

# Agenda

## Governance and Constitution Review Committee

Thursday, 21 September 2023 at 2.30 pm  
in Committee Room 1 - Sandwell Council House, Oldbury

1 **Apologies for Absence**

To receive any apologies for absence.

2 **Declarations of Interest**

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

3 **Minutes** 5 - 24

To confirm the minutes of the meeting held on 27 May 2022 as a correct record.

4 **Urgent Business**

To consider any urgent items of business.

5 **Investigation into the feasibility of establishing a shadow cabinet** 25 - 38

To consider proposals to establish a shadow cabinet.



- 6 **Centre for Governance and Scrutiny - The use of call-in: guidance for English authorities** 39 - 64

To consider proposals in relation to the Council's call-in procedure.

- 7 **Protocol for nominations of Mayor/Deputy Mayor** 65 - 76

To consider proposals for nominations of Mayor/Deputy Mayor.

**Shokat Lal**

**Chief Executive**

Sandwell Council House  
Freeth Street  
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West Midlands

**Distribution**

Councillor Carmichael (Chair)  
Councillors Chambers, W Gill, Kalebe-Nyamongo, Padda, Piper and Rollins

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## Minutes of Governance and Constitution Review Committee

**Friday 27 May 2022 at 11.30am**  
**In Committee Room 1, Sandwell Council House, Oldbury**

**Present:** Councillor Carmichael (Chair);  
Councillors Akpoteni, W Gill, McVittie, Padda, Piper.

**Also present:** Surjit Tour (Director of Law and Governance and Monitoring Officer), Elaine Newsome (Service Manager – Democracy), Suky Suthi-Nagra (Democratic Services Manager) and Ant Lloyd (Democratic Services Officer).

### **1/22 Apologies for Absence**

Apologies were received from Councillors Hinchliff and Rollins.

### **2/22 Members to declare any interests in matters to be discussed at the meeting**

Councillor McVittie declared an interest in Minute No. 5/22 below (Constitution Review – Review of Cabinet Advisor Roles) in the basis he was a Cabinet Advisor.

### **3/22 Urgent Business**

There were no additional items of business to consider.



## Democratic Governance Review

Consideration was given to proposals to set up a cross party working group with extended membership to review and make recommendations on proposed governance and constitutional related issues.

The external reviews undertaken by Grant Thornton, the LGA and Cipfa had made a number of recommendations relating to the council's governance framework and arrangements. In response, the Council had combined resultant activity into a single action plan.

The governance review was the vehicle on which many of the recommendations would be addressed. The review itself was multi-faceted, with the overarching ambition to deliver an effective and efficient governance infrastructure, that was embedded across the organisation. To support the successful realisation of this ambition, the review would also incorporate a development programme for officers and elected members.

The review programme had been divided into phases with an indicative timescale for each strand.

A programme of wider elected member engagement in relation to review themes would also support the development of recommendations to be considered by the Committee.

Having considered the proposals, the Committee was of the view that:-

- any changes to council procedure rules should encourage engagement with members as well as raising awareness;
- as part of the scrutiny review strand, there had been a positive improvement in communication and work produced by Boards, however, more needed to be done to ensure that committees were aware of the direction of travel and key issues to be considered over the year as part of the work programming process;
- joined up working with other members across committees/boards was key in helping to deliver the governance review;
- consider a more bespoke personal development plan for members to assist them in their roles on committees as

- well as looking at introducing a skills matrix to ensure the right members with an interest in a particular role, was appointed to a committee;
- visiting other local authorities to complement the benchmarking work already undertaken to ensure shared learning and best practice.

Having considered the proposals and terms of reference for the Governance and Constitution Member Working Group, the Committee was minded to approve that the Governance and Constitution Member Working Group, which was cross party, with extended membership, comprise of all members of the Committee and two additional Conservative Group members. This was considered an effective mechanism to provide a range of input from across all political groups and member roles and would lead on review activity with officer support.

**Resolved:-**

- (1) that a cross-party working group comprising of all members of the Governance and Constitution Review Committee and two Conservative Group members (10 in total) be established to progress the democratic governance review;
- (2) that in connection with Resolution (1) above, additional membership of the working group, external to the Committee, be approved;
- (3) that the Director of Law and Governance, in consultation with the Chair of the Governance and Constitution Review Committee, be authorised to appoint additional members to the working group, in line with the review themes;
- (4) that the terms of reference for the Governance and Constitution Member Working Group, as set out in Appendix 1, be approved;
- (5) that the proposed approach, programme and timeline for the Democratic Governance Review, as now submitted, be approved.

The Committee gave consideration to proposals to revise the role descriptions for Cabinet Advisors and for their roles to be renamed Performance Champions.

The purpose of the Cabinet Advisor role was to provide alternative views, opinions and advice on wider, often cross-cutting issues and matters, to the Executive with a view to supporting and enabling more informed policy and strategy development. The roles enabled Cabinet Advisors to share their own experiences, areas of expertise and views/opinions from wider

The Cabinet Advisors did not form part of the Executive. However, the Executive could seek their views and engage them in relation to relevant matters and issues so that important insight, ideas, thoughts and views could be harnessed when executive functions were considered.

In June 2021, the former Leader aligned the Cabinet Advisors to the corporate objectives outlined below:

- Business Ambassadors and Community Wealth
- Clean & Green
- Crime & Community Safety
- Digital Inclusion and 5G
- Wellbeing & Mental Health
- Young People and Skills

However, following a review of the roles of Cabinet Advisors, it was proposed that they be renamed Performance Champions and their responsibilities be reprofiled to support the Council's key objectives.

- Safer Community
- Greener Community
- Cleaner Community
- Our economy
- External partnerships
- Neighbourhoods – Lead Champion



In response to a question raised regarding the titles of the new Performance Champions, the Chair clarified that the titles were now aligned to the performance measures contained within the Improvement Plan and Corporate Plan. The current Cabinet Advisor roles had too much cross over with scrutiny and therefore the role descriptions of the Champions would enable key pieces of work to be produced.

In response to a further query in relation to the route of accountability for Performance Champions, it was agreed to amend the role description for the Performance Champion – Neighbourhoods and Lead Member so that they produced a bi-annual report to Full Council on the work of all Performance Champions.

**Resolved:** That Full Council be recommended to approve the revised role descriptions for Cabinet Advisors and that they be renamed Performance Champions, as attached at Appendix 2, with the Performance Champion – Neighbourhoods and Lead Member providing a bi-annual report to Full Council on the work of the Performance Champions.

(Councillor McVittie left the room during consideration of this matter)

Meeting ended at 12.20 pm

Contact: Democratic Services  
Democratic\_services@sandwell.gov.uk

# Governance and Constitution Member Working Group

Appendix 1

## Terms of Reference

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### Scope

1. To consider proposals in relation to changes and amendments to the Council's Constitution (including any relating/relevant protocols, appendices, guidance).
2. To engage with Elected Members (including those holding SRA positions and at a Political Group level) and/or relevant Committee (as deemed necessary and appropriate) in respect any changes and amendments proposed in relation to the Council's Constitution (whilst acting consistently with the Terms of Reference of Council Committees, Boards and other Fora).
3. To engage and work with Council officers in the review of the Council's Constitution as deemed appropriate.
4. To engage with the LGA and other external bodies to assist with the review of the Council's Constitution as deemed appropriate.
5. To make recommendations to the Governance and Constitution Committee in respect of proposed changes to the Council's Constitution (including any relating/relevant protocols, appendices, guidance).
6. To make recommendations to the Chairperson of Ethical Standards and Member Development Committee concerning items for consideration in respect of the Member Development Plan.
7. To undertake other such action as necessary to help ensure the effective and efficient review of the Council's Constitution (including any relating/relevant protocols, appendices, guidance) consistent with the above.

### Membership

Subject to the paragraphs below, the working Group shall comprise of the membership of the Governance and Constitution Committee and two additional Conservative Group Members, thereby increasing the working group membership to 10 members.

The additional Group Members referred to above shall be appointed (and removed) by the Conservative Group Leader (or in their absence the Deputy Conservative Group Leader).

Each Political Group Leader shall have the discretion to substitute a member(s) of working group with another member(s) of their respective political group (as may be required from time to time).

### **Chairperson and Vice-Chairperson**

The Chairperson and Vice-Chairperson shall be the same Members as per the Governance and Constitution Committee.

In the event that neither Chairperson or Vice-Person is available, the Chairperson shall have the discretion to appoint another Member for that relevant meeting from amongst the membership of the Working Group.

### **Meetings**

Meetings of the working group shall be convened as deemed necessary by the Chairperson (or Vice-Chairperson in their absence).

The Access to Information Rules do not apply to meetings of the working group. The Chairperson (or the Vice-Chairperson in their absence) shall decide whether the meeting of the working group shall be in person, via MS Teams, or a hybrid meeting.

### **Quorum**

The working group shall be quorate providing at least quarter of the total membership is in attendance at the meeting.

Subject to the meeting being held via MS Teams/Hybrid, attendance via MS Teams shall be deemed attendance for the purposes of determining quorum.

### **Voting**

All members of the working group present and able to vote shall have a vote on any proposal/amendment moved and seconded which shall be any method that clearly confirms to the Chairperson/Vice Chairpersons each member's voting intention.

In the event of a tie, the Chairperson (or in their absence the Vice-Chairperson) shall have a casting vote.

### **Confidentiality and Transparency**

The working group provides a confidential space for members, officers and other contributors to candidly discuss governance and constitutional issues, changes and proposals.

Reports, minutes and other information shared with the working group are confidential (unless already in the public domain).

The council is committed to openness and transparency and that will be achieved through reports and recommendations from the working group being considered by the Governance and Constitution Committee whose meetings shall be in public (unless subject to Sch12A Local Government Act 1972).

## **Support**

The working Group shall be supported by the Director of Law and Governance and Democratic Services.

Other Council officers shall support the work of the working group as appropriate and necessary.

## **Role Description for Lead Performance Champion – Neighbourhoods**

### **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop the neighbourhoods agenda, ensuring the needs and assets of each town are taken into account, raising awareness of council activity in the community and contributing to the Council's Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.
4. To produce a bi-annual report to Full Council on the work of all Performance Champions.

### **Duties:**

5. To liaise with Cabinet and Town Leads on all aspects associated with their performance champion role.
6. To report progress on a regular basis to the Deputy Leader.
7. To liaise as required with the other Performance Champions and the relevant Cabinet member
8. To develop productive collaborative working with the community and relevant agencies/partners.
9. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
10. To meet regularly with Town Leads to share data and intelligence in relation to their performance champion role

11. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
12. To liaise with the other performance champions to share intelligence and joint areas of interest
13. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
14. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.
15. To comply with the Member/Officer protocol as set out in the Constitution.
16. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

## **Role Description for Performance Champion – Safer Communities**

### **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop the safer communities agenda, raising awareness of council activity in the community and contributing to the Council's Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.

### **Duties:**

4. To liaise as required with the Lead Performance Champion and the relevant Cabinet member.
5. To develop productive collaborative working with the community and relevant agencies/partners.
6. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
7. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
8. To liaise with the other performance champions to share intelligence and joint areas of interest
9. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
10. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.

11. To comply with the Member/Officer protocol as set out in the Constitution.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

# **Role Description for Performance Champion – Cleaner Communities**

## **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop the cleaner communities agenda, raising awareness of council activity in the community and contributing to the Council's Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.

## **Duties:**

4. To liaise as required with the Lead Performance Champion and the relevant Cabinet member.
5. To develop productive collaborative working with the community and relevant agencies/partners.
6. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
7. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
8. To liaise with the other performance champions to share intelligence and joint areas of interest
9. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
10. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.



11. To comply with the Member/Officer protocol as set out in the Constitution.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

# **Role Description for Performance Champion – Greener Communities**

## **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop the greener communities agenda, raising awareness of council activity in the community and contributing to the Council's Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.

## **Duties:**

4. To liaise as required with the Lead Performance Champion and the relevant Cabinet member.
5. To develop productive collaborative working with the community and relevant agencies/partners.
6. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
7. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
8. To liaise with the other performance champions to share intelligence and joint areas of interest
9. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
10. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.

11. To comply with the Member/Officer protocol as set out in the Constitution.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

## **Role Description for Performance Champion – Our economy**

### **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop the “our economy” agenda, raising awareness of council activity in the community and contributing to the Council’s Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.

### **Duties:**

4. To liaise as required with the Lead Performance Champion and the relevant Cabinet member.
5. To develop productive collaborative working with the community and relevant agencies/partners.
6. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
7. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
8. To liaise with the other performance champions to share intelligence and joint areas of interest
9. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
10. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.

11. To comply with the Member/Officer protocol as set out in the Constitution.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

## **Role Description for Performance Champion – External Partnerships**

### **Corporate Responsibilities:**

1. A non-decision making role that supports Cabinet to drive performance and promote continuous improvement in service delivery and the implementation of best practice.
2. To promote and develop external partnerships, raising awareness of council activity in the community and contributing to the Council's Corporate Plan and Vision 2030.
3. Encouraging and supporting measures, initiatives and/or activities that raise greater awareness and involvement by local people and communities in Council decision-making.

### **Duties:**

4. To liaise as required with the Lead Performance Champion and the relevant Cabinet member.
5. To develop productive collaborative working with the community and relevant agencies/partners.
6. To gather data, intelligence and all other forms of information that assist with reporting and decision making at Cabinet level.
7. To liaise with Council officers, partners and other agencies to ensure appropriate communication and engagement associated with their performance champion role.
8. To liaise with the other performance champions to share intelligence and joint areas of interest
9. To be aware of legislation and ongoing local and national developments on matters relevant to their performance champion role.
10. Promoting equality in service provision, in consultation with appropriate Cabinet Members in relation to the safer community agenda.

11. To comply with the Member/Officer protocol as set out in the Constitution.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

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## Report to Governance and Constitution Review Committee

21 September 2023

|                         |                                                                                                                                                            |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject:</b>         | Investigation into the feasibility of establishing a shadow cabinet                                                                                        |
| <b>Director:</b>        | Surjit Tour<br>Director of Law and Governance & Monitoring Officer                                                                                         |
| <b>Contact Officer:</b> | Johane Gandiwa<br>Committee and Constitutional Services Lead Officer<br><a href="mailto:Johane_Gandiwa@sandwell.gov.uk">Johane_Gandiwa@sandwell.gov.uk</a> |

### 1 Recommendations

- 1.1 That the Governance and Constitution Review Committee consider and make recommendations on the formal establishment of a shadow cabinet.
- 1.2 That where any changes are required to the Council's governance arrangements or any other constitutional document because of 1.1 above, the Council be recommended to consider and approve any changes.

### 2 Reasons for Recommendations

- 2.1 Currently, the Constitution does not provide for the establishment of a shadow cabinet as an arrangement to strengthen accountability and scrutiny.
- 2.2 Any changes made to the Council's Constitution, which includes changes necessitating the establishment of a shadow cabinet, will require approval by the Council.



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

|                                                                                   |                                                                                   |                                                                                     |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|  |  | Effective governance arrangements support the delivery of all corporate objectives. |
|  |  |                                                                                     |
|  |  |                                                                                     |

### 4 Context and Key Issues

4.1 At its meeting on 25 July 2023, Council resolved that the Governance and Constitution Committee would investigate the feasibility of establishing a shadow cabinet and to report back to Council on its findings at the next full council meeting.

The issue of formally recognising shadow cabinet roles was also raised by the Independent Remuneration Panel (IRP), in its 2023 report ‘A Review of Member’ Allowances for Sandwell Metropolitan Borough Council’. This matter had been raised by Councillor participants in the IRP review activity. The IRP observed that this was a matter for Council as to whether it would wish to recognise these roles and attach a special responsibility allowance.

4.2 A benchmarking exercise was conducted across the West Midlands local authorities and beyond to ascertain the prevalence of shadow cabinets in the various local authorities. The benchmarking exercise involved analysing constitutions of 26 councils, of which 12 were in the West Midlands.

4.3 Six of the councils that were considered during the exercise were regarded by the Chartered Institute of Public Finance and Accountancy (CIPFA) in its model as Sandwell’s ‘nearest neighbors’. These are Coventry, Derby, Dudley, Sheffield, Wolverhampton, and Walsall. Other councils, though not Sandwell’s ‘CIPFA nearest neighbors’, were considered to broaden the scope of the analysis. The benchmarking revealed the following: -



| <b>Local Authority</b>                | <b>Shadow cabinet/No Shadow cabinet</b>                                                                                                         |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Blackburn with Darwen Borough Council | Opposition spokespersons perform the functions of a shadow cabinet                                                                              |
| Birmingham City Council               | No shadow cabinet                                                                                                                               |
| Cardiff Council                       | No shadow cabinet                                                                                                                               |
| Cannock Chase Council                 | Has a shadow cabinet                                                                                                                            |
| Cheshire West and Chester             | Has a shadow cabinet                                                                                                                            |
| Coventry City Council                 | Has a shadow cabinet                                                                                                                            |
| Croydon Council                       | Has a shadow cabinet                                                                                                                            |
| Derbyshire County Council             | Has a shadow cabinet                                                                                                                            |
| Dorset Council                        | No shadow cabinet                                                                                                                               |
| Dudley Metropolitan Borough Council   | Opposition spokespersons attend meetings of Cabinet. These perform the roles of a 'Shadow Cabinet'.                                             |
| Gateshead Council                     | No shadow cabinet                                                                                                                               |
| Gloucester City Council               | No shadow cabinet                                                                                                                               |
| Oxfordshire County Council            | Has a shadow cabinet                                                                                                                            |
| Reading City Council                  | No shadow cabinet                                                                                                                               |
| Sheffield Council                     | No shadow cabinet                                                                                                                               |
| Shropshire Council                    | No shadow cabinet                                                                                                                               |
| Solihull Metropolitan Borough Council | Opposition Spokespersons attend decision making sessions and can address the member making the decisions without being required to give notice. |
| Staffordshire County Council          | Has a shadow cabinet                                                                                                                            |
| Stoke on Trent City Council           | Has a shadow cabinet                                                                                                                            |



|                                        |                                                                           |
|----------------------------------------|---------------------------------------------------------------------------|
| Tameside Metropolitan Borough Council  | Shadow opposition spokespersons perform the functions of a shadow cabinet |
| Telford and Wrekin Cooperative Council | No shadow cabinet                                                         |
| Walsall Council                        | Has a shadow cabinet                                                      |
| Warwickshire County Council            | No shadow cabinet                                                         |
| Worcestershire County Council          | No shadow cabinet                                                         |
| Wolverhampton City Council             | No shadow cabinet                                                         |
| Wyre Council                           | No shadow cabinet                                                         |

4.4 As a general practice, the largest political group on the Council which is not the Group(s) from which the Cabinet is drawn will be officially recognised by the Council as the Opposition. The Opposition may appoint a Leader, Deputy Leader, and other members (not being more than the number of members in the Council's Cabinet) to shadow the responsibilities of the Leader and Deputy Leader of the Council and the other Cabinet members. Other councils have established some other shadow arrangements in which opposition spokespersons perform the functions of a shadow cabinet.

## 5 Implications

|                              |                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Resources:</b>            | The establishment of a shadow cabinet may have financial implications as shadow cabinet members in comparable councils are paid a Special Responsibility Allowance. The IRP recommended that any formal establishment of shadow cabinet roles should attract an allowance equivalent to 10% of the Leaders allowance. This translates to £2, 858. |
| <b>Legal and Governance:</b> | Please see section 4.1 above.                                                                                                                                                                                                                                                                                                                     |
| <b>Risk:</b>                 | None associated with this report                                                                                                                                                                                                                                                                                                                  |
| <b>Equality:</b>             | None associated with this report                                                                                                                                                                                                                                                                                                                  |
| <b>Health and Wellbeing:</b> | None associated with this report                                                                                                                                                                                                                                                                                                                  |



|                            |                                  |
|----------------------------|----------------------------------|
| <b>Social Value</b>        | None associated with this report |
| <b>Climate Change</b>      | None associated with this report |
| <b>Corporate Parenting</b> | None associated with this report |

**6 Appendices**

Appendix A – Options on the working arrangements for a shadow cabinet

**7. Background Papers**

None





### **Options on the working arrangements of a shadow cabinet**

#### **1.0 Introduction**

Councils have diverse working arrangements and procedures for shadow cabinets. Some establish explicit shadow cabinets whereas others appoint opposition spokespersons who carry out the duties and functions of a shadow cabinet. As such, outlined below are four proposals on the possible working arrangements for a shadow cabinet. The proposals were informed by a comparative analysis of the practices and procedures at councils in both West Midlands and beyond.

#### **1.1 Option One**

This option is modelled along part 4 of the Oxfordshire County Council Constitution. This is mainly because Oxfordshire County Council has a comprehensive procedure on the roles and rights of shadow cabinet members. The Constitution clearly provides for the appointment and membership of a shadow cabinet by the Opposition. This is complemented by the Protocol on Councillors' Rights and Responsibilities. The Protocol on Councillors' Rights and Responsibilities of Oxfordshire County Council state as follows: -

#### **1.2. Opposition Leader, Deputy Leader and Shadow Cabinet**

The largest political group on the Council which is not the Group(s) from which the Cabinet is drawn will be officially recognised by the Council as the Opposition. The Opposition may appoint a Leader, Deputy Leader, and other Councillors (not being more than the number of Councillors in the Council's Cabinet) to shadow the responsibilities of the Leader and Deputy Leader of the Council and the other Cabinet.

Collectively these Opposition Councillors will be termed the Shadow Cabinet. Only one member of the Opposition may be appointed to shadow any one Cabinet position.

### **1.3 Rights of the Shadow Cabinet to Make Opposition Statements at Cabinet Meetings**

At meetings of the Cabinet or any committee of the Cabinet or when an individual member of the Cabinet is taking decisions in accordance with the rules set out in the Constitution, Shadow Cabinet Councillors will have the right to attend and make a formal Opposition statement on a matter under consideration.

This right will extend only to the Shadow Cabinet member in relation to the functions of the Cabinet for which they are the shadow. Notice by the Shadow Cabinet of the intention to make a statement shall be given by 9 am on the working day before the meeting.

Such a statement may be made at any time during the consideration of that item at the meeting and shall not exceed a period of five minutes. However, this will not prevent the person presiding inviting the Shadow Cabinet member to make any additional comment during the consideration of that item of business.

If the Shadow Cabinet member is unable to attend, then the right can be exercised by the Leader or Deputy Leader of the Opposition. For the avoidance of doubt, the rights are additional to any other rights of members to address the Cabinet.



## **1.4 Rights of Shadow Cabinet Members to Private Briefings**

The Shadow Cabinet members shall have the right to request private briefings from Officers and in such cases the procedures set out under political activity in the Oxfordshire Protocol on Member/Officer Relations will apply. This will not prevent, by mutual agreement, attendance by Shadow Cabinet members at the whole or part of any private briefings arranged for Cabinet and/or Scrutiny members where this would lead to the most efficient and effective use of officers' time.

## **1.5 Option Two**

This option is anchored on Article 8 of the Constitution for Stoke-on-Trent City Council. Stoke-on-Trent City Council is regarded as Sandwell's 'CIPFA nearest neighbor'. The Constitution provides for the roles and functions of the Shadow Cabinet. These are as follows: -

### **1.5.1 Role and Function**

The Shadow Cabinet will have collective responsibility for providing an effective Political challenge to the controlling Executive (Cabinet) and for contributing constructively to the achievement of the City Council's corporate and service objectives and priorities. These responsibilities should be undertaken in a positive manner, maintaining respect always.

The Shadow Cabinet has no power to make any formal decisions on behalf of the Council and meets and operates in addition to the formal Overview and Scrutiny process.

The Shadow Cabinet will assist in ensuring effective arrangements for Overview and Scrutiny. The Shadow Cabinet should maintain effective relationships with the Cabinet and Cabinet Support Members, Corporate Directors and Officers of the Council.

### **1.5.2 Form and Composition**

The Leader of the largest opposition Group may choose to form a Shadow Cabinet of the Council and will notify the Council of the names of the members nominated to form a Shadow Cabinet and of any changes to its membership which may occur. Such meetings will take place in private.

In accordance with the relevant legislation relating to the composition of a Cabinet (Local Government Act 2000) and the City Council's Constitution in relation to the composition of the Cabinet (Article 7 Paragraph 7.02), the Shadow Cabinet shall comprise of no more than the number of members permissible for the Cabinet, i.e.10 Members.

### **1.6 Option Three**

This option is modelled along Dudley Council which is also Sandwell's 'CIPFA nearest neighbor'. It is the practice of Dudley Council to submit a report to the Annual Meeting of the Council in May each year on the appointment and designation of Cabinet Members. At the same time, the main Opposition Group nominates their lead spokespersons, and these are recorded in the minutes. In effect, this is the "Shadow Cabinet".

The opposition spokespersons attend meetings of Cabinet. Directors are responsible for updating their relevant Cabinet Member and Shadow Cabinet Spokesperson on the financial performance of their Directorate.

## **1.7 Option 4**

Option 4 is informed by Appendix 4 of the Constitution of Staffordshire Council which is also located in West Midlands. The Constitution provides for the appointment of the Shadow Cabinet. It states as follows:

### **1.7.1 Composition**

The Council will recognise the existence of political groups and the “Leader of the Opposition” shall be the Leader of the largest political group on the Council (excluding the political group of the Leader of the Council). The Leader of the Opposition may choose to form a Shadow Cabinet by their nomination from amongst the members of the Council. The Leader of the Opposition shall notify the Council and the Chief Executive of the names of the members nominated to form a Shadow Cabinet and of any changes in the membership of the Shadow Cabinet which may occur from time to time.

### **1.7.2 Role**

The Shadow Cabinet will have collective responsibility for providing an effective challenge to the controlling Executive (Cabinet) and for contributing constructively to the achievement of the County Council’s corporate and service objectives and priorities. These responsibilities should be undertaken in a positive manner, maintaining respect always.

### **1.7.3 Number of members**

The Shadow Cabinet shall comprise of the Leader of the Opposition, Shadow Deputy Leader and no more than three of the Shadow Cabinet Members.

#### **1.7.4 Functions**

- Effectively to call to account or challenge the Majority Group on the County Council at meetings of the County Council, Committees, Panels and on other occasions as appropriate.
- To meet regularly and ensure good communications with other members to inform the effective performance of the Shadow Cabinet's role.
- To maintain effective relationships with the Cabinet and their Support Members, the Corporate Directors and other relevant senior officers, and to meet them, as required, to ensure that members of the Shadow Cabinet are sufficiently and effectively briefed on service and relevant corporate areas and any other relevant issues pertaining to the County Council.
- To assist in ensuring effective arrangements for overview and scrutiny.
- To ensure effective contact with community representatives and other local stakeholders, as appropriate, and to represent their views in the performance of the Shadow Cabinet's role.

#### **2.0 Special Responsibility Allowance**

Special Responsibility Allowances for members of the Shadow cabinet vary from council to council. In 2023, the Independent Remuneration Panel recommended that should the Council be minded to formally recognise Shadow Cabinet roles, that an allowance of 10% of the Leaders allowance be included within the scheme for all shadow cabinet members. For comparative purposes, listed below are the rates used by various councils.

| <b>Council</b>                      | <b>Special Responsibility Allowance</b>                                                |
|-------------------------------------|----------------------------------------------------------------------------------------|
| Croydon Council                     | £5,615 <sup>1</sup> (up to six positions)                                              |
| Cannock Chase District Council      | £1,282                                                                                 |
| Oxfordshire County Council          | £ 3,156.00                                                                             |
| Dudley Metropolitan Borough Council | £ 6,853 <sup>2</sup> .                                                                 |
| Walsall Council                     | Does not pay Special Responsibility Allowance <sup>3</sup> for Shadow Cabinet members. |

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<sup>1</sup> Croydon Council- Councillor's Basic and Special Responsibility Allowances.

<sup>2</sup> The Special Responsibility Allowances payable to Opposition Party Leaders, Deputy Leaders and Opposition Spokespersons shall be applicable only where their political group is ten or more elected members in number.

<sup>3</sup> An allowance is paid to Group Leaders subject to them having a minimum of six members. When they reach this point, they also qualify from a Group PA who generally assists the Group Leader.

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## Report to Governance and Constitution Review Committee

**21 September 2023**

|                         |                                                                                                                                                                                 |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject:</b>         | Centre for Governance and Scrutiny – The use of call-in: guidance for English authorities                                                                                       |
| <b>Director:</b>        | Surjit Tour<br>Director of Law and Governance & Monitoring Officer                                                                                                              |
| <b>Contact Officer:</b> | Suky Suthi-Nagra<br>Democratic & Member Services Manager and Statutory Scrutiny Officer<br><a href="mailto:Suky_Suthinagra@sandwell.gov.uk">Suky_Suthinagra@sandwell.gov.uk</a> |

### 1 Recommendations

- 1.1 That the Governance and Constitution Review Committee recommend to Council changes to the Council’s Scrutiny Procedure Rules as set out in Appendix 1, in response to the key points arising from the Centre for Governance and Scrutiny publication – The use of call-in: guidance for English authorities.

### 2 Reasons for Recommendations

- 2.1 As part of the ongoing work to strengthen and develop the Council’s Overview and Scrutiny function, the Council has sought to understand and address the key points raised by the Centre for Governance and Scrutiny (CfGS) in its April 2023 publication “The use of call-in: guidance for English authorities.



2.2 Currently only key decisions (i.e. over £1m in spend/savings or significantly affects two or more wards) can be made by Cabinet and are subject to call in. Individual Cabinet Member decisions below this financial threshold are not subject to call in.

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

|                                                                                   |                                                                                   |                                                                                     |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|  |  | Effective governance arrangements support the delivery of all corporate objectives. |
|  |  |                                                                                     |
|  |  |                                                                                     |

**4 Context and Key Issues**

4.1 Whilst almost all of the guidance points are addressed within the revised Scrutiny Procedure Rules and supplementary guidance published by the Council, the views of the Scrutiny Management Board were sought at their meeting on 27 July 2023, in particular, around the threshold for call-in – i.e. whether it should remain for key decisions only as is currently set out in Sandwell’s Constitution or whether it should include all Cabinet or Cabinet Member decisions.

4.2 Any changes made to the Council’s Constitution, which includes changes to call in threshold, will require approval by the Council.





4.3 Benchmarking has been conducted across the West Midlands local authorities to ascertain their call-in thresholds as follows:

| Local Authority  | Call in threshold                                                                                                                                                                      |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Coventry CC      | All Cabinet and Cabinet Member decisions are subject to call in                                                                                                                        |
| Dudley MBC       | All Cabinet and Cabinet Member decisions are subject to call in                                                                                                                        |
| Solihull MBC     | All key and non key decisions made by Cabinet and Cabinet Members are subject to call in                                                                                               |
| Walsall MBC      | <p>Cabinet decisions (key and non key) are all subject to call in</p> <p>Cabinet members do not make decisions as these are delegated to officers within the Scheme of Delegations</p> |
| Wolverhampton CC | Key decisions made by Cabinet are subject to call in. Cabinet Members and officers are not permitted to make key decisions and are therefore not subject to call in.                   |

4.4 At its meeting on 27 July 2023, the Budget and Corporate Scrutiny Management Board considered the call-in guidance and, subsequently resolved to recommend that the Governance and Constitution Review Committee consider and recommend to Council the inclusion of the use of call-in to all executive decisions, including individual Cabinet Member decisions as per the CfGS guidance for call-in.



## 5 Implications

|                              |                                                                                    |
|------------------------------|------------------------------------------------------------------------------------|
| <b>Resources:</b>            | The call-in function of Scrutiny is supported within existing resources.           |
| <b>Legal and Governance:</b> | The call-in function was introduced by the Local Government Act 2000.              |
| <b>Risk:</b>                 | There are no direct risk implications arising from this report.                    |
| <b>Equality:</b>             | There are no direct equality implications arising from this report.                |
| <b>Health and Wellbeing:</b> | There are no direct implications for health and wellbeing from this report.        |
| <b>Social Value</b>          | There are no direct implications for social value arising from this report.        |
| <b>Climate Change</b>        | There are no direct implications for climate change arising from this report.      |
| <b>Corporate Parenting</b>   | There are no direct implications for corporate parenting arising from this report. |

Whilst there are no direct implications relating to many of the above areas, an effective call-in function can contribute to holding decision makers to account around all of the above issues.

## 6 Appendices

Appendix 1 – Revised Scrutiny Procedure Rules

Appendix 2 - Commentary on key points from CfGS

## 7. Background Papers

[CfGS – The use of call-in: guidance for English authorities](#)



## **Part 4 - Scrutiny Procedure Rules**

### **1. What will be the Arrangements for Scrutiny?**

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 establish scrutiny boards set out in Article 6 of this Constitution and will appoint members to them as it considers appropriate from time to time.

### **2. Who May Sit on Scrutiny Boards?**

All councillors, except members of the Cabinet, may be members of a scrutiny board. However, no member may be involved in scrutinising a decision that they have been involved in making, or they have declared an interest in, except where the Council was the decision making body.

### **3. Who Chairs Scrutiny Board Meetings?**

- (a) The Chair and Vice-Chairs of each scrutiny board will be appointed by the Council at its annual meeting. Where a vacancy arises mid-year, these will be appointed to at a meeting of the Council.
- (b) In the absence of both the Chair and Vice-Chair of a scrutiny board, or their inability to act, the board shall appoint a person to preside at that meeting or part of a meeting, from amongst those elected members present.

### **4. Co-opted Members – Scrutiny Boards**

- (a) The Children’s Services and Education Scrutiny Board, will include in its membership, the following non-elected co-opted members:-

- (i) 1 non-elected person representing the Church of England dioceses of Birmingham and Lichfield;
- (ii) 1 non-elected person representing the Roman Catholic archdiocese of Birmingham;
- (iii) 2 Parent Governor representatives.

Those members may be appointed to any sub-groups of the Board, but shall only have voting rights on education matters, whether in respect of schools or wider educational issues.

- (b) The Safer Neighbourhoods and Active Communities Scrutiny Board will include in its membership a non-elected co-opted member, without voting rights, from the Tenant and Leaseholder Scrutiny Panel.

## 5. **Meetings of Scrutiny Boards**

Each scrutiny board will normally meet once in each cycle of meetings in a municipal year. Extra meetings may be called:-

- (a) by the chair of the relevant scrutiny board;
- (b) by any four members of a scrutiny board;
- (c) by the Statutory Scrutiny Officer if they consider it necessary or appropriate.

## 6. **Quorum**

The quorum for a scrutiny body will be in line with the Council's Procedure Rules (Standing Orders) in Part 4 of this Constitution. Provision is made within those Rules to enable a meeting to proceed in the event of it being or becoming inquorate. In the event of a quorum not being obtained at the commencement of, or at any point during the meeting, at the discretion of the Chair or the person presiding, the meeting may continue for the purpose of examining the business before it. However:-

- (a) any recommendation, comment or advice by the members present to the Council, the Cabinet, 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 Board due to the meeting having been inquorate;
- (b) any 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.

## **7. Work Programme**

- (a) Scrutiny boards will be responsible for their own work programmes, which shall be approved at the first meeting of each board in the municipal year.
- (b) In developing their work programmes, Scrutiny Boards will have regard to:-
  - (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
  - (ii) the Cabinet Forward Plan and Executive Work Programme;
  - (iii) suggested items/topics arising from annual engagement activities, involving partners and the public;
  - (iv) any necessary engagement with other scrutiny boards on cross-cutting issues.
- (c) Each suggested item/topic shall be assessed using the Scrutiny Prioritisation Tool to determine the appropriateness and the level of priority to be applied to it, before being placed on the Board's work programme.

## 8. Scrutiny Reviews

- (a) Each scrutiny board may include on its work programme, one or more in-depth review of a particular topic, and in determining that topic, shall have regard to: -
- (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
  - (ii) the Cabinet Forward Plan and Executive Work Programme;
  - (iii) suggested items/topics arising from annual engagement activities, involving partners and the public;
  - (iv) any previous scrutiny activity on the topic;
  - (v) guidance from the relevant director on the appropriateness and timeliness of the review.
- (b) No boards shall have more than one active scrutiny review taking place at any one time.
- (c) Each suggested review shall be assessed using the Scrutiny Prioritisation Tool.
- (d) subject to (a) to (c) (above), each agreed review shall be scoped using the [Scrutiny Review Scoping Document](#) to ascertain how the review will operate and which can include (but not limited to):-
- Establishing a working group
  - Co-opted members on working groups
  - Expert witnesses
  - Enquiry days
  - Spotlight sessions
  - Focus groups

- Visits
  - Call for evidence (e.g. press)
  - Surveys
  - Desktop research
- (e) upon the completion of a review, a scrutiny board shall prepare a report, setting out its findings and any recommendations, for submission to the Cabinet/Council at its next available meeting;
- (f) the Cabinet/Council shall respond to the scrutiny board at the meeting to which the report is submitted, if this is not possible, it shall respond no later than two months;
- (g) the scrutiny board shall monitor progress on implementation of approved recommendations.

## 9. **Agenda Item Requests**

### 9.1 Requests from members for items to be included on the agenda for a scrutiny body:

- (a) Any member of the Council may make a request for an additional item to be placed on any scrutiny board's work programme, or the agenda for the board's next meeting.
- (b) In making such a request, the member shall have regard to:-
- (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
  - (ii) the Cabinet Forward Plan and Executive Work Programme;
  - (iii) any necessary engagement with other scrutiny boards on cross-cutting issues.

- (c) Such requests shall be made in writing, to the Statutory Scrutiny Officer, using the [Scrutiny Agenda Item Request Form](#).
- (d) Upon receipt of such a request, the Statutory Scrutiny Officer shall consult with the relevant scrutiny chair. If they decline to add the item to the board's work programme/agenda, the requesting member may refer the request to the Chair of the Scrutiny Management Board, who may:-
  - (i) confirm the decision to NOT place the item on the relevant board's work programme;
  - (ii) direct the relevant chair/board to consider the item;
  - (iii) place the item on the work programme of the Scrutiny Management Board
- (e) If the chair deems it necessary, they may call an additional meeting of the Board to consider the item.
- (f) The member requesting the item shall be expected to attend the meeting at which the item is to be considered and speak on the item.
- (g) A matter will not be included on a scrutiny board's work programme, or an agenda for a particular meeting, where the Statutory Scrutiny Officer considers it to be:-
  - (i) frivolous, of mischievous intent, in breach of any statute, regulation or directive or of personal gain to the requestor;
  - (ii) relating to a matter outside those functions set out in the Local Government Act 2000 as amended;
  - (iii) relating to a licensing or planning decision;
  - (iv) relating to an individual body to which there is already a statutory right to a review or appeal (other than to the Local Government Ombudsman);
  - (v) where it has been the subject of scrutiny within the previous 12 months.



9.2 Requests from the Council or the Executive to place an item on the agenda of a scrutiny body:

- (a) A scrutiny board shall respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet or a Cabinet Member, to review particular areas of Council activity.
- (b) The findings of the work shall be reported back to the Cabinet, and/or Council as appropriate.
  - (i) If it is not able to respond at the meeting to which the scrutiny board's report is presented, Council and/or the Executive must respond to the report of the scrutiny body within two months of receiving it, or at the nearest available programmed meeting.
  - (ii) If the Cabinet does not accept the recommendations of the scrutiny board it shall set out clearly the reasons why and the Cabinet Member shall attend a meeting of the scrutiny board to discuss their reasons, if requested to do so.

## 10 Recommendations from Scrutiny Bodies

10.1 Arising from Scrutiny Reviews - see paragraph 8 above.

10.2 Arising from Single Agenda Items

- (a) If, upon consideration of an agenda item at a formal board meeting, a scrutiny board wishes to make recommendations to the Cabinet/ Council, those recommendations shall be submitted by way of a formal report to the next available meeting;
- (b) the Cabinet/Council shall respond to the scrutiny board at the meeting to which the report is submitted, if this is not possible, it shall respond no later than two months.

- (c) If the Cabinet does not accept the recommendations of the scrutiny board it shall set out clearly the reasons why and the Cabinet Member shall attend a meeting of the scrutiny board to discuss their reasons, if requested to do so.

### 10.3 Tracking and Monitoring

Scrutiny boards will monitor progress on the implementation of recommendations approved by the Cabinet/a Cabinet Member by way of regular reporting to board meetings.

### 11 **Matters Within the Remit of More Than One Scrutiny Board**

Where a matter for consideration by a scrutiny board also falls within the remit of one or more other scrutiny boards, the decision as to which scrutiny board will consider it will be resolved by the Chair of the Budget and Corporate Scrutiny Management Board and in their absence or inability to act, the Vice-Chair.

### 12 **Order of Business and Procedure at Meetings**

As a general rule, the order of business and procedure at scrutiny bodies shall be:-

- (i) to receive declarations of interest, including declarations in relation to the application of any political whip;
- (ii) to confirm the minutes of the last meeting;
- (iii) consideration of call-in;
- (iv) response of the Executive to reports from scrutiny;
- (v) programmed items as per the board's work programme;
- (vi) additional items requested by the Executive/Council not listed in the work programme.

### **13 Rights of Scrutiny Members to Documents**

In addition to their rights as councillors, members of scrutiny bodies have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **14 Members and Officers Giving Account**

- (a) As well as reviewing documentation, in fulfilling its scrutiny role, a scrutiny body may require any member of the Executive, Committee Chair or Vice-Chair, and any officer of the Council, to attend before it to assist in its understanding of the matter it is scrutinising, and in the case of chief officers and executive members, hold them to account for their performance;
- (b) Where a member or officer is required to attend a scrutiny body under this provision, at least 10 working days' notice of the meeting at which they are required to attend must be given, unless the individual agrees to a shorter period of time.
- (c) Where the member or officer is unable to attend on the required date, they shall, in liaison with the Statutory Scrutiny Officer and the Chair, make arrangements for a suitably knowledgeable person to attend in their place. If this is not possible, the Chair of the scrutiny body may defer the matter until another meeting.

### **15 Attendance by Others**

- (a) A scrutiny body may invite people other than those people referred to in paragraph 14 above to address it, to discuss issues of local concern and/or answer questions.
- (b) The attendance of a citizen or member of the public at a meeting of a scrutiny body, other than by direct invitation as a participant, does not grant the individual an automatic right to address the meeting or submit representations.

## 16 Call-In

- (a) Any three members of a scrutiny board (including co-opted members with voting rights relevant to the subject matter), or six members of the Council, may refer for scrutiny any key decision made under Part 4 of the Executive Procedure Rules [or decision made by a Cabinet Member](#).
- (b) The referral shall be made in writing, using the [Notice of Call-In](#) which shall be submitted to the Statutory Scrutiny Officer no later than the fifth working day (beginning the day after the decision is published).
- (c) Nothing in (b) (above) shall prevent the member/members from declaring their intention to call the matter in at the meeting during which the decision is made.
- (d) The Monitoring Officer, in consultation with the Statutory Scrutiny Officer and the Chief Executive, may reject a [Notice of Call-In for the reasons set out below](#). ~~if it fails to meet the grounds listed below, and t~~The reasons for rejection will be reported to the next scheduled ordinary meeting of the Budget and Corporate Scrutiny Management Board:-
  - (i) the cited grounds bear no relevance to the decision that is identified for call-in;
  - (ii) the requisition cites grounds for which no relevant evidence is produced in support;
  - (iii) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank [Notice of Call-In form](#) in advance);
  - (iv) the call-in includes material which could be defamatory;
  - (v) the requisition is being used for improper purposes (e.g. to admonish an officer); or
  - (vi) the terms of the call-in are substantially the same as for one previously considered within the preceding 6 months.

- (ee) The Statutory Scrutiny Officer, in consultation with the Chair of the Budget and Corporate Scrutiny Management Board will determine which board will consider the referral, however, matters relating to crime and disorder issues must be referred to the Safer Neighbourhoods and Active Communities Scrutiny Board.
- (fe) The scrutiny board will meet within 15 working days of the receipt of the [Notice of Call-In](#), to consider the matter, unless the relevant Director agrees to a longer period that would avoid the need to call an additional meeting of the Board.
- (g) Subject to (f) (above), if the board does not meet within 15 days, the decision of the [Cabinet Member/Cabinet](#) will automatically take effect at the end of the five-day call-in period.
- (h) At least one referring member will be expected to attend the meeting of the scrutiny board at which the item will be considered. The relevant Cabinet Member and officers shall also be expected to attend the meeting.
- (i) In the event of all of the referring members failing to attend the meeting, at the discretion of the Chair, the item will be withdrawn from the agenda without discussion and the decision will automatically take effect.
- (j) If the scrutiny board does not refer the matter back to the Cabinet Member/Cabinet for further consideration the decision will take effect at the close of the scrutiny meeting.
- (k) If, having considered the decision, the scrutiny board has concerns about it, then it may refer it back to the decision maker, for reconsideration, setting out in writing, the nature of the concerns. Within a further 10 working days, the decision maker must reconsider, amending the decision or not, before adopting a final decision.

|

- (l) If the matter is a strategic matter that requires the consent of the Cabinet or Council, and the Cabinet member elects not to amend their recommendation to that body, one of the referring members may reserve the right to address the Cabinet or Council.
- (m) If the matter was referred to the Cabinet and subsequently Council and neither the Cabinet nor Council objects to a decision which has been made, then no further action is necessary, and the decision will be effective at the close of the relevant meeting.
- (nm) However, if Council does object, (it has no locus to make or overturn decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget), it will refer any decision to which it objects back to the Cabinet/Cabinet Member making the decision, together with the Council's views on the decision.

The Cabinet Member shall reconsider the matter, within 10 working days of the Council request, and choose whether to amend the decision or not before reaching a final decision and implementing it.

## 17 Exceptions to Call-In

- (a) Decisions taken in accordance with the Council's urgency provisions/procedures may not be called in.

With the exception of items considered urgent under Part 4 - Budget and Policy Framework Procedure Rules 4(a), the declaration of a decision as urgent is subject to the written agreement of the Chair of the relevant scrutiny board or, in their absence, the Vice-Chair of the relevant scrutiny board.

Decisions taken in this way, as a matter of urgency, must be reported to the next available meeting of the Council, together with the reasons for the urgency.



- (b) Where the Leader has exercised their right to review the decision of an individual Cabinet Member or an Executive body, the call-in procedure referred to above will automatically lapse.

Following the Leader's review, [his/her/their](#) decision will be subject to the call-in procedure.

- (c) Once a particular decision has been called in for scrutiny and that decision has been considered and a final decision made under any of the call-in principles, it shall not be called in again.

## 18 Councillor Call for Action

- (a) Before considering whether to invoke the Councillor Call for Action process, members should read the [Call for Action Protocol](#), and seek advice from the Statutory Scrutiny Officer.
- (b) Any member of the Council who wishes to refer a matter that is of concern in their ward for scrutiny under the [Councillor Call for Action Protocol](#), may do so by submitting a completed [Call for Action Referral form](#) to the Statutory Scrutiny Officer.

The Statutory Scrutiny Officer will then review the request and determine:-

- (i) whether the Call for Action meets the relevant criteria;
- (ii) in consultation with the Chair of the Budget and Corporate Scrutiny Management Board, which board will consider the Call for Action. However, matters relating to crime and disorder issues must be referred to the Safer Neighbourhoods and Active Communities Scrutiny Board.

The Statutory Scrutiny Officer will notify the Chair of the relevant board, the relevant cabinet member(s) and chief officer(s) and, where appropriate, partner

organisation(s) of the referral and of the identity of the person making the referral.

- (c) Matters referred by a Call for Action during the period between a Notice of Election being issued and the date of that election will not be considered until after that election.
- (d) Where a Call for Action is referred under (a) above, the scrutiny board will consider the matter at its next scheduled meeting, unless the matter is deemed to be of a time-critical nature or its consideration at that meeting would be detrimental to the board or board's established work programme. In these instances, with the agreement of the Chair of the board, an additional meeting of the board may be called to consider the matter.
- (e) The member who has referred the Councillor Call for Action for scrutiny will be expected to attend the meeting. If they are unable to attend, they must appoint another member of their ward to act as their representative and should notify the Statutory Scrutiny Officer of the name of that member prior to the meeting.

In the event of the member or their representative failing to attend the meeting, the Chair may withdraw the item from the agenda without discussion.

- (f) If, having considered the Councillor Call for Action, the scrutiny board feels it necessary, it shall make recommendations to the relevant chief officer/cabinet member/-body.
- (g) The relevant chief officer/cabinet member/body shall respond to the scrutiny board within two calendar months starting from the date on which they receive the recommendations.
- (h) In respect of any recommendations made to a NHS body, that body shall be expected to respond to the scrutiny body within 30 days starting from the date on which they receive the recommendations

- (i) The Statutory Scrutiny Officer shall keep the referring ward member/members informed on developments throughout the process when dealing with the Councillor Call for Action.
- (j) The referring ward member/members shall keep relevant residents/the community up to date on the process and the outcome.

## 19 **Petitions**

Petitions will be dealt with in accordance with the Council's petitions scheme.

## 20 **The Party Whip**

When considering any matter in respect of which a member of a scrutiny board is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the board's deliberations on the matter. The declaration and the detail of the application of the whip arrangements shall be recorded in the minutes of the meeting.

## CfGS – The use of call-in: guidance for English authorities

The CfGS released this guidance in late April, the following extracts key points alongside commentary as it relates to Sandwell.

| <b>CfGS guidance</b>                                                                                                                                                                                    | <b>Comments</b>                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Where call-in rules should sit: there is no ‘right place’. (most authorities include them in the Scrutiny Procedure Rules)                                                                              | Contained within the Scrutiny Procedure Rules.                                                                                                                                                                                                                  |
| CfGS considers best practice to be that all cabinet or cabinet member decisions are potentially subject to call-in, as are those key decisions made by an officer of the authority.                     | 16(a) – ‘may refer for scrutiny any key decision made under Part 4 of the Executive Procedure Rules’.<br><br><b>Budget and Corporate Scrutiny Management Board’s view is sought on if this should be extended to include what CfGS considers best practice?</b> |
| 2 clear working days for the decision notice/minutes to be published and then 5 clear working days from publication to allow for a call-in.                                                             | Scrutiny Procedure Rule 16(b) addresses this, although “beginning the day after the decision is published”.                                                                                                                                                     |
| Hurdle 1: Requiring a certain number of members to request a call-in for it to be valid.<br><br>There is no overall consensus on numbers, which committees members should sit on, cross/same party etc. | 16(a) – three members of a scrutiny board (including co-opted members with voting rights relevant to the subject matter), or six members of the Council.                                                                                                        |
| Hurdle 2: Requiring that the call-in request meets specific criteria, in terms of its substance<br><br>CfGS view is that there should be a requirement to give reasons for call-ins.                    | 16(b) – requests referral in writing, via the Notice of Call-In (which is where reasons are captured).                                                                                                                                                          |
| Hurdle 3: Taking into account prior opportunities to “feed in” to a decision                                                                                                                            | Only call-ins “substantially the same as...one previously considered within the preceding 6                                                                                                                                                                     |

|                                                                                                                                                                                                                                                    |                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <p>CfGS view is that pre-decision scrutiny “should not automatically remove the need for call-in later in the process.”</p>                                                                                                                        | <p>months” are precluded (16(d).</p>                                                                          |
| <p>Using a form – to request a call-in. CfGS view is these are useful but validity should not rest on councillors’ using the form correctly to call-in.</p>                                                                                        | <p>16(b) requires the use of a form to refer an item for call-in.</p>                                         |
| <p>Who should determine that a call-in is valid?</p> <p>CfGS view is that the decision on validity should be made by the Monitoring Officer.</p>                                                                                                   | <p>16(d) – Monitoring Officer may reject</p>                                                                  |
| <p>Some councils include a step between a valid request being made and the Scrutiny meeting to hear it. This can include a mediation process or round-table discussion between the lead requestor(s)/decision maker/scrutiny chair.</p>            | <p>Not practice in Sandwell.</p>                                                                              |
| <p>Where there is more than one call-in on the same issue, the CfGS view is that the proper officer should liaise with requestors/scrutiny chair to ensure the matters can be considered together, without prejudicing any individual request.</p> | <p>Addressed in supplementary <a href="#">Overview and Scrutiny – Call-In guide</a>.</p>                      |
| <p>10 working day period in which to hear the call-in is considered ‘standard and applied wherever practicable’.</p>                                                                                                                               | <p>16(e) – ‘meet within 15 working days of the receipt of the (call-in)’</p>                                  |
| <p>An agenda for the reviewing overview and scrutiny committee should be fronted by a report(s) by officers and should, at the least, reflect the same material that has gone to decisionmakers,</p>                                               | <p>A meeting procedure is set out in supplementary <a href="#">Overview and Scrutiny – Call-In guide</a>.</p> |

|                                                                                                                                                                                              |                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>but those requesting call-ins may reasonable expect additional information to be provided.<br/>The report and agenda should also set out the procedure to be followed at the meeting.</p> |                                                                                                                                                                                            |
| <p>Who is invited to participate?<br/><br/>Requestor(s), decision maker, relevant senior officer</p>                                                                                         | <p>16(h) requires at least one requesting member to be present.<br/><br/>It further states that the relevant Cabinet Member and officers shall also be expected to attend the meeting.</p> |
| <p>Common for there to be a process document/protocol for how call-in meetings operate.</p>                                                                                                  | <p>A meeting procedure is set out in supplementary <a href="#">Overview and Scrutiny – Call-In guide</a>.</p>                                                                              |
| <p>Referral to full Council – only around whether the decision maker ‘ever held the lawful authority to purport to make that decision or not’.</p>                                           | <p>Not addressed in Scrutiny Procedure Rules.</p>                                                                                                                                          |
| <p>Where decision is by an individual (Cabinet Member or officer), it could be that Scrutiny recommendations arising from a call-in are referred up to Cabinet.</p>                          | <p>Not current practice in Sandwell.</p>                                                                                                                                                   |
| <p>CfGS view is that decision maker should give reasons for their final decision to ‘help ensure that call-in is taken seriously’.</p>                                                       | <p>Not specified.</p>                                                                                                                                                                      |

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## Report to Governance and Constitution Review Committee

21<sup>st</sup> September 2023

|                         |                                                                                |
|-------------------------|--------------------------------------------------------------------------------|
| <b>Subject:</b>         | Protocol for nominations of Mayor/Deputy Mayor                                 |
| <b>Director:</b>        | Director of Law & Governance and Monitoring Officer, Surjit Tour               |
| <b>Contact Officer:</b> | Assistant Director - Democracy, Elaine Newsome. elaine_newsome@sandwell.gov.uk |

### 1 Recommendations

- 1.1 That consideration is given to options for the adoption of a protocol for the appointment of Mayor and Chair of the Council and Deputy Mayor/Vice Chair of the Council.
- 1.2 That Council be recommended to approve the automatic accession of the Deputy Mayor into the office of the Mayor or vice versa;







### 2 Reasons for Recommendations

An established procedure for the appointment to the position of Mayor/Deputy Mayor will offer a consistent approach that affords any and all political parties and independent members with the opportunity to hold the office.

It is for the Council to determine an approach on the recommendation of the Governance and Constitution Review Committee.



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

|                                                                                   |                                                                                   |                                                                       |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------|
|  |  | The proposals underpin the Council's governance transformation agenda |
|  |  |                                                                       |
|  |  |                                                                       |

### 4 Context and Key Issues

4.1 The Council is required annually to elect a Mayor and appoint a Deputy Mayor in accordance with Sections 3 and 5 respectively of the Local Government Act 1972. The Local Government Act 2000 also provides that the Council's chairman or vice-chairman (the Mayor and Deputy Mayor) cannot serve on the Executive.

#### 4.2 The Role of the Mayor

The role of the Mayor is varied and a mix of the honour of being the Council's first citizen, championing communities and being an integral interface between the Council and its residents, businesses, partners and stakeholders. Often overlooked is that the primary appointment in legislation is to that of Chair of the Council, one that can be challenging, and requires a comprehensive understanding of Mayoral protocol, Council procedure rules, alongside robust chairing skills.

#### 4.3 Role of the Deputy Mayor

As vice-chair of the Council, the Deputy Mayor must have or develop a similar skills and knowledge base to that of the Mayor. Whilst the position has no official standing, other than as Vice Chair of the Council, there is an expectation that the Deputy will substitute for the Mayor at a range of events where they are unable to attend. They may often take a leading role in supporting the success of Mayoral fund-raising activities. Where confirmed succession arrangements are in place, the position of Deputy Mayor provides a helpful introductory year to the role of Mayor, or conversely, where the Mayor automatically becomes the deputy Mayor following their year in office, can be a source of experienced support for the incumbent Mayor.



#### 4.4 Current position

In Sandwell, the Council considers and appoints a Mayor and Deputy Mayor elect, normally in the early part of each calendar year, with formal ratification of the appointment at annual Council at the start of the Municipal Year in May. Members holding office, do so on 1 occasion (noting the exception in 2020 where the AGM was postponed due to Covid).

There are no automatic succession arrangements in place and instead Councillors are required to put forward supported nominations that are, once routed through political groups, submitted for consideration by the General Purposes & Arbitration Committee, prior to subsequent consideration by Council. Ultimately, the Council retains responsibility for the appointment to the office of the Mayor/Deputy Mayor.

The currently defined nomination criteria are:

- Nominees shall be serving members of the Council who have not previously served as Mayor.
- Nominees shall have given notable service to the Borough of Sandwell as a councillor and/or within the local community.
- Each nomination shall be submitted by a serving member of the Council supported by five other serving members of the Council regardless of political party.

Sandwell does not currently have in place an automatic succession practice where the Deputy Mayor becomes Mayor by default in the subsequent municipal year or vice versa.

#### 4.5 Issues for consideration

##### Equality of Opportunity

The operation of two political groups, increases the likelihood of multiple nominations to the Office of Mayor and position of Deputy Mayor. Whilst an A-political role, most local authorities make provisions within an established nomination and appointment protocol that reflects the political make-up of the Council. This affords all members with equal opportunity to hold the office. Any such protocol is usually supported by a collective political undertaking to support nominations in the spirit of the protocol.



## Succession planning

This features also in most protocols, with provisions that members in the position of Deputy Mayor will automatically take up the office of the Mayor in the next year or vice versa. Where accession arrangements are in place, the Deputy Mayor is afforded a year to understand and rehearse the role of Mayor and Chair of Council, providing for an easier transition to their year in office. Conversely, where some local authorities appoint initially to the Mayor with the Mayor stepping then into the role of deputy the then Deputy can support the Mayor from a position of experience.

## Nomination and appointment processes

Again, there is no one set practice; however, processes tend to fall within two main formats:

1. Length of service: awarded on the seniority of service for individual Councillors, this format provides for an automatic appointment. Members considering nomination would be required to have a minimum of 2 years' service as a Councillor remaining, in order that they were able to occupy both Mayor and Deputy roles. Where there is equity in length of service, this would be determined in alphabetical order. Members would be free to accept or decline any potential nomination in advance of formal consideration. Where a Councillor declines the opportunity to become Mayor/Deputy, it would then be offered to the next most senior/alphabetically ordered member. Membership of a political group is not a consideration (see appendix 1 for a draft protocol)
2. Political apportionment by calculation or formula. This method of appointment removes the seniority factor and affords all members with an equal opportunity to hold office, regardless of length of service and is often considered to be a merit basis for appointment. There are a number of ways that a formula can be applied, however, this is usually tied to the political balance of the Council and, dependent upon approach, can be a simple or more complex format.



A simple fixed formula may take the form of a locally agreed convention, for example, the administration appointing to the office of Mayor for 3 out of 4 years and the opposition 1 year out of the 4.

Alternatively, using political proportionality, and utilising the current political balance, the administration would nominate for 5 out of 6 years, with the opposition eligible to nominate in year 6. This would require the calculation to be reviewed annually post election.

A more complex format would be way of an agreed calculation based on the total overall membership of the Council. Using Sandwell's current membership of 72, 1 point is awarded to each Member of the Council annually following each election. The group with the highest number of points nominates to the post of Deputy Mayor for the following Municipal Year (noting that if a succession protocol was not agreed, this could be nomination to the office of the Mayor). 72 points are then subtracted from that groups running total. The procedure of crediting and debiting points continues annually, with the running total, and ability to nominate updated accordingly. In the event of a tie, the group with the highest number of seats on the Council would secure the nomination unless they had made the most recent nomination (see appendix 2 for a draft calculation based protocol).

As an example (using the existing proportionality calculation and assuming no changes overall)

|        | Labour                  | Conservative            |                         |
|--------|-------------------------|-------------------------|-------------------------|
| Year 1 | 60                      | 12                      | Labour nomination       |
| Year 2 | 60 -72 (-12)<br>+60= 48 | 12 +12 = 24             | Labour nomination       |
| Year 3 | 48-72 (-24) +<br>60= 36 | 24+12= 36               | Conservative nomination |
| Year 4 | 36+60=96                | 36-72(-36) +12 =<br>-24 | Labour Nomination       |



## Defining the “Notable Service” criteria

Current practice, if no change was to be considered, is primarily to appoint on the basis of “notable service” to the Council or wider community. Whilst often not difficult for Members to provide examples of service, the Council does not currently have a defined mechanism for weighting the contributions identified by members. Whilst multiple nominations in political groups are often refined to 1 preferred nominee, the Council may wish to consider formalising a system for balancing multiple nominations received from different political groups (see appendix 3 for draft “notable service” criteria).

## 5 Implications

|                              |                                                                                                                                                                                                                                                                                                            |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Resources:</b>            | The Mayor and Deputy Mayor currently receive allowances of £21,754 and £8,701 respectively. The Deputy Mayor Allowance equates to 40% of the Mayoral allowance. The IRP recommended that should a succession protocol be agreed, the Deputy Mayor allowance should reduce to 25% of the Mayoral Allowance. |
| <b>Legal and Governance:</b> | The Council is required by law to appoint to the positions of Mayor/Chair of Council and Deputy Mayor/Vice Chair of Council. It is a matter for Council to determine its schedule of Member allowances                                                                                                     |
| <b>Risk:</b>                 | None associated with this report                                                                                                                                                                                                                                                                           |
| <b>Equality:</b>             | The adoption of an agreed protocol would provide equality of opportunity for all councillors to hold the office of the Mayor/Deputy Mayor                                                                                                                                                                  |
| <b>Health and Wellbeing:</b> | None in relation to this report.                                                                                                                                                                                                                                                                           |
| <b>Social Value:</b>         | None in relation to this report.                                                                                                                                                                                                                                                                           |
| <b>Climate Change:</b>       | None in relation to this report.                                                                                                                                                                                                                                                                           |
| <b>Corporate Parenting:</b>  | None in relation to this report.                                                                                                                                                                                                                                                                           |



## 6 Appendices

Appendix 1 – draft length of service based protocol

Appendix 2 – draft calculation based protocol

Appendix 3 – draft nomination criteria.

## 7. Background Papers

N/A



## Appendix 1 LENGTH OF SERVICE BASED PROTOCOL

### APPOINTMENT OF DEPUTY MAYOR/MAYOR ELECT

1. The Deputy Mayor will normally succeed to the Mayoralty in the following year and becomes the Mayor elect for the subsequent Municipal Year.
2. The Office of Deputy Mayor and Vice - Chair of the Council/Mayor elect shall be offered each year to the Member of the Council who has the longest continuous service (as defined below), who has not previously held the Office and who has a minimum of 2 years remaining on their term of office as a councillor.
3. In the event of that Member declining it will be offered to the next longest serving Member willing and able to accept the Office, provided that a Member who declines an invitation to serve in the Office of Deputy Mayor and the Chairman of the Council shall be invited to serve in the following year and, in the event of that person again declining, shall be invited for a third time in the next following year, after which for the purposes of determining longest service they shall be deemed to have served.
4. "Continuous Service" shall relate to service with the Council, subject to the provision that broken periods of service separated by a break not exceeding four years and one month shall be aggregated for the purposes of calculating "continuous service";
5. Where two or more Members have identical service, precedence shall be given to the Member having no or the least number of years break in service;
6. Where the matter is not determinable under paragraphs 3 or 4, regard shall be had to previous service, if any, discounted by reason of paragraph 4 (a break in continuous service) and otherwise to alphabetical order by surname.
7. Any Member who is appointed as the Deputy Mayor part way through a municipal year and who has not previously held the office of Mayor or Deputy Mayor shall be eligible to be offered the Office of Deputy Mayor for any subsequent full municipal year. The relevant Member's service as Deputy Mayor for part of a municipal year shall be disregarded on the application of paragraph 2 and service as Deputy Mayor for the said municipal year shall not be deemed to have taken place when applying the criteria at paragraph 2.





## Appendix 2 POINTS BASED PROTOCOL

### Protocol for the Nomination of Deputy Mayor

1. The Deputy Mayor will normally succeed to the Mayoralty in the following year and becomes the Mayor elect for the subsequent Municipal Year.
2. The Deputy Mayor is selected in accordance with a points system. The points system is applied across all political groups of the Council (and individual independent Members that may be elected to the Council from time to time).
3. Each political group (or independent member) is awarded 1 point for each member of the Council in that group.
4. Each year the Council's General Purposes and Arbitration will receive a report to confirm the points accumulated by each political group as at 1<sup>st</sup> October. This will take into account any changes in political proportionality following any by-elections etc. The group with the highest number of points will be invited to make the nomination for the Deputy Mayor the following municipal year. Whenever a group nominates a Deputy Mayor, 72 points will be deducted from its points total.
5. A recommendation will subsequently be made to Council to confirm which political group will be invited to make a nomination for the appointment of Deputy Mayor for the following municipal year. Where possible it is recommended that at this stage the Political Group also confirms which councillor it intends to nominate at the following Annual Council meeting. This will assist preparations for the incoming Mayor/Deputy Mayor.
6. In the event of a tie, the group with the highest number of seats on the Council will nominate the Deputy Mayor for the following Municipal Year unless the group had nominated the Deputy Mayor most recently.
7. If the option of selecting a Deputy Mayor from within its own membership, or the membership of one of the other groups, is not exercised by the group having the highest number of points then that option will pass to the group with the next highest number of points.



8. The following will apply where political groups are no longer represented on the Council or form new groups:
  - That where a political group is no longer represented on the Council, the group's Deputy Mayoral points will be deleted.
  - That on the formation of a new political group, the points accrued for the individual, non-aligned members, or the existing groups forming the new group, will be combined for the purpose of the Deputy Mayoral Points System.
9. The points system will be used in all years including the year prior to the Council's any whole Council (all-out) elections.

The General Purposes and Arbitration Committee will consider and report upon any difficulties which arise in the operation of this Protocol.



### Appendix 3 – Definition of “notable service”

The person must have served as a Councillor of Sandwell Metropolitan Borough Council for an overall minimum of 8 years, or the person must have made a \*significant contribution to the Council and the people it represents.

\*Significant Contribution” – A significant contribution must have been made in at least two of the following areas for an accumulated period of not less than 4 years.

- Chair of key Committee or a Cabinet Member.
- Leading role on Council Boards/Committees e.g. Overview and Scrutiny, Audit and Risk Assurance, Planning, Licensing Committees,
- West Midlands bodies – e.g. WMCA
- Regional/National bodies e.g. Local Government Association.
- Voluntary and community organisations e.g. CAB; CVS;
- Leading figure as Ward Councillor in the local community/town/Ward by virtue of posts held e.g. school governor; member of local charities; community forums.
- Other significant contribution to public life



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