### Member Development:

-  To participate in continuous member development for scrutiny roles, identify training and development requirements for scrutiny.
-  Share learning and experience.
-  Undertake compulsory skills training (questioning)
-  Undertake appropriate awareness training on key topics that fall under the remit of the scrutiny committee.
-  Maintain personal skill sets and develop a personal development plan (PDP) for your role.






## Effective relationships and preparation:







-  To make adequate and appropriate preparation for meetings read relevant papers and reports, and to attend meetings to be briefed on all matters affecting the relevant service(s) as necessary.
-  To participate fully in the activities of overview and scrutiny, the development and delivery of its work programme and any associated task and finish groups under the guidance of the Chair.
-  To monitor the council's decision-making process, contribute to holding the Executive to account, monitoring performance and service delivery.
-  To contribute to the development of overview and scrutiny in Sandwell and share learning and experience.
-  To contribute to the scrutiny of scrutinising of draft policies, and improvement and refinement of existing policy. To identify where new policies might be required to address forthcoming legislation.
-  To promote the role of overview and scrutiny within and outside the council, developing effective internal relationships with officers and other members and external relationships with community representatives.
-  To use scrutiny as a means to carry out community engagement, address community issues and engage the public in forward work programmes.
-  To participate in joint scrutiny - to work effectively with partner scrutineers from other authorities and organisations.

## Values:

To be committed to the values of the Council:

-  **Trust:** show respect, personal impact, open and honest.
-  **Unity:** customer focus, team worker, communicate effectively.
-  **Progress:** open to change, performance focus, team results.

## To hold the values in public office:

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## Role Description: **Scrutiny Co-opted Member**

Council can co-opt members to panels – people from the community with specific expertise and knowledge. Some co-options are statutory, for example, religious representatives on education scrutiny panels. In other instances, councils have the opportunity to invite interested members of the community to serve on other committees. For example, a representative of the Tenant Review Panel to consider housing matters on the relevant scrutiny panel. Scrutiny panels can also invite local people or professional people to be co-opted members or to consider a specific issue as part of a scrutiny review or task and finish group. It can be useful to include people who may not be strongly represented, such as business people, young people and people from ethnic minorities.





### Accountabilities:

-  Full Council
-  The Public
-  Chair of the appropriate scrutiny committee

### Responsibility:








-  Personal responsibility to represent the whole of Sandwell at scrutiny meetings.
-  To support all partnership working within the scope of the scrutiny panel function, have knowledge of the shared partnership priorities and through scrutiny contribute to the delivery of the Vision 2030.
-  To contribute to the corporate duty of well-being, good community relations and the promotion of sustainability within the scope of the scrutiny panel function.
-  To ensure the full involvement of local people and communities in the decision-making process of the council, as necessary.

### Training and Development:

-  To participate in awareness and skills training for the scrutiny role.
-  Share learning and experience.
-  Undertake compulsory skills training (questioning)
-  Undertake appropriate awareness training on key topics that fall under the remit of the scrutiny panel.






## Effective relationships and preparation:







-  To make adequate and appropriate preparation for meetings read relevant papers and reports and attend meetings to be briefed on all matters affecting the relevant service(s) as necessary.
-  To participate fully in the activities of the overview and scrutiny, the development and delivery of its work programme and any associated task and finish groups under the guidance of the Chair.
-  To monitor the council's decision-making process, contribute to holding the Executive to account, monitoring performance and service delivery.
-  To contribute to the development of overview and scrutiny in Sandwell and share learning and experience.
-  To contribute to the scrutiny of scrutinising of draft policies, and improvement and refinement of existing policy. To identify where new policies might be required to address forthcoming legislation.
-  To promote the role of overview and scrutiny within and outside the council, developing effective internal relationships with officers and other members and external relationships with community representatives.
-  To use scrutiny as a means to carry out community engagement, address community issues and engage the public in forward work programmes.

## Values:

To be committed to the values of the Council:

-  **Trust:** show respect, personal impact, open and honest.
-  **Unity:** customer focus, team worker, communicate effectively.
-  **Progress:** open to change, performance focus, team results.

## To hold the values in public office:

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# Scrutiny Protocol

## Introduction

- 🔍 This protocol applies to all Members of Scrutiny Committees, any Member who may sit on a scrutiny Committee or task and finish group and the like, all Members of the Executive (comprising the Leader and the Cabinet Members) and Officers who report to and support the scrutiny arrangements.
- 🔍 It provides guidance on how Members and Officers interact to enable the Council to carry out the Overview and Scrutiny (OSC) function and provides guidance on the role of officers who support this process.
- 🔍 The Protocol seeks to help support and drive a change in culture and mindset of both Members and Officers to ensure that an effective the Overview and Scrutiny (OSC) function that promotes independent thinking, strong, healthy challenge and forward-thinking agendas that make the most of the talents, skills and knowledge of members, co-opted members and other relevant stakeholders.
- 🔍 Sandwell's Review of Scrutiny in 2019 identified a need to develop the scrutiny function and strengthen the relationship between the Executive and Scrutiny to make scrutiny consistent and more effective. The review highlighted the need to address our understanding of the roles and responsibilities of the scrutiny function, the culture of the organisation, the executive/scrutiny relationship, how we hold decision makers to account and to align to Members training and development programme to increase Members understanding of, and engagement in, the scrutiny process.

## This Protocol sets out:

- 🔍 the framework and procedures underpinning the operation of scrutiny;
- 🔍 what Scrutiny Members and the Executive can expect when taking part in the scrutiny process, outlining the interface between Scrutiny and the Executive and procedural elements that underpin the relationship;
- 🔍 steps that will be taken to improve engagement and relationships between Scrutiny, the Executive and Chief Officers to improve communication, support and preparation for the scrutiny work;

- 🔍 clear roles and focus for the scrutiny function to clarify relationships between the Executive and Scrutiny, to create a culture for change, develop agile working and help ensure conduct of O&S business.

### The Framework:

- 🔍 The Council's Constitution sets out the local authority functions, the Executive role, Scrutiny role, the responsibility for functions and procedure rules for the executive and scrutiny.

### Relationships:

- 🔍 Executive and Overview and Scrutiny functions should maintain high standards of public accountability and mutual respect.
- 🔍 Relations between the Executive and Overview and Scrutiny should offer positive and constructive collaboration to secure improvements in Council and other public services for the borough and its people.
- 🔍 Scrutiny and Cabinet Members will agree to operate in line with the general principles, values and behaviours of the Council:-
  - Trust – show respect, personal impact, open and honest
  - Unity - customer focus, team worker, communicate effectively
  - Progress – open to change, performance focus, team results and in the values of public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

### Scrutiny Chairs, Vice-Chairs and Scrutiny Members commit to:

- 🔍 setting a vision for scrutiny
- 🔍 lead with conviction and pace, their own development, training and that of the scrutiny function so as to embed an effective, efficient and robust overview and scrutiny function within the Council
- 🔍 creating a work programme that is aligned to key strategic priorities linked to the Vision 2030
- 🔍 proactively suggest topics for scrutiny to review/consider
- 🔍 work with Chief Officers to scope out scrutiny work
- 🔍 engage with Cabinet Members in relation to their respective portfolios
- 🔍 prepare for and regularly attend scrutiny meetings

- 🔍 fully participate at scrutiny committee meetings and on task and finish groups and the like.
- 🔍 monitor outcomes of recommendations accepted by the Executive
- 🔍 hold Members of the Executive to account and help to improve the decision-making process and the quality of decisions
- 🔍 facilitate and promote Member calls to action
- 🔍 carry out reviews and make recommendations to the Executive
- 🔍 meet with the Executive and Directors on a monthly basis to discuss key strategic priorities, share information and collaboratively discuss where scrutiny can add value
- 🔍 attend a bi-annual summit between Scrutiny Chairs, Vice-Chairs and the Executive (and other relevant persons/bodies as necessary) to review progress to date and map out reviews for the coming year
- 🔍 pro-actively undertake pre-scrutiny reviews to explore, strengthen or clarify the policy intentions of the Executive
- 🔍 play a key and active role in articulating the Council's Vision 2030 across service areas and partner agencies
- 🔍 promote and encourage public engagement on Vision 2030 via the Council's website
- 🔍 support joint working and dialogue with key partners across the borough
- 🔍 effective lead and represent the Council on appropriate regional committees and partnerships (Health & Wellbeing, West Midlands Combine Authority O&S, Joint Health).
- 🔍 promote its work via social media to encourage participation and to gather intelligence on issues

### The Executive will:

- 🔍 work with Scrutiny Chairs and suggest topics for scrutiny
- 🔍 respond to recommendations from Scrutiny within 6 weeks of being received
- 🔍 attend meetings of the Scrutiny Committees when invited
- 🔍 Properly consider and respond to recommendations arising from Scrutiny and any review/work undertaken fully and not simply 'note' recommendations without explanation or follow up
- 🔍 respond to requests for information within a maximum of 6 weeks of the request being received
- 🔍 provide updates as required by Scrutiny Chairs and Committees about matters that fall within their respective portfolios
- 🔍 engage in specific training identified through the Member Development Programme relating to overview and scrutiny

- 🔍 meet with Scrutiny and Directors on a bi-monthly basis to discuss key strategic priorities, share information and collaboratively discuss where the Council's overview and scrutiny function can add value
- 🔍 attend a bi-annual summit between Scrutiny Chairs and the Executive to review progress to date and map out reviews for the coming year

#### Officers will:

- 🔍 Actively and with pace support the overview and scrutiny function
- 🔍 prepare reports and information for Scrutiny and the Executive in line with Access to Information requirements
- 🔍 prepare briefings on key subject matters for Cabinet Members and Scrutiny Chairs
- 🔍 attend meetings to advise the Committees and respond to questions and provide clarification
- 🔍 assist through the provision of professional advice and ensure access to relevant information and personnel to support scrutiny activities
- 🔍 provide comment and guidance on recommendations arising from scrutiny work
- 🔍 maintain a tracker of recommendations and responses
- 🔍 implement scrutiny recommendations when agreed by the Cabinet
- 🔍 meet with the Executive and Scrutiny on a bi-monthly basis to discuss key strategic priorities, share information and collaboratively discuss where scrutiny can add value

#### Monitoring Officer and Statutory Scrutiny Officer will in addition:

- 🔍 oversee compliance with the protocol
- 🔍 ensure that the protocol is used to support the wider aim of supporting and promoting a culture of scrutiny across the council

Nothing in the protocol diminishes the rights of O&S Committees to decide their work programmes, to challenge Executive decisions and hold the Executive to account, or to request and receive timely information; nor to reduce the Executive's ability to carry out its functions unfettered.

## Scrutiny and Executive Protocol

### Why do we need a protocol?

- 🔍 The need to address the culture of the organisation in relation to our understanding and engagement in the scrutiny process was identified in the 2019 Review of Scrutiny in Sandwell.
- 🔍 Government Guidance highlights a number of ways to improve the scrutiny function. During the review, Members recommended a protocol for Scrutiny and the Executive to address the following points highlighted:
  - 🔍 Ensuring early and regular engagement between the Executive and Scrutiny
  - 🔍 Managing disagreement
  - 🔍 Identifying a clear role and focus
  - 🔍 Being clear about Scrutiny's role
  - 🔍 Who to speak to
  - 🔍 Developing recommendations
- 🔍 Centre for Governance & Scrutiny guide to 'Engaging with council officers and the executive' (June 2014) highlights that the Local Government Act 2000 (at s9F onwards) says that Cabinet members and officers of the council must:
  - 🔍 Attend meetings, where required to do so. The word "require" is not defined in the Act but it can be assumed that it does not confer a choice as to whether or not to attend;
  - 🔍 Provide information, where required to do so. Again, this must be complied with. The usual exclusions apply for confidential and exempt information, although councillors are entitled to see certain kinds of information which cannot be published;
  - 🔍 Respond to recommendations. Scrutiny committees may set out the way in which they expect their recommendations to be responded to. This may include the requirement to provide reasons when a recommendation is rejected.
- 🔍 The protocol is not intended to change the respective constitutional positions, roles or responsibilities of either Overview and Scrutiny function or the Executive. It is intended to clarify relationships between the two, to create a culture for change, to develop agile and flexible working and to help ensure the smooth conduct of Overview and Scrutiny business and encourage effective communication between Overview and Scrutiny and the Executive.
- 🔍 The Scrutiny and Executive protocol is a guide for elected Members and other parties outlining the interface between Scrutiny and the



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Executive and the procedural elements that underpin the relationship.

- 🔍 In addition to the 'Scrutiny and Executive Protocol' other protocols, role descriptions and agile ways of working have been developed to support members to develop the scrutiny function and create a culture for change to deliver the scrutiny work programme.
- 🔍 Further information on Scrutiny will be provided in the Scrutiny Handbook. The protocol draws on the relevant sections of the Constitution of Sandwell Council, which can be found on the Council's website at [www.sandwell.gov.uk/](http://www.sandwell.gov.uk/).
- 🔍 Monitoring and Review of Protocol: The protocol shall be monitored annually at the joint informal meetings between the Overview and Scrutiny Chairs and the Executive

## Introduction

- 🔍 This Protocol applies to all Members of the Scrutiny Panels any Member who may sit on a scrutiny panel and all Members of the Executive (comprising the Leader and the various Cabinet Members). It provides guidance on the way in which both types of Members interact to enable the Authority to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny.

## Objectives

- 🔍 The objectives of the protocol align to the main findings of the Review of Scrutiny 2019 with the Government guidelines:
  - 🔍 **Roles:** To enable Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Overview and Scrutiny function, role descriptions have been developed, so as to maximise their personal effectiveness.
  - 🔍 **Culture:** To establish a positive framework and the necessary procedures to enable scrutiny to work effectively and to create a culture for change.
  - 🔍 **Executive Scrutiny Relationship:** To promote an ethos of mutual respect, trust and courtesy in the interrelationships between Scrutiny Members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
  - 🔍 **Holding to Account:** To create a culture of holding the Executive to Account on behalf of the electorate, by monitoring the



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effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.

- 🔍 **Training and Development:** To work in conjunction with the Member Development Programme scheme to develop the skills and knowledge of components of the scrutiny process.



## Understanding the roles - The Councils Constitution

### Scrutiny Role

That Scrutiny boards, within their terms of reference, as set out in Article 6 of the Council Constitution:

- 🔍 Will review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions and responsibilities;
- 🔍 Will make reports and/or recommendations to the Council and/or the executive and/or any committee in connection with the discharge of any functions;
- 🔍 Will consider any matter affecting the area or its inhabitants, including the operation of any partner organisations;
- 🔍 Will consider referrals to call-in, for deliberation, decisions made but not yet implemented by the executive and/or any non-Quasi-Judicial committees; and
- 🔍 Will consider referrals under the Call for Action process.

### Responsibility for functions

That Scrutiny Boards, will operate within the Scrutiny Procedure Rules, as set out in Part 4 of the Councils Constitution to:

- 🔍 Scrutinise recommendations
- 🔍 Consider referrals under the Call for Action process.
- 🔍 Contribute to decision making and policy development through pre-decision scrutiny processes

The responsibility for functions of scrutiny boards are set out in Part 3 of the constitution.

### Scrutiny Arrangements

- 🔍 A scrutiny body is one appointed to discharge the functions conferred by Section 21 (Overview and Scrutiny Committees) of the Local Government Act 2000 and any regulations made under that Section.
- 🔍 The Council will have the scrutiny boards set out in Article 6 of the Constitution and will appoint members to them as it considers appropriate from time to time.
- 🔍 All Councillors, except members of the Cabinet may be members of a scrutiny board.
- 🔍 Chairs and Vice- Chairs are appointed at Annual Council.
- 🔍 Co- opted members are appointed at Annual Council:
  - 🔍 Statutory Education representatives
  - 🔍 Tenants Review Panel representative
  - 🔍 SHAPE representative
  - 🔍 Healthwatch representative



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## Scrutiny Role Descriptions

Role descriptions for Chairs, Vice-Chairs, Co-opted Members and Scrutiny Members have been developed and are set out in the Councils' Constitution.

## Executive Role

That the Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution.

Part 3 of The Local Authorities (Functions and Responsibilities) Regulations 2000, as amended gives effect to Section 13 of the Local Government Act 2000, specifying local authority functions which are:

- 🔍 Non- Executive, meaning scrutiny roles cannot be undertaken by or be the responsibility of the executive.
- 🔍 Executive or Non- Executive by local choice, those which the council can choose to be the responsibility of the executive if they so wish.
- 🔍 To some extent, the responsibility of the executive.

All other functions given to a local authority, but which are not specified in the Function Regulations are automatically deemed to be the responsibility of the Executive.

## Executive Procedure rules, as set out in Part 4)- How the Executive Operates:

The arrangements for the discharge of executive functions will be set out in the executive arrangements from time to time approved, amended and adopted by the Council.

## Executive Role Description

The Cabinet Member role description is set out in the Councils' Constitution



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## Culture - General Principles, Values and Behaviours







That Scrutiny and Cabinet will agree to operate in line with the below values and behaviours, as set out in Part 5 of the Council's constitution: The Members Code of Conduct.

### Values:









To be committed to the values of the Council:

-  **Trust:** show respect, personal impact, open and honest.
-  **Unity:** customer focus, team worker, communicate effectively.
-  **Progress:** open to change, performance focus, team results.

To hold the values in public office:

-  Openness and transparency
-  Honesty and integrity
-  Tolerance and respect
-  Equality and fairness
-  Appreciation of cultural difference
-  Sustainability

### Relationship between Executive and Overview and Scrutiny

-  Executive and Overview and Scrutiny functions should maintain high standards of public accountability and mutual respect.
-  Relations between the Executive and Overview and Scrutiny should not be confrontational but a positive and constructive collaboration to secure improvements in Council and other public services for the borough and its people.
-  Overview and Scrutiny Members will work together with the Executive in a nonpartisan environment and aim to adopt a non-adversarial but challenging approach to identify improvements.
-  In seeking agreement to this protocol, it is acknowledged that there are different rights and roles of both Overview and Scrutiny and Executive Members but that both are committed to developing an effective relationship. This will involve but not be limited to:
  -  Frequent and honest dialogue between Executive Members and Overview and Scrutiny Members, either individually or collectively.
  -  Regular discussions regarding Executive and Overview and Scrutiny work programmes/activities including establishing joint activities/projects where possible.
  -  Establishing effective and formal reporting structures.
  -  Respecting the confidential nature of the discussions that may from time to time take place.



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## Holding the Executive to Account

- 🔍 One of the underpinning principles of Overview and Scrutiny is the ability of non-Executive Members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive or may question decisions which the Executive is proposing to take, as set out in the Forward Plan.
- 🔍 The Executive will be required to consider any recommendations or views expressed by the Scrutiny Panel relating to the development of the Council's budget or policy framework.

## Training and Development

- 🔍 Executive and Scrutiny Members will engage in the Member Development Programme.
- 🔍 Chairs of Scrutiny will identify training needs for scrutiny members.
- 🔍 The Vice-Chair of 2030 will identify areas for awareness and training and liaise with the Member Development Programme Lead.



What	Scrutiny	Executive
<p>Executive and Scrutiny's Critical Friend relationship</p>	<p>Develop a constructive 'critical friend' relationship with officers and executive members</p> <p>Attend meetings (individually or collectively), to be briefed on all matters affecting the relevant service(s), confidential items and the forward plan.</p> <p>Attend and participate in regular informal meetings of Chairs and Vice-Chairs of Overview and Scrutiny with the executive</p> <p>Invite the executive to comment on the findings of task and finish and work group reports</p>	<p>Executive Members will work with Scrutiny Chairs to develop a critical friend relationship</p> <p>Executive Members will attend scrutiny when invited</p> <p>Executive Members will attend and receive briefings on all matters affecting the relevant service(s), confidential items and the forward plan.</p> <p>Executive Members will be encouraged to consult with scrutiny Chairs and gauge their views on matters that fall within their remit.</p> <p>Executive Members will attend scrutiny meetings when invited to present or participate in scrutiny work</p> <p>Cabinet Members will normally be expected to attend any meeting when a matter is called in that falls in their portfolio.</p>
<p>Hold to account</p>	<p>Hold the Cabinet to account for decisions, performance, risk management and budget management.</p> <p>Invite the executive member and relevant Chief Officers to attend call-in meetings.</p> <p>Scrutiny Members should be prepared to</p>	<p>Attend Scrutiny Meetings</p> <p>Attend call-in meetings with in the rules outlined in the constitution</p> <p>Executive Members should respond to questions in as much detail as is possible to inform the scrutiny process. The response could be orally at the meeting, or by</p>



	ask searching questions of Cabinet Members.	reference to a published report, or by requesting officers to provide detail, or in writing following the meeting, if the information is not readily available.
Attendance at meetings	The attendance of Overview and Scrutiny Chairs at Executive and Portfolio Holders at Overview and Scrutiny meetings is particularly helpful in allowing clarification where needed	Attendance by Executive Members at Scrutiny Committees (including 'Call-In' meetings)
Work programme	<p>Consult with the relevant senior Officers, executive member and take into account the views of the public and of partner agencies</p> <p>Scrutinise relevant issues relating to service delivery, policy and decisions taken by the Executive and other decision makers.</p> <p>Consider reports and make recommendations to inform and advise the Cabinet or Council or other decision-making bodies on improvements to policies and service delivery.</p> <p>Planning for Overview and Scrutiny items</p> <p>Individual Portfolio Holders and Overview and Scrutiny Chairs should consider meeting regularly to identify and plan for policy development work in which all</p>	<p>Share the forward plan with Scrutiny</p> <p>Consult with scrutiny to ensure the clarity of topics being scrutinised and to avoid potential duplication</p> <p>The Executive will invite Scrutiny to look at specific issues to add value to the work of the Council</p>



	<p>members can participate</p> <p>Undertake activities or joint work when possible same issue</p> <p><b>The purpose of Scrutiny is to add value to the work of the Council</b></p>	
Reporting and recommendations	<p>Present findings of scrutiny work to the Executive and to Council as required.</p> <p>The O&amp;S recommendations to the Executive and the Executive's response to them is vital. The onus is on the respective chair of both Overview and Scrutiny and Executive to keep this issue to the front of their minds when summarising and framing resolutions. Scrutiny Boards, reviews or task and finish groups will have spent time considering witness evidence and formulating their recommendations to the Executive.</p>	<p>The Executive will invite Scrutiny Chairs to present the findings of scrutiny work at Cabinet meetings</p> <p>Responding to Overview and Scrutiny Recommendations: The Executive's response to the report should be in writing dealing with each recommendation making it clear if it is accepted or not and what action will be taken within a maximum of two months.</p>
Monitoring outputs	<p>The Overview and Scrutiny Panel will monitor implementation of the agreed response to their recommendations.</p>	
Development and training	<p>Make adequate and appropriate preparation for meetings, read relevant papers and reports and attend meetings with the Cabinet Member, Director and officers as appropriate.</p>	<p>Where officers are providing briefings to Overview and Scrutiny members on topics, such as a Government consultation paper or a new piece of legislation within the work programme and site visits they should</p>

	<p>Policy Briefings: Attend briefings on topics such as a Government consultation paper or a new piece of legislation</p>	<p>consider inviting the relevant Portfolio Holder.</p>
<p>Be the public voice</p>	<p>Enable the public to engage in the work of the Council by holding public meetings to inquire into matters of local concern.</p>	
<p>Roles</p>	<p>Overview and Scrutiny Members recognises the Executive’s role in taking operational decisions on Executive functions.</p> <p>Role descriptions for Chairs, Vice-Chairs, Co-opted Members and Scrutiny Members have been developed</p>	<p>The Executive recognises Overview and Scrutiny Committee’s role in policy Development and being critical friend and challenging decisions.</p> <p>Role description is in the Constitution</p>





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## Scrutiny and Chief Officer Protocol

### Why do we need a protocol?

- 🔍 The need to address the culture of the organisation in relation to our understanding and engagement in the scrutiny process was identified in the 2019 Review of Scrutiny in Sandwell.
- 🔍 Government Guidance highlights a number of ways to improve the scrutiny function. During the review, Members recommended a protocol for Chief Officers and Scrutiny to address the following points highlighted:
  - 🔍 Providing the necessary support
  - 🔍 Identifying a clear role and focus
  - 🔍 Ensuring impartial advice from officers
  - 🔍 Being clear about Scrutiny's role
  - 🔍 Who to speak to
  - 🔍 How to plan (evidence sessions)
  - 🔍 Developing recommendations
- 🔍 Centre for Public Scrutiny guide to 'Engaging with council officers and the executive' (June 2014) highlights that the Local Government Act 2000 (at s9F onwards) says that Cabinet members and officers of the council must:
  - 🔍 Attend meetings, where required to do so. The word "require" is not defined in the Act but it can be assumed that it does not confer a choice as to whether or not to attend;
  - 🔍 Provide information, where required to do so. Again, this must be complied with. The usual exclusions apply for confidential and exempt information, although councillors are entitled to see certain kinds of information which cannot be published;
  - 🔍 Respond to recommendations. Scrutiny committees may set out the way in which they expect their recommendations to be responded to. This may include the requirement to provide reasons when a recommendation is rejected.
- 🔍 The protocol is intended to strengthen the scrutiny arrangements for scrutiny panels and review work, and to provide more support for the Scrutiny Members.
- 🔍 The Scrutiny and Chief Officer protocol is a guide for elected members and officers outlining the interface between Scrutiny and Chief Officers and the procedural elements that underpin the relationship.



- 🔍 Monitoring and Review of Protocol: The protocol shall be monitored annually at the joint informal meetings between the Overview and Scrutiny Chairs and the Executive.

## Introduction

- 🔍 This protocol applies to all Members and Officers who report to and support the scrutiny arrangements. It provides guidance on how Members and Officers interact to enable the Authority to carry out the Overview and Scrutiny function and provides guidance on the role of officers who support this process.

## Objectives




- 🔍 The objective of the protocol is to align to the findings of the Scrutiny Review 2019 and to provide support to Members when carrying out the Overview and scrutiny function.

## Attendance by Officers at Scrutiny Panel meetings

- 🔍 Meetings of the Scrutiny Panel will normally be attended by a Chief Officer with responsibility for any agenda item under discussion. The role of the Chief Officer will be to assist the Panel through the provision of professional advice and to ensure access to relevant information and personnel. Chief Officers will provide reports/presentations to Scrutiny in accordance with the Access to Information Rules to enable scrutiny to prepare relevant questions.
- 🔍 The attendance of other relevant officers at either Scrutiny Committee or Scrutiny Panel meetings will be at the request of the Chairman or lead member, who will have regard to the appropriate level of seniority of attendees. In general, the relevant officer should not be below the level of Director / Head of Service.
- 🔍 An officer in receipt of a request to attend a Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date he/she should notify the Chairman or lead member as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 🔍 Officers in attendance at Scrutiny meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 🔍 Relevant Officers will normally be expected to attend any meeting of the Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her service.



## Evidence provided by Officers at Scrutiny Review meetings

-  It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. The lead member will notify the relevant Chief officer who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses.
-  The Chief Officer will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the Scrutiny Panel and the lead member.
-  The responsibility for the implementation of scrutiny recommendations that have been approved by the Executive will rest with the relevant Chief Officer who will also be responsible for providing regular updates on progress to the Scrutiny Committee.



What	Scrutiny	Officer
<p><b>Critical Friend relationship</b></p>	<p>Develop a constructive ‘critical friend’ relationship with officers and executive members  Attend meetings (individually or collectively), to be briefed on all matters affecting the relevant service(s), confidential items and the forward plan.</p>	<p>Chief Officers will work with Scrutiny Chairs to develop a critical friend relationship  <b>Chief Officers will attend scrutiny when invited to present or participate in scrutiny work</b>  Chief Officers will provide briefings on all matters affecting the relevant service(s), confidential items and the forward plan.</p>
<p><b>Attendance at meetings</b></p>	<p>The attendance of Officers at Overview and Scrutiny meetings</p>	<p>Chief Officers will attend scrutiny when invited to present an item or participate in scrutiny work.  <b>The attendance of Chief Officers is particularly helpful in allowing clarification where needed</b></p>

What	Scrutiny	Officer
<p>Work programme</p>	<p>Consult with the relevant senior Officers, executive member and take into account the views of the public and of partner agencies</p> <p>Scrutinise relevant issues relating to service delivery, policy and decisions taken by the Executive and other decision makers.</p> <p>Consider reports and make recommendations to inform and advise the Cabinet or Council or other decision-making bodies on improvements to policies and service delivery.</p>	<p>Add items as early as possible to the forward plan. Share the forward plan with Scrutiny.</p> <p>Consult with scrutiny to ensure the clarity of topics being scrutinised and to avoid potential duplication</p> <p>The Chief Officers will brief Scrutiny Chairs and members on specific issues to add value to the work of the Council</p>

What	Scrutiny	Officer
<p>Reporting and recommendations</p>	<p>Present findings of scrutiny work to the Executive and to Council as required. The O&amp;S recommendations to the Executive and the Executive’s response to them is vital. The onus is on the respective chair of both Overview and Scrutiny and Executive to keep this issue to the front of their minds when summarising and framing resolutions. Scrutiny Boards, reviews or task and finish groups will have spent time considering witness evidence and formulating their recommendations to the Executive.</p>	<p>The Chief Officers will invite Scrutiny Chairs to present the findings of scrutiny work at Cabinet meetings Support the Executive to respond to Overview and Scrutiny Recommendations</p>
<p>Monitoring outputs</p>	<p>The Overview and Scrutiny Panel will monitor implementation of the agreed response to their recommendations.</p>	
<p>Development and training</p>	<p>Make adequate and appropriate preparation for meetings, read relevant papers and reports and attend meetings with the Cabinet Member, Director and officers as appropriate. Policy Briefings: Attend briefings on topics such as a Government</p>	<p>Where officers are providing briefings to Overview and Scrutiny members on topics, such as a Government consultation paper or a new piece of legislation within the work programme and site visits they should consider inviting the relevant Portfolio Holder.</p>



	consultation paper or a new piece of legislation	
Be the public voice	Enable the public to engage in the work of the Council by holding public meetings to inquire into matters of local concern.	
Roles	<p>Overview and Scrutiny Members recognises the Executive’s role in taking operational decisions on Executive functions.</p> <p>Role descriptions for Chairs, Vice-Chairs, Co-opted Members and Scrutiny Members have been developed and are available at Appendix 1.</p>	Recognises Overview and Scrutiny Committee’s role in policy development and being critical friend and challenging decisions.

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## Report to Council

**8 November 2022**

<b>Subject:</b>	Revision to Political Balance of Committees and Boards, Committee Structure and Appointments
<b>Director:</b>	Surjit Tour - Director of Law and Governance and Monitoring Officer
<b>Contact Officer:</b>	Surjit Tour Surjit_tour@sandwell.gov.uk

### 1 Recommendations







- 1.1 That approval be given to the dis-establishment of the Select Committee for Policy Review.
- 1.2 That, subject to approval of the Scrutiny Review, in addition to the four Scrutiny Vice Chairs, Councillor Trumpeter be appointed to the Budget and Corporate Scrutiny Management Board
- 1.3 That approval be given to the revised political balance of the committees, boards and other fora for the remainder of 2022-23, as set out in Appendix A.
- 1.4 That Councillor Chidley be nominated to the vacant seat on the Land & Asset Management Committee.
- 1.5 That any revision to the appointments to committees and boards be approved with immediate effect.



## 2 Reasons for Recommendations

- 2.1 A by-election for the Wednesbury South Ward took place on Thursday 27 October 2022, it is therefore necessary for the Council to consider the constitution and political balance of committees and boards for the remainder of 2022-23 Municipal Year.
- 2.2 Council is asked to consider the dis-establishment of the Select Committee for Policy Review as business for this body has concluded and the Committee has not met recently.
- 2.3 Subject to approval of the Scrutiny Review, an adjustment has been made to include the addition of four Scrutiny Vice Chairs and an additional opposition member to the Budget and Corporate Scrutiny Management Board.
- 2.4 Council is also asked to consider the vacant seat on the Land & Asset Management Committee following the resignation of the former councillor.

## 3 How does this deliver objectives of the Corporate Plan?

		The Council's decision-making structures are designed to support the delivery of the Corporate Plan.
		
		

## 4 Context and Key Issues

- 4.1 Section 15 of the Local Government and Housing Act 1989 provides, amongst other things, that where a local authority is divided into different political groups, it will have regard to the allocation to the different political groups on the Council, of all of those seats on any ordinary committee, sub-committee and Joint Authorities established pursuant to Part IV of the Local Government Act 1985.



4.2 The regulations provide for a political group to comprise two or more elected members of a local authority.

4.3 Notification has been received of 3 groups –

Labour	60
Conservative	10
Independent	<u>2</u>
	72

The seats on committees have been allocated according to proportionality rules (as set out in Appendix A).

4.4 A political group represented on the Council may choose to allocate a proportion of its allocation of seats to an elected member who is not in a political group on the Council, without affecting proportionality.

## 5 Alternative Options

5.1 There is no alternative option, the Council has a duty to allocate seats according to political party, in accordance with the Act and appointment of elected members to committees and other/outside bodies can only be made by full Council.



## 6 Implications

<b>Resources:</b>	Following removal of the Select Committee, there would be a reduction of a Special Responsibility Allowance.
<b>Legal and Governance:</b>	There is a duty on the Council to allocate seats to political groups, as per the Local Government and Housing Act 1989. Council can determine the making of non-executive appointments to committees and other fora. Council is under a legal and constitutional obligation to make appointments to its committees, boards and other fora to ensure the effective operation of the Council's functions and other obligations, duties and responsibilities.
<b>Risk:</b>	There are no direct implications arising from this report.
<b>Equality:</b>	
<b>Health and Wellbeing:</b>	
<b>Social Value</b>	
<b>Climate Change</b>	

## 7. Appendices

Appendix A – Political Balance of Committees and Boards

## 8. Background Papers

None



**Sandwell Metropolitan Borough Council  
Constitution of Boards, Committees and  
Other Fora 2022/23**

	<b>Labour</b>	<b>Conservative</b>	<b>Total</b>
<b>Scrutiny Boards</b>			
Budget and Corporate	9	2	11
Health and Adult Social Care	10	1	11
Economy, Skills, Transport and Environment	10	1	11
Safer Neighbourhoods and Active Communities	10	1	11
Children's Services and Education	9	2	11
			55
<b>Constitutional and Quasi-Judicial Committees/Panels</b>			
Audit and Risk Assurance Committee	6	1	7
Planning Committee	14	2	16
Licensing Committee	12	3	15
General Purposes and Arbitration Committee	6	1	7
Governance and Constitution Review Committee	7	1	8
Land and Asset Management Committee	6	1	7
Ethical Standards and Member Development Committee	7	1	8
Chief Officer Terms and Conditions Committee	6	1	7
Emergency Committee	6	1	7
			82
	<b>118</b>	<b>19</b>	<b>137</b>

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## Council

**8 November 2022**

<b>Subject:</b>	Scrutiny Annual Report 2021 - 2022
<b>Director:</b>	Surjit Tour - Director of Law and Governance and Monitoring Officer
<b>Contact Officer:</b>	Statutory Scrutiny Officer, Suky Suthi-Nagra <a href="mailto:Suky_suthi-nagra@sandwell.gov.uk">Suky_suthi-nagra@sandwell.gov.uk</a>







### 1 Recommendations

- 1.1 That Council receive the Scrutiny Annual Report 2021 – 2022 as set out in the Appendix.

### 2 Reasons for Recommendations

- 2.1 In accordance with Article 6.03 (d) of the Council’s Constitution, Scrutiny is required to report annually to the Council on its work.

### 3 How does this deliver objectives of the Corporate Plan?

		Effective scrutiny and governance arrangements support the delivery of all corporate objectives
		
		



## 4 Context and Key Issues

- 4.1 The attached annual report outlines work undertaken by Sandwell Council's scrutiny function in 2021 - 2022 and highlights a number of activities and outcomes that contributed towards the objectives of the Corporate Plan.
- 4.2 Scrutiny Boards delivered the work programme using a variety of methodologies outlined in the report. Evidence was provided by a range of witnesses from the Council and partner organisations, and there was engagement with service users and providers.

## 5 Alternative Options

- 5.1 The Constitution requires Scrutiny to report to Council annually.

## 6 Implications

<b>Resources:</b>	There are no strategic resource implication arising directly from this report. Scrutiny Boards are obliged to take into consideration the financial implications of the matters they consider.
<b>Legal and Governance:</b>	Scrutiny Boards discharge the functions conferred by section 12 of the Local Government Act 2000 and the subsequent legislation. The report has been produced in accordance with Article 6.03 (d) of the Council's Constitution, which states that the Scrutiny Function will report annually to the first meeting of the Council in the Municipal Year after the Annual Meeting.
<b>Risk:</b>	There are no risk implications arising from this report.
<b>Equality:</b>	Scrutiny Boards recognise the importance of the equality, diversity and inclusion agenda and will support the council to embed a positive EDI agenda, which includes supporting the role and work of the Equalities Commission.
<b>Health and Wellbeing:</b>	Scrutiny specifically focuses on health and wellbeing and will continue to examine this area to ensure the council meets its performance targets whilst examining how continuous improvement and innovative approaches can be progressed.





<b>Social Value</b>	Social Value will be a key theme of the Improvement Plan with engagement and participation. Scrutiny will play a significant role in providing assurance to the council, members, partners, stakeholders and residents that the council remained committed to delivering and promoting social value where possible.
<b>Climate Change</b>	The proposals will not have a detrimental impact on climate change. However, Scrutiny will play an important role to ensure the council drives and delivers upon its climate change objectives and targets.

## 7. Appendices

Scrutiny Annual Report 2021-22.

## 8. Background Papers







None



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# Scrutiny Annual Report 2021-2022

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Councillor Luke Giles –  
**Chair of Budget and Corporate  
Scrutiny Management Board**



Councillor Elaine Giles  
**Chair of Health and Adult Social  
Care Scrutiny Board**



Councillor Paul Moore  
**Chair of Economy, Skills,  
Transport and Environment  
Scrutiny Board**



Councillor Ann Shackleton  
**Chair of Children's Services and  
Education Scrutiny Board**



Councillor Thabiso Mabena  
**Chair of Safer Neighbourhoods  
and Active Communities Scrutiny  
Board**

# 1. Chair's Foreword



I am pleased to present this report describing the work of Scrutiny during the 2021 – 22 municipal year.

Over the past year, scrutiny has continued on its improvement journey and all boards have welcomed the opportunity to work closely with the Cabinet and the newly appointed chief officers as they lead the Council.

The return to face to face meetings in May 2021 brought some challenges with attendance but boards have continued to provide valuable and effective oversight for the Council, whilst providing input into policy development and service delivery, without need for any call-in of Cabinet decisions.

The boards have sought to focus on the critical issues for the Council and provide constructive input in finding ways to improve outcomes for residents.

I thank all Chairs and Vice Chairs for their help and support and working together on cross cutting issues and providing constructive challenge to the Cabinet, directors and partners.

I would also like to thank the wide range of officers who support all the boards and thank those external to the Council who gave up their time to attend meetings and who have contributed to the work of overview and scrutiny.

**Cllr Luke Giles**

**Chair of Budget and Corporate Scrutiny Management Board (2021-22)**

## 2. Introduction

This annual report gives you an insight into the work of the Council's five Scrutiny Boards and working groups over 2021-22 municipal year.

Our 2021-22 scrutiny journey started with a change in the Council's political makeup following the May 2021 elections. This created a new mix of experienced councillors with an institutional memory of what has gone before, and new opposition members keen to learn and ask questions, whilst also bringing new insights and experience into the Council.

We then saw the arrival of a new interim Chief Executive in the autumn, followed by a refresh of the Corporate Plan 2020-2025. In December 2021, the Council experienced a further change when Councillor Kerrie Carmichael was appointed as Leader.

In January 2022, our external auditor (Grant Thornton) published its findings following a Value for Money Governance Review, which had been carried out over the period August to October 2021. Whilst the report was disappointing, Grant Thornton also recognised that over the preceding few months, the Council had made progress towards resolving matters and improving the governance arrangements in place. In response, the Council approved an Improvement Plan in January 2022 to address all 45 recommendations in the report, as well as reporting mechanisms to ensure progress is managed effectively.

In January 2022 CIPFA undertook a review of the financial management and governance arrangements using the Financial Management Model. The report concluded that the Council is financially stable but lacks ambition and innovation and has a very traditional approach to financial management. The recommendations arising from the review have been incorporated into the Improvement Plan.

In late January/February 2022 we also received a visit from a team of peers from the Local Government Association. The report of the peer challenge team makes reference to the valuable contribution that scrutiny is making, including the positive relationships that the new Leader has developed with scrutiny chairs whilst also acknowledging the improvements that are still to be made. Again, the recommendations made in the final report have been incorporated into the Improvement Plan.

In March 2022, the Secretary of State for Levelling Up, Housing and Communities decided to appoint a team of commissioners, led by the Interim Chief Executive, now *Managing Director Commissioner*, to take the lead on governance and scrutiny of strategic decision making by the Authority and functions relating to the appointment and dismissal of statutory officers. Actions to address the issues identified by the government are also set out in the Improvement Plan.

Despite these significant changes, scrutiny has continued on its positive trajectory, with the good work taking place being acknowledged by chief officers, members and the commissioners. Scrutiny is a fundamental part of the reporting mechanisms in place to ensure that progress is being made against the Improvement Plan. The Improvement Plan also provides a further platform to promote the work and the value of scrutiny, and a new impetus to take forward the recommendations arising from the scrutiny review that took place in 2019.





### 3. The Principles of Good Scrutiny

The Centre for Governance and Scrutiny (CFGs) sets out four things that are essential to make scrutiny effective.

#### ***Provide constructive “critical friend” challenge***

*Scrutiny must be forensic and challenging – but it must also seek to support decision-makers to do their work better. We all have a collective responsibility to support high quality decision-making, and scrutiny is an integral part of the governance framework that works to make that happen.*

*Scrutiny isn’t about opposition for opposition’s sake, but in, democratic environments, it is inherently political. It involves scrutineers discussing matters of real contention and importance and, through debate, identifying novel solutions to complex problems. Being a “critical friend” involves understanding what decision-makers are trying to achieve and using evidence both to critique and refine these priorities and the methods proposed to achieve them.*

*Decision-makers also have to be friends to scrutineers, be open to scrutiny and create a culture which enables effective scrutiny to happen. The relationship is two-way.*

#### ***Amplify the voice and concerns of the public***

*The use of new methods for public deliberation and participation have also increased the expectation of the public in how, where and when they will be involved.*

*Scrutineers have a dual job here. Firstly, to ensure that the public’s (and/or specific stakeholders) voice is heard generally in the way that decision-makers design and deliver services. Secondly, to improve the practice of scrutiny itself, by redesigning the way that we work so that we face outwards, looking at the issues that are important to local people in a way that makes sense to them, and using this relevance to improve our profile.*

***Be led by independent people who take responsibility for their role***

*Scrutiny is intensely political. Scrutineers, in the local government context, are politicians. But they have a unique perspective to bring to the scrutiny process, a different point of view which brings something distinct to both policy development and post-decision scrutiny. By setting their own work programmes and asserting their independence, these councillors can look at things from angles that might not be apparent to Cabinet members, or senior officers.*

***Drive improvement in public services***

*What is the point in scrutiny if it doesn't lead to any changes?*

## 4. How Scrutiny Works

Scrutiny members can require officers, or representatives from partner organisations to attend Board meetings, working groups or inquiry sessions to provide information and respond to questions as part of in-depth reviews into issues that are important to local residents and businesses, or individual reports that boards request.

Scrutiny boards also carry out pre-decision scrutiny of forthcoming decisions, e.g. on draft new policies and those being reviewed, and refer comments and recommendations to the Executive to consider. Additionally, chairs attend Cabinet meetings to ask questions and challenge the key decision makers.

Work programming meetings took place remotely in June 2021, to minimise physical attendance as the pandemic continued. However, this did not impact on the quality of the work programmes developed and all boards developed varied and robust programmes, overseen by the Budget and Corporate Scrutiny Management Board.

The chairs and vice-chairs of the boards have continued to meet virtually on a monthly basis to discuss emerging issues and informally.

Since the review, scrutiny has continued to develop approaches and embed them. These include the chairs and vice-chairs sessions, refresh of the review process and tools used, question time and better use of social media to engage the public.

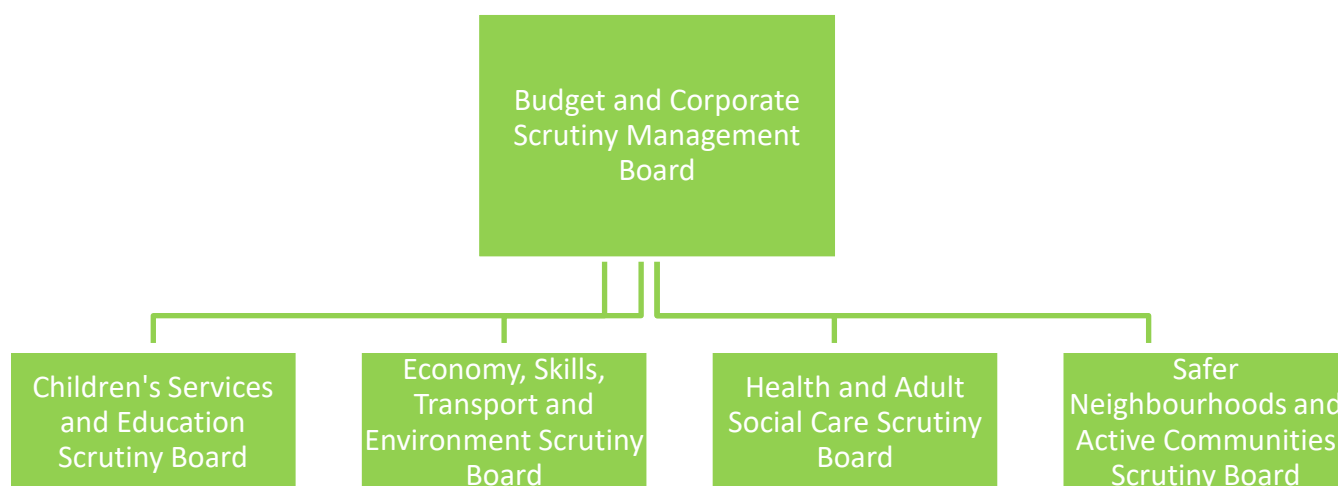
A review of the scrutiny function took place in 2019, however, the pandemic impacted upon the delivery of the recommendations arising from the review.

# How Scrutiny Works – Scrutiny Structure

Overview and scrutiny is a key aspect of this Council's governance framework and is integral to decision making.

Scrutiny boards fulfil the statutory responsibility placed on local authorities to review and scrutinise decisions and actions taken in relation to the delivery of services, policy making and service shaping to deliver the Sandwell Vision 2030 ambitions and the Council's Corporate Plan '[Big Plans for a Great Place for the people of Sandwell](#)'.

Each year the Council appoints members to a Scrutiny Management Board and four thematic Scrutiny Boards. Each Board has its own area of responsibility with topics cross-cutting directorate responsibilities.



The Budget and Corporate Scrutiny Management Board consists of a Chair and the four Chairs of the thematic Boards. Each thematic Board is made up of 11 non-executive members. Both Children's Services and Education and Safer Neighbourhoods and Active Communities Boards also include co-opted members who serve on the Boards alongside elected members.

The scrutiny boards' terms of reference are approved by the Council and are set out in the Council's Constitution.

## 5. Scrutiny Activity Spotlight 2021-22

33

Scrutiny Board meetings held



2 Joint Health Overview and Scrutiny meetings held with Birmingham City Council

8

Review Working Group meetings



3

Reviews carried out

4

Pre-decision items considered



## 6. How does Scrutiny make a difference?

There are many ways that Scrutiny has an impact and adds value.

Holding a matter up for to scrutiny raises awareness.....

Makes comments and recommendations to decision makers based on evidence gathered.

Initiates 'the difficult conversation' between interested parties.

Tells us why we do something; the way things work and how we perform.

Helps to develop relationships between services and partners, public and officers.

Monitors and maintains oversight of issues that impact on residents and businesses of Sandwell.

Invites people into the same space to hold an open and transparent discussion.

Identifies good practice and shares this more widely.

Questions the issues, barriers or blockages.

## 7. What difference have we made?



### **One Council One Team - A Modern Council**

#### **Big Plans for a Great Place for the People of Sandwell**

The Sandwell Plan 2020-25 sets out how the Council will deliver its part of Vision 2030 for the next five years focussing on six strategic outcomes: -

- The best start in life for children and young people;
- People live well and age well;
- Strong, resilient communities;
- Quality homes in thriving neighbourhoods;
- A strong and inclusive economy;
- A connected and accessible Sandwell.

The outcomes cannot be delivered by one directorate alone, so would be delivered using a 'One Team, One Council' approach. This approach moves away from the previous system of individual directorate business plans and seeks to unite the Council as one team to deliver on the strategic outcomes.

Scrutiny submitted comments and observations relating to 'Big Plans for a Great Place...For the People of Sandwell' to the Cabinet in 2021/22 and the boards continue to align their work programmes to the strategic outcomes.

#### **The Budget - *Monitoring the Corporate Purse***

The Budget and Corporate Scrutiny Management Board has maintained oversight and challenge of the Council's budget monitoring, business plans, outturns and proposed budgets throughout the year. This work has proven ever more vital in the face of the Covid-19 pandemic.

#### **Corporate Plan 2020-2025 - Refresh 2021**

The Board reviewed the refreshed Corporate Plan, which informed how each directorate would spend the budget available to them. A series of engagement events consulting members, staff and partners took place to address issues affecting residents following the pandemic. It was identified that improving

standards of cleanliness and ensuring that people feel safe in their communities were borough wide priorities. The board subsequently proposed to go back to stakeholder, including all schools that had been visited during the consultation period to evidence that their feedback had shaped the plan. In particular it was suggested this represented an opportunity to develop a young person's version of the Corporate Plan. It was proposed that there would be greater member involvement to ensure that elements of the corporate plan would better serve individual wards and period reporting on the corporate plan to the Scrutiny board should be implemented.

**Here are just some examples of the excellent work carried out by scrutiny in 2021-22. You can read more about the work of each of the scrutiny boards by viewing the reports, presentations and minutes from each of their meetings here:**

<https://sandwell.moderngov.co.uk/mgListCommittees.aspx?bcr=1>



# “Best start in life for children and young people”



## **Scrutiny Review – Special Educational Needs and Disabilities (SEND) Transport Models (Children’s Services and Education)**

The Board conducted an in- depth review of SEND Transport across the borough, analysing data, speaking to parents, and reviewing the costs of options both internally and transportation out of the borough. It was identified that there are multiple models available and that current procedures needed to be adapted. Following this consultation period, a number of recommendations were made by the Board and scrutiny continues to maintain oversight of this topic. .

## **Scrutiny Review – The impact of Lockdown on Children and Families (Children’s Services and Education)**

The Board established a working group to conduct a detailed review of the impact of lockdown through the Covid- 19 pandemic. The group assessed the impact via speaking to mental health trusts and surveying parents throughout the borough. It was found that there were an increased number of referrals for children presenting with anxiety and struggling in social settings. The Board also found it had a highly detrimental impact upon educational attainment by pupils as a result of learning from home, in particular those from low income households experiencing digital exclusion as well as an increase in safeguarding concerns. The Board recommended that preparation is undertaken for the expected increase in Education, Health and Care Plan assessments.

## **Regional Adoption Agency Monitoring Report (Children’s Services and Education)**

The Board was presented the annual report and noted that the service had now been in place for two years, it was found that the workforce had now stabilised which was deemed to be positive. The Board identified that there had been an increase of 24% of children receiving placements and that registrations of interests by potential adopters had increased by almost a third. It was suggested that the new agency was more effective than the previous in- house system, offering better support at a reduced cost.



## **Sandwell's Air Quality Action Plan (Economy, Skills Transport and Education)**

The Board reviewed the implementation of green measures across the borough, including the introduction of air quality monitors and the vehicle strategy to reduce carbon footprint. Members assessed the progress made and identified Sandwell's biggest emission source was from refuse collection vehicles, as such they recommended that decided to look at the Council's fleet and options to make it more environmentally friendly. In addition, the Board proposed that the Council increase its lobbying activity with external stakeholders to ensure that it receives its fair share of funding towards improvements to highways infrastructure to support electric vehicles.

## **Smoke Control Area (Health and Adult Social Care)**

The Board was consulted on proposals to establish a Smoke Control Area in Sandwell. Smoke Control Areas were already established in Birmingham and Dudley. It was proposed that the whole of Sandwell should become a Smoke Control Area, citing the many health benefits to those who live and work in the borough.

## **Access to Primary Care (Health and Adult Social Care)**

The Board reviewed the access arrangements for Primary Care, acknowledging the implications upon healthcare practices of the covid-19 pandemic. It was identified that those waiting over a year for treatments had increased to 10,000 boroughs wide. The Board recommended that the Clinical Commissioning Group, in consultation with the Cabinet Member for Adults, Social Care and Health establish a joint task force to communicate the variety of methods that residents can access care, other than through a GP, so that pressures upon GPs can be reduced.



## **Waste Services and Cleanliness of the Borough – Review (Economy, Skills, Transport and Environment)**

An in- depth review of the Serco contract was conducted in response to concerns to ensure both high quality and value for money for the residents of Sandwell. Following reports from Serco senior management, engagement with community groups, speaking to Trade Unions and documenting the concerns of residents; several recommendations were made. Recommendations made were in relation to recycling rates, audit of operational capabilities and street cleansing.

## **Domestic Abuse Safe Accommodation Strategy (Safer Neighbourhoods and Active Communities)**

The Board reviewed Sandwell’s Domestic Abuse Strategy, in response to the Domestic Abuse Act 2021, which set out a statutory duty for local authorities to provide specialist support for victims of domestic abuse. It found that levels of documented psychological and financial abuse are rising and that there is an increase in victims of domestic abuse presenting with a need to access mental health supports. Covid is believed to have been a significant catalyst for these changes. Several recommendations were made by the Board, particularly focused on the needs of the victims, with further training required for commissioned providers being a key proposal.

## **Sandwell’s Anti- Social Behaviour Policy 2022 (Safer Neighbourhoods and Active Communities)**

The Board was consulted on the new Anti- Social Behaviour Policy, which had been developed in partnership with West Midlands Police, prior to public consultation. The Policy built on the previous introduction of the ASB Portal and the hub- based approach. It was also noted that the Council have achieved its first prosecution via a Community Protection Notice. Several recommendations were made by the Board, including that procedural changes were yet to be incorporated into the revised policy and that data is to be collated from the ASB portal so that high risk areas within the borough can be identified and a higher level of support can be provided.

# “Quality homes in thriving neighbourhoods”



## **Black Country Plan Consultation (Economy, Skills, Transport and Education)**

The Board reviewed the plan to ensure that it met the borough’s needs of ensuring that new homes were built, setting out planning framework whilst ensuring that factors including climate change mitigation measures and access to primary healthcare were placed front and centre. Following public consultation and engagement with stakeholder groups, the board identified that Sandwell has the biggest shortfall of housing land within the region and that funding would be required from the Combined Authority to make plans viable.

## **Review of Property Age Designation (Safer Neighbourhoods and Active Communities)**

The Board analysed the current procedure whereby some council properties are restricted by age. It was agreed by members that removing the 25 year plus requirement for certain properties would assist in improving housing options for care leavers and noted that 74% of housing applicants surveyed believed more properties should be available to those under 40 years old. The Board recommended that there was a need to promote social and community cohesion within council tenancies and that the council should carefully consider the make-up of each block before individuals are allocated a property. In addition, it was recommended a multi- agency approach be developed to better respond to the needs of residents.

## **Review of the Homelessness and Rough Sleeper Strategy (Safer Neighbourhoods and Active Communities)**

The Board reviewed Sandwell’s strategy in dealing with homelessness. The council was dedicating more resources to preventing homelessness, to ensure people are supported before they end up in crisis. 88% of Housing First tenants in the borough had successfully maintained their tenancy. However, several recommendations were made, one being that the council uses its resources better and collaboration occurs across teams to pool assets. It was also recommended that the standard of support plans needs to be improved so that they are more tailored to the service user and is adapted to support with their specific needs.



## **Mowing Season (Economy, Skills, Transport and Environment)**

Officers updated the Board with regards to the new tracking and performance system as well as raising issues related to the age of the machinery used. The Board considered the schedule for the 2022 season and identified that plans on rewilding and converting green spaces into meadow land should be actioned. It was recommended that stakeholders are consulted and the draft strategy for rewilding is presented to the board in a future meeting; with appropriate locations for the creation of green spaces identified.

## **Levelling Up Fund (Economy, Skills, Transport and Economy)**

The Board was consulted on the Council's proposals in relation to the Government's Levelling Up Fund, which sought bids on three categories of investment – Transport, Cultural and Regeneration and Town Growth. Recommendations were made in relation to ensuring robust consultation with ward representatives.

## **Towns Fund Projects (Economy, Skills, Transport and Growth)**

The Board was consulted on the Council's proposals in relation to the Government's Towns Fund programme. The Board recommended that business cases should have dedicated section devoted to climate change.



## **On Street Residential Electric Vehicle Charging Scheme (Economy, Skills, Transport and Environment)**

The Board received details on proposals to allocate funding from the Department of Transport to deliver electric vehicle charging points across Sandwell in streets where there was no off-road parking available.

## **E Scooters Trial (Economy, Skills, Transport and Environment)**

The kept a watching brief on the E- Scooter trial in West Bromwich. It was identified by members that the reception had been largely positive, with no major injuries being reported and the low carbon footprint generated via usage. However, members of the Board still had concerns around affordability and safety.

## **Youth Bus Service Provision (Children’s Services and Education)**

The Board discussed and reviewed the Youth Outreach provision. It was they noted that the current Youth bus is 24 years old and is often unreliable due to its longevity of service. The Board recommended that an electric bus is purchased, it acknowledged the increased costs, both with procurement and adapting facilities for charging purposes, but it was felt this would show a commitment to the green agenda. It was further proposed that young people are surveyed on what facilities they would like to see incorporated and that Public Health should also be consulted with a view to multi- purpose outreach being workshopped.

## 7. Looking Ahead - Work Programme 2022-23

The scrutiny work programme this year and over the next few years will focus on some big topics as the Council and Cabinet have to make some difficult decisions on what services are provided and how they are provided.

New policies will be required, and old policies will need to be reviewed and refreshed in light of changes post Covid.

There will be a need to maintain oversight and monitor the finances, performance and risks to the Council Services.

Big issues on the horizon:

- The Impact of Covid on the Council and Health Services
- NHS and Social Care Reform – White Paper
- Climate Change Strategy Implementation
- Education Excellence Everywhere – White Paper
- Elective Home Education
- Children’s Mental Health

Some topics will also be rolled forward from previous work programmes and a public consultation exercise highlighted matters that are of concern to the public and businesses in Sandwell to be considered for inclusion in the work programme.

**Good governance and scrutiny is at the heart of what we do.**

It is about how the Council ensures that it is doing things right, in the right way, for the right people, in a timely, inclusive, open, honest and accountable way.

## 8. Summary of Topics Considered 2021-2022

<b>Budget and Corporate Scrutiny Management Board</b>	<b>Children's Services and Education</b>
Financial Outturn	Review of Special Educational Needs and Disabilities (SEND) Transport Models
Evaluating outcomes of the Corporate Plan	Sandwell Children's Trust Annual Review
Digital platforms for council services	Regional Adoption Agency Monitoring Annual Report
Budget monitoring 2021-22	Review of the Impact of the Lockdown on Children and Families
Senior Management Structure	Elective Home Education
Impact of the COVID-19 pandemic on employee's productivity and well-being	Holiday Activities and Food Programme
Sandwell Leisure Trust Business Plan 2021-2024	Youth Facilities Review
Budget Proposals 2022-23	Temporary Accommodation Elm Tree Primary Academy at Connor Education Centre, West Bromwich
	SEND Operational and Strategic Boards and the Parent/Carer Forum
	Youth Bus and Service provision



Economy Skills Transport and Environment	Safer Neighbourhoods and Active Communities
Black Country Plan Consultation	Review of Property Age Designation
Local Transport Plan (Movement for Growth) Review Green Paper	Domestic Abuse Safe Accommodation Strategy
Black Country Ultra Low Emission Vehicle Strategy	Tenant Engagement and Participation
Air Quality Action Plan	Upgrade and Expansion of the CCTV & Concierge Service
West Bromwich E-Scooter Trial	Review of Tenancy Conditions
Towns Fund Programme	Safer Accommodation and Homelessness Strategy
Fleet Management	Community Safety
Levelling Up Fund	Safer Sandwell Partnership
Sandwell Civil and Mechanical Engineering Centre	Garage Rental Charges
Urban Greening	Anti-Social Behaviour Policy 2022
Emergency Active Travel Fund	
2022 Mowing Season	
Review - Performance and Management of the Waste Partnership Contract	
On-Street Residential Electric Vehicle Charging Scheme	

<p><b>Health and Adult Social Care</b></p> <p>Healthwatch Sandwell Priorities 2021-2022</p> <p>Smoke Control Area</p> <p>Access to Primary Care</p> <p>Community Diagnostic Hubs</p> <p>Day Services Transformation Plan</p> <p>West Midlands Ambulance Service Winter Plan 2021/22</p> <p>Air Quality Action Plan</p> <p>Phlebotomy Service</p> <p>Targeted Lung Health Check Programme</p> <p>Black Country Healthcare NHS Foundation Trust Transformation Plan</p>	<p><b>Joint Health Overview and Scrutiny Committee</b></p> <p>Delivering Solid Tumour Oncology Services for Sandwell and West Birmingham</p> <p>Primary Care Networks – Impact of West Birmingham Locality Move to Birmingham and Solihull Integrated Care System</p> <p>Black Country Provider Trust Collaboration</p> <p>Report on Waiting Times for Elective Treatment</p> <p>Midland Metropolitan University Hospital</p>
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## Report to Council

**8 November 2022**

<b>Subject:</b>	Audit and Risk Assurance Committee Annual Report 2021/22
<b>Director:</b>	Simone Hines Director of Finance
<b>Contact Officer:</b>	Peter Farrow Audit Services and Risk Management Manager <a href="mailto:peter_farrow@sandwell.gov.uk">peter_farrow@sandwell.gov.uk</a>

### 1 Recommendation

- 1.1 That the Annual Report of the Audit and Risk Assurance Committee be received.

### 2 Reasons for Recommendation

- 2.1 The report summarises the main areas of work undertaken by the Audit and Risk Assurance Committee during 2021/22.

### 3 How does this deliver objectives of the Corporate Plan?

- 3.1 The Audit and Risk Assurance Committee is a key component of the Council's governance, risk management and internal control framework.

### 4 Context and Key Issues

- 4.1 The report summarises the main areas of work undertaken by the Audit and Risk Assurance Committee during 2021/22.



## 5 Alternative Options

- 5.1 The purpose of the report is to summarise the main areas of work undertaken by the Audit and Risk Assurance Committee during 2021/22. As such, there is no alternative option.

## 6 Implications

<b>Resources:</b>	There are no direct resource implications arising from this report.
<b>Legal and Governance:</b>	The council is not obliged by law to appoint an Audit Committee, but this course of action has been taken in line with guidance from CIPFA.
<b>Risk:</b>	The Audit and Risk Assurance Committee is a key component of the council's risk management framework.
<b>Equality:</b>	It was not necessary to undertake an Equality Impact Assessment.
<b>Health and Wellbeing:</b>	There are no direct health and wellbeing implications from this report.
<b>Social Value</b>	There are no direct social value implications from this report.
<b>Climate Change</b>	There are no climate change implications arising from this report.

## 7. Appendices

- 7.1 Appendix 1 - Audit and Risk Assurance Committee Annual Report 2021/22



Annual Report of the Audit and Risk Assurance Committee  
2021/22



## Introduction

Councillor Liam Preece  
Chair of the Audit and Risk Assurance Committee



The Audit and Risk Assurance Committee here at Sandwell, as across local government, is a key component of a council's corporate governance framework. It provides an independent and high-level focus on the audit, risk management, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Committee is to provide independent assurance to the Council on the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It also oversees the work of both the internal and external auditors, helping to ensure that efficient and effective assurance arrangements are in place. The key benefits of the Committee can be seen as:

- increasing public confidence in the objectivity and fairness of financial and other reporting;
- reinforcing the importance and independence of internal and external audit and similar review processes;
- providing additional assurance through a process of independent review; and
- raising awareness of the need for internal control and the implementation of audit recommendations.

The Committee agrees a work programme for each year. It is based on (but not limited to) the following main sources of assurance:

- Annual Governance Statement - this is the statutory report which the Committee approves and forms part of the council's Statement of Accounts.
- Strategic Risk Register – detailing how and where the Committee can gain assurance that risks are being well managed.
- Internal Audit - the ongoing work of, and reports from the council's internal auditors.
- External Audit - the reports submitted to the Committee by the council's external auditors Grant Thornton

The year saw many challenges for the Council, with a number of external reviews identifying a range of issues that the Council needs to address. This included recommendations from our External Auditors following their Value for Money Governance Review, CIPFA's Financial Management Review, Internal Audit and the LGA's Corporate Peer Challenge.

Also, in March 2022 the Secretary of State for Levelling Up, Housing and Communities announced an intervention package and a set of Directions to ensure the Council was able to comply with its best value duty under Part 1 of the Local Government Act 1999. These Directions were in-part influenced by the Grant Thornton report following their Value for Money Governance Review.

The intervention package included the requirement for the development and implementation of an Improvement Plan within the first three months following the Directions notice and the appointment of two Commissioners.

In June 2022 the Council approved such an Improvement Plan that combined a series of actions to address the matters raised in the reviews referred to.

At our June 2022 meeting we received a detailed report on the Improvement Plan and accompanying risk register as a basis for our work planning in the year ahead. Along with our colleagues serving on other Council groups including Cabinet, the Governance and Constitution Review Committee and various Scrutiny Committees, a key part of this Committee's role over the coming year will be in maintaining oversight of the actions and implementation of the Improvement Plan.

Finally, I would like to place on record my thanks to the past members who served on the Committee during the year, along with our independent members, officers who provided ongoing support to the Committee, and our internal and external auditors. I also welcome my fellow new members to the Committee in what will certainly be a busy year ahead.

Thank you.

**Councillor Liam Preece**

## Committee membership

Membership during the 2021/22 year	Membership for 2022/23
Councillor Manjit Gill (Chair)	Councillor Liam Preece (Chair)
Councillor Peter Allen	Councillor Jay Anandou
Councillor Jay Anandou	Councillor Aqeela Choudhry
Councillor Kacey Akpoteni	Councillor Luke Giles
Councillor Ahmad Bostan	Councillor Nicky Hinchliff
Councillor Zahir Hussain	Councillor Syeda Khatun MBE
Councillor Olwen Jones	Councillor Steve Melia
Mike Ager (Independent - Vice Chair)	Mike Ager (Independent - Vice Chair)
Jay Hussain (Independent)	Jay Hussain (Independent)

The Committee met on the following dates:

- 16 September 2021
- 18 November 2021
- 21 December 2021
- 11 January 2022
- 17 March 2022
- 28 June 2022
- 21 July 2022

Senior Officers from the council were also present as required, including the Chief Executive, Director of Finance/Section 151 Officer, Monitoring Officer, the Head of Finance, Head of Audit and where appropriate the External Auditors (Grant Thornton).



## The Committee's business

During the 2021/22 year the Committee conducted the following business:

- External Audit Report – Value for Money Governance Review and Implementation Plan
- Council Improvement Plan (including the CIPFA Financial Management Model and LGA Corporate Peer Challenge Reports)
- Improvement Plan Risk Register
- Statement of Accounts 2019/20
- External Auditors Findings Report 2019/20 and Update Action Plan
- External Auditors Progress Report 2020/21 and Sector Updates
- External Auditors Interim Annual Report 2020/21

- Internal Audit Annual Report 2021/22
- Internal Audit Progress Reports
- Internal Audit Plan 2022/23
- Internal Audit Charter
- Strategic Risk Register Updates
- Strategic Risk – Towns Fund Programme
- Strategic Risk – Partnerships and Contractors Service Delivery
- Children's Services – Directorate Risk Register

- Counter Fraud Updates
- Fraud Risk Register
- School Fraud Awareness Bulletin
- Voluntary and Community Sector Grants Update
- SEND Passenger Transport Contract
- Local Government and Social Care Ombudsman Annual Report year end 2020 and 2021

- Constitution Review: Contract Procedure Rules and Land and Asset Disposal Protocol
- Appointment of the External Auditor
- CIPFA Audit Committee Updates
- Committee Terms of Reference Review
- Committee Work Programme
- Cabinet Forward Plan

The Committee's business was impacted by delays in the approval of the 2019/20 Statement of Accounts, and then the subsequent impact this has had on the preparation of the accounts for both 2020/21 and 2021/22. Therefore, at the time of writing, these elements of the normal committee cycle were yet to be completed.

# Key Sources of Assurance

## *Risk Management*

The Committee regularly received and reviewed the council's Strategic Risk Register, and assessed the assurance provided in order to demonstrate how risks were being mitigated. It did also, where deemed necessary, call-in individual risks for a more detailed review.

## *The work of our Internal Auditors*

The Council's Internal Auditors gave the following opinion in their 2021/22 Annual Report:

“As a result of a number of key governance issues raised during the year, predominantly those detailed in the Grant Thornton Value for Money review with its accompanying statutory and key recommendations, and the action taken by the Government in appointing commissioners to the Council, Internal Audit are unable to provide reasonable assurance for 2021/22 that the Council had fully adequate and effective governance processes. However, from the work we have completed we are able to provide reasonable assurance that both risk management and internal control processes remain adequate.

During the year a number of activities and actions have been put in place as part of the Council's improvement journey, including an appointed Commissioner alongside a new Leadership Team, and a Single Improvement Plan pulling together the recommendations from a number of recent key independent and external reviews (including Grant Thornton's Value for Money Governance Review, CIPFA's Financial Management Review and the LGA's Corporate Peer Challenge) which should help ensure that in the year ahead, reasonable assurance regarding governance processes can be achieved”.

## *The work of our External Auditors*

As indicated above, the External Auditors noted weaknesses in the Council's financial sustainability and governance arrangements and with regards to improving economy, efficiency and effectiveness. These were detailed in both their Governance Value for Money Report and their Interim Annual Report and included a number of statutory, key and improvement recommendations, and these have been reported separately to the Committee. They did note that the Council had made a range of improvements to address these issues and that the Council was working closely with the Government commissioners, but that the ongoing actions in the Improvement Plan would take time to embed fully.

## *Counter Fraud*

One of the roles of the Committee, is to review the assessment of fraud risks and potential harm to the council from fraud and corruption along with monitoring counter-fraud actions. We receive regular reports from the Counter Fraud team which provide us with updates on a range of fraud related activities including:

- Outcomes from tenancy fraud, subletting, right to buy and other investigations
- Fraud prosecutions
- The Cabinet Office's National Fraud Initiative exercise
- Covid-19 Grant and Support Payments
- The Council's Fraud Risk Register

## Conclusion of the Audit and Risk Assurance Committee 2021/22

In what was a challenging year, a number of governance and associated issues were highlighted from a range of sources including Grant Thornton, CIPFA, the LGA and our internal auditors. We are committed to playing a key role and working with our colleagues, in ensuring that the recommendations in the Council's Improvement Plan are addressed in a meaningful and timely manner during the 2022/23 year.

### The Committee's main achievements

While it has been a challenging year, the Committee believes its key achievements during the year were:

- Regular consideration and review of the council's strategic risk register.
- The 'calling-in' of key strategic risks for a more detailed review
- Continuing to maintain a good working relationship with the council's internal and external auditors.
- Raising the profile of internal control issues across the council and of the need to ensure that audit recommendations are implemented.
- Maintaining a detailed focus on the actions being taken to combat fraud.
- The continued attendance of our independent members, which in turn helps broaden the Committee's experience and independent viewpoint.

# Audit and Risk Assurance Committee –Terms of Reference

## *Statement of purpose*

Our Audit and Risk Assurance Committee is a key component of the council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of our Audit and Risk Assurance Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

## *Governance, risk and control*

To review the council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.

To review the annual governance statement 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.

To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

To monitor the effective development and operation of risk management in the council.

To monitor progress in addressing risk-related issues reported to the committee.

To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

To review the assessment of fraud risks and potential harm to the council from fraud and corruption.

To monitor the counter-fraud strategy, actions and resources.

To review the governance and assurance arrangements for significant partnerships or collaborations.

## *Internal Audit*

To approve the internal audit charter.

To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

To approve the risk based internal audit 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.

To approve significant interim changes to the risk-based internal audit plan and resource requirements.

To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.

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.

To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

- Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
- Regular reports on the results of the quality assurance and improvement programme;
- Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the annual governance statement.

To consider the head of internal audit's annual report:

- The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the quality assurance and improvement programme that supports the statement - these will indicate the reliability of the conclusions of internal audit.
- 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.

To consider summaries of specific internal audit reports as requested.

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.

To contribute to the quality assurance and improvement programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

To consider a report on the effectiveness of internal audit to support the annual governance statement, where required to do so by the Accounts and Audit Regulations.

To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

### *External Audit*

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 PSAA or the authority's auditor panel as appropriate.

To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

To consider specific reports as agreed with the external auditor.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To commission work from internal and external audit.

To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### *Financial Reporting*

To receive detailed training in respect of the process associated with the preparation, sign off, audit and publication of the Council's Annual Statement of Accounts.

To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.

To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### *Accountability arrangements*

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.

To report to full council 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.

To publish an annual report on the work of the Committee.

## Report to Council

**8 November 2022**

<b>Subject:</b>	Reports from the Council's representative on the West Midlands Fire and Rescue Authority, Transport for West Midlands, Police and Crime Panel and West Midlands Combined Authority
<b>Director:</b>	Surjit Tour – Director of Law and Governance and Monitoring Officer <a href="mailto:Surjit_Tour@sandwell.gov.uk">Surjit_Tour@sandwell.gov.uk</a>
<b>Contact Officer:</b>	Trisha Newton <a href="mailto:Trisha_newton@sandwell.gov.uk">Trisha_newton@sandwell.gov.uk</a>

### 1 Recommendations

- 1.1 That Council receives updates from the Council's representatives on the West Midlands Fire and Rescue Authority, Transport for the West Midlands, Police and Crime Panel and West Midlands Combined Authority.

### 2 Reasons for Recommendations







- 2.1 The Council, at its annual meeting on 24 May 2011, approved an arrangement whereby members nominated pursuant to Section 41 of the Local Government Act 1985 to answer questions on the discharge of the functions of any joint authority or any joint board of which the Council is a constituent authority (Section 41 members) would report to the Council twice a year on important and contentious matters relating to the joint authority/board, and on any other occasion by exception. Procedural Standing Orders provide that any member of the Council shall be entitled to ask questions of the relevant members and the Council on these reports.





Reports are attached in respect of the West Midlands Fire and Rescue Authority (Councillor Jalil), Transport for the West Midlands (Councillor Webb), West Midlands Police and Crime Panel (Councillor McVittie) and West Midlands Combined Authority (The Leader).

## 2 How does this deliver objectives of the Corporate Plan?

		The involvement of Council representatives in the decision-making process of joint authorities will encourage better understanding of local and wider needs and viewpoints.
		
		

## 3 Context and Key Issues

- 3.1 Council will receive an update on the work undertaken by the West Midlands Fire and Rescue Authority, Transport for the West Midlands, Police and Crime Panel and West Midlands Combined Authority from the member nominated pursuant to Section 41 of the Local Government Act.

## 4 Alternative Options

- 4.1 It is usual practice to receive six monthly update reports.

## 5 Implications

<b>Resources:</b>	There are no strategic resource implications arising from this report.
<b>Legal and Governance:</b>	Under Section 41 of the Local Government Act 1985, arrangements have been made for enabling questions on the discharge of a joint authority's functions to be put in the course of the proceedings of any constituent district council. A member is nominated by the joint authority for that purpose (the Section 41 member).





	It is customary for the Council to receive six monthly reports from those members appointed pursuant to Section 41 of the Local Government Act 1985 to answer questions put to them at council meetings relating to the discharge of functions of joint authorities. This was the case in respect of the West Midlands Police Authority until the Police and Crime Commissioner [PCC] took office on 22 November 2012. The West Midlands Police Authority ceased to exist at that point. The West Midlands Police and Crime Panel, on which the Council is represented, now holds the Police and Crime Commissioner to account.
<b>Risk:</b>	There are no direct risks associated with this report.
<b>Equality:</b>	There is no requirement for an equality impact assessment.
<b>Health and Wellbeing:</b>	There are no direct health and wellbeing implications from this report.
<b>Social Value</b>	There are no direct social value implications from this report.
<b>Climate Change</b>	There are no direct implications arising from this report.

## 7. Appendices

- Appendix A – West Midlands Fire and Rescue Service update.
- Appendix B – Transport for West Midlands update.
- Appendix C – West Midlands Police and Crime Panel update.
- Appendix D – West Midlands Combined Authority update.

## 8. Background Papers

None



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**WEST MIDLANDS FIRE SERVICE**

Making the West Midlands Safer, Stronger and Healthier

**wmfs.net**

**@WestMidsFire**

Fire Service Headquarters,  
99 Vauxhall Road, Birmingham B7 4HW

## **Sandwell Metropolitan Borough Council**

**8 November 2022**

### **West Midlands Fire and Rescue Authority Update Report**

WMFs mission is to serve our communities by preventing harm, protecting life and property and keeping the public safe, both locally and by ensuring national resilience through a full understanding of risk.

WMF are Extending collaborative work with external partner agencies there is ongoing engagement with transport for West Midlands about use of/access to road network CCTV cameras in the control room. This would allow Fire Control (FC) to utilise cameras to support resourcing incidents. This could provide FC a live feed of incidents as they evolve which can then be communicated to responding appliances supporting the organisations 5-minute attendance standard.

Sparks visits in schools with key stage 2 children have now resumed, with WMFS teams delivering key learning and safety messages face-to-face. Our SPARKS presentation is designed for Year 4 pupils. It lasts about an hour and is delivered by firefighters from your local station. It concentrates on fire and road safety.

The children will see a short film showing how quickly fire spreads, then they will find out about:

- Smoke detectors
- Escape plans
- Emergency calls
- Fire hazards
- Stop, drop and roll
- Pedestrian safety
- In-car safety

If you want to organise a SPARK visit for any of the schools in your ward please email my self or Cllr Zaheer Hussain and we will arrange that for you.

WMFS hosted the UKRO festival of rescue event between September 29th – 1st October 22 on the Smithfield site in Birmingham. The event welcomed Fire and Rescue Services from across the UK to compete in a multitude of disciplines to include Road Traffic Collision, Trauma, Water Rescue, Rope Rescue, Urban Search and Rescue and Fire fighter fitness. In which the West Bromwich Fire Cadets were the Casualty Care challenge winners.

The recent heatwave saw a substantial increase in incidents triggering our Heatwave Plan and as such spate condition action plan. The plan is activated when receiving over 50 incidents over a 30-minute period for 2 hours or more. Our Dynamic Cover Tool (DCT) and Risk Based Crewing (RBC) model ensured our response was dynamic, resourcing incidents via a people-based mobilisation taking into consideration the level of risk, this ensured the appropriate weight of attack could be mobilised.

If you have any questions, please contact me or my colleague Cllr Zaheer Hussain.

Councillor Rizwan Jalil  
SMBC Lead Member – West Midlands Fire and Rescue

## **Sandwell Metropolitan Borough Council**

### **Transport for West Midlands (TfWM)**

**October 2022**

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#### **1. Local Transport Plan (LTP)**

Review and Transport Green Paper WMCA is the Local Transport Authority and has duties to produce and review the Local Transport Plan that covers the West Midlands' seven metropolitan districts. The LTP sets out policies and implementation proposals for tackling the regions transport challenges and opportunities. TfWM advises the WMCA on this responsibility.

The previous update outlined that public engagement on a Green Paper and a draft core strategy has taken place over the past 18 months, with general support from the public and businesses. A Transport Summit also took place last year setting a mandate for a change in direction in transport policy to avoid the risks of carrying on as-is.

Overall, it is recognised that “demand management” is needed to unlock behavioural changes needed to deliver long-standing aims but policies such as reallocating space and priority, introducing targeted restrictions on access, and increasing prices remain politically risky and there is insufficient consensus in support from the public or members. However, Government is increasing pressure on local government to implement such measures.

Further development of the LTP is therefore considering the resilience of policy and strategy options in futures where a critical support for demand management either is or isn't achieved (noting that to unlock transformational changes, consensus has to extend beyond individual neighbourhoods and boroughs, and even our own boundaries to the national scale).

The work that is currently underway is aiming to identify options that are more or less likely to be successful across the region depending on future consensus to manage demand, and depending on local characteristics of place and people. This will help frame local trade-offs of what does/doesn't work as well as highlighting the limits of local action without broader consensus.

This work will help develop four area strategies across the West Midlands (Black Country, Birmingham, Solihull, and Coventry) with a focus on the tailoring of policy and strategy within areas to account for their internal diversity of places and communities. The work will also help inform the development of “6 Big Move” policy documents that will provide a regional position for particular policy options across a range of topics.

Current plans are for WMCA board to consider adoption of the finalised LTP Core Strategy in early 2023, which will include an appendix setting out the understanding of how policy/strategy can be tailored to future scenarios, places and people, and to consider the draft 6 Big Moves. Engagement will be underway with local partners on the development of the Area Strategies but these will be considered by WMCA board later in 2023.

Government has committed to publishing LTP Guidance, with the last guidance issued in 2009. However, the programme for consulting and publishing this guidance is being continually extended. Based on current engagement, Government is indicating the following points of particular interest:

- LTPs should set the strategic context for business case development for policy options
- LTPs should set out investment proposals (but implementation proposals should not be limited just to capital schemes)
- LTPs will become increasingly important in the securing of funding from Government
- In the long term, Government wishes to move from many competitive funds restricted to Governments own specific capital intervention priorities to more stable funding enabling local determination of what interventions are needed to deliver local aims and vision (with LTPs being at the heart of this).
- LTPs will be required to demonstrate how local objectives and aims relate to Government's own priorities (currently: achieving net-zero, delivering transport user benefits, and protecting the local environment) and that therefore investment in LTPs will deliver national objectives
- LTPs will have to include a quantification of the carbon benefit of strategy and proposals to demonstrate progress against net-zero.

## **2. Bus Network**

### *Local Bus Services*

The Covid-19 pandemic had a detrimental impact on bus patronage which has not recovered to pre-covid levels. In the first week of September 2022 patronage had recovered to an average of 84% of pre-covid. This partly reflects how behaviours have changed, including a greater level of on-line shopping, increase in hybrid working and increase in numbers working from home.

There is an expectation that passenger numbers will continue to increase in the future resulting from a number of factors including the cost-of-living increase moving people to more affordable modes, changes in Local Transport Plan policy, population and housing growth, and positive interventions through Bus Services Improvement Plan (BSIP) initiatives, the £2 fare cap (instituted by the Department for Transport), and City Region Sustainable Transport Settlement (CRSTS) transformational measures including simplification, better bus services and more bus priority to encourage modal shift.

Performance of the bus network is facing challenges which has resulted in some passenger dissatisfaction. This is largely due to the continuing shortage of drivers. National Express and Stagecoach are both reporting issues, but this is more pronounced in the region for National Express given their large share of the network of services. In an attempt to mitigate the impact on passengers TfWM are working with operators closely with operators and are seeking operators to introduce more robust processes to ensure that passengers are kept informed of missing journeys through a range of measures and additionally utilising TfWM's own resources and estate such as Real Time Information and Bus Stations.

Whilst not all bus operators are reporting driver shortages it is widely acknowledged to be a national issue. National Express, and other operators are working tirelessly on this challenge, and they are making operational adjustments in an attempt to mitigate the impact for passengers, focusing resource on less frequent services and seeking to space buses on the frequent services to try and reduce gaps between buses.

Network changes from January 2023 are also anticipated to help with the performance challenge, and it is anticipated that these amendments will provide for a more reliable base network, meeting the key demands post COVID, and better meeting resource availability.

### *Supporting Bus Operators*

Since March 2020 the shortfall in fare revenue, and to a lesser extent the increase in costs, has been met through publicly funded grants and by maintaining subsidy payments at pre-covid levels to operators from National and Local Government.

This has included maintaining payments to operators for the carriage of English National Concessionary Travel Pass holders at pre-covid levels, paid at a rate to reflect the long-term and continuing reduction in concessionary journeys.

The scale of funding nationally has exceeded £2bn in support for bus operators. The main remaining fund known as Bus Recovery Grant (BRG) is scheduled to end on December 31st 2022, which is why TfWM were requested by DfT to align the Bus Network Review to this date. Approximately £7.3m of DfT grant funding has been passed to operators through the WMCA for support on tendered services with significant sums being given directly from Government to operators to support commercial services. In addition, the DfE made £10m available to support school services during the height of the pandemic. Government has announced that some additional targeted funding support for operators and Local Transport Authorities from central government will be in place between 1st January 2023 to the end of March 2023.

At the time of writing this report it is not known how much of this will be available for the West Midlands, how it will be paid or passported, or if it would have any impact on the level of changes proposed by bus operators. Our discussions with National Express, Diamond and Stagecoach indicate that amendments to funding available may present challenges to changing proposals. However, if funding is available to TfWM it may be too late to mitigate some impacts for January 2023, but any further support from Government will be a welcome help with additional challenges as they continue to emerge through 2023.

During this final period of funding operators are being encouraged by Government to revise their networks to become commercially sustainable and to reflect new passenger levels. They are encouraged to do this in conjunction with Local Transport Authorities and to also work together to make best use of the overall available resources.

The standard used to determine which bus services we will support using the tendered bus budget are called our 'Access Standards'. The current Value for Money criteria, specified in the Access Standards, is £2.55 per passenger journey for fully tendered services and £2.12 for services operated with de-minimis support. Under normal circumstances any service where level of subsidy per passenger trip exceeds this value would not be supported by the authority and passengers would need to consider alternative travel options. However, since March 2020, due to additional funding support from central government, TfWM has been able to continue to support these services and have been able to keep nearly all services operating. If the existing Value for Money (VfM) criteria is maintained, this would result in TfWM being unable to support around 57 contracts, a complete removal of the pressure on the subsidised bus budget and additionally make a saving of approximately £3.1m in 2023/24 whilst seeing a detriment to passengers. Another option was for the VfM criteria within the access standards to be revaluated to £4.10 per passenger journey. £4.10 is in line with the type of VfM criteria used by other authorities where such a criteria exists. The Transport Delivery Committee approved re-evaluating the VfM criteria to £4.10 and agreed it may also be supported by some additional Local Transport Fund (LTF) from Government. Indications are that some of the 36 contracts that fall outside the VfM criteria, may be saved as a result.

### *Ring & Ride*

TfWM commissions National Express Accessible Transport (NEAT) to operate the West Midlands Ring & Ride Service. The service continues to see a significant reduction in passengers as a direct result of the Covid-19 pandemic, with passenger numbers stabilising at around 28% of pre-Covid levels. The increase in passengers has been far slower than other public transport services due to the nature of the destinations being served and the more vulnerable client group.

The service is now operating 7 days a week, between 8am and 11pm Monday to Saturday and 8am and 3.30pm on Sunday.

Like other public transport operators NEAT have also been affected by driver shortages due to increased sickness levels and drivers moving to other driving jobs within the sector. We are continuing to work with NEAT to minimise any disruption for passengers. Where disruption is unavoidable, we are working with NEAT to ensure that passengers are kept informed of any revisions to their planned journeys. On-time performance is currently around 86%; 86% of passenger collections are within 10 mins of stated times which is the stated traffic commissioner window for flexibly routed services.

TfWM are in the process of agreeing an extension to the contract with NEAT up to the end of December 2022. We continue to have discussions regarding contractual and service arrangements to ensure the service reflects any changes in travel demand and aligns with the ambitions of the BSIP which may include wider use of Demand Responsive Services in the region.



## *Bus Service Improvement Plan*

In 2021 Transport Delivery Committee approved submission of the West Midlands Bus Service Improvement Plan (BSIP). All Transport Authorities were required to submit BSIPs to government in Autumn 2021 in response to the National Bus Strategy, setting out ambitious plans to transform the delivery of bus services in the region. All BSIPs were assessed by the DfT and in February 2022 TfWM was indicatively advised that it was one of 31 Authorities who's plans would be funded by Government, with £87.858m secured to support delivery.

This funding was confirmed in August 2022 and TfWM advised this would be phased over three years:

<b>Financial Year</b>	<b>Funding</b>
2022/23	£18,352,626
2023/24	£36,686,987
2024/25	£32,818,147
<b>Total:</b>	<b>£87,857,760</b>

The 2022/23 allocation will be received following satisfactory responses to a number of detailed clarifications received from the DfT which at time of writing are currently being worked through, and the making of the EP scheme variation 002. Future years' allocations will be dependent upon TfWM demonstrating to the DfT that it has made effective progress in delivery against BSIP commitments.

The BSIP includes many ambitious and exciting commitments that would involve TfWM, SMBC, other West Midlands Local Authorities and bus operators working together to deliver for the benefit of the local area and region. Underpinning this will be a statutory Enhanced Partnership Scheme, which will place binding commitments on partners to adhere to measures within the Scheme. The existing Scheme was implemented in June 2021, specifically covering the A34/A45 Sprint route. An EP scheme variation 001 following the expiry of the Birmingham Advanced Quality Partnership Scheme (AQPS) was made in June 2022 and will be varied (variation 002) to include the committed improvements across the wider network for the BSIP Funding.

The updated scheme has been subject to close partnership working and detailed negotiation with bus operators and Local Authorities and approval is currently being formally sought through SMBC's, and the other West Midlands Local Authorities', own governance processes. Formal approval was granted by Transport Delivery Committee on 10th October 2022.

### *Tendered Services and Network Changes*

Although the increased costs of operating services and slow return of passengers means that less than 70% of the network is currently considered commercial, National Express has shown its confidence in the further recovery by proposing to maintain around 90% of their pre-covid mileage, meaning that the West Midlands has lost around 10% of its bus network miles since 2020.

A lot of high frequency services have had service reductions in recent months in response to driver shortages. When driver numbers increase NXWM will look to increase some frequencies again, but the concern will be if these are implemented at

the expense of more marginal routes across the network which would result in further pressures on the tendered bus network. This is a risk also because changes to these services tend to impact the elderly, the more isolated, and the less well off in the region, and remove critical elements of maintaining a comprehensive network. Any further changes or commercial de-registrations will not be able to be absorbed into TfWM budgets without additional Government support or regionally committed funding, and this is a challenge we are working with operators to avoid wherever possible.

We know that the most disadvantaged groups in the region rely most heavily on the bus network, and alongside the cost-of-living crisis we know how an effective bus network is so vital for those groups. A Supported Travel Policies Review, covering not only the tendered bus network, but all our discretionary policies including the Rail and Metro add-on to ENCTS, Ring and Ride and child concessions is being reviewed alongside other discretionary transport policies and functions, which combined, totals circa £31.6M for 2022/23. This work will involve a public consultation exercise and options presented to the WMCA Board on ways these discretionary policies could change to meet the available level of locally raised funding through the Transport Levy and to best support groups most in need of support. It will further consider if and where future efficiencies could be made in these policies and how different accessibility standards could impact budgets in the longer term.

One of the key factors for West Midlands operators and particularly NXWM maintaining a 90% network is that TfWM will work at pace to expediate the measures and benefits of the BSIP in a way that turns the first-year funding of the overall 3 year £88m programme into measures that see the operators benefiting from that money as soon as is possible. This is set out more within the BSIP report to this Committee.

Following the review of their commercial networks bus operators have indicated service changes in the following specific areas.

- School Services
- Queen Elizabeth Hospital Network
- Solihull
- Dudley Area
- Diamond changes
- Partnership routes
- Tendered Services

There have not been any significant commercial changes or withdrawals registered for the network of bus services in Sandwell.

A number of subsidised bus services that do operate in the Sandwell area are at the time of writing are currently being competitively tendered as the associated contracts are due for renewal and it anticipated the outcome of these tenders will be known in November 2022 ahead of the service renewal of 1<sup>st</sup> January 2023.

Upcoming service changes are updated on a weekly basis on the TfWM website; Upcoming Bus Changes | Transport for West Midlands [www.tfwm.org.uk](http://www.tfwm.org.uk).

### *West Midlands Bus Alliance*

Through the West Midlands Bus Alliance we continue to work in partnership with bus operators and other stakeholders to improve the quality of all aspects of bus travel and to make travel easier for everyone. Features such as low floor buses, accessible well-lit passenger shelters, easy access kerbing, improved passenger information and audio and visual Real Time Information are helping to make bus travel more attractive for everybody with drivers trained in customer care and disability awareness.

The West Midlands Bus Alliance has continued to oversee and influence the bus network response and recovery to the Covid-19 pandemic and has sought to ensure that operators and wider stakeholders are fully aligned on issues affecting passengers and future aspirations through the BSIP. This has included developing a consistent approach to passenger communication at the various stages to the release from covid measures.

Following changes to TDC Membership in June 2022, Councillor Kath Hartley has been replaced by Councillor Richard Worrall and Councillor Waseem Zaffar has been replaced by Councillor Liz Clements on the Board.

### **3. Rail Network**

WMT's performance is now measured against Time to 3 (T-3). Trains are measured throughout their journey and must reach their destination within 3 minutes of their booked time to be considered on time. WMT's most recent T-3 result (Period 6 – August to September) was 79.17%. This was a slight improvement on the performance during the preceding period.

For a train company with the size and complexity of WMT the normal range of a "good" T-3 measure would be between 80-90%, anything above 90% would be considered very good and anything below 80% considered poor.

The reasons for WMT's performance over the summer can be found in the extreme weather, industrial action, and Commonwealth Games. During the Games, the industry rightly prioritised capacity over punctuality, meaning trains were held at stations if that was the right thing to do to make sure queues could be dispersed quickly (for example at Smethwick Galton Bridge, which was a venue station for the aquatic Centre). Similar logic was applied during the industrial action. The hot weather in early August caused a series of infrastructure faults that delayed numerous trains over several days. It also led to speed restrictions being applied on some lines, which led to trains picking up delays.

Traincrew related cancellations have continued to occur, although not in the same volume as 12 months ago. As of the end of September WMT had 762 drivers on their books against an establishment of 784 (97.19%). Of these 661 were available to work, the rest being mainly sick (non-COVID) or restricted in some way (i.e. subject to return to work following absence). WMT have 115 trainee drivers in the business, with 39 due to qualify by Christmas. Helpfully, nine of these will be at Worcester depot, where sickness and retirements have been especially high.

The first of WMT's new trains are due to enter service later this year. They will be diesel Class 196 vehicles designed for the Birmingham-Shrewsbury and Birmingham-Hereford routes. They will commence operation on the Shrewsbury line first, and thus will call at stations like Smethwick Galton Bridge.

## **Commonwealth Games**

The Games were largely a success for the railways. The rebuilt Perry Barr station coped well with the spectator and workforce demand, whilst the expanded platforms at University station proved invaluable. Staff were deployed in strength and customers welcomed the Games themed giveaways. The timetable was delivered for the most part, with a cable theft at Tyseley on 3 August the single most disruptive incident.

However, the underlying fragility of some operators' traincrew resources was exposed during the Games, with negative consequences for rail users. Avanti West Coast suffered many cancellations throughout the Games, after seeing a reduction in volunteers for Rest Day Work and overtime. West Midlands Trains (WMT) also experienced several traincrew cancellations on Saturday 6 August. The situation at Avanti has continued beyond the Games (see below).

## **Industrial Action**

Three West Midlands train companies affected by strike action by the ASLEF union on Saturday 30 July (day 3 of the Games). Due to the several events taking place at the NEC that day, WMT managed to operate a shuttle service between Birmingham New Street and Birmingham International to help manage demand. This was crewed by driver managers. No other WMT, CrossCountry Trains or Chiltern Railways services were able to operate.

The 30 July was one of eight days of strike action held to date by the RMT, ASLEF and TSSA unions. All three unions are in dispute over pay, terms and conditions and fear of compulsory redundancies. The RMT have a mandate for strike action on Network Rail and all of the DfT contracted train companies with the exception of Govia Thameslink Railway, and Island Line on the Isle of Wight. In the West Midlands ASLEF's mandate covers WMT, Avanti, Chiltern Railways, and CrossCountry. In our region the TSSA have a mandate for action on WMT, Avanti, Network Rail and CrossCountry.

Future strike dates had been called for 15 September (ASLEF and RMT), 17 September (RMT and TSSA) and 26/27 September (TSSA). However, following the passing of the Monarch on 8 September, all three unions announced that the strikes would be postponed. Instead, strikes were held on 1, 5 and 8 October.

Since the summer Avanti West Coast services have experienced a marked decline in the numbers of staff volunteering for Rest Day Work and overtime. This led to the operator introducing a significantly reduced timetable in September. Until early December, just one Avanti train an hour will run between the West Midlands and London Euston. TfWM through WMRE have met with Avanti to urge for the previous timetable to be restored at the earliest opportunity.

## **Rail Industry Reform**

On 5 July Birmingham was announced as being one of six towns and cities shortlisted for to be the headquarters of Great British Railways (GBR). The other finalists are Newcastle, Derby, Crewe, Doncaster, and York.

The visit to Birmingham took place on 9 August, the day after the Commonwealth Games closing ceremony.

GBRTT held a non-binding public vote was held in parallel to the ministerial visits. The result of this vote will be used to measure the level of public support for each location and will be considered as part of final decision making.

The Secretary of State for Transport will make the final decision later this year considering all elements of the process, including the following factors:

- GBRTT's assessment of the applicants' expressions of interest against the selection criteria
- The understanding gained from the visits
- The result of the public vote
- Other public duties (such as managing public money)

### **Integrated Rail Plan, HS2 and Midlands Rail Hub**

The contract for the construction of the HS2 Interchange Station in Solihull has been awarded to Laing O'Rourke and will support up to 1000 jobs according to WMCA Mayor Andy Street. Building work on the station is set to commence in 2024.

The Hybrid Bill for Phase 2b of HS2 from Crewe to Manchester has now been published. However, the Golborne Link which connected HS2 to the West Coast Main Line near Wigan has been formally dropped by the government. The Golborne Link would have by-passed and relieved capacity on a congested section of the West Coast Main Line north of Crewe and would also have further reduced HS2 journey times from the West Midlands to Scotland by circa 15 minutes.

The government has committed to looking at alternative means of connecting HS2 with the West Coast Main Line, including Sir Peter Hendy's "Union Connectivity" proposal to extend HS2 to Preston. Unfortunately, it will take longer to develop an alternative proposal and the government requirement that such an alternative must "fit within the existing budget envelope for the Integrated Rail Plan" will be challenging to achieve.

The recently published Transport Select Committee (TSC) report into the Integrated Rail Plan recognises that the Golborne link was not perfect, but its importance in terms of unlocking capacity for passengers and freight and reducing journey times to Scotland. The TSC members "are concerned that it has been cancelled without an alternative being proposed" and have called on the Department for Transport to set out "alternative plans which add similar capacity as a minimum, by March 2023".

With the future West Midlands to Nottingham market now to benefit from direct HS2 services to Nottingham City Centre, the need for Midlands Rail Hub (MRH) to provide this connectivity has disappeared. However, this has presented a major opportunity for Midlands Connect, Network Rail and WMRE to re-examine the potential benefits of the additional rail network capacity provided by MRH and a new strategic case has been developed to support the delivery of MRH into central Birmingham in full.

The TSC report also recognises the continuing post-IRP requirement for the Midlands Rail Hub scheme to facilitate "connections from Moor Street towards Leicester by providing the eastern chord" and urges "the Government to commit to this element as part of the review of the Midlands Rail Hub".

The current HS2 service plan do not propose any services to the north or Scotland calling at the new Interchange Station in Solihull until Phase 2b has been completed to Manchester which has now been put back from 2032/3 to the late 2030s. WMRE, TfWM and WMCA do not believe that this position is tenable and have been consistently lobbying for HS2 services from the Interchange Station to the north and Scotland once HS2 Phase 2a to Crewe has been completed in the early 2030s.

Midlands Connect has recently analysed the potential for Phase 2a services to Manchester both Birmingham Curzon St and the Interchange. However, the study has indicated that the case for Interchange HS2 services to Manchester is likely to be weak without significant development around the new station.

### **New Timetables**

The December 2022 timetable change is now available in industry systems, Local services between Wolverhampton and Birmingham will move to a clockface 30-minute pattern. The hourly Shrewsbury train will call at Smethwick Galton Bridge, whilst the hourly Transport for Wales service will call at Sandwell and Dudley.

Avanti West Coast's hourly services between London and Preston/Blackpool or Scotland will continue to call Sandwell and Dudley.

WMRE is working with WMT, Chiltern Railways and Network Rail on a new timetable for the Snow Hill lines from May 2023. This will move services onto a more regular which will plug the gaps that currently exist. Chiltern Railways services are also planned to move to a 30 minute pattern giving an improved spread of services between London and the West Midlands.

### **West Midlands Grand Railway Collaboration (GRC)**

The GRC continues to demonstrate the value of collaborative working with the board continuing to meet regularly. With the challenges currently faced by the industry it has been vital for the GRC to consider its role in these times. The board last met on 31st August however it was a more informal meeting with two items of discussion; Commonwealth Games and Industrial Action.

The GRC played a pivotal role in the delivery of the transport network for the commonwealth games with all organisations working very closely together to provide a world class service to the spectators visiting the region. There are a number of stand out moments during the period of the games that really showcased the rail industry. There will be a full GRC lead lesson learned session for the games on 21 September and this will be reviewed at the GRC Board on 12 October.

Industrial Action (IA) continues to be challenging for the industry with further strike days being called causing disruption to customers. The GRC is continuing to work with all organisations to ensure that a consistent message is being broadcast to customers and that responses where appropriate are collaborative.

Work has been continuing at Solihull Station to improve the integration between bus and rail. Bus Service 72 has been retimed to better connect with Monday-Saturday evening rail services. Services X2 and 72 are also timed better to provide in general a 15-minute service throughout the evening from Solihull Station to Solihull Hospital, JLR and Sheldon (The Wheatsheaf). It's recognised that currently the X12 frequency needs reviewing, and that work is being undertaken as part of the Network Review.

A small amount of additional wayfinding signage has been installed at entrance to the station to assist customers in locating the correct bus stand. It is hoped that we are able to install further wayfinding improvements at the station to support the multi modal integration.

#### **4. Project Delivery Programme**

A headline summary of activity is set out below:

**Sprint: Phase 2** - Sprint design development is currently underway. Aecom have been appointed to deliver the preliminary design. The internal Sprint delivery team are undertaking a review for constructability. On site we are undertaking GPR, (ground penetrating radar), surveys together with trial holes to ascertain the position and depth of utility services. On completion of this work, the design solutions will be passed to Sandwell officers for review. It is anticipated that the scheme, will be on site late Summer 2023.

Phase 1 Construction works have been completed, within budget and prior to the Commonwealth Games

##### *West Midlands Rail Programme*

The Rail Programme has enjoyed further success over the past period. In line with our commitment to ensure that University Station was 'fit for purpose' in time for the Games, we opened the wider platforms with full canopy cover, as well as opening the public realm to provide queuing space. The Bus Interchange at Perry Barr also opened in time for the Games and played a key role in supporting transport to and from Alexander Stadium.

The Rail Programme successfully delivered these outcomes thanks in part to our commitment to collaborative working across partners. We were delighted to have this recognised when the programme won one of the national Rail Innovation Awards for Cross Industry Partnership.

Delivery continues across the Programme. We are in the process of rebaselining our projects at University and in Walsall (Package 1) to reflect the impact of a number of challenges including industry-wide resource pressures. Our Package 1 scheme enjoyed a major success with the confirmation of a Compulsory Purchase Order which will secure land access to a key parcel where negotiation had not proven successful. This confirmation underscored the important public interest case for the scheme.

Work also continues in Birmingham on the Camp Hill stations (Package 2) with our contractor undertaking ground investigations and setting up site.

We also look forward to further engagement with the Solihull Station Team to help inform their work as an informed client for the project. Following engagement earlier in the summer we have put some initial proposals for support to the team to help ensure that the project can benefit from the experience and lessons of the rail programme.

### *Metro Programme*

The Metro programme is based on the latest funding position and current project status. Work continues to progress with all extension projects being undertaken by the Midlands Metro Alliance (MMA). During this period, the following activity has been undertaken:

Edgbaston Extension – The route to Edgbaston Village was completed in June 2022, and opened to passenger service in July, just before CWG. There is some small snagging work to be completed, and some works on the side streets as a result of the Metro scheme that BCC and TfWM are implementing. The service has already proved very popular with more journeys starting in Edgbaston than anticipated.

Wolverhampton City Centre Extension – The works for WCCE are almost complete. Work was suspended for the CWG period, and the area was opened up for a better visitor experience. We have a couple of key interfaces to resolve before being able to confirm the date for entry into passenger service, but this is planned to be in November/December 2022. The intention is to open in a first phase just to the station, suspending services to St Georges. Early 2023 the automatic switching and control systems will be in place and a two-terminus service (station and St George's) will be initiated.

Wednesbury to Brierley Hill Metro Extension – Work has proceeded as planned on many sections of this extension, and in particular in Dudley Centre and at the Wednesbury connection into the existing line. After a lot of discussion across the WMCA and reviewing of finances, the commitment to deliver the full line was re-confirmed, but that the project will be delivered in two phases: top Dudley and then beyond to Brierley Hill, when finances permit. The TfWM team is working hard on resolving that financial issue. MMA has been instructed to proceed with works to Dudley and there is an increased level of activity along the route with many new structures now installed and track installation progressing in Dudley centre. Service is expected to start to Dudley in Autumn 2024.

Birmingham Eastside Extension (BEE) – In the period the work on Lower Bull Street continued up to the Games and was suspended to provide an open walking route for visitors. Work has now resumed there and should be complete by the end of 2022. In Digbeth town centre, we have completed the new highway which will be open to traffic shortly. Much of the urban realm on the north side of Digbeth High St has been put in place and attention will shortly switch to the south side. We have also started laying the track which will cross Digbeth High St. Works between these two end points have now been scheduled and we are discussing with Birmingham their phasing. Discussions with HS2 have progressed and there is a better collaboration, but the stage of development of the Curzon site means that our BEE works will not be complete until 2027.



East Birmingham to North Solihull Extension - TfWM is working with Government to gain further funding to develop a Full Business Case. There is a package in the current CRSTS funding to investigate the different options going forward.

Procurement contract for the new fleet from CAF was completed in October 2021 with a first phase of 21 trams, and options to extend the fleet for the East side extensions. The first 9 trams needed for Edge and WCCE extensions have been delivered and commissioned. They have entered service and are forming the core of the active fleet while we await completion of repairs to the existing fleet.

### *Road Programme*

Hagley Road – Hagley Road Corridor formed part of the CRSTS funding and option appraisal work is underway to develop the Strategic Outline Business Case for bus priority measures and cycling improvements, with further work planned to consider further option appraisal for rapid transit along the corridor including Metro.

## **5. Metro Operations - Midland Metro Limited (MML)**

Metro services were temporarily suspended between the 19<sup>th</sup> March and 4<sup>th</sup> June. This was to enable the body panels of the 2G fleet to be replaced due to cracks. To date CAF the manufacturer has been undertaking this warranty work at the Metro Centre in Wednesbury, with almost half the fleet now complete. However due to the depot expansion project impacting workshop space, arrangements have been made for works to continue at the Very Light Rail (VLR) centre in Dudley. This facility is currently being adapted to accommodate the works and the first tram is expected to be transported to VLR in November. The bogie box repair work, as mentioned in the last report also continues and forms part of a comprehensive programme of crack repairs on the 2G fleet.

Since resuming services on the 5<sup>th</sup> June, trams initially operated between Wolverhampton St Georges and Bull St and subsequently returned to Library. On the 19<sup>th</sup> July services extended to Edgbaston Village, with the opening of the final phase of the Westside extension. This was ahead of the Commonwealth Games and provides 3 new tram stops connecting people to the hotels, restaurants and the entertainment along Broad St and surrounding areas. Coinciding with the re-opening, Metro Ticket Zones were also introduced replacing the traditional point to point fare structure. The new ticket zones are fairer and simpler and enable customers to purchase season tickets for only the zones they require.

Currently Metro is operating a 12 minute service throughout the day between Wolverhampton St Georges and Edgbaston Village with plans to increase frequency as more trams become available. Within the trams available there are 9 of the new Urbos 100 vehicles and another 1 is undergoing testing and commissioning due to be released for passenger service shortly.

Since November 2021 the operator Midland Metro Limited (MML) has been in discussions/negotiations with Unite the Union regarding the 2022 pay ward. 3 offers have been put forward by MML, all of which were supported by the Union but were rejected at the ballot by members. A ballot for strike action was subsequently undertaken with the outcome in favour of strike action.

MML has proposed using ACAS as a conciliator, but this has been rejected by the Union. The Union have since provided notification of 53 days of strike action starting on the 15<sup>th</sup> October until 5<sup>th</sup> January 2023. MML plan to operate a basic service subject to staff availability and the last offer which includes a 15.1% pay increase for tram crew with 1 year service remains on the table.

## **6. Active Travel**

### *Active Travel Fund (ATF)*

The following schemes are being delivered as part of the Sandwell's ATF Tranche 2 programme (indicative cost of £1.4m):

- Blackheath Town Centre Active Travel Interventions – Reallocation of road space and widening of footway to create a new permanent off-road segregated two-way cycleway along the Blackheath bypass from the Oldbury Rd/Henderson Way junction, along the bypass on A4100 Henderson Way to the High St/John St junction.
- Wednesbury Town Centre Active Travel Interventions - Reallocation of road space to provide a new segregated contraflow cycle lane within the town centre, new permanent footway sections, temporary widening of footways using barriers, new TTRO's and new signage and road marking scheme and decluttering of footways along various roads within the town centre to ensure wider footway space. New cycle parking at selected locations will also be provided.
- Bearwood High Street Active Travel Interventions - adjoining Bearwood Road is Waterloo Road and on the northern side of the High Street is Hadley Stadium sports centre which hosts inclusive cycling projects. On this side of the High Street there will be a reallocation of road space (along Bearwood Rd/Waterloo Rd) to provide a new two-way segregated cycle route from Beaks Road to Hadley Stadium with a Tiger Crossing for cyclists.
- A4123 Corridor (Dudley/Sandwell section) – this is a jointly promoted scheme by Dudley and Sandwell Councils. The scheme involves the provision of a dedicated permanent 2-way cycle route along this 1.2km section of the A4123 corridor running between Tipton Road (A4037) and Burnt tree (A461).

### *Local Authority Capability Fund (LACF)*

TfWM and the local authorities have successfully secured DfT revenue funding from the Local Authority Capability Fund. £1.9m will deliver West Midlands wide regional behavioural change activities and Local Cycling and Walking Infrastructure Plan development. The fund is delivering adult cycle training, cycle maintenance training, plus led cycle rides in Sandwell. LACF is also funding the development of the Black Country Local Cycling and Walking Infrastructure Plan, to which Sandwell has been an active contributor.

### *Cycling for Everyone*

The Commonwealth Games cycling legacy programme Cycling for Everyone is in delivery with a suite of cycling activities to encourage deprived communities to enjoy cycling as an everyday way to travel and stay active. The project includes a bike giveaway, inclusive of adapted cycles, and an intensive community engagement approach to reach new audiences. The project is currently being delivered in Langley, St Paul's, Soho and Victoria wards.

### *Community Cycle Clubs*

In partnership with Cycling UK, Community Cycle Clubs have been set up in Sandwell. As of March 2022, Community Cycle Clubs in Sandwell include Lightwoods Community Club, Smethwick Beat Streets Community Club, Hadley Stadium and Bangladeshi Women's Association.

### *Living Streets Walk to School Programme*

On Friday 21 May 2021, the Department for Transport announced the National allocation of £2.1m towards the continuation of Living Street's Walk to School Outreach Programme. This funding will help more pupils enjoy the fresh air, freedom and fun that walking to school brings in Sandwell. Living Streets will continue to work with us in the West Midlands until 31 March 2023.

Sandwell has 27 schools currently involved in the Living Streets 'Walk Once a Week' Programme.

### *West Midlands Cycle Hire (WMCH)*

West Midlands Cycle Hire consists of 1,500 bikes across the seven Local Authorities, with 10% of the fleet being e-Bikes. Pedal bikes were launched within Sandwell in June 2021, with e-Bikes added to the fleet in December 2021.

Bikes are available to hire across 10 docking stations in Sandwell, focused around West Bromwich. Sites include close to the West Bromwich Metro stop, Sandwell College, High Street and Sandwell and Dudley Rail station. Key statistics/observations from Sandwell have been detailed below for reference:

- Total rides within Sandwell to-date: Pedal bikes, 4,948 journeys; e-Bikes, 518 journeys
- Average ride time per journey – 37 minutes
- Average distance travelled per journey – 3.36km
- Journeys within Sandwell are roughly a 50/50 split between A-A journeys, whereby the user returns the bike to the same dock that they hired it from, and A-B journeys, whereby the bike is returned to a different location. This indicates a good scheme mix between leisure and utility journeys.
- 89% of bikes within Sandwell are returned to docking stations, representing positive customer behaviours. This compares favourably to other regions, where additional staff resourcing is required to return informally parked bikes to docking stations.

## **Walking and Cycling Programme**

### *Development Work Stream*

The Transforming Cities Funded (TCF) A34 strategic feasibility study from Birmingham to Walsall was completed in February 2021 and it was determined that a segregated cycle route is not feasible. Following the approval of a change request, Sandwell will be using the remaining funding to complete a study on the route A457 Corridor, Oldbury Town Centre to Smethwick High Street and Smethwick Galton Bridge Station.

The Outline Business Case for the Wednesbury to Brierley Hill Metro Corridor Access Improvements was submitted by Sandwell and Dudley to WMCA Corporate Assurance and is now approved.

The area under the bridge at the WBHE and A4123 is being widened to accommodate a cycle route and pedestrian access. This has been funded through TCF (£2m) and is being delivered by Midland Metro Alliance.

A third tranche of ATF3 was awarded to WMCA which included additional funding for Wednesbury to Brierley Hill Metro Corridor Access Improvements at stops for cycling. There is also funding for a regional School Streets programme.

TfWM have recently completed a self-assessment for Active Travel England (ATE), which was a requirement ahead of the Capability and Ambition Fund (CAF, formerly Local Authority Capability Fund) and the fourth tranche of ATF. WMCA was awarded a score of 3 overall (out of a maximum of 4) following a submission of evidence. We are one of the few authorities in the country who have received this higher score.

ATE have allocated WMCA £3.1m of CAF pending an application process which was submitted on 30 September. Our bid is ambitious, focusing on increasing local capability for development of active travel schemes.

We anticipate that the next round of funding (ATF4) will be a multi-year settlement, with bidding to open in early October.

## **Delivery Work Stream**

### *Friar Park Public Realm Improvements*

Two applications for the Better Streets Community Fund were submitted within proximity of each other asking for improvements near the Millennium Community Centre and Friar Park Primary School. This project provided improvements at and between these two locations providing a safe and enjoyable space for local people to walk and cycle.

Smethwick Old Church and Dorothy Parkes Community Centre Community Centre Public Realm Improvements

This project improved the public space outside of Smethwick Old Church and Dorothy Parkes Community Centre by reducing traffic speed and making it easier for people to walk and cycle in their local community.

### *Access improvements to existing crossings*

The Better Street Community Fund contributed to improving the accessibility of an existing crossing for cyclists and those with mobility issues by providing small amount of dropped kerb. The crossing in Blackheath forms a part of an existing cycle route between Blackheath and Rowley Regis Train Station and this small improvement will help improve this route.

### *YMCA Cycle Parking*

This project provided public cycle parking outside of the YMCA in West Bromwich Town Centre allowing people attending the YMCA and the wider town centre to be able to park their bikes securely.

### *Workwise*

TfWM's Employment Outreach Lead works with Job Centres to promote discounted travel to those gaining new employment. This approach has been successful and was extended to include libraries, local employers and training providers.

A popular discounted travel scheme is Workwise which offers discounted tickets in the first three months of employment.

The offer includes two 4-week tickets FREE then a third 4-week ticket at a 50% discount from the standard price on selected bus, tram and nNetwork passes.

19 applicants in the Sandwell area were helped with travel to work through Workwise in the last quarter<sup>1</sup>.

The Employment Outreach Lead continues to expand promotion to a portfolio of virtual advertising and engagement activity alongside non-virtual activity. This includes online recruitment events, online jobs fairs and social media engagement tools as well as digital newsletters and information packs.

Non-virtual activity includes attendance at jobs fairs, careers fairs and meetings throughout Sandwell. Partnerships with job centres in the Sandwell area have been established to help provide support for their clients in the transition from benefits to their first pay days in employment.

## **7. Safety, Security and Emergency Planning including Regional Transport Co-ordination Centre**

The Safer Travel Partnership is a collaboration of organisations including TfWM, West Midlands and British Transport Police forces, Transport Operators and the 7 regional local authorities. They work together with the purpose of making the public transport network safer.

The Partnership is responsible for delivering the Safer Travel Partnership's 'Safer Travel Plan' the latest version was agreed with West Midlands Police Crime Commissioner, The West Midlands Mayor and the British Transport Police Authority in March 2022.

Since 2021 Safer Travel have employed 3 Transport Safety Officers (TSOs) whose primary role is to provide a visible presence on the Public Transport Network in the West Midlands, providing good Customer Service to Staff and Passengers to tackle low level Anti-Social Behaviour and improve the perception of safety for users of the

transport network. The approach to be followed by the TSO's can be summarized as Engagement, Education, Encouragement and where necessary Enforcement. This team will be increasing to 12 in November following a successful bid for Bus Service Improvement Plan funding from the Department for Transport.

Since February 2022 the 3 Transport Safety Officers have spent **2789** hours on patrol, had **44912** interactions with passengers and staff, engaged with **5251** passengers and issued **461** verbal warnings, also **15** warning letters have been issued to passengers and users of the bus stations in that time.

The Transport Safety Officers have provided a highly visible presence around the transport interchanges in Sandwell, the three bus stations at Cradley Heath, Wednesbury and West Bromwich, Metro stations and bus shelters and they have travelled on all modes of public transport dealing with issues identified in the Safer Travel Tasking process or by partners. They helped with arrests following a serious of criminal damage offences on the number 45 & 47 bus routes. They have also continued to work closely with West Bromwich Neighbourhood Policing Team to deal with the long-term issue of Street Drinkers at West Bromwich Bus Station with members of the group receiving ASB warning letters and criminal behaviour orders.

RTCC continue to liaise with Sandwell Council Highways team for incidents that also impact National Highways' Strategic Road Network, allowing them to set VMS where available/appropriate, and mitigate on signals to any local approaches. This is most commonly at M5 Junction 1 with the teams in regular communication to ensure any issues that arise at this junction are swiftly responded to. CCTV that was part of the Highways Investment Scheme supports this response.

With the recent extensive roadworks at Dudley Port the RTCC have been giving this part of the network increased focus to ensure any network issues are appropriately supported. The team regularly liaise with the senior permit officer to help mitigate the works and have a strong collaborative and communicative partnership.

The Emergency Planning Team worked closely with Sandwell's Emergency Planning Team in response to the passing of Queen Elizabeth II. Ensuring a coordinated approach to messaging, available transport services, required transport mitigations and sharing of information and intelligence that would assist the response. Both teams liaising closely with the regions Local Resilience Forum to ensure communication and regional awareness is maintained.

## Appendix 1 – Network Monitoring

Monitoring ensures TfWM understands changes in the performance of the transport system arising from schemes, for example the punctuality of public transport, modal usage, patronage and customer satisfaction. Covid-19 has had a major impact on the public transport network, but patronage is now starting to increase across all modes.

### - Headline Measures

The table below shows performance change in August 2022 compared to the previous report (December 2021). Annual data (2020/21 and 2021/22) is also provided where available. Data is annualised (unless stated otherwise) and for the whole of the West Midlands Combined Authority area.

	Dec-21	Aug-22	% Change	2020/21	2021/22	% Change
Bus Punctuality				89.3%	81.4%	<b>-8.9%</b>
Bus Patronage	148.2m	191.8m (July 2022)	<b>+29.4%</b>	97.6m	174.7m	<b>+79.1%</b>
Rail Patronage	30.5m	49.8m	<b>+63.2%</b>	16.7m	39.8m	<b>+137.8%</b>
Tram Patronage	4.3m	4.1m	<b>-2.8%</b>	3.4m	4.8m	<b>+41.0%</b>
Tram Fleet Availability (by month)	94.7%	99.2%	<b>+4.8%</b>	98.8%	93.9%	<b>-5.0%</b>

### Bus

Overall bus patronage in the West Midlands has been falling each month since the beginning of the COVID-19 pandemic, with decreases during the 1st lockdown and increases seen in August, September and October 2020 as lockdown restrictions eased. A further decline in bus patronage was seen in the winter months of November, December and January as the 2nd lockdown was in place. Since January 2021 bus patronage has started to recover each month with current annualised bus patronage (August 2021 – July 2022) standing at 191.8 million an increase of +29.4% compared to 148.2 million in December 2021 (annualised). Bus patronage in 2021/22 increased by +79.1% compared to 2020/21. Monthly bus patronage (July 2022) is now at 73.6% of pre-covid levels.

Bus Punctuality stands at 81.4% of non-frequent bus services operated 'on time' (between 1 minute early and 05.59 minutes late) in 2021/22 compared to 89.3% in 2020/21.

During 2021/22 78% of those surveyed (sample size 926 users) were satisfied with the overall journey experience (Source: Travel Trends and Behaviours Survey 2021/22 Final Year Report, Human Insight, TfWM)

## Rail

Rail patronage has also been impacted by Covid-19. Current annualised rail patronage is approximately -15.8% of pre-covid patronage and stands at approximately 49.8 million per year (an increase of +63.2%). Rail patronage in 2021/22 was 39.8 million (+137.8%) compared to 16.7 million in 2020/21.

During 2021/22 85% of those surveyed (sample size 250 users) were satisfied with the overall journey experience (Source: Travel Trends and Behaviours Survey 2021/22 Final Year Report, Human Insight, TfWM)

## Tram

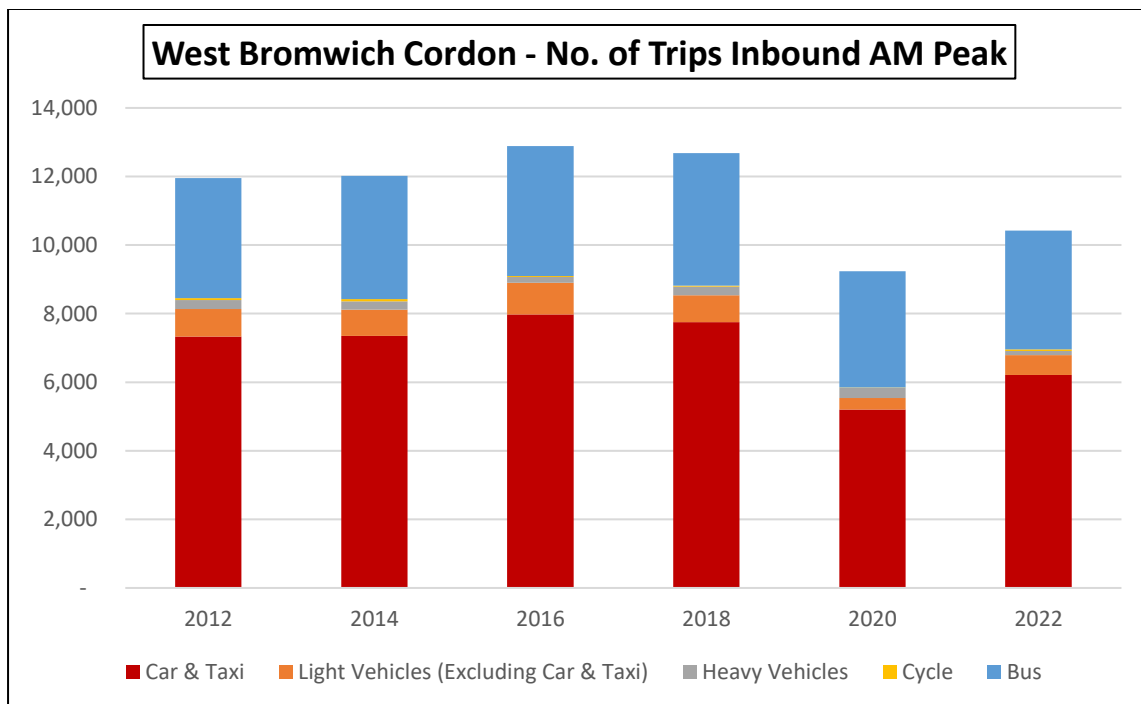
Tram patronage decreased from 8m passengers during the year period April 2019 to March 2020 (pre-covid) and is now 4.1m annually (September 2021 to August 2022), a decrease of -2.8% compared to December 2021. The most recent annual tram patronage (2021/22) is 4.8m, an increase of +41.0% on 2020/21.

Fleet availability (i.e. proportion of rolling stock available as a percentage of the target number needed to run to timetable) stood at 99.2% in August 2022, an increase from 94.7% in December 2021. The average tram fleet availability in 2021/22 decreased by -5.0% compared to 2020/21.

During 2021/22 95% of those surveyed (sample size 139 users) were satisfied with the overall journey experience (Source: Travel Trends and Behaviours Survey 2021/22 Final Year Report, Human Insight, TfWM)

## Modal Share West Bromwich

The latest West Bromwich cordon survey was undertaken in March 2022.





The AM Peak (07.30-09.30) Public transport mode share has decreased slightly in 2022 to 40.0% (bus 35.3%, tram 4.7%) from 40.4% in 2020, mainly due to an increased in trips using private vehicle modes (except heavy vehicles) and a decrease in tram trips.

Bus trips have increased by +2.0%, cycle trips by +370% (37 extra cycles), car and taxi by 19.4% and light vehicles by +73.2%.

Heavy vehicle trips decreased by -58.4% and tram trips by -18.6%. Overall public transport trips decreased by -0.9%.

Overall, all trips into West Bromwich (March 2022) have increased by +11.0%. The previous survey in West Bromwich was in March 2020, 2 weeks before the national lockdown.

Further details on modal share for all strategic centres can be found here: <https://community-engagement-tfwm.hub.arcgis.com/pages/modal-split>

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Report to Sandwell Metropolitan Borough Council

Date: October 2022

## **West Midlands Police and Crime Panel – Update October 2022**

### **1 Purpose of the Report**

- 1.1 Bi-annual reports on the activities of the West Midlands Police and Crime Panel are presented to Sandwell MBC for consideration. This report reflects on the work of the Panel between February 2022 and October 2022.
- 1.2 Sandwell is represented on the Panel by Cllr Zahir Hussain and Cllr Danny Millard. Cllr Richard McVittie is a named substitute member.

### **2 Recommendation**

**It is recommended that the information contained in the report be noted.**

### **3 Role of the Police and Crime Panel**

- 3.1 The Panel is a joint scrutiny body of the West Midland authorities with a dual role to 'support and challenge' the work of the Police and Crime Commissioner (PCC).
- 3.2 The Panel acts as a critical friend to the PCC on behalf of West Midlands residents and must perform the following statutory functions:
  - Review and comment on the PCC's draft Police and Crime Plan.
  - Review the PCC's Annual Reports.
  - Scrutinise decisions and actions by the PCC.
  - Review (with the power to veto) the PCC's proposed Council Tax precept.
  - Hold confirmation hearings before the PCC makes certain senior appointments (Chief Constable, Deputy PCC, Chief Executive and Chief Finance Officer), with the power to veto the Chief Constable appointment.
  - Handle non-criminal complaints about the conduct of the PCC and Deputy PCC, referring serious complaints to the Independent Office for Police Conduct (task delegated to the Birmingham Monitoring Officer).
  - Appoint an acting PCC if required.
  - Suspend the PCC if charged.
- 3.3 The Panel's work programme consists of statutory tasks (listed above) and wider exploratory work to build knowledge and insight into the strategic policing and the wider community safety and criminal justice landscape to fulfil its role to hold the PCC to account.
- 3.4 The Panel must maintain a strategic focus in scrutinising the work of the PCC, rather than operational detail.

### **4 Panel Membership**

- 4.1 The Panel consists of 12 councillors representing the 7 West Midland districts. The membership reflects the political balance of the region and are appointed annually. Named substitutes are appointed for each councillor member. Two independent members also

serve on the Panel who were appointed following a regional advertisement and competitive interview process.

- 4.2 The Panel elected Councillor Suky Samra (Walsall MBC) as Chair and Kristina Murphy (Independent Co-opted Member) as Vice Chair for the 2022/2023 Municipal Year.

## 5 Meetings and agenda papers

- 5.1 Meeting papers, meeting dates, published reports, together with more information about the Panel can be found on the Panel's website: [www.westmidlandspcp.co.uk](http://www.westmidlandspcp.co.uk). Meetings are livestreamed for the public.

## 6 Panel Resources and Officer Support

- 6.1 The Panel continues to operate within the limits of the Home Office Grant. The Panel agreed in 2012 that members would not use this to draw special responsibility allowances, but travel and carer expenses can be claimed.
- 6.2 Dudley MBC's Chief Executive provides lead officer support. Birmingham City Council acts as secretariat and provides legal support. Solihull MBC supports the Panel with its scrutiny of the PCC budget and precept.

## 7 Highlights October 2021 – February 2022

- 7.1 **February 2022:** Panel members attended a briefing on the PCC's Performance Monitoring Framework in preparation for consideration of the first set of performance data in March. A group of Members also visited Lloyd House and received briefings on the Commissioning, Audit, Communications and Policy team functions of the Office for the Police and Crime Commissioner, toured the WMP Force Contact and had a demonstration of the mobile technology used by police officers.
- 7.2 **March 2022:** Chief Constable Sir David Thompson attended the Panel meeting and answered questions from Panel members a range of key priorities and the context that policing working within, including progress toward recruitment targets, actions to address public confidence in the police, tackling vehicle crime and violent crime, and the capacity of the police contact centre to meet increasing demand.
- 7.3 **March – May 2022:** The Panel Chair sat as an observer on the new Chief Constable selection and interview process.
- 7.4 **May 2022** - the annual appointment process of panel members saw a 50% turnover of councillor panel members.
- 7.5 **July 2022:** The Panel conducted a Confirmation Hearing for the new Chief Constable of West Midlands Police. The Panel has a key role in the appointment process by holding a public hearing to question the preferred candidate to assess their suitability. The PCC must then have regard to the Panel's recommendation. The Panel recommended the PCC appoint his preferred candidate.
- 7.6 **October 2022:** Panel is tracking the progress towards implementation of the recommendations contained in the Panel scrutiny inquiry *Public Confidence in the Police*. The inquiry sought to understand why the level of public confidence in West Midlands Police had fallen and examine what the PCC could do to address the factors that had an impact.

7.7 The report containing 10 recommendations for the PCC to consider is available on the panel website. [www.westmidlandspcp.gov.uk](http://www.westmidlandspcp.gov.uk)

## **8 Forward Plan**

8.1 As Panel shapes its work programme for the 2022/2023 Municipal Year to assess the impact, actions and decisions of the PCC, there are opportunities for further dialogue and closer working with local scrutiny committees.

### **Background Papers**

West Midlands Police and Crime Panel Minutes and Agenda: [www.westmidlandspcp.co.uk](http://www.westmidlandspcp.co.uk)

### **Contact officers:**

Panel Lead Officer: Kevin O' Keefe Chief Executive Dudley MBC

Overview and Scrutiny Manager (Birmingham City Council): Amelia Murray (07825 979253)

Scrutiny Officer (Birmingham City Council): Sarah Fradgley (0121 303 1727)

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# Report to Council

**8 November 2022**

<b>Subject:</b>	West Midlands Combined Authority - Update
<b>Director:</b>	Director Regeneration & Growth Tony McGovern
<b>Contact Officer:</b>	Senior Lead Officer, Jane Alexander Jane_Alexander@sandwell.gov.uk

## 1 Recommendations

- 1.1 That Council notes the update report and is asked to consider any other opportunities for the Borough arising in connection with the West Midlands Combined Authority.







## 2 Reasons for Recommendations

- 2.1 Being a constituent member of the West Midlands Combined Authority offers Sandwell Council access to funding and initiatives that positively impact the borough and the people of Sandwell.



### 3 How does this deliver objectives of the Corporate Plan?

Participation as a constituent member of the West Midlands Combined Authority offers opportunity to contribute positively to all strategic outcomes contained in the Corporate Plan.

	Best start in life for children and young people
	People live well and age well
	Strong resilient communities
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell

### 4 Context and Key Issues

#### Governance

4.1 At its Board meeting on 10 June 2022 appointments were made to Combined Authority Portfolio Areas:

#### Portfolio

Deputy Mayor  
 Culture & Digital  
 Economy & Innovation  
 Environment, Energy & HS2  
 Finance  
 Housing & Land  
 Inclusive Communities  
 Levelling Up  
 Skills & Productivity

#### Lead Member

Cllr Bob Sleigh (Solihull)  
 Cllr Patrick Harley (Dudley)  
 Cllr Ian Brookfield (Wolverhampton)  
 Cllr Ian Courts (Solihull)  
 Cllr Bob Sleigh (Solihull)  
 Cllr Mike Bird (Walsall)  
 Cllr Kerrie Carmichael (Sandwell)  
 Cllr Brigid Jones (Birmingham)  
 Cllr George Duggins (Coventry)





- 4.2 The Leader of Sandwell Council has held the position of chair of the Public Service Reform Board since the WMCA was established in 2016. WMCA reviewed the function of this board and agreed that decisions relating to public service reform could be taken by the WMCA Board. Therefore, this Board has been discontinued and the Leader of Sandwell Council is now the Portfolio Lead for Inclusive Communities.
- 4.3 Sandwell Council, at its annual meeting on 24 May 2022, appointed the following members to represent the Council on WMCA fora:-

<b>Committee</b>	<b>Member/s</b>
WMCA Board	Leader of the Council - Cllr Kerrie Carmichael Deputy Leader of the Council - Cllr Bob Piper Substitutes: Cabinet Member for Communities - Cllr Danny Millard Cabinet Member for Leisure and Tourism - Cllr Laura Rollins
WMCA Overview & Scrutiny Committee	Cllr Simms Cllr Taylor
WMCA Audit & Risk Assurance Committee	Cllr Allen Substitute: Cllr Padda
WMCA Environment Committee	Cabinet Member for Environment Services - Cllr Zahoor Ahmed
WMCA Investment Board	Cabinet Member for Finance and Resources - Cllr Bob Piper
WMCA Strategic Economic Delivery Board	Cabinet Member Leisure and Tourism - Cllr Laura Rollins
WMCA Growth Company	Leader of the Council - Cllr Kerrie Carmichael
City Deal, Growth Deal and WMCA Advisory Board	Cabinet Member for Regeneration and Growth - Cllr Hughes
WMCA Housing & Land Delivery Board	Cabinet Member for Housing - Cllr Charn Singh Padda



- 4.4 The council is committed to maximise Sandwell influence, funding and wider benefits through working collaboratively and positively with the WMCA.

### Trailblazer Devolution Deal

- 4.5 WMCA and Manchester Combined Authority were invited by the Department for Levelling Up Housing and Communities to engage with them on a Trailblazer Devolution Deal (TDD) process, where they will be given the opportunity to negotiate with central government on achieving tailored devolved powers and devolved funding on a basis of what will be most beneficial for their given geographies and systems. As part of this process both combined authorities were asked to articulate how their TDD proposals will help to achieve the 12 Levelling Up missions, set out by government.
- 4.6 To address these 12 Missions, WMCA have broken down the development of their TDD into 20 separate strands. The Combined Authority has been working in partnership across the region to draw up proposals for each strand.
- 4.7 The Council has clearly articulated its “asks” from this TDD process. The priority ask from the TDD is for significant and new levels of support via different funding models, devolution of relevant capital funds and new partnerships with the Combined Authority, Private Sector and Central Government to tackle the most difficult issues that will deliver material progress on net carbon zero. This would generate a major regeneration boost for the borough in terms of new employment, new skills opportunities, SME start ups and the development of new technologies.
- 4.8 A summary of the proposals across the 20 workstreams and their benefits have been compiled into a Levelling Up Prospectus. Bilateral meetings between local authority leaders, chief executives and representatives of the WMCA took place in September to discuss the proposals.



4.9 It is uncertain what the change in government administration may mean for the TDD and Levelling Up agenda. Whatever fiscal decisions are taken in the future, the region will be in good position to articulate its needs to the new administration, having developed their TDD proposals.

### **City Region Sustainable Transport Settlement (CRSTS)**

4.10 Local authorities in the region have been working with the WMCA to establish the West Midlands City Region Sustainable Transport Settlement (CRSTS). The current West Midlands submission stands at £1.732m to reflect the ambitions of the area and to allow a deliberate level of over programming. The fund will be wholly capital in nature but is supported by a supplementary revenue fund of £8.9 million which has been received by WMCA.

4.11 CRSTS, especially when viewed alongside Active Travel and Bus Service Improvement Plan funding, provides an opportunity to plan improvements to the transport system in a more integrated way and over a more realistic delivery period, rather than quick turn-around, competitive and relatively small national funding pots.

4.12 The schedule of projects includes many projects that either sit within Sandwell or impact on transport provision in Sandwell, such as Dudley Road corridor highway improvements, cross city bus priority, integrated transport hub at Dudley Port and new cycle infrastructure.

### **UK Shared Prosperity Fund (UKSPF)**

4.13 UKSPF is a central pillar of the UK Government's Levelling Up agenda. Its primary goal is to build pride in place and increase life chances across the UK, with three key investment priorities around 'Community and Place', 'Supporting Local Business', and 'People and Skills'.

4.14 WMCA has been identified as the lead authority and accountable body for UKSPF across the seven local authority metropolitan area, with responsibility for developing its investment plan, and for delivery of the Fund. WMCA has been leading a strategic approach, working with local authorities to identify local and regional investment priorities that support the region's levelling up ambitions.



- 4.15 The overall UKSPF allocation for the region is £88.5m over the period 2022-2025. It is critical that the funds are allocated where they can have most impact for places, residents, and businesses across the region.
- 4.16 The July WMCA Board approved the submission of an outline initial investment plan, recognising the need for further work to be undertaken to determine priorities, local allocations, and administrative costs. This outline investment plan was based on the working assumption that:
- Up to 50% of UKSPF funds would be focused on 'Supporting Local Business' - to provide support to local businesses. WMCA say this will be developed with and by LAs, to ensure a broadly consistent approach to supporting businesses across the region, whilst also ensuring support is locally targeted and embedded with local delivery arrangements (eg in local authorities), complementing other local support and services to businesses.
  - 50% would be prioritised individually by local authorities, particularly in terms of directing local place and communities, and people and skills provision.
- 4.17 The WMCA allocation is based on a national approach that adopted a 70:30 methodology, of population and 'need/economic resilience'. Sandwell council have raised concerns regarding the UKSPF funding allocation methodology, in that deprivation is not the material factor in the methodology. Sandwell's position is that the UKSPF goal to build pride in place and increase life chances across the UK can only be delivered if funding is allocated in a way that more fully reflects the deprivation status of the different LAs across the West Midlands.
- 4.18 The Government guidance on UKSPF identified an indicative allocation of £9.7m for Sandwell over a three year period and is a mix of capital and revenue. Skills investment can only happen in Year 3 of the programme. WMCA is the lead body for allocation of UKSPF and following the Board decision on 28 October, the position for Sandwell is as follows:
- Local allocation of £4.7m for Sandwell over three years to support local Place / Skills / Business priorities
  - Plus £2.3m business support resources for SME advisors at LA level over 3 years
  - Plus some percentage of the £3m administration cost for implementing SPF schemes



- Plus potential benefits to Sandwell businesses from the Specialist Business Support Programmes at CA / Regional level – e.g. the Decarbonisation Programme.
- The final elements of potential benefit is where the CA have identified MULTIPLY funding and some Adult Education Budget could be allocated to more deprived LAs to compensate for the low weighting that need / deprivation has been given in the SPF allocation process.

## Investment Zones

- 4.19 Since taking office, the new Government's focus has been on the recently announced Investment Zones. Investment Zones aim to drive growth and unlock housing, with sites benefiting from tax incentives, planning liberalisation and wider support for the local economy.
- 4.20 The WMCA is co-ordinating the process for submission of expressions of interest for Investment Zones and is working closely with local authorities to identify the most appropriate locations.
- 4.21 The Council has submitted proposals to create a Sandwell Investment Zone along the new Metro extension currently under construction. The new Metro extension extends from Wednesbury through Great Bridge, Dudley Port and Tipton. Each of the seven West Midlands' local authorities have identified their own preferred areas for Investment Zones.
- 4.22 The Zone could attract substantial private sector investment generating new jobs and economic growth for Sandwell. If approved the six areas in a Sandwell Investment Zone could include:
- Wednesbury town centre – for housing led mixed use developments;
  - Tipton town centre – for new housing;
  - Hill Top, West Bromwich – bringing forward land for new employment uses;
  - Great Bridge – opportunities for new employment and housing sites;
  - Dudley Port – supporting the delivery of new housing and employment floorspace;
  - Coneygre, Tipton – delivering new employment opportunities through new industrial/ logistics floorspace.





## Employment and skills

4.23 Sandwell MBC plays an active role in the WMCA Employment and Skills officers group; the meeting includes representatives from all local authorities and local enterprise partnerships. This group also considers regional approaches and best practise sharing across the local area, with each local authority having their own Employment and Skills partnership to feed information to and from. The partnership has recently worked alongside WMCA on the shaping of the investment plan for UKSPF specifically for the People and Skills and Communities and Place pillars. Workshops have also taken place to assess the Employment Support offers in local areas, identifying gaps in order to feed into the devolution deal asks.

## NEET reduction

4.24 Connexions is working with WMCA and Colleges West Midlands to develop and oversee the roll out of a pan-regional strategy to reduce NEET in West Midlands. The purpose is to target a reduction in NEET of an average of 10% across the West Midlands between July 2021 and July 2022. Responsibilities of those in the NEET strategy group is to work collaboratively with key partners to drive the high-level strategy for NEET reduction and to gather knowledge and learn from impactful NEET strategies in other regions. The meeting is not always well attended by all Local Authorities but Sandwell always ensures to have a presence.

4.25 There is also a NEET Intervention Partnership aligned to the Black Country region to understand, evaluate and foster more effective collaborative working between colleges, Local Authorities, careers and schools and feed insights into a pan-regional model. The WMCA Careers lead also attends this group.

## Adult Education Budget 2022-2025 Strategy

4.26 WMCA has recently issued its Adult Education Budget 2022-2025 Strategy. It sets out their vision for a responsive and flexible adult skills offer which will support a people-centred approach to ensure that the skills needs of businesses are met and that everybody can benefit from economic growth.



4.27 WMCA key priorities are:

1. Getting residents into employment
2. Upskilling and reskilling to respond to the regional economy and net zero
3. Providing a good basic education up to Level 2 for those who need it and increasing higher-level provision in all local authority areas to ensure a good balanced offer is in place
4. Supporting our communities to be stronger and benefit from inclusive growth
5. Ensuring there is a strong Community Learning offer in place, which addresses digital inclusion, family learning, sustainability and health & wellbeing.

4.26 WMCA intends to continue to collaborate closely with local stakeholders, including DWP and Local Authorities to work towards a place-based approach for local communities. They will continue to collaborate with Colleges West Midlands, the West Midlands Provider Network and ACLA to deliver the Adult Education Budget. WMCA strengthen their employer and sector body collaboration to ensure provision will increasingly be aligned to economic and employer needs.

## Net Zero

4.27 WMCA are progressing several schemes to address retrofitting of homes and improving green spaces that Sandwell will be able to benefit from and the council continues to work with WMCA to identify sources of funding.

4.28 Sandwell's application to the Net Zero Neighbourhood Programme was unsuccessful, but as a result of the initial funding from the WMCA we now have a well scoped proposal for Tipton Green. Despite not receiving the full funding, WMCA continue to work with us to develop the project and have outlined that there will be further opportunities to apply for funding in the future.

4.29 A Community Green Grants scheme was launched to support small community groups with grants to develop existing green spaces and tree planting to improve the natural environment. The Council continues to promote this scheme locally with community groups. These grants also complement our own Climate Change grants for community groups in



Sandwell, and both sources of funding will allow for a range of green projects to take place in the Borough.

## **Wednesbury to Dudley (Phase 1) (Brierley Hill- Phase 2) Metro Extension**

4.30 The 11km extension will branch off the current West Midlands Metro line just east of the Wednesbury Great Western Street Metro stop, before heading through Tipton and Dudley on its way to Brierley Hill. The extension will be delivered in two phases with the first to Dudley town centre expected to open for passenger services in 2024. The second phase will see the route further extended to Brierley Hill at the earliest opportunity. This phased approach is due to a combination of factors including a rise in construction and energy costs, at the same time as a reduction in the farebox income as a result of the Covid pandemic. This is the largest transport investment in the Black Country with a scheme value of circa £450m.

4.31 There are plans for up to 14 trams stops along the route:

- Phase one will see up to nine new stops from Wednesbury to Flood Street, Dudley
- Phase two will include the addition of five stops between Flood Street and Brierley Hill, with provision for one additional stop

4.32 Investigations are taking place as to whether sections of the route can be operated using batteries rather than traditional overhead wires. An additional Metro depot will be needed to accommodate the extended fleet of trams that will run services on all of the planned extensions.

4.33 The headline benefits of this route are...

- Attracting investment and regeneration to Sandwell and Dudley, and in phase two, Brierley Hill
- An important driver for this route is the creation of a link from this part of the Black Country to HS2 and everywhere in-between supporting economic growth by linking jobs and people
- The Wednesbury to Brierley Hill Extension will enhance public transport accessibility across the Black Country as a whole and reduce journey times as well as improve air quality and reduce noise





- 4.34 Main construction for the first phase of the scheme to Dudley town centre got underway along one side of Castle Hill in March 2020. Since then, much activity has taken place, including utility upgrades and diversions, removal of the existing road surface, creation of concrete track beds, installation of ducting for system integration and a total of 350 metres of rail laid. The team is currently replicating this activity on the opposite side of the street together with preparatory work on Flood Street.
- 4.35 Meanwhile, a number of aged railway bridges along the route were replaced in 2021 to make way for new purpose-built structures which are fit for a modern tramway. Further bridge replacement works will also take place in Sandwell later in 2022.
- 4.36 The metro extension from Wednesbury through Tipton also represents a 'growth corridor' for Sandwell Metropolitan Borough Council and is the geography upon which our recent expression of interest for a Investment Zone is based.

### **West Bromwich Town Centre Regeneration and Bull Street MSCP Demolition**

- 4.37 Following completion of the MSCP demolition in 2021, the outline business case was finalised in January 2022. This outlined potential future delivery options across the site and will be used to attract investment and steer design. This business case has been supported by senior officers within both SMBC and WMCA.
- 4.38 Design work to improve the site hoardings has been agreed with the WMCA and is underway. This work is expected to be complete early October 2022.
- 4.39 Future delivery options are being explored by officers independently but also as part of a wider development opportunity as part of the Retail Diversification Programme for which SMBC successfully secured funding in 2022 through the Towns Fund.

### **Friar Park Housing Development**



- 4.40 SMBC and WMCA are jointly preparing a Masterplan for Friar Park. This will outline the vision for the area and will help to provide confidence to investors and developers. It is anticipated that a period of public consultation will occur late 2022 and, subject to approval, will be ratified in early 2023. Key stakeholders will also be invited to provide early engagement with the process.
- 4.41 SMBC and WMCA will consider how to take the site forward taking into account the outcome of the public consultation and the strategic needs of the Borough. Viability will be an ongoing challenge due to the level of remediation required.

### **One Public Estate**

- 4.42 One Public Estate (OPE) is a national programme, started in 2013 delivered by the Cabinet office and the LGA, now administered by WMCA.
- 4.43 The OPE programme is to offer technical support to deliver property focused programmes across the public sector. OPE is looking to promote a strategic asset approach to get more from public assets.
- 4.44 SMBC has been successful with an OPE bid. The total Sandwell bid is £150,000 of which the Council contribution would be £30,000. The first part of the commission, a heritage assessment for West Bromwich Town Hall is now complete. The Council is about to commission the second element of the OPE funded work, which is a planning framework for Carters Green, linking to the approved West Bromwich High street Master Plan.
- 4.45 The proposal centres around West Bromwich Town Hall and Central Library, as we can demonstrate strategic links to the West Bromwich Town Fund proposals, our own transforming local services programme and the collaborative working plans with the NHS. We are exploring further small scale OPE funding which would support a ICT upgrade at the Town hall allowing the whole public sector to access desk space at the Town hall.



4.46 Joint working with the NHS is progressing well. The NHS have now moved into the third floor of Sandwell Council House . Discussions are taking place between the council and NHS about further sharing of space.

## 5 Alternative Options

5.1 Become a non-constituent member of WMCA - Participation as a constituent member of the WMCA enables Sandwell to deliver improvements to the locality that would otherwise be more difficult to achieve. In addition, through WMCA activity, we can ensure that Sandwell residents have the skills to access new employment opportunities both here in Sandwell and across the region, with excellent public transport available connecting the whole of the West Midlands. These benefits would be lost if Sandwell became a non-constituent member.

## 6 Implications

<b>Resources:</b>	The contribution to the Combined Authority from Sandwell Council for 2022/23 is £0.611 million.
<b>Legal and Governance:</b>	Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to exercise specified functions of a local authority under sections 104 and 105 of the 2009 Act, and power to exercise specified functions of any other public authority under section 105A of the 2009 Act.
<b>Risk:</b>	Section 21 of the West Midlands Combined Authority (Functions and Amendments) Order 2017 has the effect that where costs are incurred by the Combined Authority and are not met from other sources of income, then they fall to be met by the seven constituent councils, including Sandwell.



<b>Equality:</b>	The priorities of the West Midlands Combined Authority reflect the equality and diversity of the West Midlands, including striving to create prosperity through a strong and collective economic strategy and the policy aspiration to champion all that makes the West Midlands a Great Place to Live. The equality impact of any specific proposals will need to be addressed in reports to the WMCA Board or the appropriate decision-making body.
<b>Health and Wellbeing:</b>	All constituent members of the WMCA are be better placed to contribute and influence the Health and Social Care offer for local residents and create: <ul style="list-style-type: none"> <li>• A more sustainable local health and care economy;</li> <li>• Improved quality and experience of care;</li> <li>• Improved population health.</li> </ul>
<b>Social Value</b>	There is potential in all schemes and initiatives, particularly those delivered directly in Sandwell, to have a positive impact on Social Value.

## 7. Appendices

None

## 8. Background Papers

None



**8 November 2022**

The following summary reports relate to those minutes of the Cabinet which contain a recommendation to the Council.

<b>Meeting Date</b>	<b>Subject</b>
28 September 2022	Proposal to Declare the Whole of Sandwell as a Smoke Control Area



# Report to Cabinet

**28 September 2022**

<b>Subject:</b>	Proposal to Declare the Whole of Sandwell as a Smoke Control Area
<b>Cabinet Members:</b>	Councillor Suzanne Hartwell Cabinet Member for Adults, Social Care and Health
<b>Director:</b>	Public Health, Lisa McNally
<b>Key Decision:</b>	Yes. The decision affects communities living or working in an area comprising two or more wards or electoral divisions in Sandwell
<b>Contact Officer:</b>	Senior Environmental Health Officer (Air Quality) Elizabeth Stephens Elizabeth_stephens@sandwell.gov.uk

## 1. Recommendations

- 1.1 That the results of the public consultation on the Proposal to Declare a boroughwide Smoke Control Area as detailed in **Appendix 1** be received.
- 1.2 That the Council be recommended to approve Sandwell MBC 'Declaring' the whole Borough of Sandwell as a Smoke Control Area (SCA) under the Clean Air Act 1993 and replace the existing 51 Smoke Control Areas and ensure that all properties in the Borough are subject to the same legal requirements in relation to the prevention of smoke from building chimneys.
- 1.3 That subject to 1.2 above, the Director of Public Health be authorised to revoke the existing 51 Smoke Control Orders and making a single Borough-wide Smoke Control Order, with the Smoke Control Area

2





coming into operation on the date specified in the Order which will not be earlier than six months from the date of confirmation.

## 2 Reasons for Recommendations

### Legal Duty

- 2.1 As a Council we have a legal duty to assess local air quality and where necessary take appropriate action to protect the health of those living and working in the Borough. The declaration of a borough-wide Smoke Control Area is just one of a range of measures that Sandwell Council can implement to help reduce the exposure of all its communities to the harmful smoke emissions created by domestic solid fuel burning.
- 2.2 The process of creating a borough-wide Smoke Control Area is not a quick process and it can typically take several years to bring into full effect. This is due to the legal processes that must be adhered to, as well as the robust level of scrutiny required to ensure a fair and transparent assessment is undertaken. It has been particularly important to ensure that residents and businesses within Sandwell are adequately informed about the proposal and that they understand the reasons for it and its implications. We have a duty to ensure that all our stakeholders have been given sufficient time to raise any objections. The full timetable for implementing the borough-wide SCA proposal is provided in **Appendix 3**. The first ten steps on this timetable have now been completed, the next step, step No.11, requires Cabinet approval to issue the Order to 'Declare a Borough-wide Smoke Control Area'. If agreed by Cabinet and then full Council, the Order can be made and then be formally advertised for six weeks. If no formal objections are received, the borough-wide Smoke Control Area would come into effect no sooner than 6 months after the date on which the Order is signed.
- 2.3 A 6-week public consultation on the 'Intention to Declare a Borough-wide Smoke Control Area' has now been completed as requested by full Council in December 2021. The initial report presented to Council in December 2021 outlining the SCA proposal and supporting evidence

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is available on Sandwell Council's Modern.Gov Website or by clicking [here](#).

- 2.4 No formal objections have been received to the proposal following both formal advertisement and the public consultation in May and June 2022. A discussion of the results of the public consultation are provided in section 4 of this report and the full results of the report are provided in **Appendix 1**.
- 2.5 The results of this public consultation have been subject to scrutiny by the Director of Public Health and the Cabinet Member for Adults Social Care and Health who maintain their support for this proposal.

### **Protecting Public Health**

- 2.6 Sandwell currently has 51 separate Smoke Control Areas, by extending the SCA to cover the whole of the borough all neighbourhoods will be protected against harmful smoke emissions, at present homes and businesses in approximately 4/5ths of the borough can still legally burn unauthorised fuels (i.e. wood and coal) in non-exempt appliances and on open fireplaces. A borough-wide SCA would address this inequality.
- 2.7 Domestic burning of wood and coal is the main source of man-made PM<sub>2.5</sub> in urban areas like Sandwell. Contrary to popular belief, road transport makes up about 13%.
- 2.8 PM<sub>2.5</sub> has a significant impact on human health, it can cause coughs, dizziness, inflamed airways and shortness of breath. It can increase the risk of pneumonia, COPD and lung cancer as well as heart disease and stroke leading to early death. It can also impact pregnancy and the development of children's lungs.
- 2.9 Scientific research clearly demonstrates that burning even untreated, bare wood produces smoke that contains a harmful mix of gases and fine particulate matter (PM<sub>2.5</sub>). The dangerous gases produced during

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domestic burning include benzene, formaldehyde, acrolein and polycyclic aromatic hydrocarbons (PAHs). If we continue to allow people to burn 'whatever they want' we are condoning the exposure of our population to a harmful cocktail of chemicals.





- 2.10 The social and economic benefits of implementing a boroughwide smoke control area are far reaching and its potential to have a positive impact on public health clearly outweighs any initial set up costs or its future enforcement.
- 2.11 Although wood burning stoves in the UK only account for 6% of energy consumption they make up to 40% of the UK's social-health related costs from home heating. Social-health related social costs are calculated using direct (health care) expenditures (e.g. hospital admissions, loss of working days) and indirect health impacts and accompanied welfare loss (e.g. managing diseases such as COPD, increased mortality risk and reduced life expectancy due to air pollution).
- 2.12 The average yearly social-health related cost of heating a household using a wood burning stove in the UK is £670.00, compared with £26.50 for non-condensing gas boiler and £17.50 for a condensing gas boiler. Whilst the average social-health related cost of driving a diesel car for one year is £185.85 compared with £670.00 for one wood burning stove. (European Public Health Alliance (2022)).
- 2.13 According to the 2021 census data there are now 130,200 households in Sandwell, and government research estimates that 8% of households in the UK have wood burning stoves. Based on these figures the yearly social-health related costs in Sandwell from wood burning stoves could amount to circa £6,978,720.00. Requiring all households in Sandwell to either use a Defra exempt stove and/or authorised fuels could significantly reduce this health cost burden.



- 2.14 The implementation of a borough-wide SCAs is not an uncommon or unusual tool to use to protect air quality, in the West Midlands, for example two of our neighbouring authorities, Birmingham and Dudley already have them in place.
- 2.15 At a time of steeply rising fuel prices the likelihood of residents resorting to wood and coal burning as alternatives to gas and electricity for home heating is likely to rise. Although unauthorised fuels and non-exempt stoves may offer financial savings for at a time of high inflation and rising energy costs, their use comes with a huge social-health related cost. As a council we should not be knowingly allowing residents to sacrifice their own health and the health of others around them, just because unauthorised fuels are cheaper. As a Council we need to assist residents who are struggling with the cost of heating and will face fuel poverty this winter by helping them to find clean and safe ways to heat their homes instead. This includes providing information and advice not only where they can get practical and financial help, but also energy efficiency measures that are likely to provide year on year savings. Supporting those on a low income and in receipt of government benefits is particularly important, for example many residents will be unaware that they are entitled to help towards home insulation and boiler replacement. Examples of further information on financial support and information on energy saving is provided in **Appendix 5**.
- 2.16 By creating a borough-wide SCA we will continue to raise general awareness about the risks to health from domestic burning and particularly the risks to those breathing in smoke from unauthorised fuels including wood and coal. This messaging is essential if we are to prevent this adding to the burden of health issues being experienced in Sandwell.



### 3 How Does This Deliver Objectives of The Corporate Plan?

	<p><b>Best start in life for children and young people</b>          Young children face a greater risk to their health from ultrafine particulate emissions (PM<sub>2.5</sub>) which is strongly associated with domestic burning and is the largest source of ultrafine particulate matter in urban areas. Exposure to PM<sub>2.5</sub> is shown to have both short and long-term impacts, including respiratory illnesses and impaired lung and cognitive development in children.</p>
	<p><b>People live well and age well</b>          Air pollution is a key threat to the health of our population and a driver of health inequalities. Addressing air pollution will reduce health inequalities and increase both the perceived and actual position of Sandwell as a cleaner and safer place to live.</p>
	<p><b>Strong resilient communities</b>          Addressing air pollution and in particular PM<sub>2.5</sub> will contribute towards improving the overall health and resilience of our communities.</p>
	<p><b>Quality homes in thriving neighbourhoods</b>          By providing a SCA that is Borough wide, all neighbourhoods in Sandwell would be afforded the same level of protection from harmful emissions that are created by the burning of solid fuels in domestic properties and businesses.</p>

### 4 Context and key issues

#### History of Smoke Control Areas in Sandwell

4.1 The 1956 Clean Air Act (CAA) originated out of the London smogs in the 1950s. In December 1952 a particularly severe London smog that lasted five days, caused an estimated 12,000 additional deaths and finally led to the creation of the 1956 Clean Air Act. This allowed for



the creation of Smoke Control Areas, initially to reduce smoke from coal burning.

- 4.2 The 1993 Clean Air Act consolidated two previous CAAs and allowed for Smoke Control Areas to also be used to ban emissions from smoke from domestic premises. When the Metropolitan Borough of Sandwell was formed in April 1974 it inherited 51 separate Smoke Control Areas from the previous county authorities of Warley and West Bromwich.
- 4.3 The Clean Air Act 1993 enables local authorities to declare the whole or parts of the district as a Smoke Control Area (SCA) through a Smoke Control Order. Where an SCA exists, residents will not be able to emit smoke from a chimney and are required to use authorised smokeless fuels or 'exempt appliances'. A fine of up to £350.00 can be issued for breaking the rules. The use of an SCA is a key control for Sandwell in minimising harmful smoke emissions from residential and small-scale combustion plants.
- 4.4 A new single Smoke Control Area would ensure that all properties in the borough are subject to the same legal requirements in relation to smoke control under the Clean Air Act 1993.

### **Relevance of Declaring the Whole of Sandwell a Smoke Control Area in 2022**

- 4.5 In recent decades the main air pollutant of concern in Sandwell has been nitrogen dioxide (NO<sub>2</sub>) which is closely correlated with road transport. In 2005 Sandwell was declared an Air Quality Management Area due to exceedances of NO<sub>2</sub> across the Borough. Emissions from NO<sub>2</sub> have significantly decreased due to improvements in vehicle technology as well as decreased industrial emissions, but now there is now growing concern about the levels of PM<sub>2.5</sub> in Sandwell and the associated health impacts.



- 4.6 Estimates of Particulate Matter (PM<sub>2.5</sub>) at three monitoring sites in Sandwell in 2019 demonstrated levels above the World Health Organisation guidelines of 10µg/m<sup>3</sup>. With no known safe level for PM<sub>2.5</sub> the short and long-term impacts on health are significant. There is strong evidence that air pollution causes the development of coronary heart disease, stroke, dementia, respiratory disease and lung cancer, and it both causes and exacerbates asthma.
- 4.7 The government revised its figures for the sources of PM<sub>2.5</sub> in 2020. Although some PM<sub>2.5</sub> (approximately 13%) comes from transport a substantial proportion (approximately 25%) is still from domestic burning.
- 4.8 The contribution of PM<sub>2.5</sub> from small combustion sources such as domestic stoves and fireplaces is growing. This is of concern because when there is a concentration of small combustion emissions from burning activities in an urban area, these emissions have a more significant population impact than burning in sparsely populated rural areas.

### **Public Consultation and Advertising Sandwell Council's Intention to Declare a Borough-wide Smoke Control Area**

- 4.9 Although not required in law, a 'non-statutory' consultation was completed with residents and businesses in July and August 2021. The majority of respondents to this survey were in favour of a borough-wide Smoke Control Area.





4.10 The decision to undertake a public consultation went beyond the statutory requirement of a 6-week formal advertising period in a local newspaper and in the London Gazette. This decision was made to increase public awareness of the health issues related to the burning of smoky fuels and to ensure that residents and businesses were given the opportunity to have their say about the proposal. This also enabled officers to identify any significant issues of concern for further consideration.

### **Online Consultation Responses**

4.11 60 responses were received in total during the 6-week consultation period. Consultees were asked 9 questions and a report of the results from the public consultation is provided in **Appendix 1**.

4.12 The final question allowed for respondents to comment on the proposal with unlimited text, for which 41 comments were received. Officers have spent time reviewing, grouping and then responding to these comments. The Council response to the comments received via the on-line public consultation and from Facebook and Twitter and emails sent to the Pollution Control Team can be found in the Public Consultation Results and Analysis Report in **Appendix 1**.

### **Headline Statistics for 6-Week Public Consultation**

4.13 The responses to the questions asked in the Smoke Control Area public consultation are provided in full in the Consultation Report, but can be summarised as follows:

- **85%** of respondents agreed or strongly agreed that improving air quality should be a key priority for Sandwell. **9%** disagreed or strongly disagreed and **4%** neither agreed or disagreed.
- **80%** of respondents knew that breathing in smoke from wood and coal burning can result in cancer, stroke, heart disease, asthma, COPD, decrease children's lung development and cause pregnancy

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complications. Whilst **10%** did not know and a further **10%** were not sure.

- **0%** of respondents lived on a canal boat or other inland water vessel moored in Sandwell.
- **13%** of respondents (8 people) use a wood/coal burning stove, an open fireplace or other combustion appliance with a chimney inside their home.
- Of the 8 respondents using a solid fuel burning stove 6 did not know if their stove was on Defra's list of exempt appliances.
- Respondents were asked why they chose to use a solid fuel stove or open fire place and were given five options, of which they could pick as many as they liked. From the 8 respondents, 5 stated it was to save money, 3 to supplement other heating and 2 to create a nice atmosphere. None of the respondents stated that it was because it was their only source of heating.
- **98%** of the respondents stated they did not own or manage a business in Sandwell that used a biomass boiler or wood/coal burning stove or any other appliance with a chimney, whilst **2%** did not know.
- **67%** of respondents thought that all of Sandwell should be protected by a Smoke Control Order. Whilst **23%** were against it and **10%** did not know.
- **53%** of respondents gave a Sandwell home or business address postcode. Out of the six Sandwell towns, the greatest response was from Oldbury with **25%**, followed by West Bromwich with **22%**, then Rowley Regis and Tipton with **16%**, Smethwick was **12%** and Wednesbury with **9%**.



## Comments received in response to the Public Consultation

4.14 Many comments were supportive of the proposal and agreed with the need for a borough-wide smoke control area and the need to stop people from burning inappropriate materials so as to prevent future decline in air quality and recognised the link with ill health. Examples of some of the comments made include:

*'Air pollution is a health emergency in this borough',*

*'Wood burning stoves are a real problem around here'*

*'We do not want to return to those days of smoke polluted air and smog which have been largely eradicated in the last few decades'.*

4.15 In terms of those who were not supportive of the Council's proposal, the comments fell into a variety of categories, which have been summarised below:

- Wood burning is fine as we have always done it to keep warm.
- The proposal is a waste of money as it is not a significant issue and there are other issues we should be focussing on.
- Traffic is a bigger problem for air pollution than wood burning stoves.
- The proposal is a knee jerk reaction to the expected increase in residents using solid fuel stoves and fireplaces because of the rise in gas and electricity prices.
- Narrow boats are not significant polluters
- This proposal will result in people being forced into fuel poverty
- Commercial businesses are a more significant issue for smoke emissions.
- The proposal will increase the cost of authorised fuels

Examples of some of the comments received include:





*'Man has burned wood since the dawn of time to keep warm'.  
'You're targeting households instead of taking responsibility for  
improving roads and the environment'.*

*'I think there is far more air pollution from traffic within Sandwell than  
from those who have wood burners. Sandwell council should put more  
efforts into traffic pollution'.*

*'This is not the time to bring in this law when the cost other forms of  
fuel are skyrocketing'.*

- 4.16 Some comments were outside the scope of this consultation, these included suggestions that the council should be doing more to tackle air pollution including smoke from bonfires, BBQs and firepits. Suggestions were also made that the Council should do more to reduce road traffic, including promoting and providing more active and sustainable travel options.

#### **Responses from neighbouring local authorities**

- 4.17 Several supportive email responses were received from other local authorities in the West Midlands.

*'We fully support the proposal'- **Coventry City Council***

*'Having a borough wide Smoke Control Area is more appropriate for  
mainly urban local authorities and Sandwell fit into that category. It will  
make for consistency across the district and help in communication  
with citizens and be more relevant given both the increasing  
prevalence of wood fired burners and the changes to enforcement of  
emissions within Smoke Control Areas brought about by the  
Environment Act 2021. Furthermore, it will align with Birmingham City  
Council's boroughwide Smoke Control Order, given that we have a  
common border. **Birmingham City Council***



*‘As we share most of our Eastern boundary with Sandwell, I can only see that it will give rise to greater consistency and improved control over emissions’.*

**Dudley Metropolitan Borough Council**

**Legal Information and Timescales**

- 4.18 The Council has already advertised its ‘Intention to Declare a borough-wide Smoke Control Area’ the remaining legal step now is for the issuing of a Smoke Control Order which will ‘Declare a borough-wide Smoke Control Area’.
- 4.19 Further details of the legislative process and proposed timetable for implementing a Borough-wide Smoke Control Order are provided in **Appendix 3**.
- 4.20 This borough-wide Smoke Control Order will revoke the existing 51 Smoke Control Orders and the whole of the Metropolitan Borough will be declared Smoke Control Area, with no exemptions.
- 4.21 A period of 6 weeks from the last date of advertising the Order is allowed for any formal objections to be made. It is assumed that all properties currently not in existing Smoke Control Areas can comply with the provisions (i.e. capable of being heated without the use of unauthorised solid fuels or non-exempted appliances).
- 4.22 Section 24 of the Clean Air Act 1993 gives local authorities the power to require adaptation of fireplaces in private dwellings to ensure compliance with emissions as required under Section 20. This includes the payment of a grant if necessary to assist with the adaptation. The likelihood of any fireplace adaptation being required is not considered to be a significant one. Those with non-compliant stoves and open fireplaces should not require any adaptation other than to switch to burning authorised fuel and using ‘smokeless’ firelighters, i.e. gas poker or smokeless BBQ lighters. In very old properties original fireplace grates are sometimes required to be



changed for thicker fire-bars which can withstand higher heat intensities from authorised fuels. However, unless the fireplace is the only form of heating for the home the local authority would not be required to assist in paying for this adaptation.

## 5 Alternative Options

### Continue with Existing Smoke Control Areas

- 5.1 To continue with Sandwell's 51 Smoke Control Orders means that differing legal requirements would remain for exempted properties compared to other parts of the borough. This is inequitable and will result in mixed messages and potential greater levels of non-compliance by those in existing smoke control areas who consider themselves unfairly penalised. There is not envisaged to be any legitimate reason for objection.
- 5.2 Non-exempt solid fuel burning stoves and open fire places have a negative impact on internal and external air-quality and have a significant burden in terms of health costs, both short and long term. If domestic burning in properties across Sandwell continues unchecked and unregulated the impact could negate the technological gains made through cleaner vehicle technology, home energy efficiency and controls of industrial processes.
- 5.3 It is envisaged that the use of solid fuel burning stoves and open fireplaces will increase with rising energy prices. At a time when households are facing financial hardship, it is easy to accept wood and coal burning as the cheap solution. Air pollution is already impacting negatively on our economy and health, but if we allow the increased burning of unauthorised fuels and appliances it will come with a high price tag in terms of health care both now and in the future.



## 6 Implications

<p><b>Resources:</b></p>	<p>There remain some associated costs in Declaring a Smoke Control Area, this would include officer time to complete the work required to make a Smoke Control Order and the cost of placing public notices in the London Gazette (approx. £70) and twice in local newspapers (approximately £1,700 + VAT).</p> <p>There is potential for residents to claim financial assistance for fireplace or stove adaptations. Since the first surveys in 2021, no claims have been raised. It is not expected that there will be many if any legitimate claims, but we will not know this for certain until the remaining 6-week period of formal advertising has been completed. Any claim would have to be considered on its merits, but such claims are not expected to result in excessive cost. In exceptional circumstances individual exemptions could be allowed but given the risks to health from burning smoky fuels we would look to avoid this where possible.</p> <p>Costs are not expected to be excessive when weighed against the potential benefits to health. Funding for these costs can be found from the existing Public Health budget.</p>
<p><b>Legal and Governance:</b></p>	<p>This initiative will contribute to Sandwell’s Air Quality Action Plan, Sandwell’s Climate Change Strategy and the Annual Status Report on Air Quality in Sandwell.</p> <p>The initiative will be undertaken by Council Air Pollution officers with the support, advice and guidance of Sandwell’s legal team.</p>
<p><b>Risk:</b></p>	<p>The Corporate Risk Management Strategy (CRMS) will continue to be complied with throughout, in identifying and assessing the significant risks associated with this strategic proposal. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. A project risk</p>



	<p>register was compiled in 2021 and has been reviewed and updated. The risk register is monitored by the Pollution Control Team. Based on the information provided it is the officers' opinion that for the risks that have been identified so far and the arrangements in place are adequate to manage and mitigate these effectively.</p> <p>A risk assessment has been undertaken and no "red" risks were reported.</p> <p>This report does not relate to the collection of personal information and therefore a privacy impact assessment is not required. Any person who wishes to object the declaration or to make a claim for fireplace/stove adaptation will be required to e-mail or write to the Pollution Control Team at Sandwell Council or <a href="mailto:pollution_control@sandwell.gov.uk">pollution_control@sandwell.gov.uk</a>. Data will be handled and stored in accordance with the departments existing GDPR controls.</p>
<p><b>Equality:</b></p>	<p>Householders who use solid fuel as their only means of heating may find the switch to authorised fuels slightly more expensive, increasing the risk of putting them into fuel poverty (i.e. spending more than 10% of their income on heating their homes). However, authorised fuels do burn more efficiently. There is also financial assistance and grants available for those on low-incomes to help with home insulation and updating heating provision. Households in this position will be signposted to sources of help through a variety of communication channels, including press, social media and Sandwell Council's website.</p> <p>Conversely the existing patchwork of Smoke Control Areas does not provide equality in protecting residents from harmful pollutants generated by solid fuel burning and open fires, and its contribution to PM<sub>2.5</sub> which is now linked with both short and long-term health impacts.</p>





<b>Health and Wellbeing:</b>	Air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions and it is associated with a plethora of adverse health impacts. It is recognised as a contributing factor in the onset of heart disease and cancer, plus recent research has suggested links between air quality and stunted lung development in children, exacerbation of degenerative sight loss in adults and dementia in the elderly.
<b>Social Value</b>	Proactive measures now to improve air quality will have long-term positive impact by reducing the health-related social costs and subsequent burden on the NHS to treat and care for those who are exposed both short and long-term to harmful smoke emissions. This proposal reduces health inequalities and is designed to support longer and healthier lives.

## 7. Appendices

**Appendix 1** Results of Public Consultation on Proposal to Declare a Borough-wide Smoke Control Area.



**Appendix 2** Draft copy of the borough-wide Smoke Control Order

**Appendix 3** Timetable for Implementation of the Proposed Borough-wide Smoke Control Area in Sandwell.

**Appendix 4** Details of the legislative process and a summary of the steps for revocation of the existing 51 Smoke control Areas and implementation of a borough-wide Smoke Control Order across Sandwell.



## Appendix 5 Smoke Control Area Risk Register

## Appendix 6 Smoke Control Area Equality Impact Assessment

### 8. Background Papers

The health related social costs of air pollution due to residential heating and cooking - European Public Health Alliance (2022) <https://cedelft.eu/publications/health-related-social-costs-of-air-pollution-due-to-residential-heating-and-cooking/>

The Clean Air Act 1993 – Part III – Smoke Control Areas  
<https://www.legislation.gov.uk/ukpga/1993/11/part/III>

Black Country Ultra Low Emission Vehicle Strategy:  
[https://consultation.wolverhampton.gov.uk/bct/bct-ulev-strategy/user\\_uploads/black-country-ulev-strategy-2020.pdf](https://consultation.wolverhampton.gov.uk/bct/bct-ulev-strategy/user_uploads/black-country-ulev-strategy-2020.pdf)

Sandwell - Smoke Control Areas Summary and Map  
<https://data.gov.uk/dataset/2e59be11-a9db-4b9e-8cbb-8e2f2567c588/sandwell-mbc-smoke-control-area>

Emissions of air Pollutants in the UK – Particulate Matter (PM10 and PM2.5)  
<https://www.gov.uk/government/statistics/emissions-of-air-pollutants/emissions-of-air-pollutants-in-the-uk-particulate-matter-pm10-and-pm25>

Airborne particles from wood burning in UK Cities – Environmental Research Group – King’s College London [https://uk-air.defra.gov.uk/library/reports?report\\_id=953](https://uk-air.defra.gov.uk/library/reports?report_id=953)

Sandwell Annual Status Report for Air Quality 2020  
[https://www.sandwell.gov.uk/info/200274/pollution/485/air\\_quality](https://www.sandwell.gov.uk/info/200274/pollution/485/air_quality)

Burning in UK Homes and Gardens – Research Report (Dec 2020)  
<http://sciencesearch.defra.go>







## Minutes of Cabinet

**Wednesday 20 July at 3.30pm  
at Council Chamber, Sandwell Council House**

**Present:** Councillor Carmichael (Chair);  
Councillors Piper, Ahmed, Hackett, Hartwell, Hughes,  
Padda and Rollins.

**In attendance:** Councillors Moore, Fenton, Shackleton, Simms and  
Taylor.

**Also present:** Kim Bromley-Derry (Managing Director Commissioner),  
Simone Hines (Director of Finance), Surjit Tour  
(Director of Law and Governance and Monitoring  
Officer), Alice Davey (Director of Borough Economy),  
Tony McGovern (Director of Regeneration and  
Growth), Lisa McNally (Director of Public Health),  
Matthew Huggins (Interim Service Manager Parks and  
Grounds), Suky Suthi-Nagra (Democratic Services  
Manager).

**143/22      Apologies for Absence**

Apologies for absence were received from Councillors  
Millard and Hinchliff.

**144/22      Declarations of Interest**

Councillor Hughes declared a personal interest in Minute No.  
147/22 (Brandhall Options) on the basis that he was a  
member of the Birmingham and Black Country Wildlife Trust.

Councillor Hackett declared a personal interest in Minute No. 147/22 (Brandhall Options) on the basis that he was employed by Wednesbury Juniper Training.

145/22 **Minutes**

The minutes of the meeting held on 22 June 2022 were approved as a correct record.

146/22 **Additional Items of Business**

There were no additional items of business.

147/22 **Brandhall – Options**

Approval was sought from Cabinet to determine the preferred option for the Brandhall Site, Oldbury.

The Cabinet Member for Regeneration and Growth gave a detailed explanation of each option that was being considered and moved that option 3, provision of land for a new primary school, a new public park and development of circa 190 residential dwellings should be the preferred option for Brandhall. The Cabinet member also moved that in relation to the proposed Site of Importance for Local Nature Conservation, the Cabinet approve B – the designation of land at Brandhall as a Site of Local Importance for Nature Conservation (SLINC) excluding any land required for development to deliver the preferred option.

**Reason for Decision**

It was considered appropriate to provide an opportunity for members to reconsider options (including a do-nothing option) for the future of the Brandhall site given the outcomes of the public consultation and the additional technical and financial information gathered to date.

The Local Sites Partnership (LSP) had recommended to the Council that the Brandhall site be designated as a Site for Local Importance for Nature Conservation. Members were required to determine whether to accept in full, in part, or not at all the recommendation from the LSP.

The Chair of the Economy Skills Transport and Environment Scrutiny Board questioned whether any alternative sites had been considered to relocate Causeway Green Primary School. In response, the Cabinet Member for Regeneration and Growth stated that alternative options for the replacement of Causeway Green Primary School had been considered however the minimum size requirement for a school was 2.3 hectares and there were no available sites of that size within the vicinity of the existing school. A site at Grafton Road was considered but the site was only 0.5ha which was less than a quarter of the size required. Consideration was also given to Cakemore Playing Fields however these fields were used for organised and recreational sport so were not available for redevelopment.

The Vice-Chair for Economy Skills Transport and Environment Scrutiny Board asked whether the proposed provision of a new school on the Brandhall site would be Academy run or local authority run. In response, the Cabinet Member for Regeneration and Growth explained that, as this was a replacement for an existing school, it would remain a maintained school; and whilst Sandwell Metropolitan Borough Council had no plans to convert the school to an Academy, the Government White Paper required all schools to become an academy by 2030.

The Chair of Children and Education Services Scrutiny Board raised whether it was usual for C.I.L. monies to be used to support infrastructure i.e. £2.5 million for the replacement of Causeway Green Primary School. The Cabinet Member of Regeneration and Growth stated that the Community Infrastructure Levy (CIL) was a mechanism to secure funding contributions towards the future infrastructure needed to underpin the borough. It could help support new physical and social infrastructure such as schools and roads and also improve existing facilities. The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) set

out exactly how CIL can be used. 80% of the CIL monies collected would be used for strategic infrastructure: to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area. Therefore, the majority of CIL funds could only be used to fund infrastructure and schools were recognised as being in this category and eligible for CIL investment.

A further question was asked regarding whether the new 2 Form Entry school could be justified when there was soon to be a surplus of school places. In response, the Cabinet Member for Regeneration and Growth stated that the replacement of Causeway Green Primary would ensure that the Council continued to provide school places for the local community, in a popular and Ofsted rated “good” school. It was correct that the Council did now have some surplus places across schools but local authorities try to maintain between a 5-10% surplus to ensure that we could meet demand for mid – places. Over the course of the last 12 years with the unprecedented increase in the birth rate and inward migration the Council, despite delivering over 50000 new primary places, had only been able to maintain a surplus of less than circa 3% which was not sustainable.

In response to the Chair of Children and Education’s question on the number of vacant places at Causeway Green Primary School, the Director for Children and Education Services highlighted that at that point in time there were no vacancies within the school. The projection for September 2022 was there was likely to be one or two vacancies across all year groups, with a view for these to be immediately filled.

The Chair of the Budget and Corporate Scrutiny Management Board asked why the school had been allowed to get into its current condition by both the school and Council. The Cabinet Member for Regeneration and Growth explained that Causeway Green Primary School was a 1950s Hills Construction (sectional concrete slab) and as such, had always had a limited life expectancy , which because of a good maintenance regime over the years, it had been able to exceed without yet developing structural issues. The building now had reached the end of its life

which was reflected in the Government's Priority Schools Building Programme and Sandwell along with a number of councils had been successful with bids to replace Hill's constructed School (Abbey Infs & Yew Tree Primary). Causeway Green had been identified by the Council as the next school to be replaced.

The Chair of Budget and Corporate Scrutiny Management Board also asked whether an estimate on how much the Council had made and spent on the matter to date, including officer time. In response, the Cabinet Member for Regeneration and Growth stated that the council did not routinely record officer time, as this was a masterplan, officer time was not recorded and the only cost that could be provided was those that have been incurred through the commission of the masterplan. The spend incurred to date was £236,289.73.

The Chair of the Budget and Corporate Scrutiny Management asked a further question on what assurances could be provided that all options had been explored for the relocation of the school. It was stated that replacing the school on the existing site would be because of the size, layout and access be complex, difficult to manage, costly, and would elongate the construction period to a minimum of 3 years. All of this would need to be done whilst keeping the existing school operational, which would have a detrimental impact on teaching and learning with restricted or no access to outdoor teaching spaces and the loss of internal spaces at critical times. Rebuilding on the existing site would also not address the very access and egress to the school and would predetermine the design/built solution rather than teaching and learning be the key driver. In terms of pupil place planning was essential that a primary school continues to serve its local community, no other site large enough and in Council ownership to accommodate a 2fe building and site had been identified in the local area.

In response to the Chair's question regarding why there was a difference in results between the environmental survey conducted by the Council and the Action group, the Cabinet Member for Regeneration and Growth stated that the Preliminary Ecological Appraisal Report was conducted in

2021 and recommends that due to the mobility of animals and the potential for colonisation of the site, it was suggested that an updated ecological survey be undertaken prior to the redevelopment of this site should this not occur by August 2022. It also set out the limitations of the study which could provide an answer for why differences in results were seen.

The Chair of Budget and Corporate Scrutiny Management questioned what communications the Council had with relevant authorities in relation to the deed of covenant and how likely was it that this could be varied by agreement. The Cabinet Member for Regeneration and Growth stated that until the plans for the site were finalised and a deed of variation was to be agreed, the Council would not expect our legal representatives to have prior correspondence with the external authorities.

The provisions of the deed of dedication alter significantly after 25 years in that NUFU was required to act reasonably, and it was clear from the wording of the deed, that it was not intended to absolutely prevent any development for the entire period of the deed of dedication.

The title has been reviewed by the Council, and there were no legal restrictions preventing the proposed development. The Council was permitted to appropriate land for any purpose it is entitled to hold property, pursuant to S.122 of the Local Government Act 1972 (subject to the relevant consultation requirements).

A question on what estimates the Council had made of the costs it had spent in relation to this matter, including officer time, since it first consulted on options for the site in 2019 was asked by the Chair of Budget and Corporate Scrutiny Management Board. In response, the Cabinet Member for Regeneration and Growth highlighted that the Council did not routinely record officer time unless we were to capitalise those costs as part of a funded project. As this was a masterplan, officer time had not been recorded and the only cost the Council could provide were those that had been incurred through the commission of the masterplan. Spend incurred to date is £236,289.73.

A further question on the number of consultations the Council had undertaken was questioned by the Chair of Budget and Corporate Scrutiny Management Board. It was explained by the Cabinet Member for Regeneration and Growth that the Council had arranged two consultations for the site. The 2019 rationale was to consult Sandwell residents on the Council's proposal to close Brandhall Golf Course and Club House and utilise the site to build a new school (replacement for Causeway Green Primary School), develop a new park and open space for the local community and provide much needed local housing. The Council provided three initial indicative options of how the proposed development options could be provided. The 2021 rationale was to offer the local community an opportunity to influence key aspects of the masterplan including the look, and the kinds of open space and any community facilities provided within it. There was also a report on Community Involvement that proposed to ensure that residents were consulted on with future plans of the Council.

Councillor Anandou, as ward councillor for Brandhall, thanked the action group for the work undertaken to save the green space and urged Cabinet to listen to the wishes of the residents. In response to the Councillors question, the Director of Regeneration and Growth clarified that the decision to declare the Brandhall Site surplus to requirements was in relation to its function as a golf course.

### **Alternative Options Considered**

There were a number of alternative options explored in the report. This included:

That Cabinet determined the preferred option for the Brandhall site, Oldbury from the options below;

- Option 1a - No change
- Option 1b - Development of a new public park
- Option 2 - Provision of land for a new primary school and development of a new public park
- Option 3 - Provision of land for a new primary school, a new public park and development of circa 190 residential dwellings

- Option 4 - Provision of land for a new primary school, a new public park and development of circa 360 residential dwellings

That in relation to the proposed Site of Importance for Nature Conservation Cabinet either;

- Approved the designation of land at Brandhall as a Site of Local Importance for Nature Conservation (SLINC) in accordance with the recommendation of the Local Sites Partnership.
- Approved the designation of land at Brandhall as a Site of Local Importance for Nature Conservation (SLINC) excluding any land required for development to deliver the preferred option determined under recommendation 1.1 of the report.
- Did not approve the designation of land at Brandhall as a Site of Local Importance for Nature Conservation (SLINC).

**Agreed:-**

- (1) that approval be given to the preferred option for the Brandhall site, Oldbury as:

Option 3 - Provision of land for a new primary school, a new public park and development of circa 190 residential dwellings;

- (2) that subject to (1) above, the Director of Finance in conjunction with the Director of Regeneration and Growth be authorised to identify the best option to fund the preferred option including the submission of any external funding applications and any required market testing as may be necessary;
- (3) that subject to (2) above and once more detailed costs are available, a further report be brought back to Cabinet setting out the funding strategy for the preferred option and seeking approval for inclusion into the Capital Programme;



- (4) that subject to (1) above, delegated authority be given to the Director of Regeneration and Growth to submit a planning application or applications in line with the preferred option;
- (5) that subject to (1) above, delegated authority be given to the Director of Regeneration and Growth and the Director of Finance to allocate a minimum of £2.5m of Community Infrastructure Levy Funding from the 80% Main CIL fund towards the capital cost of the replacement of Causeway Green Primary School;
- (6) that subject to (1) above, the Director of Children and Education submit a further report to Cabinet setting out full proposals for a capital scheme to provide a replacement primary school at Brandhall for Causeway Green Primary School;
- (7) that subject to (1) above, delegated authority be given to the Director of Regeneration and Growth to take necessary steps (including publication of necessary statutory notices under S.122(2A) of the Local Government Act 1972 (and consideration of any objections received) related to the appropriation of any public open space for Education or Housing purposes [and for the Director of Finance to make the necessary financial adjustments, with regard to the appropriation], and authorises the appropriation of the public open space for Education and/or Housing purposes;
- (8) that subject to (1) above, reserves from Regeneration and Growth Directorate be allocated for resources to project manage the delivery of the preferred option;
- (9) that subject to (1) above, approval be given to add this to the Council's approved regeneration Pipeline as a new project.

- (10) that in relation to the proposed Site of Importance for Nature Conservation Cabinet;
  - (b) approval be given to the designation of land at Brandhall as a Site of Local Importance for Nature Conservation (SLINC) excluding any land required for development to deliver the preferred option determined under recommendation (1) above.

148/22      **Review of Parking Charges Policy**

Approval was sought for the realignment of parking charges to support the objectives of Climate Change Policy, Carbon Reduction, Air Quality, sustainable transport choices, balancing available parking with demand and to meet the cost of providing and maintaining car parks, parking related services and highway projects.

The Vice-Chair of the Economy Skills Transport and Environment Scrutiny Board questioned how the recommendations would influence our climate change policy, carbon reduction, air quality and sustainable choices. The Sandwell Climate Change Strategy reports that the second highest source on greenhouse gas emissions was Road Transport at 29.5%, only narrowly beaten by Residential Property at 30.5%. The Sandwell Climate Change Strategy consequently included an Action Plan for Transport with a key focus on a transition to the more widespread use of sustainable travel choices and less dependence on the use of single occupancy private cars powered by fossil fuels.

In response, the Cabinet Member for the Environment Services stated that the proposed parking charges applied to the car parks in town centres that attracted larger numbers of cars associated with town centre workers as well as shoppers and visitors. Town centres have good sustainable transport links, via Bus, Metro and Train, also active travel opportunities via cycle lanes and pedestrian routes. In addition, commuters and workers often have colleagues that provide an opportunity for car sharing. Commuters often fill

parking spaces before shoppers arrive impacting on the convenience of town centres and hence trade.

The proposed scales of parking charge have been set at levels to reduce carbon emissions by encouraging and incentivising the following,

- Greater use of sustainable travel options as a less costly option than commuting by car
- Similarly, a greater use of active travel also providing the associated health benefits
- More use of car sharing opportunities for low cost commuting
- A 50% reduction in season ticket prices for zero emission vehicles
- More working from home through greater season ticket choices that are discounted for less use per week
- Improved air quality in town centres through less peak time car use

The Vice-Chair also asked why the parking charges did not apply to Sandwell Valley. The Cabinet Member for Environment Services explained that Sandwell Valley parking charges would be benchmarked and considered separately as part of a strategic review of the attraction.

A further question on whether the charges were competitive was raised by the Vice-Chair. The Cabinet Member for the Environment Services stated that the proposed season ticket prices had been set to incentivise the climate change and health benefits outlined above. The consequent reduction in commuter parking would also free up spaces for town centre shoppers and visitors helping to benefit trade and commerce. The comparisons with the Black Country indicated that season tickets were most competitive if drivers park for one, two or three nominated days per week. If drivers choose to park four or five days of the week, season tickets were at the upper end of the range in the Black Country. Hourly rates for shoppers and visitors were more aligned with average levels in the Black Country.

## **Reason for Decision**

The purpose of this report was to review Sandwell Parking Policy to ensure that Sandwell Council could continue to provide suitable, adequate, safe and well-maintained public parking to secure the following objectives:

- To support the response to the response to the Climate Change Emergency by reducing congestion in and around our town centres and reducing carbon emissions.
- To facilitate more working from home, walking and cycling for short journeys and journeys to work.
- To secure the health benefits associated with more active transport choices and improved air quality.
- To free up more parking spaces on town centre car parks for short stay shoppers and visitors who contribute to the local economy.
- To fund the post pandemic costs of the parking service, the provision, operation, maintenance enforcement of car parks, Highway Maintenance and traffic management on the network.

## **Alternative Options Considered**

To leave parking charges unchanged would miss the opportunity to support the strategic response to the declared Climate Change Emergency, would miss the opportunity to make the most of changes in travel behaviour as experienced during the pandemic, would fail to address the existing supply and demand problems, would miss the opportunity to mitigate against the expected exacerbation of demand and associated impacts on safety, the environment, trade for small businesses and local economy and would fail to take the opportunity to encourage working from home and modal shift in transport choice.

Highway Services would require subsidising with additional revenue funding as income would no longer be sufficient to fund the costs. Highway Services provided the maintenance, operation and enforcement of car parks, enforcement on street, including around hospitals and schools gate parking, meeting request for new traffic regulation orders, resident parking schemes and other costs permitted by the legislation.

### **Agreed:-**

- (1) that approval be given to the realignment of parking charges to support the objectives of Climate Change Policy, Carbon Reduction, Air Quality, sustainable transport choices, balancing available parking with demand and to meet the cost of providing and maintaining car parks, parking related services and highway projects.
- (2) that future reviews of the appropriate documents that make up the Sandwell Local Plan consider the appropriate level of parking provision in centres for the future taking into account the level of redevelopment planned and implemented since the last review, climate change policy and facilitating modal shift through parking management.
- (3) that approval be given to authorise the Director Borough Economy to implement the revised scales of parking charges set out in the recommendations subject to statutory public consultation for the changes to Traffic Regulation Orders.
- (4) that the Cabinet Member for Environment be authorised to consider and determine any unresolved objections in relation to Traffic Regulation Order concerning parking charges, arising from the statutory public consultation; and that they be delegated to make any adjustments to the proposals as part of their determination.
- (5) that the proposed scales of charges in this report are not applied to Sandwell Valley car parks.
- (6) that for all other off-street car parking, the scale of charges outside West Bromwich be reset from the start of 2023 including a new low cost 30 minute charge to assist small businesses with the

scale of charges then to increase at the start of each year until the start of 2027 as follows :-

Up to No. of Hours	2023	2024	2025	2026	2027
30 mins	20p	30p	40p	50p	50p
1 hr	50p	60p	70p	70p	70p
2 hrs	£1.00	£1.10	£1.20	£1.20	£1.20
3 hrs	£1.50	£1.60	£1.70	£1.70	£1.70
4 hrs	£2.00	£2.10	£2.20	£2.30	£2.40
Day	£4.00	£4.50	£5.00	£5.50	£6.00

- (7) that for off-street car parking, the scale of charges within West Bromwich be reset at the start of 2023 including a new low cost 30 minute charge to assist small businesses. The scale of charges then to increase at the start of each year until the start of 2027 as follows:-

Up to No. of Hours	2023	2024	2025	2026	2027
30 mins	40p	60p	80p	80p	80p
1 hr	£1.00	£1.20	£1.40	£1.60	£1.80
2 hrs	£2.00	£2.20	£2.40	£2.40	£2.40
3 hrs	£3.00	£3.20	£3.40	£3.40	£3.40
4 hrs	£4.00	£4.20	£4.40	£4.60	£4.80
Day	£8.00	£8.50	£9.00	£9.50	£10.00

- (8) that parking shall be free of charge at the following times to assist small businesses.
- On Sundays,
  - Overnight between the hours of 18.00 and 08.00.
  - For Blue badge holders and
  - For two Saturdays before Christmas
  - Every Saturday for season ticket holders
- (9) that short stay on-street parking charges will remain unchanged to assist small businesses.

- (10) that, to support flexible working, encourage the use of sustainable transport alternatives and free up short stay parking to assist small businesses, the annual charges for long stay season tickets that operate on nominated days of the week be set as follows, on the basis of one season ticket per vehicle, also valid for use at Sandwell Valley car parks on the nominated days. West Bromwich long stay Season Tickets are valid for all Council long stay car parking on the nominated days.

**Outside West Bromwich**

No of Days per Wk	2023	2024	2025	2026	2027
1	£40	£45	£50	£55	£60
2	£100	£115	£125	£140	£155
3	£200	£225	£250	£275	£300
4	£300	£330	£350	£380	£410
5	£400	£450	£500	£550	£600

**Within West Bromwich (also valid outside West Bromwich for the same nominated days)**

No of Days per Wk	2023	2024	2025	2026	2027
1	£80	£90	£100	£110	£120
2	£200	£230	£250	£280	£310
3	£400	£450	£500	£550	£600
4	£600	£660	£700	£760	£820
5	£800	£900	£1000	£1100	£1200

- (11) that to support Climate Change and air quality objectives the following concessionary reduction will apply.
- For all zero emission electric vehicles a 50% reduction in season ticket prices will apply
- (12) that the monthly scales of season ticket charges will be levied at 10% of the annual scales of

season ticket charges for car parks either within West Bromwich or outside west Bromwich as appropriate.

- (13) that at the few locations where long stay on-street parking charges are necessary, charges will be set to correspond with the off-street scale of hourly parking charges.
- (14) that the Off-Street Parking Places order is also updated with the following changes for public consultation.
- Remove Bull Street Multi Storey, West Bromwich and Morrisons car park and Market Place car park, Wednesbury.
  - Include wording for paying by other means advertised where there is no functioning ticket machine, no refunds for season tickets and spaces marked for electric vehicle recharging to only be used when actively recharging a vehicle.
  - Include West Bromwich Street and Causeway Green Road car parks in the main Off Street Order and revoke the two individual orders.
  - Change the operating times for New Street Disabled car park, West Bromwich. At present it is Monday to Saturday 8am to 6pm. New time 7 days a week at any time. This is to keep spaces available for blue badge holders in the evening.
  - Include Roway Lane car park, Oldbury.
  - Include wording so that bays marked for recharging electric vehicles, disabled badge holders and motorcycles operate at all times. This is to prevent others parking in these bays after 6pm.
- (15) that, subject to public consultation and the consideration of objections, new traffic regulation orders are implemented around town centres to prevent the displacement of parking to the streets through the introduction of resident parking



schemes supplemented by yellow and red line restrictions where appropriate.

- (16) that the Director of Borough Economy be authorised to undertake the necessary public and statutory consultation required to introduce and amend the necessary Traffic Regulation Orders (TRO's);
- (17) that the Director – Law and Governance and Monitoring Officer be authorised to undertake the necessary statutory procedures to bring the approved recommendations into effect.
- (18) that the revised charges be implemented on completion of statutory processes for the changes to the scales of charges.

149/22      **Land at Cranford Street, Smethwick – Compulsory Purchase Order**

This item was withdrawn from the agenda and a further report would be considered at a future meeting.

150/22      **Civica Contract Award and Upgrade to CX**

Approval was sought for the authorisation to award a contract for 'Civica Cx Case Management System' to be procured via a direct award of contract using Crown Commercial Services (CCS) Data and Applications Solutions framework RM3821 for a five year period with an option to extend for a further two years.

The Chair of the Budget and Corporate Scrutiny Management Board questioned why the Council did not currently have a single case management system. In response, the Cabinet Member for Finance and Resources stated that there was not a single software application which met all the business requirements of the Council. Each service area of the Council had their own core data requirements, business processes, interfaces with other

systems and transactions which could not be provided by a single system. However, where there were synergies the Council sought to utilise systems across services/directorates, as demonstrated in this proposal where a single system was being proposed for services across three directorates that work together.

A further question was asked on what the proposed case management system offered in comparison to others. In response, the Cabinet Member for Finance and Resources explained that the system proposed is an upgrade to the new version of the current software system from Civica to Civica Cx. It was the only system on the market which provided all the functionality that the current system had, to meet the business requirements of the different services, but with upgraded functionality around customer interface and remote working. The system would allow these services to be able to share/view agreed information and to analyse data better to manage services, understand demand management and use data intelligently. In addition, as an upgrade the implementation and data migration would be undertaken more efficiently minimising system downtime and demands on staff capacity.

### **Reasons for Decision**

The Civica software system was currently used as a case management system for Regulated Services and Environmental Protection & Enforcement within the Borough Economy Directorate. The system was also utilised by Housing Improvement Agency and Private Sector Housing within the Housing and Public Health Directorates.

A contract was awarded in March 2020 for the provision of CIVICA software for a period of two years with provision for two single year extensions. This included the option to upgrade the system to Cx, however this was not actioned.

In March 2022, one of the single year extensions was enacted to extend the contract for the provision of Civica software system to the end of March 2023.

The services considered their future case management

requirements and had identified that the Civica software system, upgraded to the Cx system.

### **Alternative Options Considered**

An open market procurement process could be considered however Corporate Procurement have identified that the service required was available via a Crown Commercial Services Framework. This provided a compliant and cost effective means of procuring the service. Direct awarding and procurement from the CCS framework was compliant with Public Contract Regulations 2015.

Doing nothing was not an option. The provision of a case management system for these service areas was essential to support modern service delivery.

### **Agreed:-**

- (1) that the Director of Borough Economy, in consultation with the Director of Finance - Section 151 Officer, be authorised to award a contract for 'Civica Cx Case Management System' to be procured via a direct award of contract using Crown Commercial Services (CCS) Data and Applications Solutions framework RM3821 and be awarded for a five year period with an option to extend for a further two years.
- (2) that the Director Law and Governance – Monitoring Officer be authorised to execute any documentation necessary to enable the action referred to in (1) above.
- (3) that any necessary exemptions to the Council's Procurement and Contract Procedure Rules be made to enable the course of action referred to in (1) above to proceed.

**Award of Contract for Local Welfare Provision**

Approval was sought to award a contract for the Local Welfare Provision, following the conclusion of an open procurement exercise that commenced on 6 June 2022, for a 4 year period commencing 1 October 2022.

**Reasons for Decision**

The contract was for the provision of white goods and household items to support the delivery of the Council's Local Welfare Provision scheme following a compliant procurement process.

Sandwell's Local Welfare Provision scheme had been co-designed with the voluntary sector/charitable organisations. It provided crucial support by way of food parcels, fuel, white goods, and essential household items to Sandwell's most vulnerable residents who were faced with a crisis.

The Chair of the Budget and Corporate Scrutiny Management Board highlighted to members that one of the recommendations from the Serco review carried out last year was that the Council, working with Serco, should explore the possibility of creating a re-use centre such as what Birmingham City Council have at the Tyseley household recycling centre. It was questioned whether, in the medium-term, the Council should consider this as a solution for assisting its most vulnerable residents.

In response, the Cabinet Member for Finance and Resources stated that the Council continued to work with Serco to develop an on-site HRC re-use shop based on the numerous examples of good practice in the West Midlands and beyond. WRAP also provided case studies and guidance and these would be considered along with the LGA routes to reuse guidance from the LGA reuse commission.

The service being commissioned was different particularly in relation to the off-site nature of it, the immediacy of provision and emergency of need, and also the requirement for delivery of goods.

### **Alternative Options Considered**

If a contract was not in place to provide white goods and household items to Sandwell's most vulnerable customers there was a risk that families would suffer poverty and their basic needs would not be met.

#### **Agreed:-**

- (1) that approval be given to authorise the Director of Finance - Section 151 Officer in consultation with Cabinet Member for Finance and Resources to award a contract for Local Welfare Provision, following the conclusion of an open procurement exercise that commenced on 6 June 2022, for a 4 year period commencing 1 October 2022;
- (2) authorise the Director Law and Governance – Monitoring Officer to execute any documentation necessary to enable the action referred to in (1) above.

152/22

### **Harmful Gambling Workplace Charter, Policy and Guidance**

Approval was sought to implement a Harmful Gambling Workplace Charter and its accompanying policy and guidance.

The Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board questioned how the training would be delivered sensitively to line managers, whether the training would be provided by a partner organisation, and whether the tools now available in the industry would be promoted to those suffering harm from gambling.

In response, the Cabinet Member for Finance and Resources would undertake to provide a response to the questions.

The Chair of Safer Neighbourhoods and Active Communities Scrutiny Board highlighted the seriousness of gambling and welcomed the report and the Council's proactiveness in helping employees.

### **Reasons for Recommendations**

Adopting a Harmful Gambling Workplace Charter and introducing a supporting policy and guidance makes clear the Council's commitment to tackling gambling related harm in the workplace.

The policy and guidance were to assist managers who were supporting and managing employees who were suffering from gambling related harm to such an extent that it affected their health, work performance, conduct and relationships at work.

### **Alternative Options**

The Council was not obligated to implement a Harmful Gambling Workplace Charter and its accompanying policy and guidance. However, as part of its corporate and social responsibility, the Council had a commitment to carry out its practices in an ethical way which supported the development of employee relations.

**Agreed** that approval be given to implement a Harmful Gambling Workplace Charter and its accompanying policy and guidance, in accordance with the details contained within the report.

## 153/22 **Health Checks Service**

Approval was sought to tender the Health Checks contract for a prime provider to deliver Health Checks for an initial period of two years.

The Vice-Chair of Economy Skills Transport and Environment Scrutiny Board asked if any funds were paid out to GPs prior to the pandemic, and if so how had the Council sought to get the money back. In response, the Cabinet Member for Adults, Social Care and Health confirmed that no funds were paid to GPs. The previous contract had just

ended before the pandemic began and Public Health predicted that the national programme would be suspended due to COVID-19.

A further question was asked by the Vice-Chair regarding the voluntary sector and their position with the multi-disciplinary approach and the support that would be provided. The Cabinet Member for Adults, Social Care and Health explained that given this was a programme run by Sandwell Public Health, it was expected for the voluntary sector to play a central role. Public Health had given over 150 grants to voluntary sector groups recently as part of the Vision 2030 programme and they always make them a key partner in everything they do. With health checks, the Council would be providing the resources to voluntary and faith sector organisations to enable them to signpost and even host health check services so that we know we're reaching everyone in our community.

The Vice-Chair questioned the equality of access with the contract. It was explained by the Cabinet Member for Adults, Social Care and Health that given that Public Health would be working with the voluntary and faith sector to bring health checks to communities that normally face cultural or language barriers, it was expected that access would be comprehensive across our whole community. These would include those groups who work with our deaf or blind residents. The Public Health team had a national reputation for achieving this, including pioneering the delivery of local COVID-19 contact tracing services in several different languages and formats.

### **Reasons for Decision**

On 9 October 2019, plans were put forward to cease the current prime provider contract and commission directly with GPs to provide Health checks. However, shortly after this was agreed and the contract ended, the COVID-19 pandemic occurred, and we were unable to work with GPs at that time

The Health Economy landscape had changed since 2019 and the Health and Care Partnership is maturing.

It was proposed that the Council return to a procurement of a Prime Provider for a period of 2 years. Whilst the health economy transitions to the new care structure from a Clinical Commissioning Group to the Integrated Care Partnership and recovered from the COVID pandemic. Nationally, the government was reviewing the current delivery models and indicators of the NHS Health Checks services. The Council were only looking to work with a prime provider for 2 years as during that time the government review would be finalised and as such there maybe changes needed and new requirements to the service.

The Council did not currently have a service in place due to rightly pausing the process during the COVID Pandemic

### **Alternative Options Considered**

The Council could continue to not provide a health checks service – as a nationally mandated service this would come with national scrutiny.

The Council move forward with an Any Qualified Provider procurement approach, which meant the Council could contract with GPs, private companies and other Qualified Providers from local to national whom were compliant against the tender criteria, who are able to provide health checks across the Borough in a mosaic of provision

### **Agreed:-**

- (1) that the Director of Public Health be authorised to tender the Health Checks contract for a prime provider to deliver Health Checks for an initial period of two years up to a total cumulative maximum value of £320,000 for the vatable price ( $£266,667 + 20\% = £320,000$ ) which would total capped budget of £640,000 over two years.
- (2) that the Director of Public Health be authorised to award and enter into a contract with the successful bidder, on terms to be agreed by the Director of Public Health, for the provision of NHS Health Checks Services.



- (3) that the Director of Law and Governance & Monitoring Officer be authorised to enter into and execute, under seal as may be required, any contracts or ancillary documentation in relation to the award of contract referred to in recommendations above.
- (4) that the Director of Public Health be Authorised to use an exemption to rule 9 of the Council's Procurement and Contract Procedure Rules 2018- 2019 to waive the requirement for the advertisement of a health checks IT system on the Council's portal, and instead allow the direct award of a two year contract to Health Diagnostics for the maintenance of the existing health checks IT system, to be aligned to the period that the new delivery model of health checks commences at a maximum value of £80,000 per annum.
- (5) that the Director of Law and Governance and Monitoring Officer to award a contract to Health Diagnostics for a health checks IT management system for a period of two years for a maximum value of £80,000 per annum on terms to be agreed by the Director – Public Health.
- (6) that the Director of Public Health be authorised to use an exemption to rule 8.7 of the Council's Procurement and Contract Procedure Rules 2018-2019 to waive the requirement for a minimum of 3 written tenders and instead allow the direct award of a two year contract to Health Diagnostics for the maintenance of the existing health checks IT system.

154/22      **School Condition Report 2022**

Subject to a satisfactory financial appraisal being completed by Strategic Finance, approval was sought for the allocation of £1.5m of School Condition grant funding to be used to

support cyclical maintenance of local authority maintained schools.

### **Reasons for decision**

Building Services and Strategic Assets and Land's Engineering team had identified six schools for 2022/23 which required replacement of oil fired boilers, boilers, water services systems and fire alarms. Works were planned for completion during the school summers holidays and the autumn holidays.

### **Alternative options considered**

There were either no alternative options for schemes identified, or options had already been discounted through project development.

The terms of the School Condition Allocation meant funds had to be spent on maintained school's cyclical maintenance.

Within the maintained schools sector, it was the primary school building stock that would also require a programme of replacement to commence shortly. The deteriorating condition of school buildings would otherwise continue to be a drain on the School Repair Account.

### **Agreed:-**

- (1) that subject to a satisfactory financial appraisal being completed by Strategic Finance, approval be given to the allocation of £1.5m of School Condition grant funding to be used to support cyclical maintenance of local authority maintained schools.
- (2) that in connection with (1), the following actions are implemented to reduce any risk to the council in connection with School Condition; ensure that repair / maintenance work for schools is undertaken following an analysis of pre-determined criteria and that records are maintained to demonstrate the priority need of each school:

- Ensure that corporate Risk Registers are maintained and reviewed for all projects, and ensure all risks are appropriately identified and assessed, with adequate mitigation;
- That cost estimates are reviewed to ensure that any future costs can be managed within the allocated funding.

## 155/22 **Outcome of the Review of Generic Advocacy Service**

Approval was sought to decommission the Generic Advocacy Services as of 1 October 2022.

### **Reasons for recommendations**

Cabinet approved the re-procurement and award for the Advocacy Services Contract on 9 September 2020, the commencement of the review of the Generic Advocacy Service, and that the findings of the review would be reported back to Cabinet.

The Advocacy Services contract started on 1 April 2021 and was due to expire on 31 March 2023, except for the Generic Advocacy Service part of the contract, which was due to expire on 31 March 2022. The contract included the option to extend by up to two further periods of 12 months each, which was previously agreed by Cabinet on 9<sup>th</sup> September 2020.

The Generic Advocacy Service part of the contract was extended for 6 months in April 2022 to allow the consultation and decision to be taken on the future of the service.

### **Alternative options considered**

Option 1: Extend this element of the contract with the existing provider for a further 6 months to deliver a Generic Advocacy Service, then decide on the future Contract.

Option 2: To continue with the Generic Advocacy Service

Option 3: Decommission the service.

Option 3 is the recommended option for the following reasons:

The evidence supported that the needs can be met by other services in the voluntary sector many of which were already funded or provided by the council to provide the identified support or where there was a statutory responsibility placed on those services to support people with reasonable adjustments.

People contacting POhWER for support, previously provided by Generic Advocacy, would in future be referred to organisations whose role it was to support people with such issues or back to organisations who had a statutory responsibility to provide support under the Equality Duty.

**Agreed** that approval be given to decommission the Generic Advocacy Service as from 1 October 2022.

## 156/22 **Sandwell Suicide Prevention Strategy and Action Plan**

Approval was sought to publish and promote the Sandwell Suicide Prevention Strategy and Action Plan, subject to any required revisions.

### **Reasons for Recommendations**

Sandwell had a preliminary Suicide Prevention Strategy and Action Plan which were drafted at the start of 2020. A local Suicide Prevention Needs Assessment was carried out to re-assess the local situation and current programmes of work in light of the impacts of the COVID-19 pandemic. The findings and recommendations were endorsed by Health & Wellbeing Board in September 2021.

The principal priority was that by 2030, no-one would die of suicide in Sandwell. This ambition was also a key priority for the Sandwell Good Mental Health Strategy, reflecting the importance of good mental health in delivering an effective suicide prevention plan. This formed part of a suite of interlinked strategies that also included Autism, Dementia and Child Mental Health.

The draft Strategy and Action Plan had been through a statutory 60-day public consultation and had been revised to

reflect feedback from Sandwell residents and partner/stakeholder organisations.

### **Alternative options considered**

The alternative would be for the Sandwell Suicide Prevention Partnership to continue our work without a supporting Strategy & Action Plan.

This would compromise the effectiveness and efficiency of our work by making it more difficult to: plan and monitor progress; ensure alignment with other relevant strategies, programmes and partnerships (e.g. Black Country Suicide Prevention Partnership, Sandwell Better Mental health Programme and Strategy Group); assess impact; and identify gaps in provision and support.

**Agreed** that approval be given to publish and promote the Sandwell Suicide Prevention Strategy and Action Plan, as now submitted, subject to any required revisions.

## 157/22 **Draft Statement of Community Involvement 2022**

Approval was sought to adopt the Statement of Community Involvement and for the Director of Regeneration and Growth to be authorised to make any minor amendments to the Statement of Community Involvement prior to circulation.

### **Reasons for Recommendations**

The revised Statement of Community Involvement set out how the Council would involve communities in the planning decision making process. The previous document was adopted in 2016. Given the age of the document and with the changes made to national and local planning policy, it was perceived that the document was no longer relevant for its intended purpose.

For the document to remain relevant and to ensure it was consistent with policies in the Black Country Core Strategy 2011, the emerging Black Country Plan and changes within the National Planning Policy Framework (NPPF). It was recommended that the Statement of Community Involvement

should be revised to reflect changes in planning policy and technological advances.

The revised Statement of Community of Involvement was circulated for consultation between 9 May and 19 June 2022. A total of 5 representations were received.

As a result, minor amendments had been made and incorporated in to the document. As these were only minor amendments, and as the core purpose of the document remains, the revised SCI was recommended for adoption.

### **Alternative options considered**

The alternative option would be to continue to use the SCI adopted in 2016. However, this document will not be up to date and would not tackle issues surrounding the Coronavirus (Covid-19) pandemic and other pandemics which may affect the ability to consult

### **Agreed:**

- (1) that approval be given to adopt the Statement of Community Involvement;
- (2) that the Director, Regeneration and Growth be authorised to make any minor amendments to the Statement of Community Involvement prior to circulation.

## **158/22 Smethwick Enterprise Centre – declaration surplus to requirements**

Approval was to declare the Smethwick Enterprise Centre, Smethwick surplus to requirements in order to facilitate the redevelopment of the site for residential development as part of the Towns Fund programme.

Approval was also sought to authorise the Director of Finance to make the appropriate adjustments to the Revenue Budget to reflect the loss of income, at such time the premises is decanted.

## **Reasons for Recommendations**

Currently, the Smethwick Enterprise Centre was only 37% occupied, with the remaining units requiring substantial investment to bring them up to a lettable standard. The rental income from the occupied units did not cover the ongoing maintenance costs.

Department for Levelling Up, Housing & Communities had announced the approval of £23.5m for the projects contained in the Smethwick Investment Plan. The site of the Smethwick Enterprise Centre was submitted as one of the five projects, requiring funding of £2m to facilitate the demolition of buildings and remediation of the land ready for residential development.

In order to progress the Towns Fund project, it would be necessary to declare the Centre surplus to requirements. It would also be necessary to make a change to the Revenue Budget to reflect that the rental commitment in the ledger would not be achievable once the site was brought forward for demolition and redevelopment

## **Alternative options considered**

Option 1:

The Enterprise Centre continues to operate, as it is currently, with more than half of the units remaining empty and a reduced revenue being received. The Towns Fund project would not progress, resulting in:

- Claw back of £2m of funding by the DLUHC
- approximately 115 new flats and houses (to meet the borough needs) not being delivered and the reputational damage to the Council.

Option 2:

The Enterprise Centre continues to operate, and a budget is identified to fund the refurbishment of the remaining units. As Option 1, the £2m from Towns Fund is clawed back; no housing is delivered; and a significant impact on the Commercial Estate budget.

Option 3:

The Enterprise Centre is declared surplus, resulting in:

- a saving to the council of the continued maintenance costs of running the facility.
- The Towns Fund project being progressed, leading to the first phase of the wider Rolfe Street regeneration
- a loss in revenue in the Commercial Estate.

**Agreed:**

- (1) that Cabinet agree to declare the Smethwick Enterprise Centre, Smethwick surplus to requirements in order to facilitate the redevelopment of the site for residential development as part of the Towns Fund programme.
- (2) that the Director – Finance be authorised to make the appropriate adjustments to the Revenue Budget to reflect the loss of income, at such time the premises is decanted.

159/22 **Appointment of contractor – Sandwell Urban Bike Park Project**

Approval was sought to make an exemption to the Council's Procurement and Contract Procedure Rules in relation to the appointment of 'Back On Track Mountain Bike Solutions Ltd' to deliver the Design and Build Cycle trails within Sandwell Valley and Birmingham (The former Hill Top Golf Course).

Furthermore, approval was sought to authorise the Director of Borough Economy to award a contract to Back On Track Mountain Bike Solutions Ltd up to £530,000 to deliver the new Cycle trails.

The Chair of the Budget and Corporate Scrutiny Management Board asked when works on site were expected to start, how long will they last and when the bike park was expected to open. In response, the Cabinet Member for Leisure and Tourism explained that officers were currently in discussions with the Contractor regarding a start date for works to commence on site.



It had originally been hoped that works would start in January 2023 with a completion (and opening) by the end of March 2023.

Due to other work commitments with the Contractor, it may be that works are pushed back with a start in March 2023 and a completion (and opening) in May 2023. This however would require approval from Sport England as the funder.

More information was expected to be known within the next week and Members would be updated accordingly

### **Reasons for Recommendations**

Tenders for the Design and Build Contract for the Sandwell Urban bike Park project were invited on 2 separate occasions via the Council's 'InTend' Portal. On the first occasion only one contractor submitted a Tender. This contractor failed to pass the standard questions and were therefore discounted from the process. On the second occasion two contractors submitted tenders, these were the contractor previously excluded and 'Back On Track Mountain Bike Solutions Ltd'.

Despite best attempts it had not been possible to obtain 3 tenders for the works. The most likely reasons were:

- The short timescales involved in delivering this project.
- Contractors already had full order books and did not have capacity to take on additional work at this time.

The project timeline for this development would not allow a third round of tendering. Sport England was the main funder and has stipulated that the project must be completed within the current financial year (by end of March 2023).

The Procurement Services Manager had been consulted and their advice was that in order for this tender to be accepted an exemption in accordance with Procurement and Contract Procedure Rules 8.11 and 15 was required.

### **Alternative options considered**

The option to tender the works again (for a third time) was considered however this was discounted due to the timescales previously discussed.

### **Agreed:**

- (1) that an exemption be made to the Council's Procurement and Contract Procedure Rules in relation to the appointment of 'Back On Track Mountain Bike Solutions Ltd' to deliver the Design and Build Cycle trails within Sandwell Valley and Birmingham (The former Hill Top Golf Course).
- (2) that subject to (1) above, the Director of Borough Economy be authorised to award a contract to Back On Track Mountain Bike Solutions Ltd up to £530,000 to deliver the new Cycle trails.

### 160/22 **Designation of Nature Conservation Sites**

Approval was sought to the designation of Alexandra Road, John's, and at Yew Tree as 'Site of Local Importance for Nature Conservation (SLINC).

Approval was also sought to authorise the Director, Regeneration and Growth to make any minor amendments prior to circulation.

The Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board asked how much the extension to SLINC's would add to the nature reserves as part of the green strategy.

The Cabinet Member for Regeneration and Growth stated he would undertake to provide a response to this question.

#### **Reasons for Recommendations**

The report informed Cabinet of the result and recommendation of the ecological surveys carried out for Alexandra Road, John's Lane, and Land at Yew Tree.

All of the sites surveyed were classified as a SLINC before the ecological surveys were carried out. The purpose of the surveys was to provide a more up to date assessment of the

sites to determine what the status of the site should now be and whether a boundary alteration was required.

It is recommended that the Director / Cabinet Member:

- Approves the extension and part deletion in the SLINC designation of Alexandra Road
- Approves the partial extension of the SLINC at the North and West of John's Lane
- Approves the continued designation of Land at Yew Tree, as SLINC

The recommendation was required to ensure that the Council's Local Plan was based on up-to-date evidence and could continue to be used as the basis for robust and defensible planning decisions.

### **Alternative options considered**

The alternative option would be to base planning decisions on the existing evidence base using the current out of date survey data and such decisions may be subsequently open to challenge due to allocations being based on out-of-date or incomplete information.

### **Agreed:**

- (1) that approval be given to the designation of Alexandra Road, John's Lane, and Land at Yew Tree, as shown on the plans set out in Appendix C and D, as 'Site of Local Importance for Nature Conservation (SLINC).
- (2) that the Director, Regeneration and Growth, be authorised to make any minor amendments prior to circulation.

[Councillor Hughes left the meeting at 5:11pm]

## **Governance Improvement Plan Progress**

Consideration was given to details of progress made against the Governance Improvement Plan up to 7 June 2022.

It was also proposed that the Governance Improvement Plan be formally closed and the Improvement Plan Risk Register be received.

The Chair of Budget and Corporate Scrutiny Management Board asked what assurances could be provided that the Council was addressing the issues surrounding the waste contract with Serco, particularly with regards to contract management and street cleansing.

The Leader explained that SMBC had now appointed consultants to support consideration of the contract and partners have just responded to progress the system solution to support contract management. The risk remained with some level of concern as although there was progress in all elements and areas, progress was not as timely as anticipated with some delay in responses from partners. All of the planned action was being delivered, and the new management team at Serco was committed to improvement. The revised street cleansing was in draft.

### **Reasons for Recommendations**

This report provided a quarterly update on progress against the Governance Improvement Plan agreed by Council on 18 January 2022 in response to the Grant Thornton Value for Money Governance Review. On 7 June 2022, Council approved the single Improvement Plan which incorporates all recommendations from the Grant Thornton Governance Review, the LGA Corporate Peer Challenge and the CIPFA Financial Management Review, as well as the Statutory Directions from the Secretary of State for Levelling Up, Housing and Communities. The new Improvement Plan approved in June replaced the Governance Improvement Plan, and future reporting would be on the progress of the new Improvement Plan.

Risk management was embedded within the council's programme management of the Improvement Plan. A risk register had been developed which underpinned the council's strategic risk relating to the Improvement Plan (59a 02/22). Cabinet was asked to receive the Improvement Plan Risk Register to provide assurance that risks were being managed effectively and to provide contextual information for future decision making.

### **Alternative options considered**

The Value for Money Governance Review was undertaken as part of the external auditor's role to provide assurance on the council's arrangements for securing economy, efficiency and effectiveness in its use of resources. As the report includes statutory recommendations the council had a legal obligation to respond appropriately.

The Directions issued by the Secretary of State were a statutory requirement and the council had a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.

Reviewing progress against the Improvement Plan enabled senior officers and members to have oversight of delivery, and take corrective action, as necessary.

There were no alternative options to consider.

### **Agreed:**

- (1) that details of progress made against the Governance Improvement Plan, up to 7 June 2022 as now submitted, be received;
- (2) that the Governance Improvement Plan be formally closed;
- (3) that the Improvement Plan Risk Register, as now submitted, be received.

**Authority to procure Accommodation based support services for victims of domestic abuse**

Approval was sought to authorise the Director of Adult Social Care to enter into a procurement exercise to procure new accommodation-based support services for victims of domestic violence and abuse, for a contract and services commencing 1 February 2023 and for a maximum period of 5 years with a budget of £470k per annum and £2.35m across the contract term.

The Vice-Chair of Economy Skills Transport and Environment Scrutiny Board questioned how awareness could be raised with housing officers who were crucial to the initial assessments of victim domestic abuse and whether the availability of safe accommodation would be promoted. It was also asked whether male victims of domestic violence were also being supported.

The Cabinet Member for Adults, Social Care and Health explained that officers were currently raising awareness of domestic abuse with multi-agency professionals across Sandwell with the provision of free training through the multi-agency domestic abuse training programme which included training around domestic abuse, sexual assault and abuse, honour-based abuse and forced marriage. In addition to this, Housing had commissioned their own training specifically around identifying domestic abuse and supporting victims which was being provided to all of their housing staff. All multi-agency training and single agency training would soon be monitored through an outcome framework which would monitor the take up of the training and how the training was implemented within day to day practice. Over the last year 2021-22, 943 professionals had accessed training. In addition to this, there was a comprehensive Domestic Abuse and Sexual Assault and Abuse Communications Plan to ensure that the Council raised awareness through social media and press releases that reached a varied and diverse audience, so that victims of abuse understand that domestic abuse support in Sandwell was open to anyone and everyone. Some of our recent comms activities had included messages for male victims of abuse, victims who are LGBTQ and elderly victims.

Safe Accommodation in Sandwell was open to all adult victims of domestic abuse, whether the victim was with or without children, and regardless of age, gender, disability, ethnicity or sexuality. In Sandwell we are lucky enough not to have a lack of safe accommodation available, however if this was the case a victim of domestic abuse would be signposted to a refuge or dispersed property out of the Sandwell area which was also sometimes the safest option for them.

A further question was asked whether existing or new services would be procured to address working survivors who were unable to access safe accommodation.

In response, the Cabinet Member for Adults, Social Care and Health stated that the Council had a legal duty to support individuals under the Homelessness Reduction Act 2017 where a person was threatened with homelessness as a result of domestic abuse or was homeless after fleeing domestic abuse. Sandwell MBC Housing Solutions offered direct support to victims who present as homeless or threatened with homelessness due to domestic abuse. Victims could refer themselves directly by calling or by sending an email.

A Homelessness Prevention Officer would carry out a full housing needs assessment and support them with their homelessness needs. Not all victims wished to leave their home so if the victim chose to stay in their own home and it's safe to do so, they may be eligible for sanctuary support. The Sanctuary Scheme provided enhanced physical security measures as well as specialist domestic abuse support.

Where it was determined it was not safe for a victim of domestic abuse and their family to remain in their own home they would be supported with safe temporary accommodation, this could either be with accommodation provided by Black Country Women's Aid (refuge accommodation or a placement in a dispersed property) or within the Council's provision of temporary accommodation. Domestic Abuse victims who were working are able to access safe accommodation although admittedly there would

be a cost to this which meant it did make it less accessible for some victims. However, BCWA had a number of different property types, so there were options available depending on family size and personal financial circumstances. If a victim had no recourse to public funds or were in employment and did not qualify for welfare assistance, BCWA would always work with them to find the most affordable options.

If following an assessment, refuge was not an affordable option, victims were advised this should not be a barrier to leaving the abusive situation and assistance would be provided to ensure that they were signposted and referred to agencies that could help them. BCWA would still be able to offer safeguarding support around domestic abuse.

### **Reasons for Recommendations**

The current contract for Accommodation based support for victims of domestic abuse expires 31 January 2023 which provides 34 units of safe accommodation and support to victims of domestic abuse and their families.

An independent assessment of provision in Sandwell was recently undertaken as part of the Council's responsibilities under the Domestic Abuse Act 2021. This found that provision in Sandwell was not only sufficient to meet local demand but also provided a good customer journey and very positive outcomes for people experiencing Domestic Violence and Abuse. This report also pointed to the service supporting effective and timely move on to safe and appropriate alternative accommodation.

The report did suggest a few areas where support could be further enhanced which we were building into the new contract and we were looking to bring together a smaller contract for additional refuge provision into the new main contract from February 2023.

Given the very specialist nature of the service historically there had been very few providers in the market and the Council had no evidence to suggest that this would be any different for this procurement exercise. Therefore, in the likely event that fewer than the required number of



tenders were received an exemption to rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 was sought to allow a contract to be awarded to the successful tenderer.

### **Alternative options considered**

The current contract expired 31 January 2023 with no option to extend and as the service was required to allow the Council to meet its statutory duty under the Domestic Abuse Act 2021 there was no option other than to procure the service.

### **Agreed:-**

- (1) that approval be given to the Director of Adult Social Care to enter into a procurement exercise to procure new accommodation-based support services for victims of domestic violence and abuse, for a contract and services commencing 1 February 2023 and for a maximum period of 5 years with a budget of £470k per annum and £2.35m across the contract term;
- (2) that approval be given to the Director of Borough Economy to award the contract given that the budget funding for this contract will sit with Borough Economy.
- (3) that approval be given to make an exemption to rule 8.7 of the Procurement and Contract Procedure Rules 2018/19 to allow a contract to be awarded to a successful tenderer in the event that the required minimum number of tenders are not received.

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### **Provision of accommodation-based housing related support for adults at risk of becoming homeless contracts**

Approval was sought for an exemption to be made to the Council's Procurement and Contract Procedure Rules and to

authorise the Director of Adult Social Care to directly award four separate short-term contracts for accommodation-based housing related support for adults at risk of becoming homeless for a period of 9 months (2 November 2022 to 1 August 2023) for a combined value of £632.8k.

The Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board questioned whether the framework for the combined services had been compiled and when would it need to be compiled to go out for tender. Furthermore, the Chair asked whether there would be any objection for the Safer Neighbourhoods and Active Communities Scrutiny Board inputting into the provision as a pre-decision.

The Councillor for Adults, Social Care and Health stated she would undertake to respond to the questions.

### **Reasons for Recommendations**

This report sought the approval for an exemption to Council Procurement and Contract Procedure Rules to directly award four separate short-term contracts, under the Light Touch Regime (LTR) for Accommodation based housing related support for single homeless for a 9-month period from 2 November 2022 to 1 August 2023.

This would facilitate the alignment of all current Supported Housing services to a common expiry date being 31 July 2023 to allow retendering of a Supported Housing framework.

Aligning the end dates for these six contracts would allow them to be reviewed collectively for the first time to allow any potential cost/efficiency savings to be identified and built into a new single remodelled and formally procured service from August 2023.

### **Alternative options considered**

Option 1 – To extend the current contracts rather than directly award new ones.

This was not an option as the current contracts were for a set period with an end date of 1 November 2022 with no option

to extend further, therefore, new contracts were for a continuation of service.

Option 2 – To conduct a procurement exercise for the 4 short term contracts.

The services come with significant set up costs regarding the provision of the accommodation, therefore, it would not be financially viable for a new provider to deliver the service for 9 months only to go through another procurement exercise to commission a holistic framework for supported housing a few months later. This would have a significant impact on council procurement and contracting resource as well as demonstrate very poor value for money for the Council.

**Agreed:-**

- (1) that approval be given for an exemption to be made to the Council's Procurement and Contract Procedure Rules and to authorise the Director of Adult Social Care to directly award four separate short-term contracts for accommodation-based housing related support for adults at risk of becoming homeless for a period of 9 months (2 November 2022 to 1 August 2023) for a combined value of £632.8k.

Contract	Provider	Service area	9 Month Contract Value	Contract End Date
1	Midland Heart	Generic Adults	£172.1k	1 Nov 2022
2	Trident	Generic Adults	£157.5k	1 Nov 2022
3	Green Square Accord	Generic Adults	£109.4k	1 Nov 2022
4	P3	Safe place to stay and assess	£193.8k	1 Nov 2022
Total			£632.8k*	

**Award of Minor Adaptation/Handyperson Service 2023-2026**

Approval was sought to authorise the Director of Adult Social Care, in consultation with the Cabinet Member for Adults, Social Care and Health, to award the contract for the supply of Minor Adaptations and Handypersons Service 2023-2026 following the conclusion of the current procurement exercise.

The Vice-Chair for the Economy Skills Transport and Environment Scrutiny Board questioned whether there would be a requirement for the handy person to enter people's property wearing over shoes. In response, the Cabinet Member for Adults, Social Care and Health stated that there would not be a requirement for the contracted provider to wear covers over shoes, as this posed a health and safety risk for the employee whilst at work. Any customers of the handyperson service could request the wearing of over-shoes, but the decision to do so or not lay with the individual completing the work.

A further question on whether the handy person would be a local person. The Cabinet Member for Adults, Social Care and Health stated whilst this could not be answered, the contract would be sourced via a tender process and therefore the potential bidders were currently unknown. As with most tender exercises, the bidders would be required to answer a quality question based on social value.

**Reasons for Recommendations**

The current contract framework was due to end on 31 December 2022.

It was necessary to request delegated Director authority to award this contract upon completion of tender evaluation at the end of September 2022. This would ensure that mandatory standstill requirements were observed, and sufficient time was available to comply with any potential TUPE requirements. Furthermore, it would allow for an appropriate mobilisation period to be implemented.

### **Alternative options considered**

No alternate options had been considered as this contract was required under the SMBC Policy for the Provision of Assistance (Regulatory Reform Order (Housing Assistance) (England & Wales) Order 2012.

Additionally, under the Care Act 2014, a local authority must provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers would;

- (a) contribute towards preventing or delaying the development by adults in its area of needs for care and support;
- (b) contribute towards preventing or delaying the development by carers in its area of needs for support.

Due to the forthcoming expiration of the Minor Adaptation and Handyperson service contract in December a procurement exercise was required to continue the provision of such service and works.

The most economically advantageous solution was to conduct a tender process in compliance with the Public Contracts Regulations 2015. The cost of employing SMBC staff, alongside costs for supplies and services, would exceed the budget for this service.

### **Agreed:-**

- (1) that the Director of Adult Social Care in consultation with the Cabinet Member for Adults, Social Care & Health, be authorised to award the contract for the supply of Minor Adaptations and Handypersons Service 2023-2026 following the conclusion of the current procurement exercise.
- (2) to authorise the Director – Law and Governance and Monitoring Officer to enter into any legal agreements to enable the course of action referred to in (1) above to proceed.

- (3) that any necessary exemption be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in (1) above to proceed.

## 165/22 **Procurement of an Adult Weight Management Service**

Approval was sought to recommission the Tier 2 Weight Management Service for Adults, taking into account the change in funding source and revised timeline.

The Chair of Health and Adult Social Care Scrutiny Board questioned what this offered to the residents of Sandwell. In response, the Cabinet Member for Adults, Social Care and Health stated that the service would give residents the opportunity to access a professionally run Tier 2 service that would offer a 12-week programme of healthy eating/nutrition advice and support, as well as structured physical activity and exit routes in to other services and support.

A further question on who was going to co-ordinate this initiative was asked by the Chair. In response, the Cabinet Member stated that coordination across all health improvement services was delivered via Public Health and the Healthy Sandwell Team, who were in touch with all providers in the Borough. Anyone wanting advice on which weight management programme would best meet their needs could speak to the Healthy Sandwell Team.

The Chair of the Health and Adult Social Care Scrutiny Board also asked how this initiative would be made available to residents and how would they qualify. In response, the Cabinet Member for Adults, Social Care and Health stated that the service would be run from key community settings across Sandwell and at suitable days and times. The service would be regularly publicised, and it would accept referrals from healthcare settings, the Healthy Sandwell Team and self-referral. Residents would qualify if their BMI is at least 28 (but less in some ethnic groups or if certain health conditions are present).

### **Reasons for Recommendations**

Obesity causes problems at both an individual and societal level, in that it was a significant driver of ill health and demand on health services.

In Sandwell last year the rate of hospital admissions with obesity as a factor was 1842 per 100k population. This equated to over 5585 individual admissions. The rate in Sandwell was below average. However, without continued local investment rates could rise, leading to further, significant impact on both individuals and healthcare resources.

### **Alternative options considered**

The Council did not commission a future adult weight management service. This would have implications for people locally that could widen health inequalities.

### **Agreed:-**

- (1) that Cabinet consider and approve the proposal to re-commission the Tier 2 Weight Management Service for Adults, taking into account the change in funding source and revised timeline.
- (2) that the Director of Public Health be authorised, in consultation with the Chief Finance Officer, to procure a two plus one-year behavioural (tier 2) weight management service for adults using the public health budget.
- (3) to approve the revised timeline details from a service start date in July 2022 to a start date in early 2023 for a period of two years with the option to extend up to a further year until 2026 at a cost of £200,000 per year, so a £600,000 overall budget will be required (which includes the optional one-year extension period) for the service to include a multi-component programme addressing dietary intake, physical activity, and behaviour change for adults who are overweight

or living with obesity with the primary aim of promoting health behaviour change, increased physical activity and improved self-esteem.

- (4) that the Director of Law and Governance & Monitoring Officer be authorised to enter into and execute, under seal as may be required, any contracts or ancillary documentation in relation to the award of contract referred to in recommendation (1) above.
- (5) that the Cabinet authorise an exemption to rule 8.7 of the Procurement and Contract Procedure Rules 2018/19 to allow a contract to be awarded to a successful tenderer in the event that the required minimum number of tenders are not received.
- (6) that Cabinet also approve Variations to the Contract up to a maximum of 10% of the Contract value, should they be necessitated, and that authority to approve such Variations be delegated to the appropriate Director of Public Health in consultation with the Cabinet Member for Living Healthy Lives.
- (7) that the Director of Public Health be authorised to look at options to extend current provision of the Tier2 Adult Weight Management service using available underspend from the current grant funding and/or Public Health grant with Everyone Health.
- (8) that in connection with (7) above, subject to the recommendation above being explored and an extension is allowed as per the framework agreement and Public Contract Regulations, the Director of Public Health and Director of Law and Governance and Monitoring Officer be authorised to enter into an extension agreement with the current provider Everyone Health.



## **Sandwell Museums Accreditation Submission to Arts Council England**

Approval was sought to authorise the Director of Borough Economy to progress a submission from Sandwell Museums service towards potentially achieving full accreditation status – as part of Arts Council England’s (ACE) national Museum Accreditation Scheme.

### **Reasons for Recommendations**

Achieving full Museum Accreditation status supports those involved with a museum/service to deliver high quality services that were open and accessible and help people interact with the collections and protect/conservate them for the future. The Museum Accreditation scheme does this by making sure museums manage their collections properly, engage with visitors/key stakeholders and were governed appropriately. It also opened up opportunities for museums such as external funding opportunities and new partnerships – giving reputational confidence to potential donors (collections/funding) and other key supporters.

### **Alternative options considered**

The current service was not accredited and there was an option to remain unaccredited. This was not recommended as there were clear benefits to achieving accreditation including the increased ability to raise external funding to support the service and the potential ability to support recruitment of staff and volunteers and to increase learning from other accredited museum services.

**Agreed** that approval be given to the Director of Borough Economy to progress a submission from Sandwell Museums service towards potential achieving full accreditation status – as part of Arts Council England’s (ACE) national Museum Accreditation Scheme.

## **Award of Contracts for Post-16 High Needs Education Provision**

Approval was sought for an exemption to the Council's Procurement and Contract Procedure Rules, to enable the Council to enter into individual contracts with Education and Skills Funding Agency (ESFA) approved institutions and independent specialist institutions named in the approved list under Section 41 of the act.

The Chair of Children's Services and Education Scrutiny Board asked whether the Council was satisfied with the provision available for young people with the H.C.P and whether the outcomes were assessed. The Cabinet Member for Children and Education stated that individual students progress against outcomes were measured during Annual Review. Placement within different types of provision was dependent on student and parent/carers preference and cost to the local authority. Outcomes varied depending on the individual ability of pupil: university placement, training /supported internship / life skills courses.

A further question was asked whether we have the provision to meet their needs, given we see a rising increase in young people with H.C.P. The Cabinet Member stated that currently, specialist provision for Post 16 in Sandwell was provided by Special schools (Westminster and Meadows) as well as Wodensborough Academy (resource base) and Albright Centre. A small number of students with EHCPs stay at their mainstream secondary 6th forms. Mainstream colleges such as Sandwell College support children with SEN needs, however some students chose OOB colleges due to their locality and courses on offer i.e. Halesowen College, Dudley College. There would be a need to develop highly specialist Post 16 places going forward and this was within the Specialist Place Planning Strategy. Currently Westminster school were piloting an SPI – which was an expansion of their current Post 16 arrangements.

In support of Sandwell's statutory duty to secure provision in our area, the ESFA would consider our requests to fill a gap in provision. Where evidenced gaps could not be filled through negotiation with good existing providers, the ESFA

would put out to tender through open competition and advertised through ESFA's Update and on 'Contracts Finder', the government's site for advertising its contract opportunities.

The Chair questioned what provision was available in Sandwell and how many young people would need to go out of the borough to have their needs met. The Cabinet Member for Children and Education in response stated that Post 16 Provision at Meadows, Westminster and Wodensborough currently catered for 161 students. Sandwell College had approx. 123 students with EHCPs who attend. Westminster's pilot SPI has 12 students 125 attend OOB colleges but some of this would be based on student / family preference and course availability.

### **Reasons for Recommendations**

The current arrangement ends on 8 October 2022, so an exemption is now required from 9 October 2022. This would enable a smooth transition between academic years and consistency of service.

This would allow the Council to make special educational provision to meet the special educational needs (SEN) of the young person; to secure the best possible outcomes for them across education, health and social care, and to prepare them for adulthood, as they grow older.

### **Alternative options considered**

There were specific provisions laid down for the purposes of satisfying Section 38 (Preparation of an Education, Health and Care plan by local authorities) and there were therefore no other options as the proposal in this report follows council procedure for exemption to contract procedure rules.

### **Agreed:-**

- (1) that approval be given for an exemption to the Council's Procurement and Contract Procedure Rules, to enable the Council to enter into individual contracts with Education and Skills

Funding Agency (ESFA) approved institutions and independent specialist institutions named in the approved list under Section 41 of the Act;

- (2) authorise this exemption under Contract Procedure Rule 15.8 to enable the course of action referred to in (1) above to proceed where 'genuine sole suppliers' for certain goods, service or works where it can be evidenced that there is no benefit in undertaking a procurement exercise', an automatic exemption is given to the following types of contract or activity - Patient or Pupil choice and Sole Suppliers/Providers;
- (3) that the Director of Children's Services and Education be authorised to procure and award contracts to approved Education and Skills Funding Agency institutions.

168/22      **SEND Information, Advice and Support Service (SENDIASS)**

Following the appropriate procurement processes and in line with the Council's Procurement and Contract Procedure Rules, approval was sought to authorise the Director Law and Governance to agree and enter into a new contract with the successful tenderer for the provision of a Special Educational Needs and Disabilities Information, Advice and Support Service (SENDIASS) for a three year period from 1 April 2023 to 31 March 2026 (with the option to extend for a further year) on terms to be agreed by the Director of Children's Services and Education.

**Reasons for Recommendations**

The Children and Families Act 2014 required local authorities to provide children with Special Educational Needs or Disabilities (SEND) for whom they were responsible with impartial information and advice about matters relating to their SEND.

On 8 October 2014, Cabinet duly approved the establishment of a new SENDIASS service in Sandwell (Minute No 58/14 refers).

The current contract with Action for Children for the delivery of the SENDIASS service expired on 31 March 2023.

The report sought approval to go out to tender again to identify a suitable agency to operate the service.

### **Alternative options considered**

In some local authorities the service had been provided internally. This had led to problems about how the service was viewed by parents. In addition, this approach had led to problems internally in addressing issues and determining roles. This option had been discounted as it failed to give the necessary impartiality for families.

### **Agreed:-**

- (1) following the appropriate procurement processes and in line with the Council's Procurement and Contract Procedure rules, that the Director Law and Governance be authorised to agree and enter into a new contract with the successful tenderer for the provision of a Special Educational Needs and Disabilities Information, Advice and Support Service (SENDIASS) for a three year period from 1 April 2023 to 31 March 2026 (with the option to extend for a further year) on terms to be agreed by the Director of Children's Services and Education;
- (2) that the Director Law and Governance be authorised to make any necessary exemptions to the Council's Procurement and Contract procedure rules to allow action in (1) above to be undertaken.

Consideration was given to the financial outturn reports of the Capital Programme, Key Performance Indicators, each service area, Housing Revenue Account, Schools, and Treasury Management and approval sought to refer them to the Budget and Corporate Scrutiny Management Board for consideration and comment.

Approval was sought for the allocation of £0.141m to Sandwell Children's Trust to fund Covid-19 pressures, which is in addition to the transfers made during the year and represents total funding of £1.124m from the Covid Emergency Grant in 2020/21, as reflected within the Children's Services Outturn report.

Approval was also sought for the Revenue Contributions to Capital Outlay (RCCO) and reserve transfers of £5.542m.

Details of new grants that have been received during the final quarter of 2021/22 were noted.

The Chair of the Budget and Corporate Scrutiny Management Board asked what steps were being taken by the Council to ensure more robust financial management of Sandwell Children's Trust and its budget. The Cabinet Member for Finance and Resources stated that the Council had representatives on both the Operational and Strategic Partnership Boards at which the budget position was discussed. The Head of Finance Business Partnering for People also worked closely with the Finance team to understand the latest budget projections and provide support. The latest MTFP position that was discussed as part of the budget setting process for 2022/23 showed that the Trust would have a surplus budget by the end of 2023/24.

A further question was asked on what measures would be taken by the Council to account for the impact inflationary pressures would have on the current financial year. The Cabinet Member stated that Finance teams were working on estimating the additional cost of high inflation currently and these would be factored into the budget planning process for 2023/24 and the review of the MTFP.

The Chair of the Budget and Corporate Scrutiny Management Board also asked whether the Council's current financial plans account for inflation remaining high beyond 22/23. The Cabinet Member for Finance and Resources stated that the current MTFP for the council did not account for inflation remaining as high as it currently was as this was unknown at the time that MTFP was updated. Officers were now reviewing the MTFP and would factor in the impact of high inflation, albeit with a lot of uncertainty about how long the high inflation would continue for and at what level.

### **Reasons for Recommendations**

Section 151 of the 1972 Local Government Act required the Chief Financial Officer to ensure the proper administration of the council's financial affairs. Budgetary control, which included the regular monitoring and reporting of budgets was an essential element in discharging this statutory responsibility. The recommended treatment of the year end variances supports the financial sustainability of the council.

### **Alternative options considered**

Cabinet could vary the proposed transfer to the Sandwell Children's Trust, the use of revenue to fund capital costs (RCCO) and the proposed treatment of the year end variances from budget.

### **Agreed:-**

- (1) that the financial outturn reports of the Capital Programme, Key Performance Indicators, each service area, Housing Revenue Account, Schools, and Treasury Management be received and referred to the Budget and Corporate Scrutiny Management Board for consideration and comment;
- (2) approve the allocation of £0.141m to Sandwell Children's Trust to fund Covid-19 pressures, which is in addition to the transfers made during the year and represents total funding of £1.124m

from the Covid Emergency Grant in 2020/21, as reflected within the Children's Services Outturn report;

- (3) approve the Revenue Contributions to Capital Outlay (RCCO) and reserve transfers of £5.542m as now submitted;
- (4) note the new grants that have been received during the final quarter of 2021/22 as now submitted.

## 170/22 **Exclusion of the Public**

**Resolved** that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act, 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, relating to the financial and business affairs of any person, including the authority holding that information.

## 17122 **Fair Cost of Care and other Adult Social Care and Support Market Pressures**

Approval was sought for the financial intervention proposed for the Supported Living, Complex Residential, Day Care, Home Care and Extra Care (Non-Framework) and Older Peoples Residential and Nursing sectors paid below market rate, totalling £3.11m for 2022/23.

### **Reasons for recommendations**

Approval was sought for a package of financial measures to support part of the Adult Social Care and Support provider market namely Supported Living, Complex Residential, Day Care, Home Care and Extra Care (Non-Framework) and Older Peoples Residential and Nursing sectors paid below standard rate. These providers had not benefited from annual uplifts unlike the 'in scope' services for the Fair Cost of Care exercise defined by the Government.



### **Alternative options considered**

Several alternative options were considered however, the recommendation was considered the most appropriate decision.

#### **Agreed:-**

- (1) that the work being undertaken as part of the Government's Fair Cost of Care, and the extremely tight timescales for the completion of this task, be noted;
- (2) that the Cabinet recognises, supports and approves the financial intervention proposed in the report for the Supported Living, Complex Residential, Day Care, Home Care and Extra Care (Non-Framework) and Older Peoples Residential and Nursing sectors paid below market rate, as set out in the report, totalling £3.11m for 2022/23;
- (3) that it be noted that further investment in the 18+ Home Care and 65+ Residential and Nursing sectors may be required as a result of the outcome of the Fair Cost of Care programme and that similar exercises to be undertaken for the sectors detailed in (2) above;
- (4) that the Section 151 Officer be authorised to release the funding required and the Director of Adult Social Care to make payments to care providers;
- (5) that the Section 151 Officer be authorised to make the budget virements required for the additional payments, funded from the Market Sustainability and Social Care Grants.

## 172/22 **Queen's Square Shopping Centre – Lease Assignment**

Approval was sought for the refusal of landlord's consent to the assignment of the headlease of Queens Square Shopping Centre, West Bromwich, to Future High Street Living Limited.

The Chair of the Budget and Corporate Scrutiny Management Board asked if further detail on the pre-planning application discussions that had taken place between the Council and the party concerned could be provided and was the proposed demolition for the entire site.

In response, the Cabinet Member for Finance and Resources explained that the Council received a pre-application submission in January 2022, the Council had facilitated 2 rounds of pre app meetings with the applicant and a further focus meeting was held with the applicant and Regeneration Manager, Regeneration & Growth Director and the Leader of the Council on 7 June 2022.

The application currently concentrated on the Queen Square leased area, and a parcel of land (former M&S building), adjoining existing retail/residential block fronting Princes Parade leading towards Bull St and the Council's former Multi-Storey Car Park site (now demolished). The current proposal comprised 312 units, a mix of apartments and housing, plus re configured commercial space.

### **Reasons for recommendations**

The poor financial standing of the proposed assignee and unavailability of suitable guarantors.

### **Alternative options considered**

Several alternative options were considered, but the recommendation was considered the most appropriate decision.

**Agreed** that the Cabinet approve the refusal of landlord's consent to the assignment of the headlease of Queens Square Shopping Centre, West Bromwich, to Future High Street Living Limited.

Meeting ended at 6.01pm.

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

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# Minutes of Cabinet

**Wednesday 17 August at 3.30pm  
at Council Chamber, Sandwell Council House**

**Present:** Councillor Piper (Chair);  
Councillors Ahmed, Hackett, Hartwell, Hughes, Millard,  
Padda and Rollins.

**In attendance:** Councillors E M Giles, Hinchliff, Simms and Shackleton.

**Also present:** Tony McGovern (Director of Regeneration and Growth),  
Surjit Tour (Director of Law and Governance and Monitoring  
Officer),  
Matthew More (Communications and Corporate Affairs  
Manager),  
Sue Moore (Group Head for Education and Support  
Services).

## 173/22 **Apologies for Absence**

Apologies for absence were received from Councillors Carmichael,  
Bhullar, Fenton, Moore and Shackleton.

## 174/22 **Declarations of Interest**

Councillor Hughes declared a personal interest on the basis that  
he was a member of the Birmingham and Black Country Wildlife  
Trust.



## Report of the Budget and Corporate Management Scrutiny Board – Brandhall ‘Options’

In accordance with the provisions contained with Part 4 of the Council’s Constitution (Scrutiny Procedure Rules), the Council received a ‘call-in’ notification from Councillor Fenton, Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board on Monday 25 July 2022, relating to the Cabinet decision of 20 July 2022 on Brandhall ‘Options’ (Minute No. 147/22 refers).

Following the ‘call-in’ notification, the Budget and Corporate Scrutiny Management Board, at its meeting held on 8 August 2022, agreed to formally recommend that the decision relating to Brandhall ‘Options’ be referred back to Cabinet for reconsideration on the basis that information utilised by Cabinet in reaching its decision might have been incomplete in the following three respects:-

- The Strategic Housing Land Availability Assessment (SHLAA) for the site was omitted from the report and Cabinet might wish to satisfy itself that the correct process and methodology was followed in relation to the comparable assessment of the site;
- There was insufficient information contained in the report to confirm that alternative site options for the replacement of the Causeway Green Primary School and delivery of a new school had been fully explored, for example Cakemore playing fields did not appear to have been considered;
- There was insufficient explanation given with regard to how the public consultation results, particularly with regard to residents’ views, had been evaluated and weighted in reaching the decision on the preferred option.

The Budget and Corporate Scrutiny Management Board also requested that any further financial analysis on the viability of the Brandhall site be presented at its future meeting.

The Cabinet Member for Regeneration and Growth commented that the differences of view and opinion were not deemed insurmountable and requested that a further meeting of Cabinet be convened in September in order for:-



- Cabinet to be afforded the opportunity to comprehensively put forward its rationale in reaching the decision, in terms of the information available to Cabinet and clarification of any procedural aspects;
- Officers to be able to prepare a further report providing clarification on the information presented to Cabinet on 20 July 2022 as part of its decision-making process.

The Cabinet Member for Regeneration and Growth confirmed that both the Chair of the Budget and Corporate Scrutiny Management Board, Councillor Moore, and the proposer of the 'call-in', Councillor Fenton, had agreed to this approach.

### **Agreed:-**

- (1) that the findings of the Budget and Corporate Management Scrutiny Board made on 8 August 2022, relating to the Cabinet decision of 20 July 2022 on the preferred option for the Brandhall site (Minute No. 147/22 refers) be formally received;
- (2) that a further meeting of the Cabinet be convened at a date in September, to be agreed by the Leader of the Council, to consider a more detailed report in response to the issues identified by the Budget and Corporate Management Scrutiny Board.

Meeting ended at 3.39pm.

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)



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# Minutes of Cabinet

**Wednesday 28 September 2022 at 3.30pm  
at Council Chamber, Sandwell Council House**

**Present:** Councillor Carmichael (Chair);  
Councillors Piper, Hartwell, Hughes and Padda.

**In attendance:** Councillors Fenton and Simms.

**Also present:** Kim Bromley-Derry (Managing Director Commissioner), Simone Hines (Director of Finance), Surjit Tour (Director of Law and Governance and Monitoring Officer), Alice Davey (Director of Borough Economy), Tony McGovern (Director of Regeneration and Growth), Lisa McNally (Director of Public Health), Elaine Newsome (Service Manager – Democracy), Matthew Huggins (Interim Service Manager Parks and Grounds), Suky Suthi-Nagra (Democratic Services Manager).

**176/22 Apologies for Absence**

Apologies for absence were received by Councillors Ahmed, Hackett, Rollins, Moore, E M Giles, Shackleton and Taylor.

**177/22 Declarations of Interest**

There were no declarations of interest.

**178/22 Minutes**

The minutes of the meetings held on 20 July and 17 August 2022 were approved as a correct record.

179/22      **Additional Items of Business**

There were no additional items of business to consider.

180/22      **Q1 Budget Monitoring 2022/23**

The Cabinet Member for Finance and Resources presented the Q1 Budget Monitoring 2022/23 position as at 30 June 2022.

The overall projected outturn position for the General Fund was an overspend of £2.129m.

The overall projected net directorate outturn variance, excluding the Housing Revenue Account, was an overspend of £2.097m following the use of reserves.

At the end of 2021/22, £154.971m was held in earmarked reserves and three new reserves had been created as part of the budget setting process for 2022/23 which increased the opening balance to £164.703m. During the year, it was projected that £36.911m of these balances would be used leaving a remaining balance of £127.972m. A significant proportion of the use of reserves is the Business Rates S31 grant reserve, which was maintained due to timing differences in the accounting treatment for business rates income.

Approval was sought for an additional payment of £0.5m to Sandwell Children's Trust and a number of budget virements.

The Chair of Safer Neighbourhoods and Active Communities Scrutiny Board, on behalf of the Vice Chair of Economy, Skills, Transport and Environment Scrutiny Board, highlighted that in 4.7 of the report – Common Wealth Reserves was a new pocket of reserves as we had just had the games here in the West Midlands. If Sandwell did not have the funds from the games, what funds would be used?

The Cabinet Member for Finance and Resources stated that this reserve was set up from underspends as at 2021/22; the Leadership team had agreed it could be used to fund some marketing for the Commonwealth Games along with other work taking place on the Commonwealth Games' legacy.

### **Reason for Decision**

Section 151 of the 1972 Local Government Act required the Chief Financial Officer to ensure the proper administration of the council's financial affairs. Budgetary control, which included the regular monitoring and reporting of budgets was an essential element in discharging this statutory responsibility. The recommended treatment of the year end variances supported the financial sustainability of the council.

### **Alternative Options Considered**

There were limited alternatives to the recommendations included in this report. Cabinet could decide not to allow the proposed use of reserves by directorates, but this would increase the projected overspend and result in a further reduction in the council's general fund balance.

### **Agreed:-**

- (1) that the financial monitoring position as at 30 June 2022 be noted and referred to the Budget and Corporate Scrutiny Management Board for consideration and comment;
- (2) that an additional payment of £0.5m to Sandwell Children's Trust be approved to fund the costs for high cost placements as well as recruitment and retention issues;

- (3) that the following budget virements above £1m in line with the revised delegated limits for Cabinet Members and Directors, be approved: -

Virements above £1m for Cabinet Approval	£'000	£'000
ASC - Removal of target budget for Market sustainability & Fair Cost of Care as received as a ASC grant		(1,247)
Resources - Removal of target budget for Market sustainability & Fair Cost of Care as received as a ASC grant	1,247	
<b>TOTAL</b>	<b>1,247</b>	<b>(1,247)</b>

181/22 **Proposal to Declare the Whole of Sandwell as a Smoke Control Area**

Consideration was given to proposals to declare a boroughwide Smoke Control Area in Sandwell following public consultation. Approval was also sought to replace the existing 51 Smoke Control Areas and ensure that all properties in the Borough were subject to the same legal requirements in relation to the prevention of smoke from building chimneys.

In response to questions raised by the Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board, on behalf of the Chair of the Health and Adult Social Care Scrutiny Board, the Cabinet Member for Adults, Social Care and Health highlighted that the proposed changes, including what fuels could be used or sold, had been widely communicated to residents. The “Ready to Burn” logo on certified fuels would ensure that they were easily identifiable for customers and retailers. A further promotion would take place if the changes were approved by the Council. Enforcement would be taken by following the steps set down in the Regulators Code (Section 23, Legislative and Regulatory Reform Act 2006). These steps would begin with warnings and advice but would progress through to fines for individuals or even prosecution for retailers. The positive response to consultations and to subsequent media promotion suggested that people in Sandwell clearly understood why this was needed and that adherence to the policy would be high.

### **Reason for Decision**

The Council has a legal duty to assess local air quality and where necessary take appropriate action to protect the health of those living and working in the Borough. The declaration of a borough-wide Smoke Control Area was just one of a range of measures that Sandwell Council can implement to help reduce the exposure of all its communities to the harmful smoke emissions created by domestic solid fuel burning.

Sandwell currently had 51 separate Smoke Control Areas (SCA), by extending the SCA to cover the whole of the borough all neighbourhoods would be protected against harmful smoke emissions, at present homes and businesses in approximately 4/5ths of the borough could still legally burn unauthorised fuels (i.e. wood and coal) in non-exempt appliances and on open fireplaces. A borough-wide SCA would address this inequality.

### **Alternative Options Considered**

**Continue with Existing Smoke Control Areas**

To continue with Sandwell's 51 Smoke Control Orders means that differing legal requirements would remain for exempted properties compared to other parts of the borough. This was inequitable and would result in mixed messages and potential greater levels of non-compliance by those in existing smoke control areas who consider themselves unfairly penalised. There was not envisaged to be any legitimate reason for objection.

Non-exempt solid fuel burning stoves and open fireplaces had a negative impact on internal and external air-quality and had a significant burden in terms of health costs, both short and long term. If domestic burning in properties across Sandwell continued unchecked and unregulated the impact could negate the technological gains made through cleaner vehicle technology, home energy efficiency and controls of industrial processes.

It was envisaged that the use of solid fuel burning stoves and open fireplaces would increase with rising energy prices. At a time when households were facing financial hardship, it is easy to accept wood and coal burning as the cheap solution.

Air pollution was already impacting negatively on our economy and health, but if we allowed the increased burning of unauthorised fuels and appliances it would come with a high price tag in terms of health care both now and in the future.

**Agreed:-**

(1) that the results of the public consultation on the Proposal to Declare a boroughwide Smoke Control Area be received;

(2) that the Council be recommended to approve Sandwell MBC 'Declaring' the whole Borough of Sandwell as a Smoke Control Area (SCA) under the Clean Air Act 1993 and replace the existing 51 Smoke Control Areas and ensure that all properties in the Borough are subject to the same legal requirements in relation to the prevention of smoke from building chimneys.

(3) that subject to Resolution (2) above, the Director of Public Health be authorised to revoke the existing 51 Smoke Control Orders and making a single Borough-wide Smoke Control Order, with the Smoke Control Area coming into operation on the date specified in the Order which will not be earlier than six months from the date of confirmation.

182/22

**Sandwell Children's Trust – Contract Review**

The Cabinet Member for Regeneration and Growth, in the absence of the Cabinet Member for Children and Education, presented the Sandwell Children's Trust Contract Review which detailed the revised contractual key performance indicators. It was highlighted that the previous Ofsted rating of "inadequate" had now improved to "Requires Improvement to be good".

### **Reasons for Decision**

The Service Delivery Contract (SDC) between the Council and Sandwell Children's Trust went live on 1 April 2018. The total contract period was for 10 years with an option to exercise a break after 5 years of operation.

The SDC included a requirement for the Trust to produce an annual review each year and a Contract Review at the end of year 4 of operation. There was a joint requirement on the Council to also review the contract at the end of year 4.

On the completion of the Contract Review process, a recommendation must be made to the Secretary of State on whether a Break Notice should be served, and children's social care functions brought back under the direct management of the Council.

The Secretary of State would make the final decision on the serving of the break notice, considering the recommendations of both the Council and Sandwell Children's Trust.

### **Alternative Options Considered**

An alternative option would be to recommend to the Secretary of State that the service delivery contract is ended, and that children's social care functions return to the direct management of the Council.

#### **Agreed:-**

- (1) that the Cabinet, as the decision maker for the Council, in its capacity as sole Member (shareholder) of Sandwell Children's Trust (SCT) a private company limited by guarantee and employer of SCT for the delivery of services pursuant to a Service Delivery Contract (SDC) made between the Council and SCT dated 1 April 2018:-
  - a) formally receives the Contract Review Report

- b) notes the progress made to date by Sandwell Children's Trust in delivering services as set out in the Contract between the Council and the move from being judged as inadequate to requires improvement to be good.
- c) agrees the recommendations detailed in the contract review:
  - i) does not recommend to the Secretary of State that the break clause is invoked
  - ii) authorises the Director of Children and Education, in consultation with the Chief Executive of the Council and the Cabinet Member for Children and Education, to agree with Sandwell Children's Trust revised contractual key performance indicators, to commence on 1st April 2023
  - iii) The requirement to achieve a judgement of 'Good' as per the ILACS framework be revised from within four years of contract commencement (March 2022) to the next standard ILACS inspection by Ofsted (within three years of the previous inspection).

183/22      **School Organisation Plan 2021-2026; results of consultation and approval to publish**

Approval was sought that the 'School Organisation Plan 2021–2026', in accordance with the statutory obligation placed upon the council under the School Standards and Framework Act 1998, be published.

The Chair of Safer Neighbourhoods and Active Communities Scrutiny Board, on behalf of the Vice Chair of Economy, Skills, Transport and Environment Scrutiny Board, questioned why the School Organisation Plan makes no provision for a contingency plan for new intakes from abroad (refugees).



The Cabinet Member for Regeneration and Growth, in the absence of the Cabinet Member for Children and Education, stated that Section 4.3 of the School Organisation Plan, 'Migration', does reference that "when planning the level of school places in an area, a threshold of up to 10% has traditionally been considered appropriate to allow for migration where possible". In addition, "a surplus of between 5 and 8% across all schools in a LA area is considered acceptable by the DfE to manage in-year demand". Also, for the primary phase the council's target is 5%. Capital funding allocated to each LA to specifically provide for the provision of new school places is based upon the LA's projections for future demand for school places using existing school population data and expected future trends in population growth. The trend for International New Arrivals is a factor considered within those projections. For both the recent Afghanistan and Ukrainian resettlement programmes, the council unfortunately could not plan for such events occurring. However, with the strategic aim to maintain a minimum of 5% surplus of school places across the Borough, this was seen by the DfE to be an acceptable strategy to provide for inward migration during an academic year.

### **Reasons for Decision**

The Council was required to approve a School Organisation Plan in accordance with the statutory obligation placed upon the council under the School Standards and Framework Act 1998.

### **Alternative Options Considered**

This was a requirement placed on the council by the School Standards and Framework Act 1998. There was no other option available.

For at least the last 12 years, the Authority had responded to an unprecedented and significant growth in the birth rate, inward migration and retention levels. Pupil place planning and capital investment had responded to the challenges the growth had presented to the school sector. However, as the birth rate started to ease, but the level of inward migration continues to fluctuate, there was now a need to plan for future provision.

The option to do nothing was not a viable option for the council in fulfilling its statutory obligation to provide sufficient school places.

**Agreed** that the 'School Organisation Plan 2021–2026', as now submitted, be approved, in accordance with the statutory obligation placed upon the council under the School Standards and Framework Act 1998.

## 184/22 **Stock Condition Surveys**

Approval was sought to authorise the Director of Housing, in consultation with the Director of Finance, to prepare tendering documentation and to procure one or more contractors, in accordance with The Public Contract Regulations 2015 and the Council's Procurement and Contract Procedure Rules, to work on behalf of the Council, to undertake stock condition surveys to our Housing stock.

### **Reasons for Recommendations**

Approval was sought to procure, award and enter into contract with the successful contractor(s) to undertake stock condition surveys to continue the substantial investment in the Council's housing stock.

### **Alternative Options**

#### **To continue using the SCD we have to inform investment programmes.**

This option was ruled out because it was felt that the over reliance on cloned data results in a low accuracy level of the current data.

#### **To undertake the surveys in-house.**

This option was ruled out because the Council did not currently have the internal resources available to undertake the significant volumes of stock condition surveys required to meet the recommended 50% of our stock. However, once this commission had been concluded the Council intended to plan and programme a rolling programme of stock condition surveys through internal resources and ensure that the Council's stock condition data was no more than 5 years

old, to ensure compliance with the forthcoming Regulators reportable item.

**Agreed:-**

- (1) that the Director of Housing, in consultation with the Director of Finance, be authorised to prepare tendering documentation and to procure one or more contractors, in accordance with The Public Contract Regulations 2015 and the Council's Procurement and Contract Procedure Rules, to work on behalf of the Council, to undertake stock condition surveys to our Housing stock;
- (2) the Director of Housing be authorised to award the contracts, as referred to in Resolution (1) above, to the successful contractor(s);
- (3) that the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to the award of the contracts;
- (4) that any necessary exemption be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in Resolution (1) above to proceed.

185/22 **Improvement Plan Progress**

Consideration was given to the progress made against the Improvement Plan up to 4 August 2022.

Progress had been made across all areas with slippages in some areas. The Cabinet received feedback from the Budget and Corporate Scrutiny Management Board following consideration of the Improvement Plan at their meeting held on 22 September 2022. The Audit and Risk Assurance Committee would also receive the report on 29 September 2022; any recommendations or comments would be noted and reported back.

The Chair of Safer Neighbourhoods and Active Communities Scrutiny Board, on behalf of the Vice Chair of Economy, Skills, Transport and Environment Scrutiny Board, questioned why the report did not include the Combined Authority as partners of the Council.

The Leader of the Council stated that the Improvement Plan contained a theme focusing on Partnerships and Relationships. This theme had a workstream on Sandwell's Regional and sub-regional presence. This contained a set of actions to ensure that opportunities for Sandwell were being maximised through the Council's participation in key regional and sub-regional bodies (including the Combined Authority, and Black Country LEP). The LGA were conducting a follow up Corporate Peer Challenge visit in October 2022 and the CA were included in the list of stakeholders for this visit. The Corporate Peer Challenge will include a consideration of whether there has been a shift to the council focusing more externally. The review findings would help to capture our progress in this area. As part of the assurance process around the Improvement Plan, Grant Thornton and Cipfa were also conducting follow up reviews. The Improvement Plan would be refreshed following the outcomes of these 3 external review visits.

In addition, it was confirmed that guidance would be issued to report authors to include this information. In addition, Scrutiny Members could request this information from report presenters to aid scrutiny's consideration of the breadth of consultation.

### **Reasons for Decision**

The Value for Money Governance Review was undertaken as part of the external auditor's role to provide assurance on the council's arrangements for securing economy, efficiency and effectiveness in its use of resources. As the report includes statutory recommendations the council had a legal obligation to respond appropriately.

The Directions issued by the Secretary of State were a statutory requirement and the council had a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.

Reviewing progress against the Improvement Plan enabled senior officers and members have oversight of delivery, and take corrective action, as necessary.

### **Alternative Options Considered**

There were no alternative options to consider.

#### **Agreed:-**

- (1) that progress against the Improvement Plan up to 4 August 2022 be received;
- (2) that the Improvement Plan Risk Register be received;
- (3) to receive the changes made to the Improvement Plan;
- (4) that the recommendations and comments made by Budget and Corporate Scrutiny Management Board following their meeting on 22 September, be noted and any comments or recommendations made by Audit and Risk Assurance Committee at their meeting on 29 September to be reported to a future Cabinet meeting.

## **186/22 Performance Management Framework – Q1 Monitoring**

Consideration was given to the progress made on developing the Corporate Performance Framework and the Strategic Risk Register.

Council approved a corporate Performance Management Framework (PMF) on 12 April 2022, to address the recommendations of the Governance Value for Money Review by Grant Thornton and as a key element of the Council's Improvement Plan.

Since April, the corporate PMF had been further refined, built into business processes and performance monitoring information had been gathered for Q1 of 2022/23.

### **Reasons for decision**

The Directions issued by the Secretary of State, including the requirement to have a performance management framework in place, were a statutory requirement and the council had a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.

### **Alternative options considered**

The council had various options on what type of performance management framework to establish. Our approach had been developed through understanding the needs of the organisation and drawing on best practice from other local authorities. As we continue our improvement journey, the PMF would evolve to meet our changing requirements.

### **Agreed:-**

- (1) that the progress made on developing the Corporate Performance Management Framework be noted;
- (2) that the Q1 monitoring reports for Performance Management Framework be approved;
- (3) that the Strategic Risk Register, as now submitted, be noted.

## **187/22 Exclusion of the Public**

**Resolved** that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act, 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, relating to the financial and business affairs of any person, including the authority holding that information.

**Council new build homes on land at Hawes Lane, Rowley Regis**

Approval was sought to authorise the development of affordable rent council homes on land at Hawes Lane, Rowley Regis with circa 15 homes as part of the new strategic approach to provide more and better housing in the borough.

**Reasons for recommendations**

This project intended to deliver new Council-owned affordable rented properties on a council-owned site being a mix of bungalows, houses and apartments all being built to M(4)2 accessible and adaptable standards.

**Alternative options considered**

As part of the appraisal process the following options were considered:

Option A – Dispose of the Site on the Open Market

Option B – Work in partnership with a Registered Provider Partner with the assistance of Homes England to build new affordable homes for rent.

Option C – Leave the site undeveloped.

**Agreed:**

- (1) that approval be given to appropriate approximately 4186.2 m<sup>2</sup> of land at Hawes Lane, Rowley Regis from the General Fund to the Housing Revenue Account for housing purposes with the accounts being adjusted accordingly and to develop the site with circa 15 new affordable rent council homes, as shown for identification purposes on Plan No. SAM/22920/004;
- (2) that the Director of Finance be authorised to allocate adequate resources from the Council's Housing Revenue Account and the Right to Buy one for one receipts to deliver the scheme;

- (3) that in connection with Resolution (1) and (2) above, approval be given to authorise the necessary steps for the delivery of the proposed project, including:
- a) the Director of Regeneration and Growth in consultation with the Director of Finance and the Director of Housing be authorised to prepare tendering documentation and subsequently procure, in accordance with any statutory regulations and the Council's Procurement and Financial Regulations;
  - b) execute any requirements in accordance with the Homes England Delivery Partner Dynamic Purchasing System (DPS) framework including appointing a contractor/contractors to develop, on behalf of the Council, the proposed housing scheme; to enter into or execute under seal any financial agreement in relation to the Homes England grant on terms and conditions to be agreed by the Director of Finance;
  - c) that any necessary exemptions are made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to b above to proceed;
  - d) subject to a, b and c above, the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract and/or development/partnership agreement, Homes England developer status, licence, undertaking, framework joining agreement, any consents or applications required for Planning or Highways appertaining to the delivery of the scheme and any other agreements with the procured contractor(s) and with the Homes England, as may be deemed necessary to facilitate development of the site with a housing scheme as described in below



on terms and conditions to be agreed by the Director of Regeneration and Growth;

- e) the Director of Regeneration and Growth in consultation with the Director of Housing and the Director of Finance be authorised to accept a tender of up to 10% above the approved estimated costs as a contingency to mitigate uncertain market conditions and inflationary cost uplifts.
- f) subject to practical completion of each property the Director of Housing be authorised to manage and let the properties built in accordance with the Council's housing allocation policy.
- g) that the following action points identified within the financial appraisal of the funding application by Strategic Finance, be implemented to reduce the risk to the Council:
  - That Cabinet consider the alternatives and are satisfied that the proposal to construct the new build homes will meet the Council's objectives in the most appropriate manner.
  - That a process is developed to prioritise the development of sites against pre-determined criteria and alternative options for achieving the Council's housing objectives within each locality.
  - That the site is appropriated from the Council's General Fund to the Housing Revenue Account at a value of £0.406m and the corresponding adjustment to the Capital Financing Requirement made to reflect the appropriation.

Meeting ended at 4.00pm

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

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## Minutes of Budget and Corporate Scrutiny Management Board

**Thursday, 28 July 2022 at 6.00 pm**  
**In Committee Room 2 at Sandwell Council House, Oldbury**

**Present:** Councillor Moore (Chair);  
Councillors Anandou, Fenton, Shackleton, Simms and  
Bhullar.

**In attendance:** Ian Dunn (Service Manager for Revenues and  
Benefits), Rebecca Maher (Head of Finance), Charlie Davey  
(Finance Business Partner for Adults), Abi Asimolowo  
(Finance Business Partner), Matt Powis (Senior Democratic  
Services Officer) and Anthony Lloyd (Democratic Services  
Officer)

### **29/22** Apologies for Absence

Apologies were received from Councillors Hinchliff and E M Giles.

### **30/22** Declarations of Interest

There were no declarations of interest.

### **31/22** Minutes

**Resolved** that the minutes of the meeting held on 13 July  
2022 are approved as a correct record.



**32/22**

## **Additional Items of Business**

A Member suggested a review of the current taxi licensing protests should be undertaken by the Board. The Senior Democratic Services Officer suggested that it should, instead, be a concern for the Licensing Committee to investigate before proceeding any further.

It was requested for the Senior Democratic Services Officer to investigate further.

**33/22**

## **2021/2022 Financial Outturn**

The Head of Finance presented an overview of the 2021 to 2022 Financial Outturn for the Board.

The Board noted that the Council continued to see the impact of the Covid-19 pandemic with the continued reduction in income across many services including car parking and the residential education centre. There was a total overall underspend of £4.8m however, it was noted that the overall net directorate outturn variance excluding the Housing Revenue Account (HRA) increased the underspend to £7.925m which included reserve transfers.

It was noted that multiple Council directorates including Adult Social Care (ASC) and Regeneration and Growth had underspends.

A discussion ensued about whether the underspend could be used to help residents of Sandwell tackle the current cost of living crisis. The Head of Finance explained that due to inflation, it would be extremely unlikely that there would be an underspend for the period 2022 to 2023. It was noted that the Council was monitoring the financial position and preparing appropriate budgetary planning.

Members questioned how the re-uptake of staff after years of a reduced workforce, partly due to COVID-19, would impact the budget. The Head of Finance explained that many teams adapted to hybrid working and therefore many of the vacant posts were no longer required. It was also confirmed that salary budgets and staff pay awards were monitored in accordance with budgetary planning and were included in financial projections.

## **Adult Social Care**

The Board sought clarification on why the underspend for Adult Social Care was so high. The Finance Business Partner for ASC confirmed a number of grants and efficiencies had been received and the following responses were highlighted:

- A £1.6m grant was obtained from the Better Care Fund. The Better Care Fund Pool Budget received additional contributions to the budget and reduced its overall expenditure. Therefore, the Council was able to request additional resources.
- A grant for the extremely vulnerable was obtained to help contact vulnerable people during the COVID pandemic.
- The NHS had funded patient discharges for the first four weeks of support for people moving from hospital into the social care system.
- A Domestic Abuse grant was obtained in line with additional statutory requirements. Therefore, funding responsibilities were already allocated.
- £900k was obtained from efficiencies made within services.
- A previous underspend of £1.8m was carried over from the previous year.

Due to the vast amount of grants currently available to the Council, Members requested a report at a future meeting which highlighted value of each fund and information on the applicable service area.

At this point in the meeting Councillor Bhullar left the meeting at 6.36p.m.

## **Children's Social Care**

A lengthy discussion ensued regarding the highlighted overspend by Children's Services and the historical issues with overspends within the directorate.

The Finance Business Partner for Children's Services confirmed that there had been an increase in children requiring care within the Borough. In addition, there were longstanding issues locally and nationally regarding the recruitment and retention of Social Workers which had been a contributor to the overspends within the directorate. Additional funding had been supplied to the Sandwell Children's Trust to alleviate the budgetary pressures associated with COVID. The majority of the overspend against Children's

Services was due to the historical SEND Transport contract, which was not run by SCT.

A Member suggested SCT should prioritise early intervention of children to prevent children requiring care in the first place. This would hopefully reduce the need for foster carers and social workers in the longer term. It was stated that it may be a useful exercise to compare the Council's early intervention programmes with that of other Local Authorities.

## **Law and Governance**

The Chair requested clarification on both the Law and Governance underspend and whether Section 106 agreements would be spent within the allocated timescales.

The Head of Finance explained that Council had received proceeds of crime income from a recent high-profile case which had been appropriately budgeted. However, it was noted that the aforementioned proceeds would need to be allocated to the directorates and parties involved.

In relation to the Section 106 agreements, it was stated that Council conducted rigorous monitoring of the agreements with updates being regularly reported to the Council's senior leadership team. The Chair confirmed that the Board would receive a report on Section 106 and Community Infrastructure Levy funding at a future meeting.

## **Housing**

The Board expressed their concerns in relation to the current housing underspend. Although an underspend was reported, Members questioned why this was not used to address the current housing repair delays. The Head of Finance confirmed that the underspend would be added to the ring-fenced reserves for Housing to conduct the relevant repairs to the housing stock. A Member confirmed that the Safer Neighbourhoods and Active Communities Board would receive an update report on the timely repairs of Council housing.

A Member sought clarification on whether the Council had dedicated resources for Planning Enforcement. It was confirmed that a response would be provided in writing.

### **Resolved:-**

- (1) that the Head of Finance investigate the viability of providing dedicated funding for planning enforcement;
- (2) that the Safer Neighbourhoods and Active Communities Scrutiny Board receive a report on the Council's housing repairs;
- (3) that a report be presented to a future meeting of the Board about the budget pressure in by Children's Services;
- (4) that a report be presented to a future meeting of the Board on the Council's grants and funds.

**34/22**

### **Energy Rebate payments update**

The Service Manager for Revenues and Benefits was invited to address the Board in relation to the on-going Energy Rebate payment process.

The following updates were received by the Board:

- Over 90% of residents applying for the Energy Rebate via direct debit had received their payments; the majority being processed in the first month with almost 100,000 residents helped to date.
- There were issues with paying residents that had mismatched address and bank account data.
- Some residents did not pay via direct debit and therefore no direct debit details were available on the system for payments to be processed. This was the equivalent to over 60,000 residents however, those that missed the application deadline would instead receive £150 credit towards their next Council Tax bill.
- Over 5300 requests had been received from residents requesting physical cash payments.
- Some of the most deprived households would be provided with additional funds courtesy of the Council.
- Council staff gained experience and understanding of the service as a result of the scheme. This experience put the Council in a better place to deliver high quality customer service in future.

- Although unconfirmed, an additional rebate scheme was rumoured to be coming in the winter.

Members queried about the possible use of the existing system to automatically process the proposed second energy rebate scheme using existing resident information. The Service Manager for Revenues and Benefits confirmed that it would be possible to use the existing system however, further investigation was required and it would depend on the Government's eligibility criteria for future schemes.

At this point Councillor Shackleton left the meeting at 7.22p.m.

The Board raised concerns about the number of residents still not receiving payments. Several anecdotes were provided by Members to better explain some of their concerns. The Service Manager for Revenues and Benefits confirmed that payments were still being processed over the next few months, alongside the implementation of new software. The Board were reassured that any further complaints can be escalated by Members to the relevant officers for investigation.

**Resolved** that the update on the Energy Rebate payments update be noted.

## **35/22**

### **Draft Scrutiny Annual Report 2021/22**

The Chair of the Board outlined the draft Scrutiny Annual Report for 2021 to 2022 and requested any amended or comments in relation to the report.

It was suggested that the next Scrutiny Annual Report for 2022 to 2023 incorporate digitalisation tools such as video or infographics. There was a consensus that this method might be a better way to show the hard work carried out by each of the Scrutiny Boards.

**Resolved:**

- (1) that, the Scrutiny Annual Report for 2021 to 2022 be approved for submission to Council.

Meeting ended at 7.34pm.



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# Minutes of Special Budget and Corporate Scrutiny Management Board

**Monday 08 August 2022 at 3.30pm**  
**In the Council Chamber at Sandwell Council House, Oldbury**

**Present:** Councillor Moore (Chair)  
Councillors Anandou, Bhullar, Fenton, E M Giles, Hinchliff  
and Shackleton.

**Also Present:** Councillors Carmichael, Gavan and Hughes.

**In attendance:** Simone Hines (Director of Finance), Michael Jarratt (Director of Children's Services and Education), Tony McGovern (Director of Regeneration and Growth), Surjit Tour (Director of Law and Governance and Monitoring Officer), Sue Moore (Group Head for Education and Support Services). Elaine Newsome (Service Manager for Democracy), Tammy Stokes (Service Manager for Growth and Spatial Planning), Andy Thorpe (Healthy Urban Development Officer), Simon Chadwick (Road Safety and Highways Manager), Andy Miller (Strategic Planning and Transport Manager) Suky Suthi-Nagra (Democratic Services Manager), Matt Powis (Senior Democratic Services Officer), Trisha Newton (Senior Democratic Services Officer), Anthony Lloyd (Democratic Services Officer) and John Swann (Democratic Services Officer), Lee Wood (Regional Design Director – Aecom), David Deakin (Air Quality and Technical Director – Aecom) and Chris Morris (Transport Planner – Aecom), Ian Bennett (Chair of Brandhall Green Space Action Group) and Tim Parkes (Brandhall Green Space Action Group).



## **36/22 Apologies for Absence**

Apologies for absence were received by Councillors Akhtar, Taylor and Hackett.

## **37/22 Declarations of Interest and Party Whip**

Councillors Bhullar, Fenton and Moore declared a non-pecuniary interest in Minute No.38/22 as they have all undertaken a site visit with the Brandhall Green Space Action Group.

Councillor Anandou declared a non-pecuniary interest in relation to Minute No.38/22 as he founded the Brandhall Green Space Action Group.

Councillor Hughes declared a non-pecuniary interest in relation to Minute No.38/22 as he was a member of the Birmingham and Black Country Wildlife Trust.

## **38/22 'Call- in' Notice of the Cabinet decision in respect of Brandhall**

In accordance with the provisions contained with Part 4 of the Council's Constitution (Scrutiny Procedure Rules), the Council received a 'call- in' notification from Councillor Fenton, Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board on Monday, 25 July 2022.

The Board considered the 'call-in' reasons and the Cabinet report in relation to Brandhall dated 20 July 2022 including the relevant reports and documents relating to the decision.

The Board received a technical overview of the proposals from the Director of Regeneration and Growth and the Director for Children's Services and Education. It was noted that a public consultation was held between 1 November 2021 and 28 November 2021 to which 497 responses were received and considered. The Council considered the feedback from the public consultation and took into consideration stakeholder concerns. As a result, the site options were re-evaluated and additional technical studies were carried out which resulted in the five options as presented at the Cabinet meeting on 20 July 2022.

The Cabinet Member for Regeneration and Growth presented an overview of the proposals for option 3 in respect of the Brandhall site. It was explained that the Council had an obligation to ensure that the Borough had sufficient housing to meet needs of the local population. In addition, it was noted that the Borough had a significant deficit in respect of both market and affordable housing. Therefore, the proposals for the Brandhall site would support the Council's housing objective.

In addition to housing need, the site would also host a new primary school for the Borough. It was explained that the existing Causeway Green Primary School would be replaced due to the poor condition of the building and site location. It was noted that repairs to the school were no longer economically viable, therefore, a replacement school was required.

The proposals also aimed to provide community open space which would support the aims and objectives as set out in the Council's Green Space Strategy.

At this point in the meeting, an adjournment took place at 5.25p.m and was reconvened at 5.35p.m

The Brandhall Green Space Action Group were invited to address the Board and raised a number of issues relating to the allocation of the site for housing. A lengthy debate ensued on the Strategic Housing Land Availability Assessment (SHLAA) and alternative options for meeting the educational needs of children in the locality. The Board noted that the site was included in the draft Black Country Plan as a proposed housing site.

**39/22**

### **Exclusion of the Public and Press**

**Resolved** that the public and press be excluded from the rest of the meeting. This was to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act, 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, relating to the financial and business affairs of any person, including the authority holding that information.

## Brandhall Financial Implications of Options

The Board received an overview of the financial implications in respect of the options for the Brandhall site.

Members noted that a number of financial options were considered for the Brandhall site which were aligned to the recommendations as set out in the Cabinet report dated 20 July 2022. Each option detailed the necessary financial implication to the Council and detailed the relevant alternatives for the Board's consideration.

Following a lengthy debate it was moved and duly seconded that:

*'The Budget and Corporate Management Scrutiny Board recognises a number of conflicting issues in relation to the Brandhall site, however, does not believe that these are insurmountable. The Board, has however, determined that the decision of Cabinet be referred back for reconsideration on the basis that the Board concluded the information utilised by Cabinet in reaching its decision may have been incomplete in that:*

- 1. The Strategic Housing Land Availability Assessment (SHLAA) for the site was omitted from the report and Cabinet may wish to satisfy itself that the correct process and methodology was followed in relation to the comparable assessment of the site;*
- 2. There is insufficient information contained in the report to confirm that alternative site options for the delivery of a new school have been fully explored, for example Cakemore playing fields does not appear to have been considered;*
- 3. There is insufficient explanation given with regard to how the public consultation results, particularly with regard to residents' views, have been evaluated and weighted in reaching the decision.*
- 4. In addition to the findings and recommendations of the Board, Cabinet are requested to note that a report on the financial analysis for the site will be considered at a future meeting of the Budget and Corporate Management Scrutiny Board.'*

On being put to the vote, it was unanimously declared carried.

**Resolved** that the Budget and Corporate Management Scrutiny Board recognises a number of conflicting issues in relation to the Brandhall site, however, does not believe that these are insurmountable. The Board, has however,

determined that the decision of Cabinet be referred back for reconsideration on the basis that the Board concluded the information utilised by Cabinet in reaching its decision may have been incomplete in that:

1. The Strategic Housing Land Availability Assessment (SHLAA) for the site was omitted from the report and Cabinet may wish to satisfy itself that the correct process and methodology was followed in relation to the comparable assessment of the site;
2. There is insufficient information contained in the report to confirm that alternative site options for the delivery of a new school have been fully explored, for example Cakemore playing fields does not appear to have been considered;
3. There is insufficient explanation given with regard to how the public consultation results, particularly with regard to residents' views, have been evaluated and weighted in reaching the decision.
4. In addition to the findings and recommendations of the Board, Cabinet are requested to note that a report on the financial analysis for the site will be considered at a future meeting of the Budget and Corporate Management Scrutiny Board.

Meeting ended at 7.48pm.

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# Minutes of Budget and Corporate Scrutiny Management Board

**Thursday, 22 September 2022 at 6.00 pm  
In Committee Room 2 at Sandwell Council House, Oldbury**

**Present:** Councillor Moore (Chair);  
Councillors Anandou, E M Giles, Fenton and Simms.

**In attendance:** Councillors Bhullar, Hinchliff and Taylor;  
Surjit Tour (Monitoring Officer and Director of Legal Services), Suky Suthi-Nagra (Democratic Services Manager), Kate Ashley (Strategic Lead - Service Improvement), Jack Whitehouse (Equality Advisor) and Anthony Lloyd (Democratic Services Officer).

## **36/22 Apology for Absence**

An apology for absence was received from Councillor Shackleton.

## **37/22 Declarations of Interest**

There were no declarations of interest.

## **38/22 Minutes**

**Resolved** that the minutes of the meeting held on 28 July 2022 are approved as a correct record.



## **39/22 Additional Items of Business**

There were no additional items of business to consider.

## **40/22 Scrutiny Review**

The Democratic Services Manager presented proposals arising from the review of the overview and scrutiny function.

The review arose following a LGA peer assessment in 2018/2019. One of the recommendations of the review was that a comprehensive governance review should be undertaken of the Constitution, the scrutiny function and its effectiveness, the member code of conduct etc. The recent Grant Thorn Best Value review had also recommended a review of overview and scrutiny.

The scrutiny review had considered statutory guidance by the Ministry of Housing, Communities and Local Government and the Centre for Public Scrutiny (CfPS) which detailed approaches on what effective scrutiny looks like and how to conduct it.

Following a series of engagement sessions with elected members, officers analysed the feedback and six key strands emerged as follows:-

- Culture;
- Relationships;
- Work programme;
- Structure;
- Support;
- Agile working.

Culture was the single most important factor that would determine whether we could deliver excellent overview and scrutiny and therefore more work was needed to encourage a healthy culture that empowered members.

In order to encourage a healthy culture, a framework had been developed which included drafting job roles for scrutiny chairs, members and co-opted members to ensure there was clear role and focus, sets out expectations of members of the Board,

including performance management issues, attendance at meetings, reading of papers in advance, etc.

An improvement plan had also been developed to strengthen overview and scrutiny in Sandwell and sought to introduce a new approach to setting the work programme, strengthening training and development, clarifying roles and responsibilities of key persons, developing protocols to encourage engagement and involving stakeholders to help facilitate informed debate and discussion and promote the overview and scrutiny function by improving its presence on social media and the website.

The improvement plan was part of a two year programme of improvements to raise the profile of scrutiny so that it was valued and added value.

In order to reinforce the importance of the Budget and Corporate Scrutiny Management Board, to enable a more rich discussion and debate and mirror membership numbers across all scrutiny boards, it was proposed to appoint a vice chair on the Budget and Corporate Scrutiny Management Board and to also include within its membership, the four vice scrutiny chairs who currently attended meetings but could not vote on matters.

Members discussed the importance of good scrutiny as well as the good progress and work already undertaken to date. Positive feedback was also received in relation to recent training events.

In response to questions from members, the following responses were provided: -

- current support provided to scrutiny boards by Democratic Service Officers would be circulated to scrutiny chairs for clarity;
- scrutiny board meetings would be livestreamed in the Council Chamber, when available; meetings taking place in Committee Room 1 could also be recorded and uploaded once finished but not livestreamed. This would enable openness and transparency of scrutiny meetings;
- a further report was required on the timescales for potentially fitting the Committee Rooms with livestreaming equipment;
- as part of the recommendations to amend the membership of the Board, political proportionality would need to be considered;

- working with the Communications Team, consideration should be given to the use of the Sandwell Herald to promote overview and scrutiny work across the Borough.

**Resolved:-**

- (1) that the work undertaken to date on the scrutiny review be noted;

- (2) that the Council be recommended to approve the following improvements, that have been identified as part of the scrutiny review 2022:-

- (a) the appointment of all scrutiny vice chairs to the Budget and Corporate Scrutiny Management Board, to make a total of 10 members on the Board;
- (b) subject to (a) above the appointment of a vice chair to the Budget and Corporate Scrutiny Management Board from amongst the new Board membership;
- (c) the role descriptions for Chairs, Vice Chairs, Overview and Scrutiny Elected Members and Co-opted members as set out in [Appendix 1](#);
- (d) the following protocols, as set out in [Appendix 2](#), in order to support and promote healthy working relations:-
  - Scrutiny Chairs, Vice Chairs and Scrutiny Elected Members with the Executive; and
  - Scrutiny Chairs, Vice Chairs and Scrutiny Members with Officers
- (e) to authorise the Director – Law and Governance and Monitoring Officer to make all necessary consequential changes to the Constitution to give effect to the approved changes.

- (3) that approval be given to the Scrutiny Improvement Plan, as set out in [Appendix 3](#) and authorises the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer to develop communication and engagement protocols/plans as set out in the Plan and provide regular updates to the Board;
- (4) that the Scrutiny Handbook be noted and the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer be authorised to develop further guidance tools and training for both members and officers in order to promote the scrutiny function;
- (5) that the Director of Law and Governance and Monitoring Officer and the Statutory Scrutiny Officer, in consultation with the Chair of the Budget and Corporate Scrutiny Management Board, be authorised to continue to review the overview and scrutiny arrangements in Sandwell
- (6) that scrutiny board meetings to take place in the Council Chamber, where possible, to enable livestreaming to take place;
- (7) that a further report be submitted to members on the timescales for potentially fitting the Committee Rooms with livestreaming equipment;
- (8) that working with the Communications Team, consideration should be given to the use of the Sandwell Herald to promote overview and scrutiny work across the Borough.

## **41/22**

### **Improvement Plan Progress**

The Strategic Lead for Service Improvement provided the Board with details on progress made against the Improvement Plan.

The Improvement Plan was a single improvement plan that incorporated all recommendations from the Grant Thornton Governance Review, the LGA Corporate Peer Challenge and the CIPFA Financial Management Review, as well as the Statutory Directions from the Secretary of State for Levelling Up, Housing and Communities. The plan detailed how the Council would achieve the improvements laid out. Progress would be reported to the Secretary of State every six months. The current progress of each theme was presented to the Board: -

### **Theme 1 – Organisational Culture**

The Board noted updates in relation to Theme 1 of the plan. In particular, information was received in relation to the Organisational Culture Change Programme, Officer and Member relationships, Officer Learning and Development and Member Learning and Development. All workstreams were currently on track.

### **Theme 2 – Corporate Oversight**

Good progress had been made across all workstreams however, there was some slippage. The Performance Management Framework was currently a red risk due to the corporate resources required for performance management; this was related to vacant posts rather than financial difficulties. The current work around Oracle Fusion had been amber rated due to the extension of the evaluation period for support provider procurement. A contract had been awarded since the July report.

### **Theme 3 – Strategic Direction**

Although progress was being made across all workstreams, many areas had issues and slippage. The Equality Policy had seen slippage due to further consideration of best practice. The Policy was now being prepared for approval in October. The Pilot of the town co-ordinator role was on hold and being reconsidered. The Corporate Asset Management Strategy had several delays in some components, notably slippage as a result of the implementation of asset database. Work continued around the Draft Commercial Strategy, but some slippage had occurred when compared to original timescales. A refresh of the corporate parenting strategy was due in September.

## **Theme 4 – Decision Making**

Progress continued to be made across all workstreams although some areas were experiencing issues.

Further amendments to the Financial regulations would be presented to Council in October. After recommendations from the Audit and Risk Assurance Committee, all SEND Transport contracts had now been offered and accepted in line with commencement from the new academic year. Issues were present due to the returning of contracts from providers.

Concern was raised that the new model for SEND Transport had not been reported to Scrutiny or the Audit and Risk Assurance Committee. This provided little opportunity for members to comment especially since issues were now being raised by operators. The low risk score was also questioned as the desired impact had not been achieved.

## **Theme 5 – Procurement and Commercial**

Delivery timescales had seen some slippage, but progress was still being made.

Legal representatives on both sides had caused a slight slippage to the Lion Farm Options Agreement due to longer than expected negotiations in relation to the Expert Determination Process.

## **Theme 6 – Partnerships and Relationships**

Changes had been made to the original SCT Governance Arrangements. A review of Key Performance Indicators was currently taking place and due to conclude in Autumn. This was a slight deviation from the original timescales. Desktop assessments had been completed and communications with organisations had commenced relating to the Corporate Review of Grant Funding.

Having considered the progress, the following questions and recommendations were raised by members: -

### **Employee Engagement Survey**

- Could the total number of respondents be provided to provide context to the percentage of respondents stating that they did not expect action to be taken as a result of partaking in a survey.

- How did we ensure that “hard to each” staff were engaged with?
- Was there any incentive for completing the survey?
- How did we grant anonymity?

The Strategic Lead for Service Improvement confirmed that no incentives had been provided to encourage surveys to be completed, however, anonymity and safety were guaranteed.

Members questioned why more reference had not been made to partnership working within the West Midlands Combined Authority despite it being a key area of improvement recommended by the Governance Review. It was confirmed that this would be reviewed and strengthened in the improvement plan.

As a result of a detailed analysis concerning culture, the following points and recommendations were raised: -

- Too much focus had been made on officer/member relationships; more focus needs to be put towards the improved decision making and ability to speak up and escalate when necessary.
- How are improvements to the culture of the Council being assessed?
- Could external consultants be used to ensure fresh eyes?
- Could the culture of the Council be added to the risk register as culture can have massive impacts on the financial and reputational image of the authority?
- In the event of culture being added to the risk register, could a constant rating of red be attributed to ensure that it is always discussed?
- What are we doing to improve the morale of unhappy staff?
- How did we consult with staff and the public – is it effective?

The Board requested that future reports should detail how decisions were arrived at rather than just an update on the actions taken. Members commented on the absence of the “customer journey” in the Improvement Plan despite it being a focus of the Commissioners.

The following areas were deemed as key areas for future reports to Scrutiny:-

- Combined Authority



- Council Culture and how we engage with hard to reach staff
- Procurement processes followed to achieve goals
- Customer Journey and public engagement

The Strategic Lead for Service Improvement noted the recommendations and agreed to provide further information in due course. It was agreed that future reports to Scrutiny on the Improvement Plan would be single agenda items with all Directors invited to attend.

**Resolved:-**

- (1) that the progress of the Improvement Plan up to 4 August 2022 be noted;
- (2) that the recommendations/comments of the Budget and Corporate Scrutiny Management Board be reported to Cabinet at their meeting on 28 September for their consideration;
- (3) that the future updates on the Improvement Plan be single agenda items to the Board with a focus on how decisions were arrived at rather than just an update on the actions taken;
- (4) that further reports be considered on:
  - Combined Authority
  - Council Culture and how we engage with hard to reach staff
  - Procurement processes followed to achieve goals
  - Customer Journey and public engagement

**42/22**

**Equality, Diversity and Inclusion Policy 2022 - Update**

The Director of Law and Governance and Monitoring Officer presented the Equality, Diversity and Inclusion Policy 2022.

The council must comply with its legal duties and obligations arising under the Equality Act 2010. Obligations require the council to set out its objectives in discharging its public-sector equality duties. External reviews, benchmarking exercises and consultation with trade unions had taken place to construct the policy.

The new policy would utilise the Local Government Equality Framework to develop the Council's Equality, Diversity and Inclusion Strategy. The Framework provided a useful tool to develop a comprehensive policy with clear aims and objectives. Ideally, the policy would take 3-5 years to be embedded.

It was recognised that the policy had been tried and tested by many other local authorities. A new Equality, Diversity and Inclusion team had been created to undertake the initiative. Recent events such as Black History Month and Pride celebrations were both positive outcomes of the new strategy. A detailed policy should be in place next year; additional resources would also be sought.

After questions from the Board, it was confirmed that although the "Halo" policy would not be included in the strategy specifically, it would be considered by the Equalities Commission to seek approval to apply the Halo Policy to the Council. Members noted the update and expressed support at the implementation of the policy.

**Resolved:-**

- (1) that the draft Equality, Diversity and Inclusion Policy 2022 be noted;
- (2) that the proposal to utilise the Local Government Association Equality Framework to develop the council's Equality, Diversity and Inclusion Strategy be noted.

Meeting ended at 8.04pm.

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

# Minutes of Budget and Corporate Scrutiny Management Board

**Thursday, 13 October 2022 at 6.00 pm  
In Council Chamber at Sandwell Council House, Oldbury**

**Present:** Councillor Moore (Chair);  
E M Giles, Fenton and Simms.

**In attendance:** Councillors Hinchliff and Taylor;

Neil Cox (Director of Business Strategy and Change), Simone Hines (Director of Finance), Surjit Tour (Director of Law and Governance and Monitoring Officer), Mark Satchwell (Service Manager Registration), Gail Hicken (Service Managers Registration), Teresa Armstrong (Service Manager Register Office and Coroners), Comie Campbell (Head of Financial Services), Abi Asimolowo (Financial Services Business Partner), Sarah Sprung (Senior Lead Officer), Suky Suthi-Nagra (Democratic Services Manager) and Anthony Lloyd (Democratic Services Officer).

## **43/22 Apology for Absence**

An apology for absence was received from Councillors Anandou, Bhullar and Shackleton.

## **44/22 Declarations of Interest**

There were no declarations of interest.



**45/22**

## **Minutes**

**Resolved** that the minutes of the meetings held on 8 August and 22 September 2022 are approved as a correct record.

**46/22**

## **Additional Items of Business**

There were no additional items of business to consider.

**47/22**

## **Impact on Registration related services when the new Midland Metropolitan Borough hospital opens in 2024**

The Service Manager – Registration was invited to present to the Board.

From 2024, an increase in demand for Registration related services was certain, as health care services would move from City Hospital in Birmingham to the new Midland Met Hospital in Smethwick.

This would present an increase of up to 5000 registrations events, including 4000 births and 100 deaths, for Sandwell Council. More cases would be referred to the Black Country Coroner resulting in further demand increases in this area. The Bereavement Services team would also see an increase in demand in relation to Public Health Act funerals.

In response, 6 full time posts had been created to help facilitate the increased demand. £189k had already been accounted for as part of the 2022/23 Council Budget setting process. A total income of £55k, generated from certificate services, would partly offset expenditure. Highfields House in West Bromwich, Sandwell's Registrar's Office, had undergone improvements including addressing efficiency and capacity. Jack Judge House was also planned to be expanded to accommodate the new requirements; this would cost in the region of £530k.

It was confirmed that the service would be ready by the expected open date of April 2024.

A lead time would be in place to ensure staff were adequately trained and confident in taking on the work. All births that were to take place in the new hospital would be registered to Sandwell, even if individuals resided outside of the borough.

In response to questions from the Board, it was stated that recruitment for the vacant roles would follow the usual Council recruitment process. Members suggested using a wider variety of advertising avenues to ensure a good response and officers would share the current recruitment process with the Vice Chair of Economy, Skills, Transport and Environment.

The Board gave thanks to the officers' present for their hard work.

**48/22**

### **Quarter 1 Budget Monitoring 2021/22**

The Director of Finance reported that on 28 September 2022, the Cabinet considered the 2022/23 Budget Monitoring report for Quarter 1 and referred the report to the Budget and Corporate Scrutiny Management Board for consideration and comment.

The overall projected outturn position for the General Fund was an overspend of £2.129m whilst the overall projected net directorate outturn variance was calculated at £2.097m. Mitigations would be in place to address these overspends such as the use of removing vacancies that were no longer required where possible as well as using the appropriate ear-marked reserves. A large number of reserves had been budgeted for use and this trend was expected to continue. Inflation costs would be built into the following year's budget and more emphasis would be placed on being energy efficient.

It was highlighted that the anticipated pay award, calculated at around £6m, and inflationary pressures due to the cost of living crisis were the main drivers of the overspend.

Prior to reserve transfers, an overspend of £2.653m was budgeted for Adults Social Care; this would be offset by the use of an additional Social Care Grant of £2.736m that had been set aside as a reserve at the beginning of the financial year. Overspends were due to the ever-increasing cost of placements as well as the additional pay award.

It was also highlighted that an overspend of £3.023m would take place in Children's Services. Inflation, recruitment and retention costs, pay award and exit packages as a result of structuring within the directorate were all contributing factors to the overspend.

Clarification was sought by members in relation to the high placement costs currently being faced by Sandwell Children's Trust. Pressures due to the very limited placements as a result of retirements had caused a 30% increase in placements costs. However, it was highlighted that Sandwell should strive to obtain the best possible placements to ensure a positive outcome for children living in the borough.

Following further discussions, the Board was of the view that it should investigate what initiatives were currently being taken to address the cost of living crisis including whether there was a corporate approach to energy saving such as switching lights off and turning down the temperature.

Officers were thanked for their work and attendance.

**Resolved:-**

- (1) that the 2022/23 Budget Monitoring Q1 report be noted;
- (2) that a further report be submitted to the Budget and Corporate Scrutiny Management Board on the Council's approach to energy efficiency.

**49/22**

**Performance Framework**

The Director of Business Strategy and Change presented the Performance Management Framework update for Quarter 1 to the Board.

In April 2022, Council approved a corporate Performance Management Framework to address the recommendations of the Governance Value for Money Review by Grant Thornton as a key element of the Council's Improvement Plan.

In total, there were four key components to the Corporate Performance Framework:-

- Improvement

- Customer Experience
- Organisational Health
- Financial Performance

## **Improvement**

Progress was highlighted against the Corporate Plan Performance Management Framework (PMF). Since its approval, there were 170 measures across seven strategic outcomes. Work had been undertaken with each directorate to refine the measures and how they could be applied. Each measure would be given a RAG rating to easily track and adapt to changing targets.

## **Customer Experience**

The framework covered a wide range of Key Performance Indicators such as Contact Centre performance, Contact Channel reviews, customer feedback and information requests. Understanding the performance would help enable refinements to be made to ensure that the Customer Experience is efficient and effective and meets the demands required. Ensuring that the Council's service was accessible was a key point to consider.

Due to additional demands as a result of the re-introduction of Council Tax recovery, performance was below target for the Revenues and Benefits contact centre. Administration of the energy rebate as well as staff vacancies were also contributing factors to the underperformance.

Work was being taken to address the backlog of Subject Access Requests (SARs) and Freedom of Information requests (FOIs). A number of actions were being monitored to increase the response times to meet performance targets.

## **Organisational Health**

Performance indicators in relation to Organisation Health focused mainly on the composition of Sandwell Council's workforce to improve equality, diversity and inclusion (EDI). The newly established EDI team were working to achieve the EDI actions captured within the Council's Improvement Plan.

Sickness absence, which was at an average of 2.74 sick days per employee for quarter 1, was short of reaching the goal of 2.24.

This was an increase of 0.84 days when compared to the outturn of Q1 2021-2022. It was stated that absence review panels and directorate action plans would be in place to help address these concerns.

Data obtained from the most recent employee engagement survey had been collated; the last survey that had been undertaken was in 2018. Overall, 61% of staff responded to the survey. The results were currently being considered and appropriate action plans were being created to mitigate any concerns where possible.

### **Financial Health**

A summary regarding the Financial Health aspect of the Performance Framework was provided. Issues were highlighted with underperforming in relation to retrieving Council Tax. Business Rates collection was exceeding expectations due to the recent COVID Relief Fund.

Sandwell Children's Trust had experienced a slight increase of the number of children in care and therefore, as a result, had been impacted financially. Staffing issues were the main cause of concern; recruiting and retaining Social Workers had been difficult.

The Council's contract with SERCO had been reviewed. Key Performance Indicators had been put in place to help monitor areas of concerns.

In response to questions from the Board, the following details were confirmed:-

- The delays in Council Tax collections were not unique to Sandwell and many other authorities were experiencing similar issues. Collections were in line with the goals set out in the previous year, however, the target increase had meant that collections were now slightly behind;
- Any issues in relation to late payments for voluntary groups should be raised to the Director of Finance for investigation;
- Sandwell Council's Welfare Rights team would help assist and signpost residents accordingly;
- Key Performance Indicators, which were benchmarked against industry standards and other local authorities, would evolve with the financial climate to ensure reliable and effective service is top priority;



- Digital and paper copies of the staff survey were available; anonymity was prioritised throughout the process.

The Board agreed that Sandwell's approach to tackle the cost of living crisis would be added to the work programme.

**Resolved** that the progress on the further development of the Corporate Performance Management Framework be noted.

Meeting ended at 7.31pm.

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)

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## Minutes of Audit and Risk Assurance Committee

**21 July 2022 at 5.30pm**  
**In the Council Chamber at Sandwell Council House**

- Present:** Councillor Preece (Chair);  
Councillors Anandou, Choudhry, Khatun MBE, and Hinchliff,  
Mr Hussain (Independent Member).
- Officers:** Rebecca Maher (Head of Finance); Maria Price (Legal Services Service Manager); David Wilcock (Governance Review Consultant); Chris Reynolds (Procurement Strategy Officer); Chris Hilton (Interim Service Manager Strategic Assets and Land); Peter Farrow (Audit Services Manager); John Matthews (Audit Client Lead); Lisa Reid (Audit Client Lead); Mark Stocks (Head of Public Sector Assurance - Grant Thornton); Philip Tromans (Counter Fraud Investigator); Narinder Phagura (Business Partner for Audit, Fraud, Risk and Insurance); Mandip Chahal (Senior Joint Commissioning Manager for Statutory Children's Services); Elaine Newsome (Service Manager for Democracy); Matt Powis (Senior Democratic Services Officer); Ant Lloyd (Democratic Services Officer); John Swann (Democratic Services Officer).

### 32/22 **Apologies for Absence**

An apology was received from Councillor L Giles.

### 33/22 **Declarations of Interest**

There were no declarations of interest.



## 34/22 Minutes

### Resolved

That, the minutes of the previous meeting held on 28 June 2022 be confirmed as a correct record.

## 35/22 Urgent Business

There was no urgent business for discussion.

## 36/22 Constitutional Review (Contract Procedure rules and Financial Regulations)

The Committee received an overview of the proposed changes to the Council's Constitution which were considered as part of the Council's Governance Review.

Members noted the key proposals which included changes to the Council's key decision threshold to the following:

- The key decision threshold be raised to £1m, meaning that all procurement costs below this figure would not require Cabinet approval.
- That individual Cabinet Members be delegated to make financial decisions between £500,001 and £1m.
- Financial delegations for Chief Officers be increased to £500,000.

In respect of the revisions to the Council's Contract and Procurement Procedure Rules, it was highlighted that references to European law had been removed from the procedure rules following the United Kingdom's departure from the European Union. It was reported that roughly 70 proposed alterations had been identified, in particular the rules relating to contract procurement and ethical decision making were strengthened.

The revised Contract Procedure Rules document, in particular enhanced the procedure to make existing contracts and



procurement management frameworks more easily identifiable, mitigate conflicts of interests and promote industry in the Borough. The changes would ensure suppliers based in Sandwell would be considered in the first instance, failing this, the wider West Midlands region.

On the issue of sale of land and assets, the Council was governed by legislation. However, new protocols had been proposed for the selling of council owned properties to the improve transparency and accountability of land and asset disposal. Members noted the complex contractual arrangements which had been included within the revised procedure rules. This change would mitigate the risk to the Council when dealing with land owners and developers which would ensure contracts were formatted accordingly thus reducing liability.

The disposal process of land and asset management required the consultation of the Land and Asset Management Committee. However, the Committee's involvement would only occur once the value of the proposed land met the threshold of the disposal. It was noted that upon receipt of the appropriate valuation, the Cabinet or relevant Cabinet Member was authorised to dispose of the land in question. This disposal process would be in accordance with the valuation criteria of the Royal Institute of Chartered Surveyors professional standards and requirements.

The following was noted in response to members' comments and questions:

- The Land and Asset Disposal Protocol outlined the requirements of the disposal of land in respect of sales at less than best value;
- The Director of Regeneration and Growth had the sole delegation to decide whether an internal or external valuation was required depending on the case in question. This was subject to the Director satisfaction that no conflict of interest existed;
- The disposal method would be dependent on a case by case basis which would take into account best value, social value and corporate priorities of the Council.
- Procurement card holders were required to receive training prior to being issued with a card.



- The Council had implemented an auto-block feature which would be activated if there was evidence of non-compliance with the Council's policies and procedures.

There was a consensus that good record keeping was an important aspect of achieving transparency with land and asset management and governance. It was agreed for the Council to incorporate good working practices in future.

The Committee thanked officers for their attendance.

**Resolved and recommended to Full Council:**

- (1) That, the Committee recommend the following changes be made to the Council's constitution:
  - a. That the Key Decision threshold be amended and raised to £1m;
  - b. That, the relevant Cabinet Member(s) be delegated to make financial decisions between £500k and £999k;
  - c. That, the limit of Chief Officers' financial delegations be raised to £500k.
- (2) That, the Contract and Procurement Procedure Rules be revised and amended as proposed in Appendix 1.
- (3) That, the Protocol for the disposal of Council Owned Land and Buildings, forming part of the Financial Regulations and Procedures, be revised and amended as proposed in Appendix 2.
- (4) Subject to recommendations (1), (2) and (3) the Director of Law and Governance & Monitoring Officer, consultation with the Director of Finance and Section 151 Officer, be authorised to make all necessary consequential changes to the Council's Constitution to give effect to the approved changes.



## Counter Fraud Update

The Counter Fraud Investigator gave an overview of the work carried out by the Counter Fraud Unit.

The Committee were updated on local trends including a Sandwell school fraudulent payment incident which took place in July 2022 which targeted school finance staff. Following which the Counter Fraud Unit sent notifications to all schools in the Borough to make them aware of the threat. In this instance, the school staff identified the fraud, reported it to the Council and no payment was made.

The Committee were also updated on the Counter Fraud Units work as part of the Covid-19 Grant and support payments. The Council had delivered grant payments worth over £58 million to businesses within the Borough. The grant applications were subject to pre-payment and post-payment checks which prevented £350,000 worth of grants being paid and identified £65,000 of grants, which were overpaid and currently subject to recovery action. It was noted that, post-pandemic the risk around Covid-19 related Business Support Grants had been reduced to green in the updated fraud risk register.

The unit had been actively involved with the National Fraud Initiative, from which a number of data matches had been identified using information shared from Government agencies such as the Department for Work and Pensions, resulting in estimated savings of £268,000.

The Counter Fraud Investigator concluded that the unit had participated in the BBC One TV series, Fraud Squad which worked to deter fraudsters from targeting the Council

The Committee noted the Fraud Risk Register which accompanied the report. This report identified 24 risks with the following red risks identified

- Housing Tenancy - Subletting, providing false information to gain a tenancy, wrongful tenancy assignment and succession, failing to use the property as the principle home;





- Council Tax – Fraudulently claiming for discounts and exemption such as the single persons discount, local council tax support;
- Personal budgets/ Direct Payments – Fraudulent claims by carers using direct payments for personal gain and carers continuing to receive direct payments after a person dies, duplicate applications to multiple councils;
- Procurement – Collusion (Staff and bidders), false invoices, overcharging, inferior goods and services and duplicated invoices;
- Cyber Crime – Cyber enabled fraud and use of cyber resulting in loss of services, resources, as well as reputational harm.

The following was noted in response to members' comments and questions:

- The Fraud Risk Register was compiled following intelligence sharing with neighbouring local authorities, local knowledge and national benchmarking exercises;
- Providing false information to gain a Council house tenancy agreement was identified as one of the highest areas for fraud;
- While there was no dedicated Cyber Security team within the Council, the unit were able to liaise with the Council's ICT team on cyber security matters where necessary and appropriate;
- In respect of the Fraud Risk Register, the Counter Fraud Investigator confirmed that the Counter Fraud team would look to adapt the risk register reporting to include more details around the assessment of impact and likelihood;
- As part of a discussion around Anti-Money Laundering an overview of the submission of a Suspicious Activity Reporting (SAR) figures would be reported, where appropriate at future meetings;
- It was nationally recognised that the current cost of living crisis may see an increase in potential attempted fraudulent activity;





- Cyber Crime was constantly developing and as such would remain a key risk for the Council in future.

Councillor Choudhry left the meeting at this point at 6.38p.m.

**Resolved** that the Counter Fraud update be noted.

## 38/22 Internal Audit Report 2021/2022

The Committee received the Annual Internal Audit Report for 2021-2022, which summarised the work carried out by Audit Services throughout the year and provided an opinion on the adequacy and effectiveness of the Council's governance, risk management and control processes.

As a result of a number of key governance issues raised predominately in the findings from the Grant Thornton Value for Money Review. The Council's Internal Audit team were unable to provide reasonable assurance for 2021 to 2022 and the Council had fully adequate and effective governance processes.

In respect of the Council's risk management and internal control processes, the Internal Audit Team were satisfied that both areas remained reasonable.

The Committee noted that following the decision of the Government to appoint Commissioners to the Council, a number of activities and actions had been implemented as part of the Council's road to improvement journey which included:

- Appointment of statutory Government Commissioners including a new Leadership team;
- Comprehensive single Council Improvement Plan which embedded recommendations from a number of reviews including the Local Government Association's (LGA) Corporate Peer Challenge.

Members noted the delays in respects of the completion and signing off the Council's Statement of Accounts for 2020/2021 and



2021/2022. As a result, the finalisation of the Annual Government Statement had been delayed.

There was acknowledgement of the issues relating to procurement, contract compliance and the disposal of land. However, it was stated that following reviews into each area, the Council had incorporated changes into various protocols and processes to strengthen governance and decision-making.

The following was noted in response to members' comments and questions:

- It was proposed that Statement of Accounts would be presented at a future meeting of the Committee as soon as practicable;
- Whilst the procurement process included the completion of individual Conflicts of Interests forms as part of each separate procurement exercise, and that the Council maintained a general register of interests, it was understood that any declared conflicts of interests as part of the procurement processes were not held centrally in a register. It was requested that this be considered and as such provide written response to the Committee prior to the next scheduled meeting.
- An action plan had been produced following the concerns identified from the SEND Transport contract review. Due to the changes with the Council's Contract Procedure Rules, it was anticipated that all contracts would be processed through intend. In addition, additional training was due to be provided to Council staff in this respect.
- There was a discussion around ensuring that the Internal Audit Plan included an appropriate balance between strategic governance and operational reviews. The Audit Services Manager indicated that the current plan had a sufficient balance, and that governance across the Council was a high-profile area over the coming year and was being monitored through a number of routes.
- There was concern that there was no appeal process for the SEND procurement process.



**Resolved** that the Internal Annual Report for 2021 to 2022 be noted.

39/22

## **Auditors Annual Report on Sandwell Council – Interim 20/21**

The Committee received an overview of the of the Interim 2020 and 2021 Auditors Annual Report on Sandwell Council which was presented by Grant Thornton.

The Committee identified three themes of from the Annual Report:

- Financial Sustainability;
- Governance;
- Improving economy, efficiency and effectiveness.

It was noted that the Council's balance sheet and reserves were positive and were likely to strengthen the Council's financial position considering the upcoming challenges faced by Local Authorities across the country.

Within the area of governance, lack of performance monitoring and long-term planning were both key issues that were identified for improvements. In addition, three statutory recommendations had been made, notably regarding procurement and contract management.

It was acknowledged that some improvements had been made. However, there were noticeable challenges such as workforce retention, general recruitment issues and adhering to budgetary constraints.

It was noted that the Council had responded well to corporate challenges such as the performance issues identified with the Council's waste collection contract and the contract relating to Sandwell Leisure Trust.

The Chair queried whether the Head of Public Sector Assurance, Partner had confidence that the Council's Improvement Plan would address the recommendations suggested by Grant Thornton. In response, it was confirmed that Grant Thornton agreed with the



Council's improvement plan with a proviso that the Council fully addressed the actions identified with an overarching culture change.

Members noted that once the Council's Statement of Accounts were finalised, the Auditor's Annual Report would be submitted to the Committee for consideration.

**Resolved** that the interim 2020 and 2021 Auditors Annual Report on Sandwell Council be noted.

40/22

### **Children's Services Directorate Risk Register.**

The Committee received and noted the contents of the Children's Services Directorate Risk Register.

The Committee reviewed the risk register and noted that two service areas remained red:

- High Needs Block, increase in children with special educational needs in Sandwell;
- Special Educational Needs and Disabilities Transport – Overspend in this area due to increasing costs and rise in statutory age at which SEN Transport must be provided up to 25 years of age.

Members noted that findings of the external consultant review into the SEND passenger transport would be submitted to Cabinet in Autumn 2022.

**Resolved** that the Children's Services Directorate Risk Register be noted.

41/22

### **Cabinet Forward Plan**

The Forward Plan was presented for information and to allow the Committee an opportunity to contribution to any items or raise any issues with the Executive.



42/22 **Work Programme**

The Committee noted the work programme for 2022/23.

Meeting ended at 7.45pm.

Contact: [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk)



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## Report to Council

8 November 2022

<b>Subject:</b>	Arrangements for the Appointment of a Chief Executive
<b>Director:</b>	Kim Bromley-Derry MD/Commissioner
<b>Contact Officer:</b>	Victoria Lee Head of Human Resources victoria_lee@sandwell.gov.uk

### 1 Recommendations

- 1.1 That approval be given to the appointment of Shokat Lal to the positions of Chief Executive, Head of Paid Service, Returning Officer (RO) and the Electoral Registration Officer (ERO).

### 2 Reasons for Recommendations

- 2.1 Under the Local Authorities (Standing Order) (England) Regulation 2001 this appointment is reserved for full Council. Council Employment Procedure Rules provide for delegation to the Chief Officer Terms and Conditions Committee of all stages of recruitment prior to this approval.

### 3 Background

- 3.1 On 28<sup>th</sup> July 2022 the Chief Officers Terms and Conditions Committee approved recommendations to commence the process of appointment for a new Chief Executive for the Council. The Committee also approved that the Managing Director/Commissioner, Kim Bromley-Derry and Director of Business, Strategy and Change, with the Head of Human Resources and in consultation with the Leader, be authorised to work





with the engaged recruitment consults, Penna, to undertake all stages up to final interview.

- 3.2 The position was advertised widely, including an editorial spread in the Municipal Journal on 11<sup>th</sup> August 2022, with a closing date of 12<sup>th</sup> September 2022 for applications.
- 3.3 Nineteen applications were received. Longlisting was undertaken by the Managing Director/Commissioner with Penna and the Head of Human Resources, with six candidates progressing to first stage technical assessment interviews. These interviews were conducted by the Managing Director/Commissioner, with the Assistant Commissioner (Jim Taylor), Julie Towers (Managing Director, Penna) and Mark Lloyd, Chief Executive of the Local Government Association.
- 3.4 The Committee met on 4<sup>th</sup> October 2022 to undertake shortlisting and unanimously selected three candidates to proceed to final assessment, including final panel interview.
- 3.5 The final assessment stages included the following process:
  - A series of stakeholder panel meetings with individual candidates – Childrens and Young People; Senior Leadership Team; Trade Union Representatives; Partnership Panel; and a Wider Members Panel.
  - Psychometric profiling to assess leadership judgement.
  - A written exercise – two-side briefing for Members on the following question: *What does a good customer journey look like, and as Chief Executive how would you go about introducing this in Sandwell?*
  - A presentation to the interview panel (Committee) on the following question: *From the published data available, what are the three key weaknesses of the council, and how would you lead on their improvement as our Chief Executive?*
- 3.6 This final assessment stage culminated in panel interviews with the Chief Officer Terms and Conditions Committee on 20<sup>th</sup> October 2022.
- 3.7 Following these interviews and after careful consideration of candidate responses to Committee questions - alongside their written submissions, presentations, stakeholder panel feedback, psychometric profile summaries, and candidate references - the Committee unanimously





agreed to recommend that the Council offer the position to Shokat Lal, currently Executive Director of Core Services at Barnsley Metropolitan Borough Council.

#### 4 Implications

<b>Resources:</b>	The financial implications of the decision made by the Committee will be assessed and included in future monitoring reports. Any additional costs arising in respect of the Chief Executive salary in year will be met from approved budgets and addressed as part of the Council budget for future years.
<b>Legal and Governance:</b>	The Council is required to follow relevant Council policies and procedures and comply with statutory requirements for this role.
<b>Equality:</b>	The recommendations contained within this report have not identified any issues which would discriminate against any disadvantaged or vulnerable persons. The recruitment exercise was in accordance with the Council's equal opportunities requirements
<b>Health and Wellbeing:</b>	There are no specific health and wellbeing implications arising from the contents of this report.
<b>Social Value</b>	There are no specific social value implications arising from the contents of this report.

#### 5 Appendices

None

#### 6 Background Papers

None



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