**Members and the Full Council**

5 April 2005

Report to City Council

# The Role of Members and of the Full Council



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# Preface

**By Councillor Michael Wilkes**
Chair, Co-ordinating Overview and Scrutiny Committee
05 April 2005

Throughout the city, the full City Council would generally be perceived as the sovereign body governing the work of the local authority. Those of us who have been elected to the Council realise, of course, that since the Local Government Act 2000 there are twin streams of legitimacy – the Executive has one set of powers to propose policy and budgets and to take decisions, the City Council another to carry out some non-Executive functions and to set the budget and policy framework within which the Executive acts.

This is a good time to look at how the arrangements flowing from the 2000 Act are working in practice. It is apparent that nationally many elected Members have felt disempowered, and this view has some echoes locally. The purpose of bringing this report today is to allow all Members the opportunity to highlight how they could be better equipped to perform their roles as elected representatives. It is also a chance to shape the organising and business of full Council meetings for the next municipal year. My Committee would then propose to continue its work and pursue further areas in which an increasing number of Members can undertake what they would consider to be a more fulfilling role.

Many Members have already made an input during the course of the review, and I would like to thank them for their contributions. I am also grateful to the Chief Executive, the Strategic Director Local Services and the Chief Legal Officer for discussing the issues with the Committee, to the Scrutiny Office team of John Cade and Nick Partridge, and to Phil Cooper who captures our discussions so ably and accurately.

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# 1    Summary

1.1.1    The Local Government Act 2000 radically changed the nature of local government by introducing the system of a powerful executive, of no more than 10 elected members, having its own statutory remit and taking the majority of decisions. Whereas the full council meeting was previously the ultimate decision maker, this is no longer the case and full council now has relatively few decision making powers. Birmingham City Council was an early adopter of some of the measures in the Act and has been operating full executive arrangements since December 2001.

1.1.2    Over the last two years, research evidence has emerged which shows that across the country non-executive councillors feel relatively disengaged from the new system. Similarly, many authorities have reported a struggle to find a role for the full Council. Locally, there is a perception that not all Members feel properly informed about decisions and matters affecting their ward and important developments in the city as a whole. This has been highlighted in several Overview and Scrutiny reports, along with its complement – that Members often hold important information about needs, conditions and service performance in their wards which it is felt is not always used constructively by the officer body. More generally, the skills and experience of backbench Members may not be being utilised to the benefit of the City Council.

1.1.3    For both national and local reasons, this appeared to be an appropriate time, therefore, to look into the current arrangements. We wished to assess how well these are supporting the roles of elected Members, particularly in effective representation of constituents' views.

1.1.4    The two key questions we set out to answer were:

   • Do elected Members consider that there are ways in which, both individually and collectively in a meeting of the full City Council, they could play a more effective role in Birmingham's local democracy?

   • What improvements in the flow of information would be of particular benefit to Members?

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1.1.5    We looked at national research and guidance on both the role of full council meetings, including innovative practice elsewhere, and on support services for Members. The latter includes the full range of support including accommodation, information and communications technology, allowances and training. Many authorities, it appears, are struggling to find a role for the full council meeting. Some authorities have experimented with trying to involve the public directly in the meeting; others have attempted to foster discussion and deliberation rather than debate. As far as Members' roles are concerned, the research evidence is clear that, of all the groups involved in local government, non-executive councillors are the most dissatisfied with the new arrangements.

1.1.6    Specific inquiries were made about practice in the other Core Cities. There are some interesting differences between them; some have a successful public question time at full council, whilst another has abandoned that. The most striking practice concerned the provision of a wide range of ward-based information to Members.

1.1.7    This all provided benchmarks against which we could look at our own practice in Birmingham City Council. We considered the business of the full Council meeting over the last five years, paying particular attention to debates and decisions on the Policy Framework – the setting of which is potentially a major power remaining to the full Council.

1.1.8    We considered it to be very important that all Members had an opportunity to put forward constructive suggestions for improvement, and commissioned MORI to undertake a short exercise in which twenty-two Members took part. MORI found a degree of disengagement among some councillors because of the nature of the non-executive role under the present arrangements, and a need to empower Members to undertake their role as effectively as possible.

1.1.9    It is important to respond to these and to other issues raised by Members through MORI. Whilst our report cannot be a full response, we have given particular weight to this evidence.

1.1.10   We are quite clear about our fundamental conclusion. It is imperative that the executive arrangements within Birmingham City Council are rebalanced so that there is some re-empowerment of ordinary Members. What flexibility there is within the 2000 Act must be employed so that an efficient and effective Executive of 10 can more constructively co-exist with a proactive, properly representative body of 120.

1.1.11    The recommendations in our report represent a first step. We start with a set of recommendations for initial changes to the full Council meeting. Members of the City Council should have more opportunity to bring the attention of the Council to topical issues of importance to them. The Council should also become a forum in which postholders – including Cabinet Members, Regulatory Chairpersons, the Chair of the Co-ordinating O&S Committee, and Lead Members on Joint Authorities – account for their past actions and discuss forthcoming issues. We also wish to see the City Council setting a somewhat greater and tighter Policy Framework within which the Executive takes its decisions. To facilitate these changes, we have suggested that a programme of Council meetings be set as far as possible at the start of the municipal year, and that the maximum length of each meeting be extended slightly.

1.1.12    In the course of the review the issue of support to District and Ward work – in particular to the new District Committees – emerged as a real matter of concern to Members. The District and Ward roles of Members are extremely important. It is clear Council policy that they are supported and strengthened. Through the forthcoming review required by the Council Plan 2005+ there is an immediate opportunity to set out clear standards for support and how best to provide that. It is essential that this opportunity be taken.

1.1.13    We consider that the O&S Committees should support the full City Council in the task of enhancing the accountability of Cabinet Members. We therefore recommend that Cabinet Members attend the relevant O&S Committee to give a similar report to that for Council, only at six month's distance from the Council report. We are also suggesting somewhat enhancing the call in process.

1.1.14    On the whole the package of support provided to Members is good compared to the norm. We are suggesting some extra flexibility to allow individual requirements to be better met. The programme of induction training has been well received by Members, but there is a need for a more co-ordinated subsequent development programme. The major area for improvement is to provide easier access to ward- and district-specific information.

1.1.15    We intend to continue our work to look at other aspects of the constitutional arrangements and see what more can be done to empower non-executive Members. In the meantime we are recommending these changes now, so that, if the Council agrees, they can be implemented at the start of the new municipal year.

# 2  Summary of Recommendations

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R1 | That Council Business Management Committee propose to the Annual Council Meeting a programme of Council meetings throughout 2005/6 which enables: <br><br>a) each Cabinet Member to report to the full Council once during the year on past achievements and future issues; <br><br>b) similar reports to be made once during the year by the Chairpersons of the three Regulatory Committees, the Chairperson of the Co-ordinating O&S Committee, a lead District Committee Chairperson (on behalf of all) and the City Council's lead Members on the West Midlands Police Authority, the West Midlands Fire and Civil Defence Authority, and the West Midlands Passenger Transport Authority; <br><br>c) the holding of a "State of the City" debate at the meeting at which the Leader of the Council presents his report | Chairman, Council Business Management Committee | May 2005 |
| R2 | That Council Business Management Committee propose to the Annual Council Meeting a new model agenda for the full City Council meeting to provide time for: <br><br>a) the reports required by Recommendation R1; <br><br>b) Members to be able to raise topical issues notified to the Lord Mayor in advance; <br><br>along with any necessary adjustment to standing orders governing the length of the Council meeting. | Chairman, Council Business Management Committee | May 2005 |
| R3 | That the current constitutional requirement, for Chief Officers to report regularly to the appropriate Cabinet Member on the exercise of their delegated functions, be reinforced, such reports to be clearly labelled and posted on the ADMES system. | Chairman, Council Business Management Committee | April 2005 |
| R4 | That arrangements be put in place to | Chairman, Council | October 2005 |

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| | ensure that undertakings made at full Council meetings: <br><br> a) in answer to oral or written questions; <br><br> b) following the receipt of petitions; <br><br> are followed up and can be seen to have been discharged fully. | Business Management Committee | |
| R5 | That in bringing forward amendments to the Constitution at the next Annual Council Meeting, Council Business Management Committee be asked to: <br><br> a) propose a Policy Framework which includes up to an additional 3 policy plans on locally determined policy issues; <br><br> b) inform the City Council of a working timetable for the debate of draft Policy Framework Plans during the municipal year 2005/6 by including this in the annual programme requested in Recommendation R1. | Chairman, Council Business Management Committee | May 2005 |
| R6 | That Council Business Management Committee bring forward a communications programme for the full Council meeting to consider, including: <br><br> a) giving greater advance publicity to full Council meetings; <br><br> b) giving full Council an enhanced web presence showing forthcoming topics for debate, questions asked and answers received; <br><br> c) a prominent facility on the Council's website for members of the public to put questions to Cabinet Members and Committee Chairpersons; <br><br> d) the costs and benefits of a trial relay of selected debates to the big screen in Chamberlain Square, possibly starting with the State of the City debate; <br><br> e) a recommendation, based on costings, on whether to replace the equipment in the Council Chamber. | Chairman, Council Business Management Committee | October 2005 |
| R7 | That the review of localisation and devolution to be carried out during the summer specifically include proposals for providing appropriate support for all Members and Chairs of District Committees. | Leader | October 2005 |
| R8 | That the brief for the review of localisation and devolution be discussed with the Co-ordinating O&S Committee before it is agreed by the Executive | Leader | June 2005 |
| R9 | That each Cabinet Member be asked to | Leader | May 2005 |

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| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| | complement his/her annual report to full Council with a similar report, at the six-month point, to the corresponding O&S Committee, again setting out recent achievements and future issues and that this be written in to the terms of reference of the O&S Committees. | | |
| R10 | That the Chief Executive be asked to attend the Co-ordinating O&S Committee annually in October to discuss management actions and priorities. | Chair, Co-ordinating O&S Committee | October 2005 |
| R11 | That where, following a call-in, the Cabinet is minded to reaffirm its original decision without significant modification, the Chair of the Co-ordinating O&S Committee (or his/her nominee) should have the right, written into the constitution, to request the Leader to stay its implementation until the next Cabinet meeting to enable further discussion. | Leader | April 2005 |
| R12 | That in bringing amendments to the constitution to the next Annual Council Meeting the Council Business Management Committee propose an amended call in procedure : <br><br> a) allowing for the possibility of a stay of implementation as proposed in Recommendation R11, if the Executive has so agreed; <br><br> b) expanding the acceptable reasons for the call in of an Executive decision by proposing two extra criteria: <br><br> • that notification of the decision does not appear to have been given in accordance with Council procedures; <br><br> • that there is a substantial lack of clarity, material inaccuracy or insufficient information in the report to allow Overview and Scrutiny to hold the Executive to account and add value to the work of the Council. <br><br> c) numbering the call in criteria in an appropriate order, following proposals from the Co-ordinating O&S Committee | Chairman, Council Business Management Committee | May 2005 |
| R13 | That the monthly printing allowance for Members be a maximum of 2,700 A4 sheets (black and white only) and that the ICT allowance be more flexibly applied to allow a wider range of office equipment to be provided. | Chairman, Council Business Management Committee | June 2005 |

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R14 | That an audit be undertaken of the City Council's electronic information systems to ascertain how ward and district specific information could be better identified and accessed by Members. | Deputy Leader | April 2006 |
| R15 | That a core City Council modern casework management system be provided, which is capable of being tailored to the needs of each Political Group at their own expense. | Deputy Leader | September 2005 |
| R16 | That a co-ordinated programme of training opportunities for Members be put in place, drawn up following a survey of Members' training needs and with particular emphasis given to training support for their role in District and Ward business; the draft programme to be put to the Cabinet Member for decision by December 2005. | Cabinet Member for Human Resources and Equalities | December 2005 |
| R17 | That the scope, size and composition of Cabinet Committees be reviewed, with the aim of ensuring the best use is made of local skills and knowledge. | Leader | June 2005 |
| R18 | That the Co-ordinating O&S Committee should continue its review (at some point possibly through a small cross-party working group), giving early consideration to a report from the Chief Legal Officer on the permissive and prescriptive elements of the Constitution. | Chair, Co-ordinating O&S Committee | June 2005 |
| R19 | Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee in December 2005.<br><br>Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented. | Chairman, Council Business Management Committee | December 2005 |
| R20 | That based on the first progress report required by Recommendation 19, the Co-ordinating O&S Committee undertake an all-party review of how the changed arrangements are working out in practice, so as to make recommendations for further improvements. | Chair, Co-ordinating O&S Committee | January 2006 |

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# 3  Terms of Reference

## 3.1  The Reasons for the Review

3.1.1    The Local Government Act 2000 radically changed the distribution of power in local authorities. The majority of decisions are now taken by a powerful Executive, consisting of no more than ten elected Members, with its own statutory remit. Councils – the bodies consisting of all elected Members of a local authority – have relatively few decision making powers, setting the budget and policy framework on the one hand and being responsible for the so-called "quasi – judicial" functions on the other, although in practice these are often delegated to Council Committees.

3.1.2    Birmingham City Council introduced full executive arrangements in December 2001. Throughout the intervening period, the Executive has consisted of a Leader with nine other Cabinet Members each responsible for a specific portfolio. The current arrangement is for the full Council to elect the Leader, who then appoints the rest of the Cabinet. To begin with, small, cross-party teams of Member Advisers were formed to work with Cabinet Members, but these proved unsuccessful and have not been reappointed. However, the Executive has delegated some functions to District and Ward Committees. These arrangements are still at an early stage, but hold out the promise that all Members will be involved in some executive decisions, as well as providing a strengthened representative role.

3.1.3    There are three regulatory committees, dealing with licensing, public protection and development control, a Council Business Management Committee (in some ways akin to a general purposes committee for non-executive functions) and a Standards Committee.

3.1.4    The City Council was an early adopter of the overview and scrutiny function, and continues to develop and strengthen this. There are now nine Overview and Scrutiny Committees, involving 86 individual elected Members.

3.1.5    Over the last two years, research evidence has emerged which shows that across the country non-executive councillors feel relatively disengaged from the new system. Similarly, many authorities have reported a struggle to find a role for the full Council. Locally, there is a perception that not all Members feel properly informed about decisions and matters affecting their ward and important developments in the city as a whole. This has been highlighted in several Overview and Scrutiny reports, along with its complement –

that Members often hold important information about needs, conditions and service performance in their wards which it is felt is not always used constructively by the officer body. More generally, the skills and experience of backbench Members may not be being utilised to the benefit of the City Council.

3.1.6    For both national and local reasons, this appeared to be an appropriate time, therefore, to look into the current arrangements. We wished to assess how well these are supporting the roles of elected Members, particularly in effective representation of constituents' views.

## 3.2    The Terms of Reference

3.2.1    The two key questions we set out to answer were:

- Do elected Members consider that there are ways in which, both individually and collectively in a meeting of the full City Council, they could play a more effective role in Birmingham's local democracy?

- What improvements in the flow of information would be of particular benefit to Members?

3.2.2    The review was conducted by the Co-ordinating O&S Committee, working in full Committee throughout. The membership was:

- Cllr Michael Wilkes (Chair)
- Cllr Muhammad Afzal
- Cllr Deidre Alden
- Cllr Len Clark
- Cllr John Cotton
- Cllr Frank Coyne
- Cllr Alistair Dow
- Cllr Ray Hassall
- Cllr Mark Hill
- Cllr Mahmood Hussain
- Cllr James Hutchings
- Cllr Timothy Huxtable
- Cllr Hugh McCallion
- Cllr Carl Rice
- Cllr Sybil Spence
- Cllr Paul Tilsley
- Cllr Anita Ward

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3.2.3    The officer team was led by John Cade, with Nick Partridge acting as Lead Review Officer. Ajmal Hussain and Gail Sadler from the Scrutiny Office provided research support. Phil Cooper was our Committee Manager.

3.2.4    The Chief Executive, the Strategic Director of Local Services, and the Chief Legal Officer all gave evidence to the Committee. In addition, Colin Wilby of MORI was commissioned to conduct group discussions and one-to-one interviews with a total of 22 elected Members. We are grateful to all Members and officers for taking part in this review.

# 4  Findings – the National Context

## 4.1  Implementing The Local Government Act 2000

4.1.1   With a review of this sort, it seemed appropriate to us to start the project by considering the ways in which other local authorities across the country have organised themselves, the support they provide for Members, and the workings of full Council meetings. We hoped that this would open up a range of possibilities against which we could assess Birmingham City Council's own practice and would point the way to improvements.

4.1.2   In July 2004 the Office of the Deputy Prime Minister published a research report entitled "Operating the New Council Constitutions in English Local Authorities: A Process Evaluation". Produced by a team led by Gerry Stoker of Manchester University, this was based largely on a survey of forty authorities in the summer of 2003, followed by visits to twenty authorities in the winter and spring of 2003/4.

4.1.3   Much of this report is concerned with how executives work, the comparison of overview and scrutiny processes in differing authorities, and standards arrangements. Whilst interesting, this material was marginal to our review. However the report does also contain much relevant material.

4.1.4   One of the report's major conclusions is that across the country some groups of Members are more satisfied with the executive/scrutiny system than others:

> *"A mixed picture of reform has emerged with some parts of the system working better than others for example executive arrangements are operating better than overview and scrutiny functions on the whole. Some authorities have adapted more quickly than others. Some groups seem to be happier with the new arrangements than others with executive councillors, senior officers and stakeholders more positive about the system than non executive councillors and junior officers."*

4.1.5   Elsewhere in the report there are clues to the source of this dissatisfaction shown by non-executive councillors. There was some concern expressed especially by non-executive councillors about the

degree of delegation of decision making powers to officers under the new constitutional arrangements. However the major factors related to size and quality of workloads:

> *"Because councillors are involved in a range of activities outside of those most directly affected by parts two and three of the Act\* it is difficult to be clear about the impact of the changes in governance arrangements on the time commitments of councillors. But it would appear that the role of an executive councillor can be very demanding and effectively a full time commitment in many cases. The role of non executive councillor appears to also involve a considerable amount of time, with an average of over half of the hours in a working week devoted to council related activities."*

> *"If part of the aim of the Act was to make the job of non-executive councillor less time consuming and more attractive to a wider range of people it has yet to realise this potential. Some non-executive councillors still appear to have to commit a considerable amount of time to their task and of all the groups involved in local government non executive councillors appear to be most dissatisfied with the operation of the new governance arrangements. A time consuming but ineffective role is unlikely to be an attractive prospect for many."*

\*Parts two and three of the Local Government Act 2000 deal respectively with the executive/scrutiny arrangements and with the conduct of Members and employees.

## 4.2    Support Services to Members

4.2.1    Having noted this dissatisfaction nationally amongst non-executive councillors, we wished to explore whether one contributing factor was that non-executive roles were not appropriately supported by local authorities. Unfortunately, the report from Stoker and his team did not cover this aspect.

4.2.2    However, it was touched on in an earlier report published by the Office of the Deputy Prime Minister in 2003, this time from a team led by Steve Leach of De Montfort University. Entitled "Strengthening Local Democracy: Making the Most of the Constitution", this report aims at identifying good practice.

4.2.3    In summarising a chapter on "Developing and supporting members", the report states in language which is honest but perhaps not best calculated to win influence:

*"Democratic renewal is about more than structural change. It is also intended to introduce new working practices, relationships and styles – in short, to change not just the shape of the council, but also the behaviour, attitudes and outlook of councillors."*

4.2.4    The section concludes with a list of "good practice lessons":

- *"Councils should promote a whole-council understanding of issues, priorities and choices.*

- *Succession planning becomes a significant issue for councils with executive constitutions.*

- *Councils can develop roles for non-executive councillors in supporting their executive colleagues.*

- *Councils can use shadowing and best value reviews to enhance members' understanding of specific areas of service.*

- *Member role profiles enable authorities to clarify expectations of councillors.*

- *ICT provides a powerful resource for councillors in undertaking their various roles."*

4.2.5    Rather more practical advice on good practice in supporting Members is contained in "A Councillor's Guide", published by the Improvement and Development Agency. Chapter Two of the document is devoted to this subject, and the introduction to that chapter states:

*"Councillors make many different types of decisions and recommendations (political, financial, scrutiny-related, policy development and strategic) that have far-reaching consequences for the communities they represent, and on staff employed by their authority.*

*To be efficient and effective, councillors need a range of support services:*

- *office accommodation, such as members' rooms, interview rooms, rooms for holding surgeries, public meetings and consultations*
- *secretarial and word-processing services*
- *communications facilities – phones, PCs, email, press office support and so on*
- *information provision for use internally (e.g. to facilitate scrutiny) and externally (e.g. to enquiries from constituents)*
- *research facilities*
- *care facilities*
- *allowances*
- *training and development."*

4.2.6    The Improvement and Development Agency itself provides a number of training and development programmes:

- a Leadership Academy for councillors in positions of leadership.
- Black, Asian and minority ethnic programme
- An innovative programme for young councillors.
- a general member development programme covering issues such as overview and scrutiny, ward and representative work, community leadership, performance management and finance.

4.2.7   Most of these programmes are in the form of modules which can take place either in a local authority or at a regional centre.

4.2.8   Whilst the Councillor's Guide goes on to note that councils vary tremendously in the degree of support they give to elected members, this does provide a comprehensive check-list against which to consider the support services provided by Birmingham City Council.

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## 4.3  Full Council Meetings

4.3.1    Before the passing of the Local Government Act 2000, the council was the sole repository of a local authority's statutory powers (with the exception of particular officer roles regarding the head of paid service, the monitoring officer and the chief financial officer). Each council could delegate functions to committees (although not to individual Members) or to officers as it saw fit. The papers for the meetings of many councils across the country consisted of the minutes of the various committees, and often it was the approval of a committee's minutes by the full council that signalled the moment when decisions were actually taken.

4.3.2    This was radically changed by the passing of the 2000 Act. With the great majority of powers and duties being invested in the Executive, the major decisions falling to full Council relate to approving the constitution, the budget, policy framework plans and bye laws.

4.3.3    The national picture is characterised by the finding that not only are full council meetings not as important as they once were, but that their purpose was no longer clear. In the words of Stoker and his team:

> *"A mixed picture of how councils were operating emerged with the possibility of tension between the aims of increasing efficiency through reducing the decision making capacity of full council and encouraging public and non-executive participation. Many authorities reported a struggle to find a new role for full council. The range of local choice plans being approved by full council varied significantly and not all authorities showed the full list of statutory and recommended policy plans on their overall budget and policy framework. There was universal agreement that the annual budget meeting was one time in the year when full council could flex its muscles."*

4.3.4    Within this, the definition of the Policy Framework – those plans and strategies which fall to the council, not the executive, to approve – emerges as a key issue.

4.3.5    The 2003 research of Leach and his colleagues supported the finding that full council meetings had not yet responded to the new landscape shaped by the 2000 Act, but also highlighted some ways in which some authorities were trying to respond:

*"The modernisation of the full council has received scant attention compared to that given to the executive, overview and scrutiny, and area committees. Ideas generated early on in the modernisation process illustrated how the full council could develop as a more effective forum for debate on issues affecting the community, deliberation about the policy framework and for holding the executive to account. Current developments include:*

- *public question time;*
- *a "state of the borough, district or county" debate;*
- *single issue council meetings and the "council in committee" to enable deliberative debates of a policy problem or proposal; and*
- *regular sessions for members to question portfolio holders.*

*Other ways to develop the potential of the full council include individual members having the power to initiate a council debate on a particular subject, parliamentary procedure involving first, second and third readings for reports or proposals, opposition days (where debates take place on a subject chosen by the opposition(s)) and time set aside for ward or divisional issues."*

4.3.6   We explored the nature and effectiveness of many of these innovations, particularly through the Chair and Vice-Chairman of the Committee, accompanied by the Head of Scrutiny, attending a seminar at the University of Birmingham and reporting back.

4.3.7   Several authorities had experimented with involving the public in the full council meeting, sometimes through allowing questions from members of the public, sometimes by making room on the agenda for deputations to bring and speak on points of concern. On the whole, these experiments have not been found to have increased public interest significantly.

4.3.8   Kirklees MBC is one authority which has recently attempted to increase the "deliberative" content of its council meeting by starting some meetings in seminar mode, whereby the presentation of an issue (often one affecting the area as a whole, rather than being concerned with the authority's own services) is followed by Member discussion in small groups led by officers.

4.3.9   Again several authorities – Barnet LBC was an early example – have used devices such as "the council in committee" to foster discussion. This device allows a session to be held under committee, rather than council, standing orders, for instance enabling Members to speak several times in the course of discussion of a single topic.

## 4.4   Practice in the Core Cities

4.4.1   A telephone survey was undertaken of officers of the core city authorities, to gauge practice in authorities similar to Birmingham City Council. This covered the full range of issues relating to this review, including support and information provision for Members; the council meeting; the definition of the policy framework; and other roles, such as area committees.

4.4.2    Some of the more interesting points of practice are:

- that Leeds City Council has recently re-introduced the custom of inviting deputations, having dispensed with it in 1999. Half an hour is allowed for this, with each deputation being allowed five minutes. Sheffield City Council begins each meeting with half an hour of public questions, and Bristol City Council also has questions from the public;

- on the other hand, Manchester City Council has stopped having a public question time; it has been replaced with a web-based questioning system which is available all the time (i.e. not just around City Council meetings) as are the answers;

- that Sheffield alternates two models of council meeting, with the agenda for every other meeting being set by Overview and Scrutiny;

- that Manchester City Council uses a technological "ward wizard" to help identify and route appropriately ward-specific information; this involves tagging a wide range of information with the appropriate ward names in a central information hub in the Council's intranet so that Members can easily access reports, newspaper cuttings, actions by public and private bodies in their wards;

- all Core Cities take the standard approach of defining their Policy Frameworks in terms of the Government suggestions and requirements in the relevant regulations; none has exercised a local choice to include non-standard items.

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# 5 Findings – Arrangements in Birmingham City Council

## 5.1 Members' Roles in Birmingham City Council

5.1.1    The City Council expects its Members to play many roles. Article 2 of the constitution contains the following:

*"2.3 Roles and functions of all Councillors*

*(a) Key roles.   All Councillors will:-*

*(i)    collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions for the City Council;*

*(ii)    contribute to the good governance of Birmingham and actively encourage community participation and citizen involvement in decision making;*

*(iii)    effectively represent the interests of their Ward and of individual constituents;*

*(iv)    respond to constituents' enquiries and representations, fairly, promptly and impartially;*

*(v)    balance different interests identified within the Ward or Constituency levels and represent the Ward or electoral division as a whole;*

*(vi)    participate in the governance and management arrangements established by the Council;*

*(vii)    be available to represent the Council on other bodies; and*

*(viii)    maintain the highest standards of ethical conduct and behaviour."*

5.1.2    As we considered this list, there was a general feeling amongst our Committee that role (ii), actively encouraging participation and

involvement, was particularly important.

5.1.3    Members can find themselves playing roles in the Executive, O&S Committees, Regulatory Committees, District and Ward Committees, Joint Authorities, the increasing number of formal and less formal partnership bodies, a range of other community, voluntary or public organisations, as well as representing their constituents and being active in political parties.

5.1.4    To carry out these roles, different Members receive differing amounts of support, including services such as accommodation, allowances, training and development, secretarial support, information, and information and communications technology.

## 5.2   Support Services for Members

5.2.1    Every newly-elected Member of Birmingham City Council receives a pack of information from the Democratic Services Division. In addition to setting out the duties of Council Members, this pack informs Members of the various support services provided to them by the City Council.

5.2.2    In particular there is an A-Z quick reference guide to services and facilities for Councillors. This is supplemented with more detail on matters such as printing (with long run printing facilities, up to 2,000 A4 copies per month, being available) and postage, the services available through the Group Offices, and the provision of information technology. The pack gives the current value of the various allowances including travel, subsistence, childcare and dependent carers' allowance, and the fact that up to £2,000 is available for home IT equipment. This sum may be used for the purchase of standard desktop, laptop or handheld computers, monitors, printers and software.

5.2.3    The allowances scheme and the value of the allowances are of course kept under review by the Independent Remuneration Panel. Since full Council only recently debated, in December 2004, a report from the Panel, we have not taken evidence on these subjects. Nor have we pursued the issues around formal role descriptions for Councillors, which is a topic of interest to the Panel and which we know are being taken forward by the Deputy Leader and the Chief Legal Officer.

5.2.4    One particular form of support is training and development. Over the last two years the City Council has radically expanded the induction training for Members. There appears to be little co-ordinated provision beyond that, although there have been training events for members of O&S and other Committees, and one-off initiatives to help Members meet new requirements.

5.2.5      Aware of the new skills involved in successful devolution, the City Council has been working with partners such as Bournville College of Further Education to provide an accredited Certificate for Members in Devolved Public Sector Management. Following a short pilot programme the decision was taken to provide this training through a web-based programme. We understand, however, that regrettably the Office of the Deputy Prime Minister decided only in February 2005 not to provide funding for this initiative. Fresh thought now needs to be given to this important area.

## 5.3    The Provision of Information to Members

5.3.1      With the multiplicity of roles which Members are expected to play, it is important to check whether Members are fully briefed, in timely fashion, about decisions and activities, particularly those affecting the District or Ward.

5.3.2      During our conversations with Chief Officers in the course of this review, we were reminded several times of the effort the City Council has made over the last few years in recording and disseminating information electronically. All Members can have access to these electronic information systems, either through home computers or through the Group Offices.

5.3.3      The City Council's website, for example, contains pages dedicated to ward information. A sample of these shows that typically they contain:

- statistical information, such as the latest Census figures;
- details of some local Council facilities such as neighbourhood offices, libraries or leisure facilities;
- contact details for Councillors and their advice bureaux;
- general interest or historical information.

5.3.4      Press releases have their own page. This appears to be comprehensive and up to date. The releases can be searched by title, by "PR Portfolio" or by date, but not by ward or District. Executive decisions and committee reports are all posted electronically. Whilst it is easy to access particular reports to Ward or District Committees, it was not easy, in a sample exercise, to obtain a simple list of Executive decisions affecting a particular ward.

5.3.5      The June 2004 version of the A-Z of Members' support services states that a section of Birmingham Inline, the Council's intranet, dedicated to Councillors is under development. We understand that this is still the current position. The prime purpose of the area will be to hold the Members Services information, forms and so on, although all Directorates will be able to post communications to Members there.

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## 5.4   Support at District and Ward level

5.4.1   Members' roles at District and Ward level quickly emerged as a key issue for this review. We were therefore interested in checking what local support is currently provided. The Strategic Director Local Services provided evidence to us on these points.

5.4.2   Committee managers support the formal District and Ward Committee meetings. The system of Ward Support Officers has been retained, although we understand that the nature of their precise role is under review.

5.4.3   The Strategic Director pointed out to us that alongside the formal structure, the District Chair and Councillors are involved in an increasing network of neighbourhood and partnership meetings which are not supported by Democratic Services Division.

5.4.4   His briefing note stated:

*"In general terms the role of District Chairs and councillors is supported by the support staff in the district office – it would be fair to say that this is an area which has taken an overly long period to resolve following the Lift and Shift of officers and is only now beginning to be full resourced.*

*As Devolution & Localisation develops, the role of District Chair and Councillors will inevitably grow and require a more comprehensive level of support. This should enable Councillors to use the District Office as their primary base for support in representing local people. The proposed review of Devolution and Localisation during the summer should help to identify how that support can be best provided in a value for money way within the districts."*

Our Committee underlines the importance of providing District-level support for all Members.

## 5.5   The City Council Meeting

5.5.1   Before the changes brought about by the Local Government Act 2000, Birmingham City Council was unusual in that nearly all its decision making powers were delegated to Committees. The main items of business at full Council meetings were six-monthly reports from each Committee in turn, allowing Committees' actions or lack of action to be debated in the Council Chamber.

5.5.2   The current position is that the full Council meets 10 times a year, with a standard but flexible date of the first Tuesday afternoon in the month. The length of the meeting, excluding adjournments, is set out in standing orders as no longer than five and a half hours unless the

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Council resolves otherwise.

5.5.3    Regular items of business include oral questions; motions submitted by individual members; reports from the Executive, often though not exclusively draft Policy Framework Plans; and reports from O&S Committees. The meeting starts with the Lord Mayor's announcements, question time, appointments and the submission of petitions. There are not specific time limits on announcements, appointments and petitions; a general rule of thumb is to allow thirty minutes for these items.

5.5.4    The time for oral questions is limited (unless the Council resolves otherwise) to 30 minutes. Questions may be put to any Cabinet Member, Committee Chair, or lead Member on a Joint Authority. Members asking questions are limited to one question per meeting, plus one supplementary question arising from the answer received.

5.5.5    Motions submitted by individual Members must be delivered to the Chief Executive six clear working days before the date of the Council meeting. In practice there is a rota, agreed through the Council Business Management Committee, giving each Party Group in turn the ability to submit the first motion on a Council agenda. Up to one hour is allowed for debating these motions at any one meeting, unless the Council meeting resolves otherwise; any motions not debated at the meeting are treated as withdrawn.

5.5.6    The remaining part of the meeting – up to three and a half hours – is available for executive and scrutiny reports. The flow of these on to Council agendas has been uneven. At times, the amount of business has been so great that time limits have been laid down, including reduced time for speeches. At others, there has been a relative lack of business.

5.5.7    Scrutiny reviews, for example, typically report in greater numbers towards the end of a municipal year, with very few coming forward in mid-autumn:

| Municipal Year | Number of Scrutiny Reports to full Council | |
|---|---|---|
| | November | April |
| 2000/2001 | 1 | 6 |
| 2001/2002 | 1 | 1 |
| 2002/2003 | 1 | 5 |
| 2003/2004 | 2 | 4 |
| 2004/2005 | 1 | 5 |

5.5.8    The uneven flow essentially stems from the annual cycle of council business, with O&S Committees being re-appointed at the Annual Council Meeting each year (usually in May) and starting a new work programme thereafter.

5.5.9    From time to time there have been experiments with more seminar-style presentations on major issues during the Council meeting. This approach, however, has received an unfavourable reaction from many Members.

## 5.6   The City Council's Powers

5.6.1    These are set out in the constitution as follows:

"Functions reserved to the full Council

Only the full Council will exercise the following functions:

(a)    adopting and approving changes to the Constitution on an annual basis and subject to any delegated powers granted to the Executive and the Council Business Management Committee to make any necessary "in-year" changes for operational effectiveness and efficiency reasons;

(b)    approving or adopting the Policy Framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

(c)    subject to the urgency procedure contained in the Access to Information Procedure Rules in Volume B: Part 2 of this Document, making decisions on matters which could have been (but were not) covered by the Budget and Policy Framework;

(d)    electing the Leader of the Council, usually, on an annual basis or as and when required;

(e)    agreeing and/or amending (on an annual basis and subject to any delegated powers granted to the Executive and the Council Business Management Committee to make any necessary "in-year" changes for operational effectiveness and efficiency reasons) the terms of reference for committees, deciding on their composition and making appointments to them;

(f)    appointing representatives to outside bodies unless the appointment is an Executive function or has been specifically delegated by the Council;

(g)    adopting and approving, a Members Allowances Scheme, under Article 2.5;

(h)    changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;

(i)    confirming the appointment of the Head of Paid Service;

(j)    making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;

(k)     providing an opportunity (at each ordinary meeting of the City Council, save for the Budget Setting Council Meeting) for Members to ask questions (either in writing or orally without notice) of any Member of the Executive, Chairs of Committees and the Council's representatives on the West Midlands Joint Authorities;

(l)     receiving and considering reports referred to it from the Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and

(m)     all other matters which, by law, must be reserved to Council."

5.6.2     We spent some time discussing these functions with the Chief Legal Officer.

5.6.3     We noted that in April 2003 the full Council had delegated powers to make in year changes to the constitution to the Executive as regards executive functions and to the Council Business Management Committee for non-Executive matters. Any such changes would need to be formal decisions and the details made public through the ADMES system. The Chief Legal Officer was strongly in favour of this degree of flexibility.

5.6.4     The Chief Legal Officer also provided us with some detail around the power to propose byelaws. This is an important, but relatively little used, power of the City Council. The Chief Legal Officer's report to us, reproduced in Appendix Five to this report, listed 20 examples since 1972, but only 4 since 1990. Proposed byelaws have to be confirmed by the appropriate Secretary of State. The current advice is that it is unlikely to be worth applying for variations to the model byelaws set out by central Government.

5.6.5     Central government approval does represent another hoop to go through, but, provided the criteria are met, the whole process is comparatively straightforward to do. This power merits more proactive consideration.

5.6.6     Before moving on to consider what is probably the most powerful role allocated to the Council under the 2000 Act, we would draw the City Council's attention to function (f) in the list – appointing representatives to outside bodies. This is shared with the Executive – which is to say, some representatives are appointed by the Executive and some by the City Council. How the appointments are divided between the two sends a strong message to the city as to the balance of power within the Council arrangements.

## 5.7        The City Council's Policy Framework

5.7.1      An important power reserved to the City Council under the 2000 Act is to set the budget and the policy framework within which the Executive may act. The statutory basis for defining the policy framework lies in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 3 to which sets out a number of plans required by statute which *must* be included in the policy framework. In addition, statutory guidance on the Local Government Act 2000 highlights a smaller number of plans, again mainly required by law, which *may* be part of the policy framework. Birmingham City Council's framework set out to include all these plans.

5.7.2      One difficulty in putting this framework into practice has arisen from changing Government practice. A number of the plans and strategies identified in the Regulations are no longer required by law; others are not required to be produced as often as used to be the case. For example, the community care plan and the quality protects management action plan are both listed in the current policy framework although neither are any longer required by law. This process is continuing; the Unitary Development Plan is about to be replaced by the Local Development Frameworks and Local Development Scheme.

5.7.3      The City Council's constitution attempts to be as clear as possible about this situation by including the a table in Volume B, Part 2, section J which sets out each Policy Framework Plan as named in the Regulations and the City Council's Constitution, the current working title and whether the Plan is still required.

5.7.4      The Chief Legal Officer produced an updated version for us, which is reproduced here.

Current Policy Framework Plans – Position Statement

| Policy Framework Plans & Strategies | Current or Working title : | Still required ? |
|---|---|---|
| Annual Library Plan | Library Position Statement | Yes - until 2005/06 |
| Best Value Performance Plan | Performance Plan (appendix to the Council Plan) | Yes – Statutory annual requirement |
| Children's Services Plan | Children and Young People's Strategy 2004-2010 | Yes – framework for other plans – produced by the Children and Young People's Strategic Partnership |
| Community Care Plan | | No longer required by law |
| Community Strategy | Birmingham Forward | Yes - Statutory requirement |
| Corporate Plan | The Council Plan 2005+ | Yes |
| Crime and Disorder Strategy | Crime and Disorder Reduction Strategy | Yes – ODPM guidance suggests merging with Drug Action Team Strategy |
| Early Years Development Plan | Sure Start Plan 2004-06 | Yes – prepared by the Birmingham Early Years Development and Childcare Partnership – to 2006 only |
| Education Standards Strategy (Education Development Plan) | Education Plan | Yes, but not a statutory requirement after 2006 |
| Food Law Enforcement Plan | Food Law Enforcement Plan | Yes |
| Health Improvement Programme | | No longer required by law |
| Housing Investment Programme | Housing Investment Programme | Yes – forms part of our overall Housing Strategy |
| Lifelong Learning Development Plan | Adult Learning Plan | Yes |
| Local Agenda 21 Strategy | Living Today with Tomorrow in Mind | No longer required by law |
| Local Transport Plan | West Midlands Local Transport Plan | Yes |
| Quality Protects Management Action Plan | | No longer required by law |
| Unitary Development Plan | Local Development Framework | Yes |
| Youth Justice Plan | Youth Justice Plan | Yes – within structure of Children and Young People Strategy |
| Licensing Act 2003 Policy | Statement on Licensing Policy | Inserted by Council – December 2004 |

5.7.5    In addition to the fact that some of the statutory plans are no longer required, central Government has also changed the frequency at which plans have to be drawn up and submitted.

5.7.6    Because of the importance of the City Council's role in setting the Budget and Policy Framework, we looked at how often Policy Framework Plans (including the Budget) had in fact been approved by the full Council. Full details are shown in Appendix Three. The summary of the position is:

| Calendar Year | Number of Budgets and Policy Framework Plans debated by full Council |
|---|---|
| 2000 | 11 |
| 2001 | 9 |
| 2002 | 11 |
| 2003 | 7 |
| 2004 | 9 |

5.7.7    Given that, including the Budget, the Policy Framework over this time has included around 20 documents, these figures question whether the full Council is successfully keeping the Policy Framework as a whole up to date. The uncertainties in the process of bringing forward draft plans made us consider whether the practice of defining a Policy Framework largely in terms of documents required by central Government is the most appropriate.

5.7.8    We were therefore interested to receive confirmation from the Chief Legal Officer that:

> *"Even though a minimum list of Policy Framework Plans is provided for by statute, there is, of course, nothing to prevent the City Council from including other major plans and strategies which require full City Council approval. The list cannot, however, be reduced below the statutory minimum."*

5.7.9    Before moving on from the practice of bringing forward and approving Policy Framework plans in Birmingham City Council, we thought it wise to refresh our understanding of the Government's statutory guidance on this issue.

5.7.10   Paragraph 2.29 of the Government's guidance on New Council Constitutions reads:

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> *"The executive should adopt an inclusive approach to preparing the draft budget, plans and strategies and to policy development more generally. It should ensure that councillors outside the executive (whether or not they are a member of an overview and scrutiny committee) have the opportunity to put forward proposals to them for the budget or policy development. Overview and scrutiny committees should also play an integral part in policy development and the executive should consult such committees regularly in the process of preparing the draft budget and draft plans and strategies. In the case of the Development Plan the executive should consult all bodies within the local authority which take development control decisions."*

5.7.11    The guidance goes on to note that, increasingly, a number of plans are produced through partnership arrangements. Paragraphs 2.33 and 2.34 of the guidance document go on to state:

> *"Such plans need to be negotiated and agreed by the relevant partners, and it would be counter-productive if the full council were, at the final approval stage, to overturn elements of a plan or strategy that had already been agreed with other local partners. Therefore, the Secretary of State recommends that local authorities should ensure that there is effective and regular consultation and communication between the executive, the relevant overview and scrutiny committees and other members of the local authority during the development of plans and strategies which need the agreement of partner organisations.*
>
> *Local authorities should, therefore, adopt protocols to ensure that any councillor who is neither a member of the executive nor the partnership responsible for developing the plan or strategy has opportunities to feed their views into the development of any such plan or strategy."*

5.7.12    We endorse this guidance and would emphasise to the City Council the importance of following it in practice.

5.7.13    Members are of course aware of the Executive's Forward Plan of Key Decisions, which is issued monthly. They might expect to look to this document to give advance notification of Cabinet consideration of draft Policy Framework Plans. Unfortunately this has not always been the case.

# Members and the Full Council

## 5.8 The Perceptions of Elected Members

5.8.1      We considered it to be very important that all Members had an opportunity to reflect on the issues covered by this review and to put forward constructive proposals for improvement.

5.8.2      We therefore commissioned MORI to undertake a short exercise, during which their Research Director, Colin Wilby, heard the views of twenty-two elected Members, either in small groups or in one-to-one discussions.

5.8.3      The complete MORI report is reproduced at Appendix 2. What follows is MORI's Executive Summary:

*"Twenty-two members took the opportunity, provided to all non-executive members by the Chair of the Co-ordinating Overview and Scrutiny Committee, to give their feedback to MORI on how their role can be made more effective and the work of full Council improved. Group and one-to-one discussions took place on an all-party, unattributable, basis. A great deal of consensus emerged.*

### The Role of Non-Executive Councillors

*In terms of individual non-executive roles, two issues loomed large in the discussions – a degree of disengagement among many councillors because of the nature of the non-executive role under the present system of governance, and the need to empower members to undertake their roles as effectively as possible. The last issue had a number of strands to it:*

- *Members saw the need for more timely, targeted and **management-oriented information**, perhaps organised on a more corporate basis than at present. The combination of O&S, district and ward papers makes for an imposing set of information but not one from which busy and pressurised members will necessarily be able to see the wood from the trees. For example, the present financial and performance material for members is welcomed, but could have more signposts to assist assimilation, and could certainly be timelier - especially in relation to district committee papers. Many members called for more coherent, plain English, papers, with all initials explained and summaries produced. And there was a call for more regular local statistical information.*

- *Greater clarity, and better expectations, of the roles and responsibilities of non-executive members would provide an improved sense of **performance management**, and greater understanding not only of members' **training** needs but also their **on-going development** requirements. The most recent round of induction training for new members was generally well-regarded by those who attended, but there are widely-*

*recognised skills gaps which are partly of a generic nature (for example in dealing with information, speed reading, chairing meetings, talking to the media, briefings on policy areas etc.) and partly of a individually-targeted nature which would arise from a more rigorous assessment of individual members' needs. This, and the need to encourage members' attendance at training, may most practically be managed through political group secretaries, but could also do with broader organisational support.*

- *The fact that the great majority of members are outside the executive function should not exclude them from **contributing to policy development** - for example, by giving non-executive members informal 'lead' roles on O&S committees and by setting up short-term working groups on policy issues.*

- *Members fully appreciated that it is difficult to keep all members **abreast of new developments**, press releases, and the activities of portfolio holders etc. – not least because some may wish to make political capital out of it. But members generally felt that it is not good for the Council as a whole for members not to be aware of these things. There was certainly a feeling among many that the 'big issues' need to be transmitted to members more effectively than at present so that they are not read in the papers first. This may be as much an issue for party discipline as for improved information systems. It was also suggested that an index of issues currently under consideration by portfolio holders (or upcoming), and of decisions made, would help keep members informed and be an important aid to accountability.*

- *Casework is the main raison d'etre for most non-executive members. They are the democratic interface between the Council and the public. Many members commented on the need for an effective IT-based **casework management system** – one which tracks the progress of each case from the moment it is reported by a member, which makes the best use of members' time by utilising support staff where appropriate, and which benefits from a more consistent method of response from officers. (While members talked openly of some departments and officers being helpful and responsive, others were described as being almost impossible to get hold of).*

- ***Resourcing** is also an issue. Though many members spoke highly of the support they receive, others talked of the need for greater consistency in the quality of that support, for example in secretarial terms and in supporting the developing devolution of functions to district level.*

- ***Communications**, both internal and external, are key. Many members felt that internal communications are not ideal. But there is also an issue about how members should be communicating with their constituents. The Council's fortnightly*

newspaper does not tend to deal with local district or ward issues. Perhaps a mechanism could be found for addressing this. Otherwise communications with members' constituents tend to be on a party political basis, often with members themselves delivering leaflets. The Council may wish to consider whether this remains the most appropriate form of local communication.

## Full Council

In terms of full Council, there are some real and generally-held concerns. Non-executive members generally felt disengaged with the forum and were keen to explore roles for themselves, subject to the constraint of the law. There was a feeling that the executive was not fully held to account. Further, the consensus view is that meetings are not conducive to proper debate and that they show neither the Council nor the city in the best possible light.

- **Codes of behaviour** were widely criticised, particularly (but by no means exclusively) among newer members. Accusations of political point scoring, rudeness, and members talking and moving about during discussions, were general concerns (though again not unanimously held). For some, the atmosphere was intimidating and uncivilised – and a turn-off for non-participants.

- The **organisation of the agendas** was also criticised. Meetings started off adversarially with oral questions, and some of the most important issues – for example stemming from important O&S reports – were sometimes dealt with peremptorily at the end of the meeting. Meetings were long – it is difficult to maintain concentration for six hours.

- Some members were mindful of the scope for Council meetings to become the centre of public and media perceptions of the Council as a whole. As a great city, the Council has to deal with matters of local, national and international concern. Some members felt that debates, properly organised, relevant and timely, could become **a showcase for the Council** – and be broadcast in the city and shown in Victoria Square. This might also have the effect of improving behaviour.

- And many members were concerned about **accountability**. The Leader could be afforded the opportunity of a State of the City address – high profile and relevant, and open to scrutiny and questions from all members. Portfolio holders could be similarly offered the opportunity of providing a briefing, at least once a year, and again be accountable and answerable to members. Members' own roles at the meetings, and the potential for public involvement, were also mentioned.

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### *The Desire for Change*

*The general tone of the discussions was consensual and constructive. Members said it was helpful to discuss these issues openly and candidly, on an all-party, non-confrontational basis, in a way that it was not possible to do in the Council chamber or in the corridors of the Council House. The corollary of this, however, is the expectation that action will be taken to deal with issues which were raised. Some matters discussed, as described in this report, are likely to reflect at least an element of party allegiance. But most were genuinely about a view that there are some pretty straightforward ways in which democracy, together with the reputation of the City Council, can be enhanced. And this was the over-riding concern of the members to whom we spoke."*

5.8.4    The views of Members obtained by MORI are extremely important. Some comments go straight to the heart of this review, raising issues about the accountability of the Executive, the effectiveness of Overview and Scrutiny, and the information available and accessible to Members. Others may be susceptible to relatively small adjustments – for example, some of the problems connected with communicating with constituents may be eased by a small change to each Member's printing allowance. Whatever the nature of the points raised, however, we gave them particular weight when we came to draw up our conclusions and make recommendations.

# 6  Conclusions and Recommendations

## 6.1  Valued and Valuable Contributions From All Members

6.1.1    We are quite clear about our fundamental conclusion. It is imperative that the executive arrangements within Birmingham City Council are rebalanced so that there is some re-empowerment of ordinary Members. What flexibility there is within the 2000 Act must be employed so that an efficient and effective Executive of 10 can more constructively co-exist with a proactive, properly representative body of 120.

6.1.2    We are equally clear that, in bringing forward this report at this time, we are only able to make initial recommendations to this end. It is consistent with our conclusion that the full Council is provided with this early opportunity to debate actions which, we consider, will make a start on readdressing the executive/non-executive balance. A first set of changes can then be put in place at the start of the next municipal year.

6.1.3    The weight of evidence behind our conclusion is equally clear. At the heart of this review lie the roles Members play – as decision makers in Cabinet or locally, as elected representatives, in overview and scrutiny work, as Council representatives on a wide variety of community organisations – and the related issues of whether they are able to contribute to the greatest extent.

6.1.4    The evidence nationally is that non-executive councillors are the most likely to be dissatisfied with their roles. The executive/scrutiny arrangements brought in by the Local Government Act 2000 have not, across England, produced a non-executive role which is considered to be effective and worthwhile.

6.1.5    From the exercise MORI carried out for us, this finds some resonance with Members of Birmingham City Council. In the MORI report there are messages for ourselves as the ultimate champions of overview and scrutiny which we will be taking very seriously. Equally Members clearly feel that the District role is not developing as extensively and as quickly as it should.

6.1.6    The Committee wishes to see that the majority of Members feel engaged with the work of the Council, are consulted on and able to

influence policy developments, have the maximum possible ability to influence and participate in decision-making, and are properly informed about what is happening in their Districts and Wards.

6.1.7 This is not a matter of forming or strengthening a divide between the Executive and the rest of the Council Membership. It is simply a matter of good governance. What Administration would not benefit from a vigorous and effective Overview and Scrutiny function and a fully engaged Membership of the City Council?

6.1.8 Hence, we have taken this approach of suggesting a first phase of improvements now. However there is more work to be done before we can be confident that we are stretching the boundaries as far as is allowable under the 2000 Act. In the course of our review we asked the Chief Legal Officer to advise us where local discretion applied in the current constitutional arrangements. This is a major task and he is now drawing advice up for us which will form the key document for the second stage of our work. We will return to this later in the report.

## 6.2  The full Council meeting

6.2.1 During our review we have considered how other authorities organise their full Council meetings. There is no doubt that Birmingham's full Council meeting contains many elements which would be considered nationally as good practice, such as question time; the regular inclusion of O&S reports; and the protocol through which priority motions for debates are shared between the political Groups.

6.2.2 Nevertheless, our judgement is that the full Council's role needs to be developed so that "full council becomes a key arena for local democracy". It is important for us to be clear here. Unfortunately we cannot propose changes which would reinstate the position before 2000, whereby the City Council itself was the ultimate decision-maker. Rather, we are convinced that, working within the current legal framework, arrangements can be made such that Members feel that by participating in full Council meetings they are making more significant contributions and the full Council is dealing with significant issues. This in turn must mean that full Council:

- encourages accountability;

- tackles issues which matter;

- uses a set of operating procedures which supports these ends.

6.2.3 It is also important that the public can clearly see that the full Council meeting is important in this way, too.

6.2.4 The Committee has some information on how other local authorities have responded to the changes brought about by the Local Government Act 2000.

6.2.5    We are therefore recommending a number of immediate enhancements to full Council's business.

6.2.6    The first strand is to increase accountability through the full Council meeting. A large element of this should consist of Cabinet Members accounting to the full Council for the way they exercise their extensive executive powers. Other Council post-holders, though, including the Chair of the Co-ordinating O&S Committee, should also be held accountable. Our recommended measures therefore include:

(a)    a programme of reports from each Cabinet Member in turn summarising recent decisions and achievements and highlighting major issues to be tackled over the coming months;

(b)    requiring regular reports from Lead Members on Joint Authorities, to strengthen the current position whereby Members *may* ask questions of them. This has already been the subject of a scrutiny recommendation;

(c)    possibly extending this to the work of the District Committees, not by asking each Committee to report to the Council, but by asking for a combined annual report; this might be formally presented at Council by one of the District Committee Chairpersons appointed as, say, the Convenor of District Committee Chairs.

6.2.7    Amongst the Committee, and indeed the wider Membership of the City Council, there is interest in the accountability of Chief Officers. There is an argument that the managerial leaders of the organisation should also account for their actions to full Council. We have therefore carried out a check to see how the current constitutional requirement, whereby Chief Officers are required to report such matters regularly to the appropriate Cabinet Member, is working out in practice.

6.2.8    Our conclusions are that practice is variable and not as visible to the majority of Members as it should be. The aims must be to obtain more consistency across Directorates and to make the whole process much more transparent. On balance, though, the Committee is not in favour of asking Chief Officers to report on the exercise of their delegated functions to the full Council meeting. Such an approach would run the dangers of bureaucratising full Council and encouraging micro-management. Instead we are recommending that such reports are much more clearly labelled when they are posted on the ADMES system, so that all Members can confidently access them.

6.2.9    This view that officers should be more accountable extends, amongst some, to including postholders beyond the Council such as the Chief Constable or the Director General of the Passenger Transport Executive. The City Council has no powers to require this. As a first step, the Lead Members on the Joint Authorities should report to the full Council. It may be that they could be accompanied by the respective service chief officers, but that could only be by invitation.

# Members and the Full Council

6.2.10    It is important to us that Members feel that they can easily participate in full Council. The way the agendas are shaped at the moment, with relatively large amounts of time devoted to reports on specific subjects (whether from the Executive or from Overview and Scrutiny) may discourage this. So we have spent some time addressing this point.

6.2.11    The first suggestion was for a simple, short extension to oral question time so that, after all Members had had the opportunity to ask their priority question, there would be a chance for those who may wish to ask further questions. However the February Council meetings highlighted that this need not be an immediate priority.

6.2.12    What is urgent is to make sure that there is a system in place to follow up particular items from the full Council meetings and to demonstrate publicly that progress has been made. The first of these items relates to oral questions, when a Cabinet Member (or other postholder) does not have the necessary information at hand when asked the question and undertakes to answer the questioner after the meeting. The Lord Mayor himself picked up this issue at the 22 February Council meeting and asked the Chief Legal Officer to look into the possibility of the answer being also supplied to the Lord Mayor, as the Chair of the Council meeting. Whatever the mechanism, it is essential that there is a system in place to ensure that all such undertakings are fulfilled. More generally, an answer to an oral question may include an undertaking to carry out a particular course of action, such as to consider a suggestion, and these too require logging, following up and reporting back to the questioner.

6.2.13    The second issue is similar, but relates to petitions. The custom used to be to refer petitions to Chief Officers, who would bring a report to the relevant Committee. Now, if the petition refers to an executive function, the report is to be brought to the relevant Cabinet Member (unless it is a District or Ward Committee matter). If that report does not require an executive decision, it does not need to be made public. Again there is a need for a transparent system so that progress on each petition can be logged, seen, and reported to all interested parties.

6.2.14    We went on to consider that many Members, both amongst  our Committee and elsewhere within the City Council, miss the opportunity which was provided before 2000 by the monthly report of the General Purposes Committee to raise issues of immediate topical concern. We are recommending that this be reintroduced, and suggest that this can be done simply through the inclusion on every City Council meeting's agenda of a standard motion from the Council Business Management Committee such as:

> *"That the City Council consider city-wide issues of the moment raised by individual Members and notified to the Lord Mayor by 10.00 a.m. of the day before this meeting of the City Council ".*

6.2.15    Another simple suggestion is that, when a particularly important consultation paper is issued by central Government, the paper should be considered by the full Council meeting. This would allow the Executive to draft a response in the light of Members' views. Whilst this has some attractions, we considered that the best way of handling this would be for the Executive to use its discretion to bring such a paper if a suitable opportunity presented itself. We therefore have not pursued this further.

6.2.16    Our next suggestion picks up from practice elsewhere. Of all the innovations which other local authorities have introduced, the one which we consider most worthy of a trial here in Birmingham is the holding of an annual "State of the City" debate. Led by the Leader of the Council, this would be a wide-ranging debate covering not only City Council services but also issues affecting the city as a whole, such as the economy, crime and disorder, health, the profile of Birmingham in the region, nationally and internationally. This would allow Members a high-profile opportunity to voice the issues most of concern to their constituents and to provide leadership in suggesting ways forward. The debate would also be an early opportunity for the Council to identify issues which it would expect the Executive to consider in the forthcoming budget round.

6.2.17    To exemplify how the Committee's proposals for the full Council meeting could be put into practice, two draft programmes have been drawn up:

(a)    an annual programme of 10 Council meetings, including an extra meeting in September, showing which Cabinet Member, and other postholder, could report to each meeting;

(b)    a typical agenda, with timings, for a Council meeting. The extra items suggested inevitably require a longer meeting than the current 5 hours 30 minutes, increasing it to 5 hours 55 minutes, giving a standard finishing time, for a meeting with a full agenda, of 8.30 p.m.

6.2.18    These follow on the next two pages, and then our first set of recommendations can be found.

# Members and the Full Council

**Full Council Meeting – Possible Annual Programme**

| Month | Cabinet Member Reporting | Other Member Reporting | Major Policy Issue |
|---|---|---|---|
| May | n/a | n/a | Annual Meeting |
| June | Housing | Chair, Licensing Committee | |
| July | Local Services and Community Safety | Lead Member, Police Authority | |
| September | Leader | | State of the City |
| October | Education and Lifelong Learning | District Matters | |
| November | Transportation and Street Services | Lead Member, WMPTA | |
| December | Regeneration Equalities and Human Resources | Chair, Development Control | |
| January | Leisure, Sport and Culture | Lead Member, Fire and Civil Defence Authority | |
| Early February | Deputy Leader | Chair, Co-ordinating O&S Committee (annual report) | Council Plan |
| Late February | | | Budget |
| April | Social Care and Health | Chair, Public Protection Committee | |

Note: This is a suggested framework of 11 full Council meetings per year, including the Annual Council Meeting. Members will be aware that, because of the nature of the Budget meeting in late February, and there being generally no meeting in March, there is often a large number of reports seeking Council time at the April meeting. This needs to be kept under close review.

# Members and the Full Council

**Full Council Meeting – Possible Shape of Council Agenda**

| Item | Time Limits | Indicative Timetable |
|---|---|---|
| **A: Council business** | | |
| Minutes, Lord Mayor's Announcements, Appointments | No limit | 2 – 2.30 p.m. |
| **B: Petitions** | | |
| **C: Holding to Account** | | |
| Questions | Maintain limit at 30 minutes | 2.30 – 3.00 p.m. |
| Cabinet Member report | Forty minutes | 3.00 – 3.40 p.m. |
| Other post holder report | Half an hour | 3.40 – 4.10 p.m. |
| **D: Decision Making** | | |
| O&S reports | One and a quarter hours | 4.10 – 5.25 p.m. |
| | | Adjournment 5.25 – 6.00 p.m. |
| Reports from Executive, including Policy Framework Plans | One and a quarter hours | 6.00 p.m. – 7.15 p.m. |
| **E: Member – led debates** | | |
| Issues of the Day (raised on a standard motion from CBMC) | 30 minutes | 7.15 – 7.45 p.m. |
| Notices of Motion | Limited to ¾ hour unless specifically extended by the Council | 7.45 – 8.30 p.m. |

Note: the timetable shown here would apply when there are significant reports or motions under each heading. It can be anticipated, for example, that there would not always be Policy Framework Plans, nor several O&S reports at each and every Council meeting. In such circumstances, either more time could be devoted to other items (e.g. to accommodate the second Cabinet Member's report indicated for the December meeting) or the meeting could be shorter overall.

# Members and the Full Council

**Recommendations for sections 6.1 and 6.2**

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R1 | That Council Business Management Committee propose to the Annual Council Meeting a programme of Council meetings throughout 2005/6 which enables:<br><br>a) each Cabinet Member to report to the full Council once during the year on past achievements and future issues;<br><br>b) similar reports to be made once during the year by the Chairpersons of the three Regulatory Committees, the Chairperson of the Co-ordinating O&S Committee, a lead District Committee Chairperson (on behalf of all) and the City Council's lead Members on the West Midlands Police Authority, the West Midlands Fire and Civil Defence Authority, and the West Midlands Passenger Transport Authority;<br><br>c) the holding of a "State of the City" debate at the meeting at which the Leader of the Council presents his report | Chairman, Council Business Management Committee | May 2005 |
| R2 | That Council Business Management Committee propose to the Annual Council Meeting a new model agenda for the full City Council meeting to provide time for:<br><br>a) the reports required by Recommendation R1;<br><br>b) Members to be able to raise topical issues notified to the Lord Mayor in advance;<br><br>along with any necessary adjustment to standing orders governing the length of the Council meeting. | Chairman, Council Business Management Committee | May 2005 |
| R3 | That the current constitutional requirement, for Chief Officers to report regularly to the appropriate Cabinet Member on the exercise of their delegated functions, be reinforced, such reports to be clearly labelled and posted on the ADMES system. | Chairman, Council Business Management Committee | April 2005 |
| R4 | That arrangements be put in place to ensure that undertakings made at full Council meetings:<br><br>a) in answer to oral or written questions;<br><br>b) following the receipt of petitions;<br><br>are followed up and can be seen to have been discharged fully. | Chairman, Council Business Management Committee | October 2005 |

# Members and the Full Council

## 6.3   The City Council's Policy Framework

6.3.1   To address the balance between the executive and the full Council, we need to consider the major area of decision making by the Council – the setting of the budget and the Policy Framework.

6.3.2   The City Council's experience with its Policy Framework is mixed. Sometimes practice is relatively good – holding two debates on the Children and Young Persons' Strategy in the last municipal year, for example, or the attempts by successive administrations to provide earlier drafts of the Community Strategy and of the City Council's corporate plan.

6.3.3   However, our overall judgement must be that substantial improvements can and must be made. Because the Framework is largely defined in terms of plans required by the Government, the changing Government requirements have caused confusion amongst officers and Members as to whether new plans are required or not. In turn this has left the City Council with only very partial policy coverage. The process of considering plans, far from exemplifying Government guidance by providing frequent consultation outside the Executive particularly on plans produced by partnerships, has led many Members, certainly in full Council and on O&S Committees, and probably at times in the Executive as well, to feel that their role is to be the passive recipient of a pre-determined document at the end of a process, not to be involved in shaping and deciding major policy. The Policy Framework Plans themselves do not relate to each other well, either in terms of presentation or in terms of content, and it is difficult for Members to know where to turn to find a statement of current Council policy on any particular subject area.

6.3.4   We are very interested in an approach taken in certain other authorities, whereby the City Council debates "first" and "second readings" of selected draft major policy documents (this would be a development of the two debates during 2003/4 on the Children and Young Persons Strategy). This approach, particularly if combined with previous in-depth discussion at O&S Committees, could allow Members a more engaging, proactive role.

6.3.5   However, we do not consider that it would be wise to introduce such a procedure at this stage. Partly this is because of the difficulties the current, simpler process has experienced, and partly also because the other changes we have recommended to full Council meetings need time to be tried and tested.

6.3.6   Our first step here is to remind the Executive of the Government guidance covering consultation with Members during the preparation of Policy Framework Plans, and to recommend that at the start of the next municipal year they set out a clear timetable for those Plans which are expected to be revised during the year ahead.

6.3.7    However we cannot leave this subject without giving some consideration to the extension of the Policy Framework into other areas. Making more use of the discretion available to the City Council to reserve more strategic policy areas for approval by the Council, rather than by the Executive, would be a major step towards re-empowering non-executive Councillors.

6.3.8    One issue is that of which policy areas should be identified. One approach would be to decide on a small number of the areas chosen for policy review in the new Council Plan 2005+. Another would be to choose three over-arching policy areas which have not been brought to full Council for approval in the recent past – areas such as sustainability or equalities come to mind.

6.3.9    Our conclusion is two-fold. Firstly, that such an extension is highly desirable; and secondly that the choice of subject is so critical that discussion should be held with members, perhaps via Party Groups, and also with the Chief Executive because of the implications for officers' time, before the Council Business Management Committee proposes a recommended extension to the Policy Framework.

**Recommendations**

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R5 | That in bringing forward amendments to the Constitution at the next Annual Council Meeting, Council Business Management Committee be asked to: | Chairman, Council Business Management Committee | May 2005 |
| | a) propose a Policy Framework which includes up to an additional 3 policy plans on locally determined policy issues; | | |
| | b) inform the City Council of a working timetable for the debate of draft Policy Framework Plans during the municipal year 2005/6 by including this in the annual programme requested in Recommendation R1. | | |

## 6.4   The Public Face of the City Council

6.4.1    In terms of encouraging public engagement, the Committee has considered initiatives taken across the country, such as the introduction of questions from the public at full Council meetings, or provision for receiving deputations. Whilst authorities who have recently introduced such measures often are very pleased with the immediate impact, over a longer term many of the measures have not been as successful as anticipated and in some cases have been abandoned.

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6.4.2     We have also borne in mind that there are more local, and probably more effective, foci for public questions in the District and Ward Committees. Many Members indeed see the City Council meeting as the supreme occasion for them to represent their constituents and consider that involving other people directly in the meeting would dilute this.

6.4.3     The Committee does not at this stage wish to suggest that public involvement might be strengthened either through the public being asked to submit questions in advance or to ask them at a full Council meeting, or to extend the petitions process to allow deputations.

6.4.4     This does not mean, however, that no steps should be taken to reconnect the public with the full council meeting. Indeed, we would hope that the changes we are recommending to the powers and business of the full Council will help re-establish its importance in the eyes of the public. Those steps, however, need to be complemented with others.

6.4.5     In the short term, the Committee wishes to see greater advance publicity given to City Council meetings. This will be made easier if a programme of reports to future meetings can be developed, as we have already recommended. The full Council meeting also merits a greater presence on the City Council's web-site, so that citizens could easily see their representatives' questions and answers, motions debated and carried (although searches for the full reports and minutes should still be through the ADMES system).

6.4.6     We were also struck by the practice at Manchester of encouraging the public to submit questions to Cabinet Members through the website, with the answers also posted there. This facility is shown on Manchester City Council's home page. This approach seems more beneficial than a public question time at full Council.

6.4.7     In the past, some Members have suggested web-casting the Council meeting so that the proceedings could be seen by more people than can visit the Council Chamber. This has not found favour previously, and when one looks at current web-cast offerings such as meetings of the Greater London Assembly it is straightforward to conclude that the technology does not yet deliver a good enough product for this to be used as a standard approach for all full Council meetings. However, there is now the possibility of broadcasting at least some Council meetings via the big screen in Chamberlain Square. This seems to us to have enough merit for at least an experiment or two. The State of the City debate, which we have recommended, would appear to be a prime candidate.

6.4.8     New Members have also raised their surprise at aspects of Members' conduct during Council meetings. The levels of background noise whilst Members are addressing the Chamber and the frequent passing in and out of Members are found to be surprising, discourteous and disconcerting. There are, as the Chief Executive advised us, some possible formal ways of dealing with this such as a protocol for Members. We are not proposing at this stage to ask that

# Members and the Full Council

Council Business Management Committee consider this, preferring an informal approach at this stage. We consider that the best way of dealing with this issue now and in the short term is through the chairing skills of the Lord Mayor, coupled with firm enforcement by the Party Whips.

6.4.9   The Committee is interested, though, in considering the costs and benefits of early replacement of the amplification and other equipment in the Chamber. If a cost-effective proposal could be developed, this would benefit Members, officers and the public.

**Recommendations**

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R6 | That Council Business Management Committee bring forward a communications programme for the full Council meeting to consider, including: | Chairman, Council Business Management Committee | October 2005 |
| | a)  giving greater advance publicity to full Council meetings; | | |
| | b)  giving full Council an enhanced web presence showing forthcoming topics for debate, questions asked and answers received; | | |
| | c)  a prominent facility on the Council's website for members of the public to put questions to Cabinet Members and Committee Chairpersons; | | |
| | d)  the costs and benefits of a trial relay of selected debates to the big screen in Chamberlain Square, possibly starting with the State of the City debate; | | |
| | e)  a recommendation, based on costings, on whether to replace the equipment in the Council Chamber. | | |

## 6.5   The District Role of Members

6.5.1   When our review began, we did not expect that this aspect would require much attention. District and Ward Committees are in place; District budgets and officer arrangements are being sorted out; and generally there have been other mechanisms to review progress which suggests that specific scrutiny work would tend to duplicate work already commissioned.

6.5.2   In the course of the review, however, the issue of support to District and Ward work – in particular to the new District Committees – emerged as a real matter of concern to Members. We have, therefore, paid specific attention to this.

6.5.3    It is clear that the current provision of support, in terms of accommodation and in terms of administrative support, is patchy. Members' expectations also vary greatly. The Strategic Director – Local Services has assured us that a number of vacant positions in Districts are expected to be filled shortly to provide a higher level of support.

6.5.4    The District and Ward roles of Members are extremely important. It is clear Council policy that they are supported and strengthened. There is an immediate opportunity to set out clear standards for support and how best to provide that. It is essential that this opportunity be taken.

**Recommendations**

|     | Recommendation | Responsibility | Completion Date |
| --- | --- | --- | --- |
| R7 | That the review of localisation and devolution to be carried out during the summer specifically include proposals for providing appropriate support for all Members and Chairs of District Committees. | Leader | October 2005 |
| R8 | That the brief for the review of localisation and devolution be discussed with the Co-ordinating O&S Committee before it is agreed by the Executive | Leader | June 2005 |

## 6.6   Overview and Scrutiny

6.6.1    As we have already acknowledged, Members' responses to MORI included some concerns about the operation of Overview and Scrutiny. In terms of the work programme, we will as usual be taking the approach of a new municipal year to review the workings of O&S over the last year and bring forward any necessary structural and procedural adjustments as well as a new work programme. It is however worth reminding Members that the Local Government Act 2000 itself enables "any member of an overview and scrutiny committee to ensure that any matter which is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee." This may not be fully appreciated, particularly perhaps by newer Members of the Council. As a first step, we in the Co-ordinating O&S Committee have been looking at ways of encouraging all Members of O&S Committees to suggest items for future agendas.

6.6.2    It is important that O&S Committees support the work of the full Council. It is for this reason, for instance, that O&S Committees scrutinise and comment on draft Policy Framework Plans in a level of detail which cannot be carried out in the full Council meeting; or, as another example, that so many Scrutiny Reviews are aimed at priority areas set out in the Council Plan.

6.6.3   This Committee's proposals for the full Council meeting will strengthen the Council's ability to hold the Executive to account. That will be an advance, but even so each Cabinet member will only report to the full Council once a year.

6.6.4   Therefore, the full Council needs to be supported in this work by its O&S Committees. The Committee is recommending a change in practice here whereby Cabinet Members periodically attend O&S Committees to be held to account. Two options have been under consideration:

- six months after a report to City Council, the Cabinet Member will take a fresh report of the same type to the appropriate O&S Committee; or

- to strengthen the existing performance management roles of O&S Committees, the Cabinet Member will appear to present the quarterly performance report on his or her portfolio and answer more general questions. This option would not require a different report to be prepared.

6.6.5   Our preference is for the first of these, and this is what we are recommending to the City Council.

6.6.6   Earlier, in section 6.2, we set out proposals for increasing accountability through the City Council meeting. We touched then on the issue of the accountability of Chief Officers. We did, similarly, give some thought to the possibility that the Chief Executive should be asked to report to the full Council, but we concluded that, with full Council being the Members' forum, this would blur responsibilities with the Leader. We are therefore recommending that instead the Chief Executive be invited to attend the Co-ordinating O&S Committee once a year to set out key management actions and priorities, and how these are supporting the achievement of the priorities set out in the Council Plan. The discussion would not, of course, be about the performance of individuals, which is quite properly dealt with through other mechanisms. The month of October, following the State of the City debate, looks possibly the best time for this discussion.

6.6.7   During the course of our review we have discussed with the Chief Legal Officer the possibility of extensions to the powers of O&S Committees, particularly regarding the call in of Executive decisions. Successive Chairpersons of the Co-ordinating O&S Committee have argued for "parity of esteem" between Executive and O&S functions, and we are not convinced that this has yet been obtained, particularly in the call in arrangements.

6.6.8   It is worth noting here that the City Council has previously considered this issue in 2002. As the current overview and scrutiny procedure notes state,

*"City Council Resolution 16376 (14 May 2002) adds that in the event that Cabinet decides to confirm the Executive decision that has been 'called in', the Overview and Scrutiny Committee may, in extreme cases (such as where it believes that the Cabinet's decision is seriously flawed in some way), submit a report to the full Council on the matter. Whilst the Council is not able to re-open or vary the Cabinet's decision, it may express a view as to the appropriateness of the decision."*

6.6.9   This provision has not been used to date. However the question we are posing is whether, before the extreme step of initiating a full Council debate on the reaction of the Executive is taken, there is not a more measured way of keeping an issue open when the O&S Committee is disappointed by a response by the Executive.

6.6.10  The call in system is an example of the checks and balances in the constitution between the Executive and the non-executive councillors. It works best when both O&S Committees and Cabinet are seen in public to take the time to consider the issues fully and not to adopt pre-conceived positions. No matter how well the system is put into practice in Birmingham City Council, the basis of the Local Government Act 2000 is to route decisions through a small, powerful executive, and it is easy (as is shown by experience across the country) for non-executive councillors to feel that their judgements are too easily ignored. Our conclusion is, therefore, that the current call in arrangements should be extended somewhat. To encourage the Cabinet to demonstrate that, no matter what the pressure of business at its meetings, it will always take the time to reconsider all aspects of a called in decision, there should in future be an opportunity for further reflection.

6.6.11  This would apply when the Cabinet considers a called in decision and wishes to re-affirm its original decision without significant modification. Instead of the decision being confirmed at the Cabinet meeting and that being the end of the matter, the Cabinet's resolution would be to be minded to keep with the original decision, but accepting of a period of reflection. The posting, and hence implementation, of the decision would be stayed for a period of up until the next Cabinet meeting.

6.6.12  What we have in mind here is that the Chair of the Co-ordinating O&S Committee (or his/her nominee) should be able, in such circumstances, to request the Leader to allow a short period for further reflection and discussion. This right would be written in to the Constitution. If the Leader agreed to this request, implementation of the decision would be stayed until the following Cabinet meeting, when the issue would be decided.

6.6.13  In our judgement the preparedness of the Executive to hold the implementation of a still contentious decision, effectively for two weeks until the next Cabinet meeting, would provide a measured adjustment to the balance between quick and efficient executive decision-making and the proper inclusion of non-executive views.

6.6.14    We would not anticipate that this provision would need to be used very often. After all, of all the Executive decisions taken in just over three years since December 2001, only 74 have been the subject of a request for call in; and of those, only 16 have been referred back to Cabinet for reconsideration.

6.6.15   We also consider that small adjustments to the current constitutional arrangements are required with respect to the call in criteria. These criteria have operated since December 2001 and have generally met requirements. However, experience has shown the need for two extra criteria:

(a)    that notification of the decision does not appear to have been given in accordance with Council procedures;

(b)    that there is a substantial lack of clarity, material inaccuracy or insufficient information in the report to allow Overview and Scrutiny to hold the Executive to account and add value to the work of the City Council.

6.6.16    The other learning point from experience is to improve the presentation of the call in criteria. Currently these are shown as a bulleted list of eight criteria. As a purely practical point, these should be numbered in an appropriate order for ease of reference. This would increase the clarity of discussion at call in meetings, whether of O&S Committees or of Cabinet.

**Recommendations**

|  | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R9 | That each Cabinet Member be asked to complement his/her annual report to full Council with a similar report, at the six-month point, to the corresponding O&S Committee, again setting out recent achievements and future issues and that this be written in to the terms of reference of the O&S Committees. | Leader | May 2005 |
| R10 | That the Chief Executive be asked to attend the Co-ordinating O&S Committee annually in October to discuss management actions and priorities. | Chair, Co-ordinating O&S Committee | October 2005 |
| R11 | That where, following a call-in, the Cabinet is minded to reaffirm its original decision without significant modification, the Chair of the Co-ordinating O&S Committee (or his/her nominee) should have the right, written into the constitution, to request the Leader to stay its implementation until the next Cabinet meeting to enable further discussion. | Leader | April 2005 |

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R12 | That in bringing amendments to the constitution to the next Annual Council Meeting the Council Business Management Committee propose an amended call in procedure : | Chairman, Council Business Management Committee | May 2005 |

a) allowing for the possibility of a stay of implementation as proposed in Recommendation R11, if the Executive has so agreed;

b) expanding the acceptable reasons for the call in of an Executive decision by proposing two extra criteria:

- that notification of the decision does not appear to have been given in accordance with Council procedures;

- that there is a substantial lack of clarity, material inaccuracy or insufficient information in the report to allow Overview and Scrutiny to hold the Executive to account and add value to the work of the Council.

c) numbering the call in criteria in an appropriate order, following proposals from the Co-ordinating O&S Committee

## 6.7   Support for Members

6.7.1 We now turn to the provision of support to Members. As well as financial support through Members' allowances, this can include administrative support; IT provision; training and development programmes; and printing allowances.

6.7.2 Having reviewed the practice of other local authorities, the Committee considers that the provision the City Council makes in these areas compares well with that of other authorities.

6.7.3 The first issue here is whether a more flexible approach to tailoring ICT provision to individual Members' needs, on a cost-neutral basis, would be warranted. We consider that the existing scheme is sufficient in terms of the overall sum available, but that the allowance needs to be flexible enough not just to provide for different kit but also other communications equipment such as fax machines, if that is what would be useful to that particular elected Member.

6.7.4 We are also recommending a small change to printing facilities. It is a clear element of the standards arrangements that these be used for

Council, not political party, business. To remove the possibility of inadvertent misuse, printing should be in two colour only. At the same time it would help to increase the allowance from 2,000 to 2,700 A4 copies per Member per month, significantly aiding communication with constituents. There could be a small cost to this, depending on the extent to which the entitlement were taken up, but this would be outweighed by the benefits flowing from better communication between constituents and their elected Members.

6.7.5    An aspect of support which is of great interest to this Committee is the provision of information to Members. The focus of the concern is whether Members are fully briefed in timely fashion about decisions and activities, particularly those affecting the District or Ward, but also about major developments in the city as a whole. Our firm conviction is that, particularly with the range of Council activities and the growth of partnership working, that more could be done. The gradual development of District and Ward committee processes and partnerships could be one contribution to tackling this, but there may also be a need for direct provision of information.

6.7.6    There is also interest in seeing whether more could be made of opportunities to provide factual briefings to the spokespersons of each of the three political parties on the O&S Committees. The regular meetings held between the Cabinet Member for Local Services and Community Safety with the District Committee Chairpersons could be a model for this, particularly if that meeting were also to include the Opposition Group spokesperson for Local Services.

6.7.7    We recognise the investment the City Council has made over the last few years in electronic systems for handling information, such as the ADMES system for recording and disseminating executive and committee reports and decisions, the City Council's web-site and the intranet. However we do wish to see such systems exploited more fully to provide local, ward, and District based information to Members, and for the interrogation facilities to be improved so that it is easier to access such information. Whilst ADMES does have the facilities to enable this, we consider that there is a need for a comprehensive look at the totality of the potential information from the Members' perspective. The experience of other core cities, particularly Manchester, may be helpful here.

6.7.8    If this could be done, it would represent a significant step forward in supporting the local role of Members; we would all be much more confident that we were fully aware of local developments.

6.7.9    Our final two issues are direct responses to issues which Members have raised through their discussions with MORI. In the words of the MORI report "casework is the main raison d'etre for most non-executive members" and in the opinion of many an effective casework management system is required. This should be provided.

6.7.10   Members also raised concerns about training and development. On the whole the recent round of induction training was well regarded.

# Members and the Full Council

Even so there are practical difficulties, such as how individual Members can "catch up" when they are unable to attend a particular session. There is a more fundamental problem with applying the current model of provision to all new members such as individuals who may be elected through a by election. Beyond induction training, Members have expressed other training needs. At the moment these seem to be addressed in ad hoc fashion, if at all.

**Recommendations**

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R13 | That the monthly printing allowance for Members be a maximum of 2,700 A4 sheets (black and white only) and that the ICT allowance be more flexibly applied to allow a wider range of office equipment to be provided. | Chairman, Council Business Management Committee | October 2005 |
| R14 | That an audit be undertaken of the City Council's electronic information systems to ascertain how ward and district specific information could be better identified and accessed by Members | Deputy Leader | April 2006 |
| R15 | That a core City Council modern casework management system be provided, which is capable of being tailored to the needs of each Political Group at their own expense | Deputy Leader | September 2005 |
| R16 | That a co-ordinated programme of training opportunities for Members be put in place, drawn up following a survey of Members' training needs and with particular emphasis given to training support for their role in District and Ward business; the draft programme to be put to the Cabinet Member for decision by December 2005. | Cabinet Member for Human Resources and Equalities | December 2005 |

## 6.8   Next Steps

6.8.1   We have already said that our intention is to stretch the boundaries of what is possible and use the flexibility within the 2000 Act to re-empower non-executive councillors. We have not yet completed this task.

6.8.2   We will therefore continue the search, based on a report from the Chief Legal Officer on the permissive and prescriptive elements of our constitutional arrangements. Topics of interest here will include:

(a)   further possible changes to call in arrangements;

(b)   involvement in decision-making such as the membership of Cabinet Committees;

# Members and the Full Council

(c)     the process of making bye-laws, which is a function of the City Council rather than of the Executive, and whether this is being used to maximum effect;

(d)     the possibilities of groups of non-executive members overseeing particular fields of activity.

6.8.3     We have not yet reached a conclusion on issues about the documentation of the Constitution. These were perhaps most clearly raised by the Chief Executive at our December meeting, when it was suggested that a more concise version (although retaining its current rigour, as the minutes of the meeting record) might be helpful. We note that within the documentation there are both a section containing a summary and frequently asked questions (Volume B Part 1) and a layman's guide to the constitution (Volume B Part 4 (A)). Notwithstanding this, it might well be that the purpose of the various elements of the arrangements (e.g. the role of Council Business Management Committee in bringing together different aspects of the Council – Executive, O&S, all political parties) does not easily stand out to Members reading the full version.

6.8.4     We also wish to consider whether it would be beneficial for some backbench Member involvement in the scoping of the constitution. It might be that this would help the Constitution to be a document owned by the full City Council, setting out the ambition elected Members have for the role of the City Council to play at the heart of the democratic process, rather than the Constitution being seen as an officer document detailing the standing orders which govern the procedure of the Council.

6.8.5     Our work would also include the issue of how best to make mid-year changes to the Constitution so that it is indeed a living document, responsive to changing circumstances, and how best to involve the wider Membership in such changes. The issue of dating changes to the Constitution, so that it can be seen exactly which provisions have been altered since the Constitution was first approved, and when the alterations were made, will also receive attention.

6.8.6     There are also avenues to explore which could lead to further and better Member involvement in the work of the City Council, both centrally and at local level. Members are not only receivers of information to pass on to constituents. Our knowledge of local conditions, needs and practices can be vital in improving services and in representing communities. The complementary issues, therefore, concern whether we Members perceive that our knowledge, skills and information are well used by the Council.

6.8.7     As a Committee, therefore, we wish to investigate issues such as:

(a)     Are there clear pathways for passing the information on to decision makers or into Overview and Scrutiny?

(b)     Is the Council aware of, and does it call on, the particular skills and expertise of individual Members to the greatest extent possible?

(c)     Should a database of Members' skills be collated?

(d)     Do Members have adequate opportunity to comment on Government or Local Government Association consultation documents?

6.8.8     As an early specific example of using the skills and expertise of the wider Membership we recommend at this stage that the Leader look at the arrangements for Cabinet Committees to ensure that their composition - both in terms of size and individual members – and their scope make the best use of the local knowledge available to the Council.

6.8.9     We are also concerned about the position of the City Council's Lead Members on Joint Authorities. The Council needs to be more aware of the work and decisions of those authorities and to influence them more. We therefore need to be satisfied that the support given to the Lead Members (and also to the other Members on Joint Authorities) is appropriate to the tasks they are being asked to do. As well as officer support, there might also be a case for providing these Members with the formal opportunity to get together periodically.

6.8.10    We are mindful that the changed arrangements which we have already recommended in this report, including those concerned with the full Council meeting, if introduced, will need to be tested and evaluated. They should be the subject of cross-party review in January 2006. This review should follow the usual initial "tracking" of the implementation of the recommendations in this report (as approved by full Council) which we recommend should be brought forward by the Chairman of the Council Business Management Committee.

|     | Recommendation | Responsibility | Completion Date |
|-----|----------------|----------------|-----------------|
| R17 | That the scope, size and composition of Cabinet Committees be reviewed, with the aim of ensuring the best use is made of local skills and knowledge. | Leader | June 2005 |
| R18 | That the Co-ordinating O&S Committee should continue its review (at some point possibly through a small cross-party working group), giving early consideration to a report from the Chief Legal Officer on the permissive and prescriptive elements of the Constitution. | Chair, Co-ordinating O&S Committee | June 2005 |
| R19 | Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee in December 2005<br><br>Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented. | Chairman, Council Business Management Committee | December 2005 |

# Members and the Full Council

| | Recommendation | Responsibility | Completion Date |
|---|---|---|---|
| R20 | That based on the first progress report required by Recommendation 19, the Co-ordinating O&S Committee undertake an all-party review of how the changed arrangements are working out in practice, so as to make recommendations for further improvements. | Chair, Co-ordinating O&S Committee | January 2006 |

# Members and the Full Council

## Members and the Full Council

# Appendix 1   Terms of Reference

### STAGE 1: REVIEW OUTLINE

| | | |
|---|---|---|
| 1 | Subject of review | The role of elected Members in Birmingham and of the full City Council meeting. |
| 2 | Overview and Scrutiny Committee | Co-ordinating |

**Reasons for Conducting the Review**

| | | |
|---|---|---|
| 3 | Reasons for conducting this review | There is research evidence from across the country that non-executive councillors feel relatively disengaged from the system put in place following the Local Government Act 2000. Similarly, many authorities have reported a struggle to find a new role for full council. |
| | | The lack of timely information may adversely affect Members in their constituency role. |
| | | The skills and experience of backbench Members may not be being utilised to the benefit of the Council. |
| 4 | Key question that the review is seeking to answer | Do elected Members consider that there are ways in which, both individually and collectively in a meeting of the full City Council, they could play a more effective role in Birmingham's local democracy? |
| | | What improvements in the flow of information would be of particular benefit to Members? |
| 5 | Objectives of review / Areas for investigation | • to evaluate Members' satisfaction with their roles, and the role of the full Council meeting;<br>• to compare those roles with the situation before 2000;<br>• to compare those current roles with roles in selected other local authorities;<br>• to consider how the work of District Committees can feature in the full Council meeting;<br>• to identify possible improvements |
| 6 | Outcomes expected from conducting this work | • the provision of better support, including more timely information, to elected Members;<br>• more opportunities for Members to use their skills and knowledge;<br>• more opportunities for Members to represent their constituents' views;<br>• enabling the full City Council meeting to become a more important arena for local democracy. |

### STAGE 2: PROJECT PLAN AND RESOURCING

**Member Involvement**

| | |
|---|---|
| Lead Member | Cllr Wilkes |
| Other O&S Members involved | Co-ordinating O&S Committee |
| Are all parties on the Overview and Scrutiny Committee involved? | Yes |
| Key Cabinet Member | Leader (also as Chairman of the Council Business Management Committee) |
| Other Cabinet portfolios, etc., covered | • all<br>• all regulatory committees |
| Others | • all Members of the Council<br>• |

**Officer and External Involvement**

| | |
|---|---|
| Link Officer | John Cade |
| Lead Review Officer | Nick Partridge |
| Council departments expected to contribute, key contacts and the contribution expected | • Chief Executive and Chief Legal Officer for constitutional advice<br>• Strategic Director of Resources, Strategic director of Local Services and Director of Performance Improvement for advice on information and support to Members |
| External organisations expected to contribute and the contribution expected | • other local authorities<br>• University of Birmingham |
| Anticipated date of report to Overview and Scrutiny Committee | March 2005 |
| Anticipated call on Scrutiny Budget | Visits<br><br>Possible expert advice |

**Publicity and Awareness of the Review**

| | |
|---|---|
| Publicity activities to be undertaken | |

**Signed:**

(By Chair on behalf of Overview and Scrutiny Committee)

| **Date Agreed:** | 8 October 2004 |
|---|---|

(By Overview and Scrutiny Committee)

**Approved:**

(Chairman, Co-ordinating Overview and Scrutiny Committee)

| **Date Approved:** | 8 October 2004 |
|---|---|

(By Co-ordinating Overview and Scrutiny Committee)

**Members and the Full Council**

# Appendix 2   MORI Report

# The Role of Non-Executive Councillors and the Full Council in Birmingham

Research Study Conducted for
Birmingham City Council

**Birmingham City Council**

February 2005

## Preface

Many of the issues about the roles of councillors, and of full Council, set out in this report are likely to be found in local authorities throughout the country. In part, they are a consequence of the 2000 Local Government Act and the replacement of the old committee system with Leader and Cabinet governance.

As our report says, however, the issues may be starker in Birmingham than elsewhere, by virtue of the sheer size of the Council – the largest in western Europe. There are 110 councillors who now fulfil very important, but non-executive, functions. All-out elections in 2004 resulted in a bigger change to the Council than would otherwise be the case, with a number of new members. And the Council changed control for the first time in twenty years.

The other distinction is that the City Council wants to understand the issues and do something about them. Hence this report. Members responded in a thoroughly constructive way to the discussions. They were also candid – and we have been equally so in setting out their views. We very much hope that this is respected both within the Council and elsewhere.

## Publication of the Results

As the Council has engaged MORI to undertake an objective programme of research, it is important to protect the Council's interests by ensuring that it is accurately reflected in any press release or publication of the findings.  As part of our standard terms and conditions, the publication of the findings in this report is therefore subject to the advance approval of MORI. Such approval would only be refused on the grounds of inaccuracy or misrepresentation.

## Acknowledgements

MORI would like to thank John Cade and Nick Partridge, in the Council's Scrutiny Office, and all the members and officers who contributed to the discussions, for their constructive help and advice.

**Members and the Full Council**

# Contents

**Members and the Full Council**

# Executive Summary

Twenty-two members took the opportunity, provided to all non-executive members by the Chair of the Co-ordinating Overview and Scrutiny Committee, to give their feedback to MORI on how their role can be made more effective and the work of full Council improved. Group and one-to-one discussions took place on an all-party, unattributable, basis. A great deal of consensus emerged.

## The Role of Non-Executive Councillors

In terms of individual non-executive roles, two issues loomed large in the discussions – a degree of disengagement among many councillors because of the nature of the non-executive role under the present system of governance, and the need to empower members to undertake their roles as effectively as possible. The last issue had a number of strands to it:

- Members saw the need for more timely, targeted and **management-oriented information**, perhaps organised on a more corporate basis than at present. The combination of O&S, district and ward papers makes for an imposing set of information but not one from which busy and pressurised members will necessarily be able to see the wood from the trees. For example, the present financial and performance material for members is welcomed, but could have more signposts to assist assimilation, and could certainly be timelier - especially in relation to district committee papers. Many members called for more coherent, plain English, papers, with all initials explained and summaries produced. And there was a call for more regular local statistical information.

- Greater clarity, and better expectations, of the roles and responsibilities of non-executive members would provide an improved sense of **performance management**, and greater understanding not only of members' **training** needs but also their **on-going development** requirements. The most recent round of induction training for new members was generally well-regarded by those who attended, but there are widely-recognised skills gaps which are partly of a *generic* nature (for example in dealing with information, speed reading, chairing meetings, talking to the media, briefings on policy areas etc.) and partly of a *individually-targeted* nature which would arise from a more rigorous assessment of individual members' needs. This, and the need to encourage members' attendance at training, may most practically be managed through political group secretaries, but could also do with broader organisational support.

## Members and the Full Council

- The fact that the great majority of members are outside the executive function should not exclude them from **contributing to policy development** - for example, by giving non-executive members informal 'lead' roles on O&S committees and by setting up short-term working groups on policy issues.

- Members fully appreciated that it is difficult to keep all members **abreast of new developments**, press releases, and the activities of portfolio holders etc. – not least because some may wish to make political capital out of it. But members generally felt that it is not good for the Council as a whole for members not to be aware of these things. There was certainly a feeling among many that the 'big issues' need to be transmitted to members more effectively than at present so that they are not read in the papers first. This may be as much an issue for party discipline as for improved information systems. It was also suggested that an index of issues currently under consideration by portfolio holders (or upcoming), and of decisions made, would help keep members informed and be an important aid to accountability.

- Casework is the main raison d'etre for most non-executive members. They are the democratic interface between the Council and the public. Many members commented on the need for an effective IT-based **casework management system** – one which tracks the progress of each case from the moment it is reported by a member, which makes the best use of members' time by utilising support staff where appropriate, and which benefits from a more consistent method of response from officers. (While members talked openly of some departments and officers being helpful and responsive, others were described as being almost impossible to get hold of).

- **Resourcing** is also an issue. Though many members spoke highly of the support they receive, others talked of the need for greater consistency in the quality of that support, for example in secretarial terms and in supporting the developing devolution of functions to district level.

- **Communications**, both internal and external, are key. Many members felt that internal communications are not ideal. But there is also an issue about how members should be communicating with their constituents. The Council's fortnightly newspaper does not tend to deal with local district or ward issues. Perhaps a mechanism could be found for addressing this. Otherwise communications with members' constituents tend to be on a party political basis, often with members themselves delivering leaflets. The Council may wish to consider whether this remains the most appropriate form of local communication.

# Members and the Full Council

## Full Council

In terms of full Council, there are some real and generally-held concerns. Non-executive members generally felt disengaged with the forum and were keen to explore roles for themselves, subject to the constraint of the law. There was a feeling that the executive was not fully held to account. Further, the consensus view is that meetings are not conducive to proper debate and that they show neither the Council nor the city in the best possible light.

- **Codes of behaviour** were widely criticised, particularly (but by no means exclusively) among newer members. Accusations of political point scoring, rudeness, and members talking and moving about during discussions, were general concerns (though again not unanimously held). For some, the atmosphere was intimidating and uncivilised – and a turn-off for non-participants.

- The **organisation of the agendas** was also criticised. Meetings started off adversarially with oral questions, and some of the most important issues – for example stemming from important O&S reports – were sometimes dealt with peremptorily at the end of the meeting. Meetings were long – it is difficult to maintain concentration for six hours.

- Some members were mindful of the scope for Council meetings to become the centre of public and media perceptions of the Council as a whole. As a great city, the Council has to deal with matters of local, national and international concern. Some members felt that debates, properly organised, relevant and timely, could become **a showcase for the Council** – and be broadcast in the city and shown in Victoria Square. This might also have the effect of improving behaviour.

- And many members were concerned about **accountability**. The Leader could be afforded the opportunity of a State of the City address – high profile and relevant, and open to scrutiny and questions from all members. Portfolio holders could be similarly offered the opportunity of providing a briefing, at least once a year, and again be accountable and answerable to members. Members' own roles at the meetings, and the potential for public involvement, were also mentioned.

## The Desire for Change

The general tone of the discussions was consensual and constructive. Members said it was helpful to discuss these issues openly and candidly, on an all-party, non-confrontational basis, in a way that it was not possible to do in the Council chamber or in the corridors of the Council House. The corollary of this, however, is the

## Members and the Full Council

expectation that action will be taken to deal with issues which were raised. Some matters discussed, as described in this report, are likely to reflect at least an element of party allegiance. But most were genuinely about a view that there are some pretty straightforward ways in which democracy, together with the reputation of the City Council, can be enhanced. And this was the over-riding concern of the members to whom we spoke.

# Objectives and

# Methodology

## Background

'*Of all the groups involved in local government*', concluded an ODPM research report in July 2004, '*non-executive councillors appear to be the most dissatisfied with the operation of the new governance arrangements. A time-consuming but ineffective role is unlikely to be an attractive prospect for many.*'[1]

Birmingham is no exception. The City Council embraced 'modernised' local governance in advance of the 2000 Local Government Act. This was followed by the formal replacement of the committee system with the Leader and Cabinet model in 2001. But, as elsewhere, this has left non-executive members generally without the direct influence in decision-making which they felt they had under the former arrangements. Indeed, the picture is starker in Birmingham than elsewhere by virtue of the sheer size of the Council – the largest in western Europe. There are 110 councillors who now fulfil very important, but non-executive, functions. All-out elections in 2004 resulted in a bigger change to the Council than would otherwise be the case, with a number of new members. And the Council changed control for the first time in twenty years.

The ODPM's report also found one other common problem with the new arrangements. Nationally, many (not all) councillors are supportive of executive governance, with its speedier decision-making and enhanced leadership capacity. '*But many authorities*', the report commented, '*reported a struggle to find a new role for full Council*'.

## Objectives

This is therefore a good time to consider some of the implications of the move to the Leader and Cabinet model of political governance. As part of its deliberations, the Council's Co-ordinating Overview and Scrutiny Committee initiated a review of the role of members and of the full Council. It has considered two reports, in December 2004 and January 2005, looking at issues with have arisen and possible actions for the future. The Committee is taking evidence from other authorities and from officers. It is also keen to obtain unfettered views from members, free from the constraints of party and other allegiances. It therefore commissioned MORI to undertake discussions with members, with two key objectives:

> (i)     to reflect members' views on the support that needs to be in place in order for them to undertake non-executive roles most effectively; and

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[1] 'Operating the New Council Constitutions in English Local Authorities: A Process Evaluation', ELG Evaluation Team, ODPM, July 2004.

(ii)      how full Council meetings can be made most effective.

## Methodology

MORI's discussions with members at times strayed beyond these two issues, but this report is solely concerned with them. All non-executive members were invited by the Committee Chair to participate in group discussions moderated by MORI Research Director, Colin Wilby.  The discussions were held in the Council House on 7 and 8 February 2005, on an unattributable basis.  Eighteen councillors in all took the opportunity to participate in one of three group discussions. One-to-one discussions took place with four further members who currently hold party or council posts.

The twenty-two members who held discussions with MORI represented various shades of political allegiance and experience as members:

| Length of time as members | |
|---|---|
| Under 1 year | 8 |
| 1-5 years | 7 |
| 6 years and over | 7 |
| | *Source:  MORI* |

| Political Party | |
|---|---|
| Conservative | 5 |
| Labour | 8 |
| Liberal Democrat | 9 |
| | *Source:  MORI* |

A qualitative approach was taken to the research, rather than a survey. This was more conducive to understanding members' views and, in the groups, enabling them to bounce ideas off each other – to see where there is an emerging consensus and the reasons for it.  Unattributed verbatim comments have been included in the report. These are not intended to reflect a unanimous view on the part of participants, but certainly they reflect a broad view held by many to whom we talked.

The discussions broadly followed the guide attached (in the bound version of this report) as Appendix 1. This was not rigidly followed, but used as a semi-structured means of ensuring that members were given the opportunity to express not just what

they perceived 'top of mind', but also to consider what underpins those views – how important are the various responsibilities of members, how they know whether they are meeting those responsibilities, and what are the barriers to meeting them in the most effective way. Brief questionnaires were given to members participating in the group discussions before and after they took place (<u>Appendix 2 in the bound version of this report</u>). Group discussions took place on a mixed, all party, basis.

Members positively and actively participated in the discussions. Most said that they welcomed the opportunity to reflect upon the issues in a non-party political, and constructive, environment.

> *It was good to be able to have an honest and candid exchange of views, without feeling you were criticising*

> *If only we could have such discussions in the council chamber*

The overall tone of the discussions was not to criticise the current arrangements per se, but to search for ways in which members could undertake their roles most effectively. This would benefit the Council as a whole. It would also improve public perceptions of those elected to take the city forward. The city and its people would benefit as a result.

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Checked & Approved:

............................................................................................................
*Colin Wilby*

Checked & Approved:

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*Ben Page*

**Members and the Full Council**

# `Setting the Scene`

Non-executive councillors may no longer have the direct decision-making role they held under the former committee arrangements; but members in the group discussions found little difference between how they *currently* spend their time as members and how they would *ideally* like to do so. Casework is by some margin considered to be the issue on which most time is, and should be, spent. Many members suggested that this, taken with their role as advocates for their 'patch', was pretty much a full-time role. Bound up with this is a community leadership role in their wards and districts, working with other agencies. No other function, including councillors' overview and scrutiny roles, was identified as appropriate for more than around 10-15% of their time

**Time spent on member-related activities**

|  | % time ***currently*** spent (before discussion) % | % time ***ideally*** spent (after discussion) % |
|---|---|---|
| Helping local people, surgeries, giving advice, etc | 55 | 50 |
| Representing people's view in the Council | 10 | 15 |
| Making decisions, management etc | 15 | 15 |
| Scrutinising decisions | 10 | 15 |
| Party political matters | 10 | 10 |
| Working, as a councillor, with or on outside bodies | 15 | 5 |

*Note: 18 Birmingham CC members who participated in the group discussions (7/8 February 2005) were asked to identify how they currently spend their time, and how they feel they could most usefully spend their time. Figures are an approximate average of responses given and do not total 100%*

*Source: MORI*

This is important from a number of perspectives. First, it helps to identify where the barriers to achieving members' roles are perceived to be. These are set out in the next chapter, together with the remedial actions which members feel should be put in place.
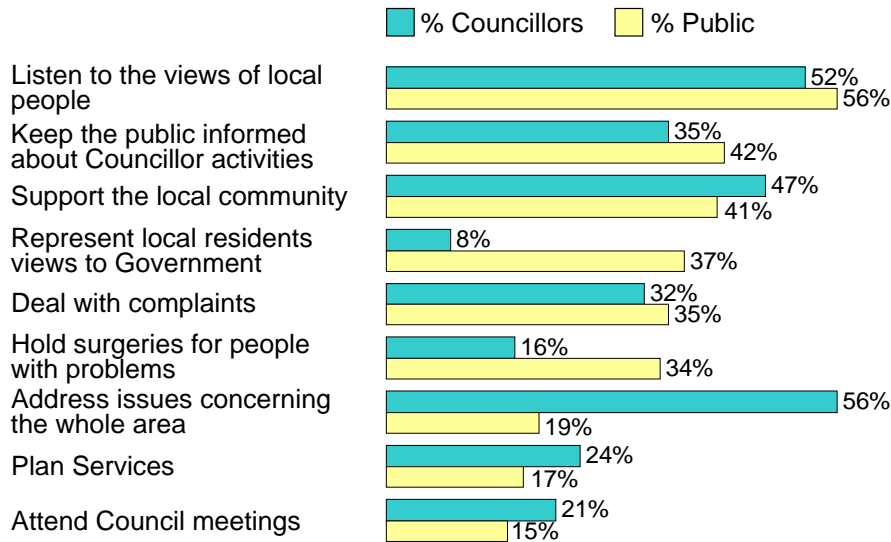
Second, there is a resonance between Birmingham councillors' views and those expressed by councillors in MORI's national 2002 research for the LGA, and indeed the views expressed by residents in concurrent research. At that time, the public said they wanted councillors who were visible, accessible and accountable; councillors who live locally, understand the community and stand up for it; and councillors who are

# Members and the Full Council

pro-active, listen and are available to local people. These findings chime with the views expressed by Birmingham non-executive members in our discussions.

## Most important things for councillors to do?

■ % Councillors  □ % Public

| | |
|---|---|
| Listen to the views of local people | 52% / 56% |
| Keep the public informed about Councillor activities | 35% / 42% |
| Support the local community | 47% / 41% |
| Represent local residents views to Government | 8% / 37% |
| Deal with complaints | 32% / 35% |
| Hold surgeries for people with problems | 16% / 34% |
| Address issues concerning the whole area | 56% / 19% |
| Plan Services | 24% / 17% |
| Attend Council meetings | 21% / 15% |

Base: 198 Members, 113 Officers, c600 members of the public, England, 2002        Source: MORI

Our 2002 national research found some stark contrasts between councillors and residents' views about how these functions are actually performed:

- Most *councillors* felt they made a real effort to listen to the views of local people and did their best to serve local people; most *residents* disagreed;

- Most *councillors* did not feel that they put party politics before the needs of local people; most *residents* felt that they did.
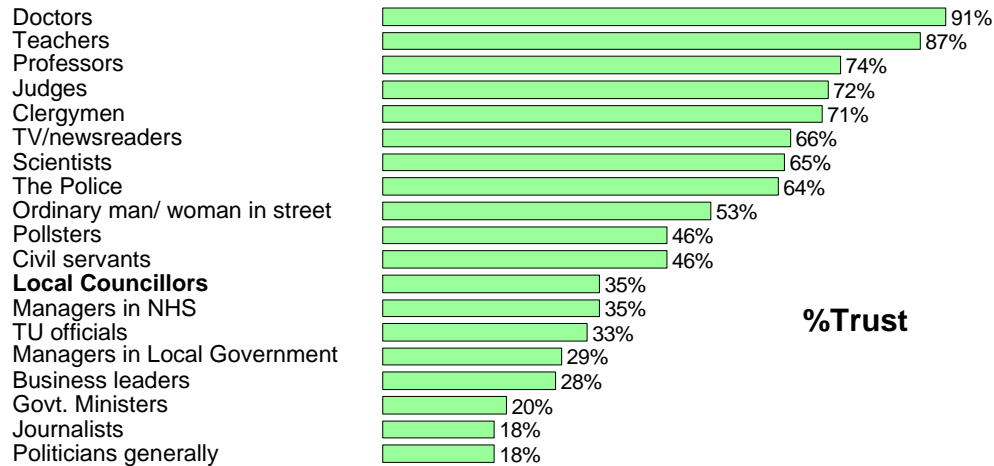
In 2003 MORI research on the level of trust in which professions are held (research undertaken regularly, which shows some broadly consistent patterns over the years), local councillors fell some way below some other professions, and indeed the ordinary man or woman in the street, but above local government managers, government ministers, and politicians generally.

# Members and the Full Council

*Q  Now I will read out a list of different people.  For each, would you tell me whether you generally trust them to tell the truth or not?*

| | |
|---|---|
| Doctors | 91% |
| Teachers | 87% |
| Professors | 74% |
| Judges | 72% |
| Clergymen | 71% |
| TV/newsreaders | 66% |
| Scientists | 65% |
| The Police | 64% |
| Ordinary man/ woman in street | 53% |
| Pollsters | 46% |
| Civil servants | 46% |
| **Local Councillors** | 35% |
| Managers in NHS | 35% |
| TU officials | 33% |
| Managers in Local Government | 29% |
| Business leaders | 28% |
| Govt. Ministers | 20% |
| Journalists | 18% |
| Politicians generally | 18% |

**%Trust**

Base: 2,141 British adults aged 15+, Feb 2003                    Source: MORI

But in the Birmingham discussion groups, members were candid about their ability, or otherwise, to meet their objectives. They echoed residents' views, found in our national research, that councillors should be engaged in representing local people and their needs, being in touch with local views, and keeping residents informed of what decisions have been made, by whom and why. People want politicians to be involved in local issues, to listen and, most importantly, act or to be seen to act, on the views of local people.  For this to be effective, they also need to be known in their local area, and to live there. They should also act as independently as possible within this context, and not in predetermined party political roles. And it was this last factor which was among the most critical problems, in most councillors' minds, with the way that the City Council runs its full council meetings.

# Supporting Non-Executive Members

## The Barriers to Effective Working

Asked to nominate the main factors which interfere with their ability to do their job most effectively, a number of issues were raised in members' pre-discussion questionnaires.

| | |
|---|---|
| Not enough time | 6 |
| Lack of information/understanding | 4 |
| Bureaucracy | 2 |
| IT systems | 2 |
| Lack of support | 2 |
| Staff | 2 |
| Money | 2 |
| More training needed | 2 |
| Less paperwork | 1 |
| Access to research facility | 1 |
| Lack of local resources | 1 |
| Too much information given at once | 1 |
| The homeless visit – no communication, no assistance | 1 |

*Source: MORI*

These were all factors which emerged in the discussions which followed. But there was a broad consensus on what needed to be done to address many of these issues. Members often felt that feedback from their constituents was the best indication of their success or otherwise in overcoming barriers to effective working – perceptions gauged directly and through attitudinal research. This reflected the relative emphasis members placed on their casework and representative roles, compared with their O&S and district committee roles. The agendas of these committees did not necessarily reflect their own concerns, which can be frustrating for some members who feel that they are simply not contributing as fully as they would wish to their role of holding the Executive to account. They received a lot of information in their committee roles but they generally felt that they had to ask for the kind of local area, or casework, information that they needed in order to take forward their advocacy roles.

# Members and the Full Council

## Defining the Role of Non-Executive Councillors

Within political groups, some work is taking place to define the requirements implicit of the role of members and hence their training and development needs. At the same time, member 'role profiles' are being developed following the work of the Remuneration Panel. This was seen positively by some members as it would help an understanding of the skills required to do the job as well as possible.

> *There is a skills gap. One problem is how parties select candidates. Another is the terms and conditions for those in office. We need to raise skills levels – partly on a national level, through the leadership work of IDeA and others, but also empowering people to become good ward councillors*

## Training and Development

Members' training was generally considered to be good, especially induction training for those who became new members in 2004: *'Top class',* commented one member. As discussed elsewhere, personal development of members is taken forward in various ways within political groups. But there were some significant suggestions made for the Council to progress on a non-group basis:

- The former committee system provided a natural development ladder for new members, for example by members being given status (even informally) as a lead member on a committee. Also, for a period, there were three support members for portfolio holders. Neither of these means of obtaining experience is now available to members – although some O&S chairs do actively involve other members on their committee. Some members concluded that this necessitated a more explicit management and development programme for members.

- There could be more short-term working groups to involve more members in policy development. Also there is a need to embrace the roles of other partner organisations under the district strategic partnership or ward advisory boards.

- As devolution progresses, members are increasingly expected to consider management and financial issues. Organising training and development in dealing with this kind of information – what to look for, how to see the wood from the trees - would help members to undertake the important role of constructively challenging the information provided by officers.

> *Some members are struggling to deal with the need to provide leadership on district committees, and provide community leadership – how we are going to prioritise etc. Members are far*

*more engaged with these issues than under the old committee structure*

- Some members thought that anyone going into public life would have to be able to speak in public. But others thought that the wish to help your local community did not always go alongside public speaking skills. They felt intimidated by some of the cut and thrust of political life in committees and full Council and said they would benefit from help in dealing with it.

- When members join a specialist O&S committee, a background briefing on the roles of particular disciplines and service areas would be helpful.

- Meeting skills, media-training, and training in chairing committees were mentioned:

    *Some chairs are not very good – they waffle – and could do with some skills training*

- This leaves the question of encouraging take-up of training and management development opportunities. This may be most effectively taken forward through party mechanisms, rather than the Council, although on-going support from the Council would be very important.

    *At the end of the day you are being paid to do a job and you should be required to do it – and this includes the need to go on training and development courses. Where I used to work, before I became a member, there would be no question of me ducking out of training – I would have lost my job*

## Support for Members

Support for members is currently provided through a number of means, including each party's Group Office and the ward support officers. Secretarial support was perceived to be variable – they would like to get letters typed, for example, and that is not available unless they come into the Council House.

IT provision for members was considered to have improved significantly in recent years. But one of the most consensual demands is for an efficient, IT-based system for managing and tracking casework, indicating dates for each stage in the progress of dealing with the queries. Such a system has apparently been under development for some time. IT provision for members has clearly improved a great deal in recent years, but a means of managing casework, with perhaps a defined role for support staff,

would make a potentially very significant contribution to members' effective use of time.

## Information Provision

There were a number of examples mentioned:

- Members would like to get information quicker and not read about things in the paper first.

  > *For instance, I was told something by constituents about something in my area which I should have known about. This made me feel stupid and did not reflect well on the Council.*

- This was recognised to be a sensitive issue, however. Ideally all members should receive embargoed press releases in advance. But there were concerns that not all members would necessarily honour the embargo. If this is the case, members recognised that they could not have it both ways – perhaps some policing and clear expectations by political groups would help ensure that embargoes are honoured.

- All members recognised that they receive financial and management information, but many thought it was not possible to see the wood from the trees. Just as significantly, it was considered to be consistently late.

- Members did not feel that they were lacking in opportunities to respond to Government or other consultations: the right forum was through existing committees. But they would like a précis of what has come through.

- Other suggestions included having an index, regularly updated, showing all the decisions made by each portfolio holder, together with the current (and upcoming) matters under consideration.

## Responding to Members

Some departments were particularly criticised for very slow responses to casework queries.

> *It would help if the telephone was answered or they responded to messages left. Some officers could be less 'economical' with their answers*

There was also some diffidence among members about asking officers for advice and information about policy issues.

## Making O&S Committees more Effective

Some members, both of the current administration and the opposition parties, were sceptical of the effectiveness of current O&S committees.

> *There are things I particularly want to look at, but we are not allowed to – we have very little influence over the agenda*
> *O&S committee is … a talking shop. I can just go to sleep for two hours for all the influence I can have*

Members made a number of suggestions for how their role in the committees could be made more effective. They would like to see chief officers at O&S committees more often – their attendance appears to vary between committees. Some new members in particular were intimidated by the sheer volume of the paperwork they had to cope with and were wary about contributing to the debate for fear of looking stupid – they felt that they were disadvantaged by not knowing the ropes.

> *You could do with a lot better briefings. And a lot depends on whether the officers are willing to share with you what they really feel*

> *Scrutiny is very necessary, and by and large is doing a good job, but I can see signs now that it is becoming increasingly bureaucratic, with reams and reams of paper. I don't know how new members cope*

There was also a feeling of a lack of accountability of the Executive. There appeared to be some inconsistency in the role of the portfolio holders in O&S meetings and that he/she, joined by relevant officers, were an important element in how the Executive could be held to account by non-executive members. Though some thought that it might diffuse the clear distinction between executive and scrutiny, some kind of joint meetings could be helpful:

> *Rather than ask questions in full council, and trying to embarrass them, it would be of much more practical help to have the portfolio holder to have ten minutes each month with the O&S committee*

Non-executive members' roles in the scrutiny function are in fact partly determined by their political party. One member commented that Opposition members were now

excluded from being chairs or vice chairs of O&S committees, unsurprisingly given that this was the policy determined when the Labour Group was in power – but this is in contrast to the situation on parliamentary select committees which could be chaired by Opposition MPs. On the other hand, members of all parties spoke favourably about the practice of at least one current committee chair to share around lead responsibilities regardless of political party.

# Members and the Full Council

## Facilitating District Committees

District committees are already responsible for substantial budgets. But many members questioned whether they were empowered to tease out relevant information about the areas from among the wealth of material provided to them. They could do with more *structured* information and training to help them work through it, to give them the confidence and ability to query the information before them.

## Community Leadership

Members acknowledged the importance of feedback from constituents and neighbourhood forums, but felt that the hard data they received from the Council about their wards was variable – they receive some statistics but not, some said, rolling local performance data. But of most importance is the fact that the data which they do receive is not timely. There is also frustration that agreed funding does not appear to find its way to districts quickly after having been allocated.

> *It can be months and months before allocated neighbourhood money can be received – it is shambolic and can make the difference between success and failure*

The ward advisory boards and the district strategic partnerships were regarded as variable. Some worked very well. But it was also suggested that there was a role for the full council to have, say an annual input from senior representatives of partner agencies – health, police, probation, LSCs, and others.

> *Why is it that people in Sparkbrook are dying more than in Edgbaston? We need to talk about these strategic issues if we are to take our community leadership role seriously*

> *It is about taking forward some of the policy objectives of the Council at ward, district and city level*

## Internal Communications

Internal communications, in the whole-council sense, were generally considered to be variable.

> *We don't learn from each other, we do not communicate, and we do not learn enough from other councillors in Birmingham and in other councils*

> *I feel that today we have been able to talk as we want to and that has been really refreshing. We could not have these sort of*

*discussions in our Group. If I had said what I have said today at Group, I would have been hammered*

*There should be more cross fertilisation between members– particularly now with increasing devolution to district committees*

## Communications with Constituents

The City Council has a fortnightly newspaper for its residents. Putting aside some members' concerns about whom precisely receives it, members tended to feel strongly about their own responsibilities for informing residents in their own patch. The issue for the Council may be whether communications with residents about local issues should have a party political focus, or whether it should be undertaken by the Council itself on a non-political basis, either through local contributions to the Council's fortnightly newspaper or through separate channels. The disadvantage of communications through party political mechanisms is the workload on members and their colleagues, and also the fact that research shows residents' preference for avoiding party politics when possible. But the political parties will continue to lead with local communications until the Council generates a convincing alternative.

**Members and the Full Council**

# Improving Council Meetings

### 'Council meetings do not reflect well on the city'

There are generally-held concerns about the way full Council is conducted.

*We should be talking about the big issues. At the moment there is not a way to get big debates about the city. We should be having something which brings credit on to the Council*

*There needs to be a lot more thinking about the structure of Council meetings*

*People wander around. People are rude and shout at each other. It gives a very poor impression to people*

*I don't find them in any way useful, often boring, often irrelevant*

*I think that it is because members do not feel that they can change anything that the quality of the debate and speeches is so poor*

### 'Some of the behaviour is very poor'

There was a general concern about poor standards of behaviour in the council chamber: talking down to members, not respecting the Lord Mayor's calls for order, etc. This was not a unanimous view – some thought it acceptable and 'not too bad', part of the cut and thrust of politics. But most felt that normal codes of civilised behaviour were not maintained and this got in the way of most members actively fulfilling a useful role at the meetings.

### 'Too much party politics'

General public research shows a general dislike of party politicking. Members are by definition political animals, but many felt that full Council meetings were not the place for pure point scoring – it puts the public off and is not conducive to high quality debate.

# Members and the Full Council

### 'Not enough real debate'

Many felt that Council meetings ought to be the forum for more real debate than is currently the case. Much of the business is predetermined, with little active role for non-executive members. This is not helped by the structure of the agenda. Meetings typically last for around six hours, yet potentially the most interesting issues for debate – for example those which have come through from O&S committees – are left to the end of the meeting, when all concerned can be tired and the issues are not addressed as fully as might be the case were they to arise in a structured way earlier in the agenda. The recent MRSA debate was quoted as an example by a number of members from all parties – an important subject, of national as well as local importance, with little disagreement between parties. But the structure of the Council agenda was an effective block on a full debate. And it generally tended to discourage debate of recently-arising issues.

> *It would be good to give a much better platform to the important issues which emerge from the O&S committees*

> *The motions you are debating are going to have no effect – the Executive take all the decisions. The meetings are a waste of time*

### 'Not enough accountability'

Many felt that those in power should be brought to account more. Portfolio holders on the Cabinet should be required on some rolling basis to be answerable to non-executive members – perhaps at least once a year. A further suggestion was for greater accountability on the Leaders' part – with a State of the City address and cross questioning from members. Some felt that the meetings should be more open to the public in a real sense: they should be allowed to put questions to the Executive.

> *If we do nothing else, we have to get cabinet members to have a slot at Council meetings to talk about the key issues and be publicly accountable for what is going on in their portfolio area – like in national government. And they should report succinctly in a report to go over what has been happening in their portfolio over the last six months. It would also provide a good opportunity for a succinct debate between portfolio holder and the opposition spokesperson*

### 'We should be able to participate in something which reflects well on our city and its national and international significance'

Above all, many members felt that the meeting is too formulaic – there is no opportunity to raise recently-developing issues except through a well-place oral

question. The structure needs to be addressed so that time is allocated to important and timely debate which would engage positively with the public and the media.

This could involve many of the above suggestions – shifting around the agenda so that big issues, perhaps from O&S committees, are addressed early in the meeting, rather than be left to the end; requiring portfolio holders to address issues in their area at least once a year; a major statement form the Leader; genuine cross questioning from back benchers, not necessarily on a pre-ordained, political basis; and ensuring that issues of public moment are addressed in a timely, civilised and constructive manner.

These actions, many members felt, could help to establish full Council in the minds of media and residents – not just the Council itself – as a forum worthy of the city.

# Appendix 3   Reporting of Policy Framework Plans

**Policy Framework Plans Presented to Full Council**

| Council Date | Policy Framework Plan |
|---|---|
| | |
| January **2000** | - |
| 1 February | Cabinet Statement |
| 29 February | Budget |
| | Best Value Performance Plan |
| 28 March | Economic Development Plan |
| | Quality Protects Management Action Plan |
| May (Annual Meeting | - |
| June | Sustainability Strategy (Local Agenda 21) |
| | Local Transport Plan |
| | Cabinet Statement 2000/1 |
| July | Lifelong Learning Development Plan |
| September | Housing Investment Programme |
| October | - |
| November | - |
| December | Best Value Review Programme |
| | |
| January **2001** | Quality Protects Management Action Plan |
| 6 February | Education Development Plan Update |
| | Youth Justice Plan |
| 27 February | Budget |
| | Best Value Performance Plan |
| April | Early Years Development and Childcare Strategic Plan |
| May (Annual Meeting) | - |
| June | Cabinet Statement |
| July | Housing Investment Programme |
| September | - |
| October | Annual Library Plan |
| November | - |
| December | - |

| Council Date | Policy Framework Plan |
|---|---|
| January **2002** | - |
| 5 February | Quality Protects Management Action Plan |
| 26 February | Budget |
| | Cabinet Statement |
| | Best Value Performance Plan |
| March | Local Education Standards Strategy |
| | Youth Justice Plan |
| April | Community Strategy |
| | Crime and Disorder Reduction Strategy |
| | Food Law Enforcement Plan |
| May (Annual Meeting) | - |
| June | - |
| July | - |
| September | Annual Library Plan |
| | Housing Investment Programme |
| October | - |
| November | - |
| December | - |
| | |
| January **2003** | - |
| 3 February | - |
| 25 February | Cabinet and Corporate Plan |
| | Budget |
| April | Local Transport Plan |
| May (Annual Meeting) | - |
| June | Food Law Enforcement Plan |
| | Youth Justice Plan |
| July | Performance Plan |
| October | - |
| November | - |
| December | Towards a Children and Young People's Strategy |
| | |
| January **2004** | - |
| 3 February | Cabinet and Corporate Plan |
| | Revenue Budget |
| 24 February | Budget |
| | Birmingham Education Plan |
| April | Draft Performance Plan |
| | Housing Strategy Statement |
| | Youth Justice Plan |
| May | Sure Start Strategic Plan |
| June (Annual Meeting) | Performance Plan |
| July | Food Law Enforcement Service Plan |
| October | - |

# Members and the Full Council

| Council Date | Policy Framework Plan |
|---|---|
| November | - |
| December | Statement of Licensing Policy |
| | |
| **January 2005** | - |
| 1 February | - |
| 22 February | Budget |
| | Council Plan 2005+ |
| 5 April | Community Safety Strategy |

Note: the definition of the Policy Framework has varied during this time. When the Economic Development Plan was agreed by the City Council in March 2000, it was included in the Framework. Subsequently it was removed. In December 2004 the City Council debated the Birmingham Economic Strategy. This did not form part of the Policy Framework; the Council was giving its views on the draft for the Executive to consider.

# Members and the Full Council

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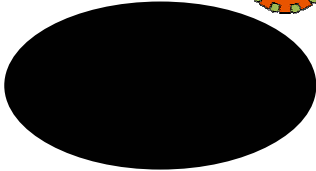
# Appendix 4   Chief Legal Officer's Report

**SUBJECT:   REVIEW OF THE COUNCIL's CONSTITUTIONAL ARRANGEMENTS**

**REPORT TO: CO-ORDINATING OVERVIEW AND SCRUTINY COMMITTEE**

REPORT OF:  THE CHIEF LEGAL OFFICER

DATE:   11 February 2005

## A.     SUMMARY

1.     At the Co-ordinating Overview and Scrutiny Committee meeting on 10 December 2004, the Chairman requested, on behalf of the Committee, that a Briefing Note be produced by me on what was statutorily permissible and what was not with regard to the City Council Constitution.  The Chairman also raised numerous other "thoughts" with regard to the City Council meetings and, as there was insufficient time available for me to respond to the same, I have taken the opportunity to address those issues in this paper.

## B.     BACKGROUND TO THE CONSTITUTION

2.     Members will recall that the Council moved to the new Executive arrangements in December 2001. It is important, however, to recognise that I inherited the task of writing the City Council's Constitution from the former Acting Chief Executive on 17 March 2003 and the first written Constitution for the City Council was approved at the AGM 20 May 2003. I only had, therefore, 2 months - on top of all my other duties - within which to draft and consult relevant Chief Officers and leading Members – through the Council Business Management Committee – prior to the same being approved at the AGM in May 2003.

3.     To make the task a manageable one, I used the Modular Constitution developed by the ODPM – which the City Council contributed in at Officer level – and refined the same to suit our local circumstances. Having a

written Constitution - which is kept up to date - is a statutory requirement under the Local Government Act 2000.

4.   One of the local innovations introduced from the ODPM Modular approach was to keep the "Articles" separate from the 'Essential supporting documents'.   The same are, of course, essential to make sense of the Articles and, in particular, the Executive, O & S, Regulatory, Standards, Ethical Framework and Corporate Governance arrangements of the largest local authority in Europe.   The task was not, however, a simple one, as relevant staff and Members needed to be consulted, in the short time available.

5.   The ODPM Modular Constitution, if fully utilised, would probably end up containing over 400 pages; whereas, the City Council's Constitution (i.e. the "Articles" - set out in Volume A) - amounts to 42 pages, along with the necessary provisions for the "current Municipal Year".   Volume A, therefore, represents only the "most" essential statutory requirements and Volume B sets out the "other" essential documents – some of which are also statutory - supporting the "Articles".

6.   Clearly, one of the major benefits of the current approach is that all relevant aspects of corporate governance and ethical framework arrangements are in one place and easily locatable for reference purposes.   The other benefit, of course, is that staff, members and citizens of Birmingham do not have to "search" or ask for information on the Constitution, as the whole of Volumes A & B are on the Council's website.   None of these benefits existed prior to May 2003 and 'new' members and officers are able to quickly learn, from one place, all the relevant aspects of the working arrangements of the Council and help to reduce learning curves for new members/officers.

7.   In view of Birmingham City Council's size and importance in being a role model for other local authorities on best practice re Corporate Governance & Ethical Framework issues, it was also right and proper that the City Council codified - as much as it was able to or needed to do - in order to assist common understanding for all Members, Officers and citizens of Birmingham.

8.   There is, therefore, no viable alternative or substitute for any "interested person", but to read the whole of Volumes A and B in order to understand how the Council operates.   Neither has anyone, so far, been able to identify the specific parts of the Constitution which are not essential or which parts of the existing arrangements should not be shared with members, officers or the citizens of Birmingham.

9.   To assist members, officers and the citizens of Birmingham to understand the Constitution, I   introduced an "FAQ approach" and produced "A Layman's Guide to the Constitution" (in August 2004) and "A Guide to Constitutional Issues Relating to District Committees". These are contained in Volume B for ease of reference.

# Members and the Full Council

### C. THE FIRST REVIEW OF THE CONSTITUTION

1.      Having completed the written Constitution in record time, the task of reviewing the same also becomes much easier to manage, as all the available material is present within the same.  The last review of the City Council's Constitution was carried out by a Members Working Group of Council Business Management Committee.  The composition of the Members Working Group consisted of Councillors Sir Albert Bore, John Cotton, Mike Whitby, Len Gregory, John Hemming and former Councillor Stewart Stacey.

2.      The Members Working Group met on 22 April 2004, 19 May 2004 and 2 June 2004.  In keeping with open and transparent principles, copies of the notes of the meetings were attached at Appendix 1 to the Report to Council Business Management Committee meeting held on 11 June 2004. Appendix 2 to the Council Business Management Report also highlighted the major key changes that were proposed to Volume A: The Constitution and Volume B : Essential Supporting Documents.  These changes were unanimously approved by the City Council at its Annual General Meeting on 29 June 2004.

3.      As the notes of the Members Working Group highlight, the Group considered what had worked well with regard to the Constitution; what had not worked well and how it could be improved; how Council Meetings could be changed; and whether Members of the Council understood the Executive / Constitutional Arrangements and how the understanding could be improved. Broadly speaking, therefore, it covered many of the common themes that are obvious in the current Overview & Scrutiny Review.

4.      With specific reference to Council Meetings, the role and remit of the same was considered as a "political forum" and the changes to the Constitution concluded that only the Statutory Policy Framework Plans and the Budget, along with the reserved matters under the Constitution - Article 4.  There also appeared to be little appetite for City Council Meetings being extended to questions (or contributions) from members of the public because of time constraints on length of Council meetings (5.5 hours, unless extended) and pressures on other Council business.

5.      The Members Working Group also felt that the 30 minutes allowed for oral questions was ample and there appeared to be an acceptance that a move to Cabinet Member "reports" - subject to appropriate time constraints and safeguards being imposed to avoid propaganda on Executive matters - would be worth revisiting in the future.

6.      It was also noted by the Working Group that the City Council had experimented with seminars / presentations on major issues in the Council Chamber, but there had been a "mixed reaction" to the same from backbenchers and other prominent Members.

7.      With the roll-out of executive powers under Devolution and Localisation of Services to District Committees, it was also felt by the Working Group that District and Ward Committees would become the most appropriate fora for public participation, as opposed to involvement by the public at the more formal settings of the City Council Meetings.

## D.      STATUTORY MINIMA

1.      In terms of the statutory requirements, the following should be noted:-

■       No more than 10 Members of the Council can be appointed to serve on the Executive;

■       There must be a Leader of the Council who – under our current Constitution - has the power to appoint the other 9 Cabinet Members;

■       There must be at least 1 Overview and Scrutiny Committee to scrutinise the work of the Executive;

■       There must be at least 1 Regulatory Committee to deal with regulatory matters;

■       There must be a Standards Committee to deal with Ethical Framework issues;

■       The Council must follow, maintain and keep up to date its Constitution;

■       The City Council must meet (at least once in a year) to set the Budget and to approve the Policy Framework Plans and Strategies;

■       The list of Policy Framework Plans listed in the current Constitution - and approved at the City Council AGMs - contains only the bare statutory minimum in order to allow the Executive the full range of powers permissible under the Local Government Act 2000;

■       The Council must have appropriate Standing Orders in place and must comply fully with the proportionality requirements with regard to any non-Executive Committees that it may establish;

■       The Council must comply with the Conflict Resolution Standing Orders and Employee Standing Orders (as contained in Volume B);

■       The Council must comply fully with the Access to Information provisions established by the Local Government Act, Local Authorities (Access to Information) Act 1985, Local Government Act 1972 and associated Regulations.  These include the Forward Plan requirements, access to meetings, the notice required for calling relevant meetings, the time allowed for call-in and the handling of urgent maters by the Executive.  For completeness, these have all been set out in Volume B, as not many members/officers/citizens would research (or remember after some time) the relevant statutory provisions;

■       The Members must abide by the Code of Conduct for Members and relevant Protocols approved by the Council;

- The Officers must, of course, abide by the Constitutional requirements; and
- The Council must appoint the three statutory officers – Head of Paid Service (Chief Executive), Monitoring Officer (Chief Legal officer) and the Section 151 Officer (Strategic Director of Resources) - with the duties set out in the Local Government & Housing Act 1989, as amended, and the Constitution.

2.      In addition to the above, the City Council and the Executive is entitled to delegate its functions to Cabinet Members and Officers.   The details of the various Executive Portfolio responsibilities, powers and duties are a matter for local choice and these are set out in Volume A, so as to ensure clarity for all concerned.   The details of the Terms of Reference of the Overview and Scrutiny Committees, District / Constituency Committees and the Regulatory Committees are, again, a matter of local choice and these are set out in Volume A.   The Standards Committee has statutory responsibilities with regard to the Ethical Framework for Local Governance.

3.      A Scheme of Delegation to Officers is a matter of best practice and local choice. This has been continuously developed over a number of years and is set out in Volume B.  Members and Officers are, of course, required to ensure they act within their delegations and in accordance with the legal and constitutional provisions (e.g. executive decisions based upon officer reports and the diligent recording of decisions on the executive decisions database for overview and scrutiny purposes).

4.      The Council Business Management Committee is not a statutory committee, but created as a matter of local choice, to deal with aspects that are not part of the Executive, Overview and Scrutiny or Regulatory arrangements.   It is with that in mind that the Council Business Management Committee also approves non-Executive "in-year" changes to the Constitution and took the lead role over ensuring that the constitutional arrangements, under the Local Government Act 2000, were put in place.

5.      Council Business Management also recommended the appropriate split of roles relating to those aspects which should be referred to the City Council (i.e. certain external appointments) and those which would be a matter for the Executive (i.e. Cabinet or Cabinet Member appointments). The Committee may know that Councillor Len Gregory and the Group Secretaries, with appropriate guidance from me, are looking to rationalise, in light of experience, the various anomalies and inconsistencies that appear to have emerged in the "dual" appointments process.

6.      As respects "titles" of Committees, that is a matter for local determination, so long as the terms of reference of the same do not circumvent the provisions of the Local Government Act 2000.  A "General Purposes Committee" title for the Council Business Management Committee, although permissible, can not mean that its existing terms of

reference can be extended to deal with "any general issues", as such matters are for the Executive under the 2000 Act.

**E.     THE ARTICLES OF THE CONSTITUTION (Volume A Table of Contents - Appendix A)**

1.    The "Articles" provide details with regard to specific duties, roles of Members, citizen involvement, role of the Full Council (including reserved matters for the Full Council) and chairing of the Full City Council meeting. The Articles also set out, where appropriate, references to conflicts of interest and the provisions of the Code of Conduct for Members, so as to ease comprehension for all.

2.    The Articles also set out the functions of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer.   Article 13, in particular, sets out the decision-making processes enshrined by the Local Government Act 2000, in relation to "key decisions", and provides the locally determined thresholds and the <u>statutory</u> criteria for significant impact on two or more Wards.    Members may recall that the Government was asked, last year – as part of the determination of "Key Decisions" debate for District Committees -   to remove the statutory definition regarding two or more Wards, as it was seen (and still has the potential) to slow down Birmingham's Devolution & Localisation of Services.

3.    Flexibility was felt essential for Birmingham and, as such, the Articles allow the Executive and the Council Business Management Committee (in respect of non-Executive matters) to make necessary "in-year" changes to the Constitution.  Any substantial changes (based upon advice from me) will, of course, still require City Council approval.   Members will know, therefore, that some in-year changes were made, in 2003 and 2004, to reflect Devolution and, in 2005, the City Council agreed a change to "key decisions" with regard to creating a 'gateway' for all procurement contracts.  This level of flexibility for a "living constitution" is essential in my opinion, as it also avoids minor changes clogging up City Council meetings.

4.    The Articles are unlikely to change during the year or between years, whereas many aspects of Volume A : Part 2 (Constitutional Arrangements for the current Municipal Year) would be the subject of debate and approval at each Annual General Meetings.  The intention has, therefore, been to refer only those aspects that change (from year to year) to City Council AGM for approval and to obviate the need for "full" re-approval of documents that have not changed.   This is not only an environmentally sustainable strategy - as it reduces circulation of paper – but it also avoids Members and Officers precious time "revisiting" approved documents that have not changed.

5. As indicated earlier, with regard to Cabinet Member Portfolio holders, even though there is local determination of what is to be contained in the same, there are Regulations which prohibit the Executive from undertaking any Overview and Scrutiny arrangements (and vice-versa) or for dealing in matters that are reserved to the City Council itself, the Standards or the Regulatory Committees (and vice versa). Each Cabinet Member Portfolio has been developed, over the last three years, from the "old" Advisory Team structures and "in-year" executive changes are a matter for the Executive; even though the same are also ultimately approved at the following AGM of the Council.

6. The Roles and Responsibilities for Members (set out at Volume A, Part 2) were a new innovation and introduced at the AGM in June 2004. Members will know that Birmingham's Independent Remuneration Panel want the City Council to develop these further into a Performance Management Framework for Members. This recommendation was accepted by the City Council, in January 2005, and the Deputy Leader and I - via the Council Business Management Committee - will report further on this matter, during 2005.

7. The Roles and Responsibilities (deliberately not called "Job Descriptions" because of strong views from some members) relate, mainly, to those who are in receipt of Special Responsibility Allowance. The Roles & Responsibilities include the Leader of the Council, the Cabinet Members (including the Deputy Leader), Chairs of Overview and Scrutiny Committees (including the special position of Chair of Co-ordinating O & S Committee), Chairs of Regulatory Committees, Chairs of District Committees and Vice-chairs of Committees. There is also a generic Roles and Responsibilities for Backbench Members

## F.     ESSENTIAL SUPPORTING DOCUMENTS (Volume B Table of Contents - Appendix B)

1. As can be seen from the Table of Contents for Volume B, it sets out the Standing Orders and other essential procedures of the City Council, the Codes of Conduct, the Protocols and related guidance, and other internal working practices. All are "essential" and the "organisational glue" that ensures the effective and efficient running of a large organisation. The two Volumes are, therefore, an integral part of the Corporate Governance and Ethical Framework of the City Council and help to ensure everyone – especially citizens – know the "ground rules" by which the City Council operates.

2. I am also sure that the District Auditor would have major concerns - from a Corporate Governance perspective - if the City Council did not have all of those aspects covered in Volume B. Some of the Protocols and Codes of Conduct are, of course, at the leading edge of best practice in local government and I would have grave concerns, from a Monitoring Officer perspective, if Volume B was divorced from Volume A or fundamentally diluted.

## G.    CHAIRMAN'S OTHER ISSUES

1.    The Chairman raised some of the following points at the December 2004 Overview and Scrutiny Committee meetings:-

- Role of the City Council and the frequency of Council Meetings;
- Policy Framework Plans and Budget – using the City Council as a debating chamber on draft policies prior to the Executive recommending the same for approval;
- "State of the City" debate and the possibility of debating other "topical issues of the day" or "General Purposes" type items;
- Possible Executive Member Briefings / Chief Executive Briefings / Fire, Police and Transport Authority Briefings at City Council Meetings;
- Petitions – whether there should be rules on speeches;
- "Ten-minute rule" for Members - whether this should be considered;
- Secret voting by Members - whether this should be considered;
- A Suggestion Scheme for Members;
- The need to expand the criteria for call-in; and
- Scrutiny of Chief Officer decisions under the Scheme of Delegation to Officers.

### (i)    Chairman's City Council Aspects

2.    Article 4 of the City Council's Constitution includes the statutory minimum and the expanded role of the full City Council meetings.  The Article is attached as **Appendix C** to this paper.    The reserved functions are set out in Article 4.2.

3.    As highlighted in Article 4.1 (a), the Full City Council cannot dictate to the Executive how it operates or seeks to operate, in accordance with the law, in respect of any powers, duties and functions delegated to the Executive **by** the Local Government Act 2000 and related Regulations or statutory guidance.  The City Council is, however - subject to the operation of Conflict Resolution Procedures - "supreme" with regard to the Policy Framework Plans and the Annual Budget.

4.    The existing Policy Framework Plans listed in Volume B : Part 2 (**Appendix D**) are the bare statutory minimum that must be determined by the City Council.  There are, however, no statutory provisions with regard to 'what' the City Council can extract or specify with regard to any "approved" Policy Framework Plans and, as such, it is open to the Full City Council Meeting to determine the content and detail of the Policy Framework Plans – including, it follows, if approved, any caveats /

conditions relating to the same. **Appendix D** also sets out some questions that the Committee may wish to consider in terms of reviewing the current list of Policy Framework Plans.

5. If the City Council felt, therefore, that certain aspects contained within any Policy Framework Plan "must" be referred back to the City Council for a debate or a decision, before any such action/step was implemented by the Executive, the City Council could, legally, extract or stipulate such provision, subject only to the Conflict Resolution Procedures being triggered, before the City Council approved the Policy Framework Plan. If such a provision were to be contained in a Policy Framework Plan, the Executive would have to comply with the same. This "inherent power" does not, of course, extend to matters outside of the Policy Framework Plans and any aspects not covered by the Budget must, of course, be brought back to the City Council for approval.

6. In terms of the process, an appropriate amendment would have to be moved to a motion which had the effect of asking the Executive to consider amending the Draft Plan and, on the second occasion, the City Council would be free to impose such an amendment if the Executive had declined to incorporate the same.

7. Even though a minimum list of Policy Framework Plans is provided for by statute, there is, of course, nothing to prevent the City Council from including other major plans and strategies which would require full City Council approval. The list cannot, however, be reduced below the statutory minimum. There have, however, been changes to the statutory minimum list over the last 3 years and not all Plans are annual ones. Some Plans have, therefore, been removed from the list by the Government in an effort to reduce "red tape" for local government.

8. As indicated earlier, the City Council need only meet once in a year and the Standing Orders are a matter of local choice. The Council may, therefore, adjust the frequency and length of meetings. The public could also be allowed to ask questions, if sufficient written notice was given and within a pre-determined time for responding to the question (in writing or orally). Cabinet Members / chairs of committee could also be required to present their annual work priorities and action plans etc or give updates on the same, within a rota, time prescribed debate and sequence determined by the Council Business Management Committee, if the City Council approved the same.

9. There is, therefore, sufficient legal and constitutional flexibility, in my opinion, for the City Council to extract a more "powerful" role for itself (but not so as to breach any of the provisions of the Local Government Act 2000) should the City Council wish to do so. So far, of course, the City Council has not sought to do so. The statutory Conflict Resolution Procedures (Volume B) would, of course, be triggered in the event of there being a conflict between the Executive and the City Council.

10. One net effect of the foregoing would be that the City Council may wish to insist (through a change in the Budget and Policy Framework Procedure Rules : Volume B, Part 2 (E)) that any "draft" of any specified

Policy Framework Plan must be referred, by the Executive, to the City Council for a debate at the Full City Council prior to it being brought back to the full City Council for formal approval. Under such a mechanism, the City Council would have two opportunities to debate the Plans. This more inclusive approach around Policy Framework Plans, as is evident from the recent Economic Strategy, may also help the Council to engage backbenchers and citizens in the earlier drafts.

11. A balance would, of course, have to be struck between the additional "logistical" constraint imposed on the Executive – in terms of extra time/cost considerations of bringing Framework Plans "forward" – and any perceived or real benefits to members/officers/citizens in moving to such an approach.

12. In terms of the current Standing Orders and frequency of Council Meetings, these have been in place for a number of years and, over the last couple of years, only minor changes have been introduced to reflect experience as opposed to a fundamental overhaul of the same. On the whole, the Standing Orders operate effectively in ensuring an orderly conduct of the meeting; although it is clear to me that many Members do not appreciate the distinction between a "personal explanation" and a "point of order", even though the detail is sufficiently clear in the relevant Standing Order. On a couple of occasions, certain Members have sought to interject in the debate to make a "point of information". Standing Orders do not recognise such interjections.

13. There is also no provision for a Member to "give way" – as in Parliament - during a debate to another Member who may wish to impart essential (and relevant) information into that precise moment of the debate. Currently, the relevant Member would have to make the points if s/he indicates to me (or the Lord Mayor) a desire to speak on the debate and the Lord Mayor exercises his right to call the member within the time allowed for the debate.

14. "Rules on Petitions", "Ten-minutes Rule" "Secret Voting", and a "General Issues" type item could all be considered as changes to existing Standing Orders, as these are matters for local determination, assuming always that the changes do not circumvent the provisions of the Local Government Acts and do not undermine open and transparent decision-making.

## (ii)    Chairman's other Aspects

15. As for suggesting changes to "Call-in" criteria, these can, within reasonable limits, be changed, as these are, again, matters for local determination and in light of experience, assuming always, again, that the same do not circumvent the provisions of the Local Government Acts and do not undermine open and transparent decision-making.

16. The actual Scheme of Delegation to Officers is, in my view, already open and transparent; even though the application of it may be less transparent to Members and citizens as decisions would be taken, in

private, by Officers.  It is, however, the subject of regular reviews by me and other Chief Officers.

17.  If the City Council was not entirely satisfied with the level or extent of some executive decisions delegated to Officers, the Scheme can be suitably changed.  The exercise of those delegations must, of course, be done in accordance with the law, the Constitution and relevant Standing Orders/Financial Regulations and Accounting Manuals & Procedures.

18.  There can be no Call-in of delegations exercised by officers under the Scheme, as the volume of operational management decisions that will need to be recorded will be enormous.  Chief Officers are, however, required, in keeping with open and transparent principles, to report their use of delegations to Cabinet Members. Such reports can then, quite legitimately, be the subject of scrutiny, even though the actual decisions of Chief Officers could not be overturned as they would have been made and, legitimately, acted upon, in accordance with the Scheme, some months in advance of the report to the relevant Cabinet Member(s).

19.  Subsequent to the December 2004 Committee meeting, the Chairman also asked, via the Head of Scrutiny, for this paper to cover Byelaws made over the last 20 years and the necessary powers/processes of the Council for making such byelaws. **Appendix E** sets out some background information on Byelaws, for completeness.


## H.    CONCLUSIONS


1.  I have sought to address all the relevant issues raised at the December 2004 meeting and I am hoping to talk to this paper at the 11 February 2005 meeting.

2.  The main conclusions of this paper are as follows:-

   a)    there is sufficient flexibility in the current statutory and local arrangements, which appear to have stood the test of time, even if the understanding of the same appears to be "patchy";

   b)    "In-year" changes can be made, via the Executive and the Council Business Management Committee to the existing arrangement. This level of flexibility is essential for success;

   c)    This current Overview & Scrutiny review, once approved by the City Council, will have to be taken forward by the Executive and the Council Business Management Committee.   I will also need to be properly consulted over any draft and final Overview & Scrutiny reports to ensure compliance with the relevant legislation;

   d)    Changes to the City Council Meeting will, in particular, need careful consideration by the Council Business Management Committee, as a balance will have to be struck between the need

for change, the proposed change, the pace of change and the management of current (and future) business of the City Council during the period of change; and

e) The Overview & Scrutiny Review should assist in furthering the understanding of the Constitution by relevant Members, Officers and the citizens of Birmingham.

**Mirza Ahmad**
**Chief Legal Officer**
1 February 2005

## Appendices

**A – Table of Contents of Volume A of The Constitution**
**B – Table of Contents of Volume B of The Constitution**
**C – Article 4 of the Constitution**
**D – Current Policy Framework Plans**
**E – General Note on Byelaws**

## Members and the Full Council

**APPENDIX A**

## VOLUME A
# THE CONSTITUTION

**For further information, please contact:**
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## VOLUME A
## THE CONSTITUTION

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**APPENDIX B**

# VOLUME B
## ESSENTIAL DOCUMENTS SUPPORTING THE CONSTITUTION

### For further information, please contact:
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## VOLUME B
## ESSENTIAL DOCUMENTS SUPPORTING THE CONSTITUTION

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# Members and the Full Council

**Part 4 –**     **Internal Working Practices**
    A.     A Layman's Guide to the Constitution
    B.     Overview and Scrutiny Guidance Notes
    C.     Current Management Structure
    D.     A Guide to Constitutional Issues Relating to District Committees
    E.     Cabinet Member Briefing

**Part 5 -**     **Other Relevant Information**
    A.     Best Practice Guidance on Conduct during a Procurement exercise (6/8/04)
    B.     Letter from the Provincial Grand Lodge of Warwickshire (2/8/04)
    C.     Letter from the Standards Board for England (4/10/04)

**Article 4 – The Full Council**

***Pre-amble:*** *The Local Government Act 2000 and associated guidance and regulations give the Council responsibility for approving the policy framework and budget.  The Council, as a whole, retains responsibility for regulatory functions and has a role in holding the Executive to account.  A list of the statutory and recommended plans and strategies which will make up the policy framework appears in the text.  The functions reserved for Council decision under Executive arrangements are also defined in this Article.*

4.1      **Meanings**

(a)      **Role of the Full Council.**  Pursuant to the Local Government Act 2000, the Full Council's primary role is to consider and approve the Council's Policy Framework and Annual Budget. In doing so, the Full Council acts as the all-member debating chamber on the Council's Policy Framework and Annual Budget matters. The Council's secondary role is to hold to public account the Members of the Executive, Overview & Scrutiny and Regulatory Committees. In addition, certain other functions have been reserved to the Full Council, by law; these are set out in Article 4.2 and beyond these aspects, the Full Council cannot dictate to the Executive how it operates or seeks to operate, in accordance with the law, in respect of any powers, duties and functions delegated to the Executive by the Local Government Act 2000 and related Regulations or statutory guidance.  The City Council's Standing Orders relating to Conflict Resolution (**Volume B Part 2 – Section A2**) sets out the relevant procedure in the event of a conflict between the Executive and the Council.

(b)      **Policy Framework.**  The Policy Framework means the plans or strategies to be approved by the Full Council and listed in **Volume B: Part 2** of this Document (including any amendments to, replacement of or updates to any such plans and strategies.

         The Cabinet's role in relation to these plans or strategies is to agree a draft of the same, which will then be referred to the full Council for approval.  No "call-in" of the same is, therefore, permissible as the ultimate decision on the same is reserved to the Council and is <u>not</u> an Executive decision.

(c)      **Budget.** The budget includes the allocation of financial resources to different services, departments, functions and projects, proposed contingency funds, the council tax base, setting the council tax, control of the Council's borrowing requirements, the control of its capital expenditure and the setting of any virement limits.

         As with the Policy Framework plans and strategies, no "call-in" of the same is permissible as the ultimate decision on the same is reserved to the Council and is <u>not</u> an Executive decision.

(d)      **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land

used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2     **Functions reserved to the full Council**

Only the full Council will exercise the following functions:

(a)     adopting and approving changes to the Constitution on an annual basis and subject to any delegated powers granted to the Executive and the Council Business Management Committee to make any necessary "in-year" changes for operational effectiveness and efficiency reasons;

(b)     approving or adopting the Policy Framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

(c)     subject to the urgency procedure contained in the Access to Information Procedure Rules in **Volume B: Part 2** of this Document, making decisions on matters which could have been (but were not) covered by the Budget and Policy Framework;

(d)     electing the Leader of the Council, usually, on an annual basis or as and when required;

(e)     agreeing and/or amending (on an annual basis and subject to any delegated powers granted to the Executive and the Council Business Management Committee to make any necessary "in-year" changes for operational effectiveness and efficiency reasons) the terms of reference for committees, deciding on their composition and making appointments to them;

(f)     appointing representatives to outside bodies unless the appointment is an Executive function or has been specifically delegated by the Council;

(g)     adopting and approving, under the Members Allowances, an allowances scheme under Article 2.5;

(h)     changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;

(i)     confirming the appointment of the Head of Paid Service;

(j)     making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private Bills;

(k)     providing an opportunity (at each ordinary meeting of the City Council, save for the Budget Setting Council Meeting) for Members to ask questions (either in writing or orally without notice) of any Member of the Executive, Chairs of Committees and the Council's representatives on the West Midlands Joint Authorities;

(l)     receiving and considering reports referred to it from the Overview and Scrutiny Committees, the Council Business Management Committee and the Standards Committee; and

(m)     all other matters which, by law, must be reserved to Council.

4.3     **Council meetings**

There are three types of Council meeting:

(a)     the Annual General Meeting;
(b)     ordinary meetings;
(c)     extraordinary meetings.

and they will be conducted in accordance with the Council Standing Orders set out in
**Volume B: Part 2** of this Document.

## Appendix D: Current Policy Framework Plans – Position Statement

| Policy Framework Plans & Strategies | Current or Working title : | Still required ? |
|---|---|---|
| Annual Library Plan | Library Position Statement | Yes  - until 2005/06 |
| Best Value Performance Plan | Performance Plan (appendix to the Council Plan) | Yes – Statutory annual requirement |
| Children's Services Plan | Children and Young People's  Strategy 2004-2010 | Yes – framework for other plans – produced by the Children and Young People's Strategic Partnership |
| Community Care Plan | | No longer required by law |
| Community Strategy | Birmingham Forward | Yes - Statutory requirement |
| Corporate Plan | The Council Plan 2005+ | Yes |
| Crime and Disorder Strategy | Crime and Disorder Reduction Strategy | Yes – ODPM guidance suggests merging with Drug Action Team Strategy |
| Early Years  Development Plan | Sure Start Plan 2004-06 | Yes – prepared by the Birmingham Early Years Development and Childcare Partnership – to 2006 only |
| Education Standards Strategy (Education Development Plan) | Education Plan | Yes, but not a statutory requirement after 2006 |
| Food Law Enforcement Plan | Food Law Enforcement Plan | Yes |
| Health Improvement  Programme | | No longer required by law |
| Housing Investment Programme | Housing Investment Programme | Yes – forms part of our overall Housing Strategy |
| Lifelong Learning Development Plan | Adult Learning Plan | Yes |
| Local Agenda 21 Strategy | Living Today with Tomorrow in Mind | No longer required by law |
| Local Transport Plan | West Midlands Local Transport Plan | Yes |
| Quality Protects  Management Action  Plan | | No longer required by law |
| Unitary Development Plan | Local Development Framework | Yes |
| Youth Justice Plan | Youth Justice Plan | Yes – within structure of Children and Young People Strategy |
| Licensing Act 2003 Policy | Statement on Licensing Policy | Inserted by Council – December 2004 |

# Members and the Full Council

Some questions that the Overview & Scrutiny Review might wish to consider regarding the Policy Framework Plans and Strategies:-

- Which plans and strategies should form the backbone of our Policy Framework and why?

- What are the connections between them and what are the distinctions between them?

- What improvements could we make?

- Who owns them – who is responsible?

- When should we develop and scrutinise them – and what improvements can we make to the process?

- Should our policy framework set short (i.e. annual) or medium (i.e. 3+ years) direction?

**APPENDIX E**

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**A      General Note on Byelaws**

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The Office of the Deputy Prime Minister gives advice in respect of byelaws and Home Office Circular 25/1996 provides general advice on the confirmation of Local Authority byelaws. It states that the Home Office will concentrate on the following issues when considering an application to confirm byelaws:

- it will not duplicate or approve any byelaws that conflict with the general law, any other existing byelaws, local Acts or the common law;

- the nuisance sought to be addressed must merit criminal sanctions and that the penalty available is reasonable and proportionate;

- the byelaw directly addresses a genuine and specific local problem and does not attempt to deal in general terms with essentially national issues; and

- the byelaw does not conflict with Government policy and must be in accordance with any model byelaws issued by any government department. Clearly, any that depart from the Model are unlikely to be approved or, if they are, there must be a substantial reason for departing from any Model.

The net effect of the last provision is that there are likely to be substantial delays in trying to convince relevant government departments that there are genuine reasons to depart from the Model byelaws and, as such, it is unlikely to be worth officer time and effort arguing for any variations to the Model byelaws.

Many of our existing considerations of proposed byelaws (for example, proposals for control of litter, fly-posting and graffiti, hackney carriages and control of establishments for massage, manicure etc) are likely to struggle to overcome the above points, are all already regulated by legislation and some may be considered to duplicate the general law.

Circular HO 25/1996 also states that the Home Secretary will not normally be prepared to confirm byelaws on subjects which he considers not to merit criminal sanctions such as persistent canvassing and leaflet distributing. Consequently, proposals for any byelaws on garden bonfires, designating of animal free play areas and forcing householders to install / maintain security gates and bollards may fail to secure confirmation from the Home Secretary.

## B        Alternative to Byelaws

An alternative to byelaws would be to seek the introduction of a 'Birmingham Act'. This would overcome many of the problems faced in seeking to introduce new byelaws such as duplication with general legislation and the nuisance not warranting criminal sanctions. Houses of Parliament will, of course, have to approve the same and there is a very lengthy process for the same, which is dependant upon Parliamentary time being available, appropriate support from MPs, especially local MPs and the appointment of Parliamentary Agents, based in London, to ensure the drafting, oversight and smooth passage of the whole process.

The cost/time is likely to be on the high side and if various local authorities combine, it may be more worth while in pursuing this option. A recent Nottingham Act, for example, cost around £150,000 and there are 'House reading fees' of £4000 for each reading and printing costs.  For a Newcastle Act, it took about 3 years to achieve.

## C        Procedure for making byelaws

- Local Authorities must have the relevant legal power to make byelaws.  Some legal powers are listed below:-

| Byelaw | Enabling Power |
|---|---|
| Good rule and government and the prevention and suppression of nuisances | Local Government Act 1972 (section 235) |
| Public walks and pleasure grounds | Public Health Act 1875 (section 164) |
| Open spaces and disused burial grounds | Open Spaces Act 1906 (sections 12/15) |
| Pleasure fairs, amusement premises etc. | Public Health Act 1961 (section 75) as amended by section 22, Local Government (Miscellaneous Provisions) Act 1976 |
| Seashore and promenades | Public Health Acts Amendment Act 1907 (sections 82 and 83) |
| Public bathing | Public Health Act 1936 (section 231) |
| Markets | Food Act 1984 (section 60) |
| Hairdressers and barbers | Public Health Act 1961 (section 77) |

- Before the byelaws can come into effect, they must be approved by the City Council, advertised in accordance with the rules for the same and confirmed by a Secretary of State.  The current confirming Authority is the Office of the Deputy Prime Minister (ODPM).

- The procedure for making byelaws is governed by Section 236 of the Local Government Act 1972.  Notice of the intention to apply for confirmation should be given in one or more local newspapers, at least one month before the application is made.  A copy of the byelaws has to be deposited at the offices of the Authority for

at least one month before the application for confirmation is made, and it should be open to public inspection without payment at all reasonable hours. The period of deposit, cannot begin until the byelaws have been sealed by the Authority.

- Under section 236 (6) the Authority must provide any person who applies with a copy of the byelaws or copy of relevant part. The Authority can charge no more than 10 pence for every 100 words contained in the copy supplied.

- Application to the ODPM for confirmation should not be made until the month deposit has expired. Two sealed documents are required by the Department. The application should state that a copy of the sealed byelaws has been deposited for a full calendar month since publication of the newspaper notification. A photocopy or clipping of the newspaper(s) should also be enclosed.

- If no objections have been received, the byelaws will normally be confirmed and returned within 2 weeks. Where objections have been received, copies may be forwarded for the Council's comments before a decision is taken. In contentious cases, it is open to the Secretary of State to order a public inquiry to be held. Such inquiries are rare.

- When the byelaws are confirmed, the Secretary of State may fix the date upon which they are to come into force. This will normally be one month from the point of confirmation, unless there are special circumstances. If there are special circumstances, a request and reasons should accompany the application.

**D        City of Birmingham Byelaws (since 1972)**

| Series No. | Subject | Date | Remarks |
|---|---|---|---|
| 110. | Regulation of Offensive Trade | 10 March 1972 | Replaces 102 |
| 117. | Good Rule and Government (Skateboarding) | 1 January 1979 | |
| 118. | Land and Drainage Bye-laws (Severn Trent Water Authority) | 25 May 1979 | |
| 119. | Fisheries Bye-law (Severn Trent Water Authority) | 1 January 1980 | |
| 120. | Wholesale Markets | 1 February 1980 | |
| 121. | Bye-laws re: Repealing Hackney Carriage Bye-laws | 9 May 1980 | |
| 122. | Violent Behaviour on Educational Premises | 28 October 1981 | Repeals 95 |
| 123. | Acupuncturists (Cancelled See 128) | 1 July 1983 | |
| 124. | Tattooists (Cancelled see 127) | 11 November 1983 | |
| 125. | Employment of Children.  Children and Young Persons Act 1933-1963 | 1 January 1984 | |
| 126. | Land Drainage Bye-laws | 27 October 1983 | |
| 127. | Tattooing | 1 September 1985 | Repeals 124 |
| 128. | Acupuncturists | 1 September 1985 | Repeals 123 |
| 129. | Ear Piercing and Electrolysis | 1 September 1985 | |
| 130. | Nuisances by Dogs | 11 September 1985 | Repeals 53 |
| 131. | Hairdressers and Barbers | 1 May 1989 | |
| 132. | Skateboarding | 3 November 1997 | |
| 133. | Public Libraries | 21 May 1998 | |
| 134. | Employment of Children | 18 September 1998 | |
| 135. | Country Parks and Picnic Sites | 1 December 1999 | |

# Members and the Full Council

## Additional Information - Sample Byelaw

## Country Parks and Picnic Sites

Byelaws made by Birmingham City Council under Section 41 of the Countryside Act 1968, with respect to Country Parks.

### Interpretation

1.          In these byelaws:

"the Council" means Birmingham City Council;
"the land" means Woodgate Valley and Sheldon Country Parks.

### Vehicles

2.     (1)     No person shall, without reasonable excuse, ride or drive a cycle, motor cycle, motor vehicle or any other mechanically propelled vehicle on the land, or bring or cause to be brought on to the land a motor cycle, motor vehicle, trailer or any other mechanically propelled vehicle (other than a cycle), except on any part of the land where there is right of way for that class of vehicle.

        (2)     If the Council has set apart a space on the land for use by vehicles of any class, this byelaw shall not prevent the riding or driving of those vehicles in the space so set apart, or on a route, indicated by signs placed in conspicuous positions, between it and the entrance to the land.

        (3)     This bylaw shall not extend to invalid carriages.

        (4)     In this byelaw:

"cycle" means a bicycle, a tricycle, or a cycle having four or more wheels, not being in any case a motor cycle or motor vehicle;

"invalid carriage" means a vehicle, whether mechanically propelled or not, the unladen weight of which does no exceed 150 kilograms, the width of which does no exceed 0.85 metres and which has been constructed or adapted for use for the carriage of one person, being a person suffering from some physical defect or disability and is used solely by such a person.

"motor cycle" means a mechanically propelled vehicle, not being an invalid carriage, with less than four wheels and the weight of which unladen does not exceed 410 kilograms;

"motor vehicle" means a mechanically propelled vehicle, not being an invalid carriage, intended or adapted for use on roads;

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"trailer" means a vehicle drawn by a motor vehicle, and includes a caravan.

Climbing

3.       No person shall, without excuse, climb any wall or fence on or enclosing the land, or any tree, or any barrier, railing, post or other structure.

Removal of structures

4.       No person shall, without reasonable excuse, remove from or displace on the land any barrier, railing, post or seat, or any part of any structure or ornament, or any implement provided for use in the laying out or maintenance of the land.

Camping

5.       No person shall on the land, without the consent of the Council erect a tent or use any vehicle, including a caravan, or any other structure for the purpose of camping, except on any area which may be set apart and indicated by notice as a place where camping is permitted.

Fires

6.       (1)       No person shall on the land intentionally light a fire, or place, throw or let fall a lighted match or any other thing so as to be likely cause a fire.

         (2)       This byelaw shall not prevent the lighting or use of a properly constructed camping stove or cooker in any area set aside for the purpose, in such a manner as not to cause danger or damage by fire.

7.       No person shall on the land, without the consent of the Council, sell, or offer or expose for sale, or let hire, or offer or expose for letting to hire, any commodity or article.

Protection of wildlife

8.       (1)       No person shall on the land intentionally kill, injure, or disturb any animal or fish, or engage in hunting, shooting or fishing, or the setting of traps or nets, or the laying of snares.

         (2)       This byelaw shall not prohibit any fishing which may be authorised by the Council.

Grazing

9.       No person shall, without the consent of the Council, turn out or permit any animal to graze on the land.

Gates

10.     Where the council indicates by a notice conspicuously exhibited on or alongside any gate on the land that leaving that gate open is prohibited, no person having opened that gate, or caused it to be opened, shall leave it open.

Watercourses

11.     No person shall knowingly cause or permit the flow of any drain or watercourse on the land to be obstructed or diverted, or open, shut or otherwise work or operate any sluice or similar apparatus on the land.

Pollution of waterways

12.     No person shall intentionally, carelessly or negligently foul or pollute any waterway comprised in the land.

Bathing

13.     No person shall, without reasonable excuse, bathe or swim in any waterway comprised in the land, except in an area where a notice exhibited by the Council permits bathing and swimming.

Boats

14.     No person shall operate or sail on any waterway comprised in the land any boat which is not for the time being registered with the Council. Such registration shall be effected by the Council upon written application by the owner of a boat, by:

    (a)     entering in a register kept by a duly authorised office of the Council the name and address of the owner, a general description of the boat and the serial number of the registration; and

    (b)     issuing to the owner a certificate of registration incorporating these particulars.

15.     (a)     Where any part of the land has, by notices placed in conspicuous positions on the land, been set apart by the Council as an area where horse-riding is permitted, no person, shall, without the consent of the Council, ride a horse on any other part of the land.

        (b)     No person shall on the land intentionally or negligently ride a horse to the danger of any other person using the road.

Obstruction

16.     No person shall on the land:

    (a)     intentionally obstruct any officer of the Council in the proper execution of his duties;
    (b)     intentionally obstruct any person carrying out an act which is necessary to the proper execution of any contract with the Council; or

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(c)     intentionally obstruct any other person in the proper use of the land, or behave so as to give reasonable grounds for annoyance to any other persons on the land.

Savings

17.    (1)     An act necessary to the proper execution of his duty on the land by an officer of the Council, or any act which is necessary to the proper execution of any contract with the Council, shall not be offence under these byelaws.

       (2)     Nothing in or done under any of the provisions of these byelaws shall in any respect prejudice or injuriously affect any public right of way through the land, or the rights of any person acting legally by virtue of some estate, right or interest in, over or affecting the land or any part thereof.

Penalty

18.    Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

THE COMMON SEAL OF                           )
BIRMINGHAM CITY COUNCIL                   )
Was hereunto affixed                              )
in the presence of                                   )

*Gerry Sheedy*

Solicitor

| DETR 1674 |
| --- |
| The foregoing byelaws are hereby confirmed by the Secretary of State for the Environment, Transport and the Regions and shall come into force on 1 December 1999 |

Susan Carter

| Signed by authority of the Secretary of State | A Grade 5 in the Department of the Environment, Transport and Regions |
| --- | --- |
| 4 October 1999 |  |

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# Appendix 5   Background Documents

1       Strengthening Local Democracy - Making the Most of the Constitution, by Steve Leach (De Montfort University, Leicester), Chris Skelcher (INLOGOV, University of Birmingham), Claer Lloyd-Jones (Association of Council Secretaries and Solicitors),Colin Copus, Eileen Dunstan, Declan Hall, Frances Taylor (INLOGOV), published by the Office of the Deputy Prime Minister in July 2003

2.      Operating the New Council Constitutions: A Process Report,  by Stoker, G, Gains, F, John P., Rao, N and Harding, A., published by ODPM, 2004

3.      Report of the Independent Remuneration Panel, Birmingham City Council, November 2004

4.      New Council Constitutions: guidance to English Authorities, published by the Office of the Deputy Prime Minister in October 2000

5.      Birmingham City Council constitution

6.      Bristol City Council constitution

7.      Coventry City Council constitution

8.      Leeds City Council constitution

9.      Manchester City Council constitution

10.     Nottingham City Council constitution

11.     Suffolk County Council constitution

12.     Wolverhampton City Council constitution

13.     Members' A to Z, June 2004, Birmingham City Council

14.     Strategic Director Local Services' briefing note on support to Councillors in the devolved district structures, Co-ordinating O&S Committee, Friday 11 February 2005.

15.     Chief Legal Officer's e-mail to the Chair, Co-ordinating O&S Committee, following the Committee meeting of 11 February 2005

16.     Practice in the Core Cities, internal working paper, Scrutiny Office, Birmingham City Council, 2004