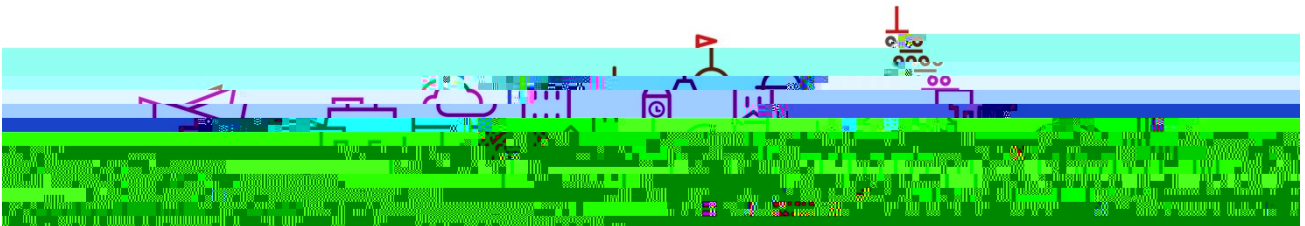




# Birmingham City Council Constitution

Part E Scheme of Delegations  
May 2024





8.1 Executive Functions ..... 19

8.2 Non-Executive Functions: Monitoring Officer

## E1. SUMMARY AND EXPLANATION

1. Each Chief Officer has a number of delegations which are set out below. The following sections set out the delegations to officers:

Officer delegated decision making setting out general notes on the parameters of the delegations and the process for taking officer delegated decisions;

Financial delegations to Chief Officers setting out the financial and governance delegations to all Chief Officers;

Functional Delegations to each of the Chief Officers.

2. Each of these may be supplemented by a Scheme of Sub-Delegations.

## E2. OFFICER DELEGATED DECISION MAKING

### 2.1 General Notes

1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
2. The exercise of a delegated power, duty or function shall:
  - (i) be subject to the requirements of the Constitution including the Council Procedure (B4), Executive Procedures (B6) Financial Procedure Rules (Part D), Procurement and Contract Governance Rules (Part D) Corporate Standards (C1) and any delegations contained therein.
3. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:
  - (i) such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;

4. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
5. Any reference to any Act of Parliament includes reference to Regulations or subordinate legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
6. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
7. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
8. Delegations to officers are subject to:
  - (i) The right of the delegating body to decide any matter in a particular case;
  - (ii) The officer may, in lieu of exercising his/her delegated power, refer to the delegating body for a decision; and
  - (iii) Any restrictions, conditions or directions of the delegating body.
9. In exercising delegated powers, the officer shall:
  - (i) Take account of the requirements of this Constitution and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - (ii) Shall exercise the delegation so as to promote the efficient, effective and economic running of that Directorate and the Council, and in furtherance of the Council's aims and values; and
  - (iii) Where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
10. Except where otherwise expressly provided either within the Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.

particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Scheme in anticipation of any reorganisation may be exercised in accordance with the preceding Scheme to the date of that reorganisation.

15. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
16. Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
17. All enquiries about the Scheme of Delegations should be made to the City Solicitor (Monitoring Officer).
18. All matters of interpretation of this document will be determined by the City Solicitor (Monitoring Officer).
19. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the delegating body.
- 20.

## 2.2 Process and Recording of Delegated Decisions

## E3. DELEGATIONS TO CHIEF OFFICERS<sup>1</sup>

### 3.1 Summary

The Council, its Committees and the Executive will make decisions on matters of significant policy. The Chief Executive and Directors are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as set out below.

In relation to all delegated authorities conferred on Chief Officers, the Chief Executive may allocate or reallocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit.

Chief Officers may take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution.

Chief Officers may take all decisions necessary to give effect to implement the contents of any approved Policy Framework plan, in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.

### 3.2 General Delegations

The Chief Executive and Chief Officers have the following delegated powers in respect of all matters  
# #  
Council:

- (i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:

The sum expended is within the approved budget for the Directorate and/or relevant portfolio, and

The amount in relation to any single matter does not equal or exceed £200,000 or

The amount in relation to any single matter that is at or above £200,000 and below £500,000 (revenue) or £1m (capital) is a Cabinet Member(s) decision (based on a written report from the Chief Officer).

The requirements of the Financial Approvals Framework in this Constitution and other requirements in the Constitution are complied with.

- (ii) Determine employment matters relating to staff including all changes to staffing structures below JNC level and the annual implementation of the contractual pay increment system. These powers will not include changes to terms and conditions of

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<sup>1</sup> Chief Officers are those officers reporting to the Chief Executive (Director of Finance (Section 151 Officer), Director of Strategy, Equality and Partnerships, City Solicitor (Monitoring Officer), Chief Operating Officer, Director of Intervention Delivery, Director of People Services, Director of Public Health and all Strategic Directors).





Statement and Management Strategy as approved from time to time by the

- (xii) These decisions will take the form of Cabinet Member decisions based on written reports from Chief Officers and as such are subject to the provisions in Part B6.5 of the Constitution.

#### City Solicitor (Monitoring Officer)

- (xiii) The City Solicitor (Monitoring Officer) may exercise all proper Officer and any other functions of the Council which do not fall within the Directorate or budget responsibility of a Director and has the powers set out in the Legal Proceedings section of the Constitution.

#### Strategic Director of Children and Families

- (xiv) The Strategic Director of Children and Families (and in their absence the Director of Finance (s.151 Officer)) has the authority to authorise and approve the completion of (but not limited to) the grant of long term leases, commercial transfer agreements and any other ancillary documentation relating to the changing status of schools pursuant to the Academies Act 2010 or any associated legislation relating to the changing status of schools, as well as requesting the making and varying of Instruments of Government for maintained schools, subject to the agreement of the City Solicitor (Monitoring Officer)

### 3.3 Emergency Plan/Business Continuity

- (i) Chief Officers and Statutory Officers (or deputising officers) are empowered to authorise all necessary actions in relation to disasters and emergencies as designated in the Emergency and Business Continuity Plans in the event of a business continuity disruption.
- (ii) In the event of the Emergency Plan being activated, and following action taken, the Chief Officer must notify the Director of Finance (s.151 Officer) in writing of the circumstances and estimated financial impact and report formally to the relevant Cabinet Member or, for non-executive matters, to the next available meeting of the relevant committee.
- (iii)

## E4. CHIEF EXECUTIVE

### 4.1 Overall Responsibility





## E5. DIRECTOR OF STRATEGY, EQUALITY AND PARTNERSHIPS

### 5.1 Summary

The Director of Strategy, Equality and Partnerships leads the Directorate.

### 5.2 Non-Executive Functions

The Director of Strategy, Equality and Partnerships is authorised to discharge the following functions:

1. Joint coordination and production of the Council # Plan (with the Director of Finance (s.151 Officer)).

### 5.3 Executive Functions

The Director of Strategy, Equality and Partnerships is authorised to discharge the following functions:

2. Insight, policy, strategy, and partnerships, including:

- (i) o # making and drive improvements across services;
- (ii) Developing #
- (iii) Promotion of collaborative working with stakeholders78-3(o)7(t4(y an)3(d)-4( )6(Pa)-3(rt)4(n)-4

The DPH is accountable for appropriate use of the ring-fenced public health grant and ensuring the Council delivers the mandated public health services.

The DPH leads the Public Health Division.

The DPH has specific statutory responsibilities; these are derived directly from Acts of Parliament – mainly the NHS Act 2006 and the Health and Social Care Act 2012 and related regulations including:

- Responsibility to protect and improve the health of the local population;

- Responsibility to ensure arrangements for planning for, and responding to, emergencies;

- Ensuring co-operation with police, probation and prison services in relation to violent and sexual offenders;

- Provide public health response as a responsible authority to Licensing applications;

- Responsibility for ensuring provision of Healthy Start vitamins where child health clinics and maternity services are commissioned by the local authority;

- Write an annual Director of Public Health report;

- Be an active member of the Health and Wellbeing Board.



## E6. DIRECTOR OF FINANCE (S.151 OFFICER)

### 6.1 Summary

The Director of Finance (s.151 Officer) is the responsible officer for the proper administration of the Council's financial affairs under the Local Government Act 1972, Section 151. The Director of Finance (s.151 Officer) Protocol is set out in Part D of this Constitution.

### 6.2 Section 151 Officer Functions

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

#### 1. Ensuring effective financial management and controls, including:

- k. To ensure that the Council's financial management and controls are effective and efficient.
- U. To ensure that the Council's financial management and controls are effective and efficient in relation to investment requirements;
- U. To ensure that the Council's financial management and controls are effective and efficient in relation to the management of the Council's assets;
- h. To ensure that the Council's financial management and controls are effective and efficient in relation to the management of the Council's liabilities;
- U. To ensure that the Council's financial management and controls are effective and efficient in relation to the management of the Council's internal audit.

#### 2. To ensure that the Council's financial management and controls are effective and efficient in relation to the management of the Council's assets and procedures for managing:

- Budgets;
- Risk management.

#### 3. To make standing orders in relation to Finance and contracts.<sup>2</sup>

### 6.3 Non-Executive Functions

The Director of Finance (s.151 Officer) is authorised to discharge the following Council (non-executive) functions:

1. Joint coordination of the Council Plan (with the Director of Strategy, Equality and Partnerships).
2. Revenues, Benefits and Rents services including:
  - Council tax processing and billing arrangements;
  - Local Council Tax Support and recoverability of excess Council Tax Support payments;
  - National non domestic rates;
  - Local hardship schemes;
  - Housing benefit, including recoverability of overpayments, and education benefit services;
  - Financial and social inclusion initiatives;
  - Collection of Housing Rents.

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<sup>2</sup> Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972 and Section 135 of the



## E8. CITY SOLICITOR (MONITORNG OFFICER)

### 8.1 Executive Functions

The City Solicitor (Monitoring Officer) is authorised to take any action intended to give effect to a decision of the Council (including decisions taken by a Council committee in accordance with its terms of reference or by a Director in accordance with this scheme of delegation).

The City Solicitor (Monitoring Officer) is authorised to institute, defend or participate in any legal proceedings or settle (up to the value of £500,000), if appropriate, any actual or threatened legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the City Solicitor (Monitoring Officer) considers that such action is necessary to

by the Director of Finance (s.151 Officer) and/or the Chief Executive in consultation with the City Solicitor (Monitoring Officer).

### 8.2 Non-Executive Functions: Monitoring Officer

l)	New ethical framework functions in relation to Parish Councils	Section 27 Localism Act 2011
m)	Compensation for maladministration	Section 92 LGA 2000
n)	Advice on vires issues, maladministration, probity and policy framework to all Members	DCLG guidance
o)		



## E9. RETURNING OFFICER AND ELECTORAL REGISTRATION OFFICER

The Assistant Director Governance is the Returning Officer and Electoral Registration Officer and is authorised to discharge the following Council (non-executive) functions:

No	Function	Reference
a)	To assign officers in relation to requisitions of the registration officer	Section 52(4) of the Representation of the People Act 1983
b)	To provide assistance at European Parliamentary elections	Section 6(7) and (8) of the European Parliamentary Elections Act 2002

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## E11. STRATEGIC DIRECTOR OF ADULT SOCIAL CARE

### 11.1



## E12. STRATEGIC DIRECTOR OF C







## E14. STRATEGIC DIRECTOR OF CITY HOUSING

### 14.1 Executive Functions

#### 1. Housing Services including:

Council housing management services;

Liaison with Registered Social Landlor94PEsi

## E15. STRATEGIC DIRECTOR OF CITY OPERATIONS

### 15.1 Executive Functions

1. Waste Strategy and Services including:

Waste collection;

Waste disposal;

Recycling.

2. Cleaner Neighbourhoods including:

Street cleansing;

Pest control;

Litter bin provision and maintenance;

Provision and cleaning of public conveniences;

Graffiti removal;

Dog control and dog warden service.

3. Arts, Culture and Sports, including:

Museums and galleries;

Arts;

Sporting events;

Leisure centres and community sports facilities.

4. Parks and Allotments including:

Creation, management and enhancement of green spaces<sup>13</sup>;

Creation, management and enhancement of related visitor attractions and facilities;

Public rights of way and provision and maintenance of footpaths and bridleways;

Woodland and tree management;

Provision of educational events and programmes;

Grass cutting and grounds maintenance;

Management of designated conservation sites.

5. Bereavement Services including:

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<sup>13</sup> Including parks & city centre beds, nature reserves & woodlands, playgrounds, allotments

#  
burial authority;

6. u #  
Right to Bid for Assets of Community Value and the Community Right to Challenge.

7. To exempt the Illegal money lending team from provisions in Part D2 in relation to FinditinBirmingham (as per the footnotes in that section), if it is prudent to do so for operational, geographical and policy reasons. Value for money will also be a consideration in line with the ringfenced grant agreement.

8. Highways and Infrastructure including:

u , traffic and streetworks authorities;

Maintenance of highway assets of roads, bridges, retaining walls, street lighting and associated infrastructure;

# Birmingham City Council Constitution



Provision of civic weddings, civil partnerships and citizenship ceremonies.

6. Public Health Protection and Control of Statutory Nuisance including:

Flytipping, commercial and household Duty of Care and rubbish accumulations;

Domestic, commercial and industrial noise, fumes and odours;

Air quality management; and

Other forms of pollution harmful to public health.

To authorise action and exercise powers in relation to the Anti-Social Behaviour, Crime & Health Protection Act 2014, including:

Safer communities;

Domestic abuse;

Prevent and Counter-terrorism;

To discharge local authority approvals for S35 Dispersal Orders and other statutory instruments.

To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should  
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u  
;<sup>19</sup>

To investigate any complaint about the existence of a statutory nuisance.<sup>20</sup>

The control of pollution or the management of air quality;<sup>21</sup>

To make agreements for the execution of highways works.<sup>22</sup>

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<sup>18</sup> s8 Noise and Statutory Nuisance Act 1993

<sup>19</sup> S79 Environmental Protection Act 1990

<sup>20</sup> s79 Environmental Protection Act 1990

<sup>21</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

<sup>22</sup> Section 278 Highways Act 1980

## E16. DIRECTOR INTERVENTION DELIVERY

### 16.1 Summary

The Director Intervention Delivery is responsible for co-ordinating and supporting the work of the government appointed Commissioners who are responsible for governance, scrutiny of strategic decision making, finance and senior appointments.