

## Section 5

**The following Terms of Reference of the Council and its Committees takes into account the above separation of and responsibility for functions.**

### 1. Council

#### Meetings of the Council

1. Is the ultimate decision making Body.
2. Determines the political Management Structure and any subsequent amendments to it.
3. Determines the Budget (but reserves powers to itself in relation to requirements).
4. Is responsible for appointing (and dismissing) the Leader of the Council, the Deputy Leader of the Council and other Members of the Cabinet.
5. Appoints at its Annual Meeting, the Cabinet, Regulatory Committees, the Scrutiny Committees and any other Committees/Forums necessary to conduct the Council's business.
6. Decides on matters where the Cabinet is not minded to determine a matter in accordance with Council policy.

#### Matters Reserved to the Council

1. Those reserved by Law e.g. levying a rate, borrowing money, promotion of or opposition to a Bill in Parliament.
2. Matters reserved to the Council by financial regulations.
3. The adoption and amendment of Standing Orders, requiring the approval of the Secretary of State or a Minister of the Crown.
4. The making of any Bye-Laws, Rules or other regulations requiring the approval of the Secretary of State or a Minister of the Crown.
5. The determination of the objectives of the Council.
6. Matters of new policy or variation of existing policy or the allocation of resources.
7. Local Plan adoption.
8. Any function where a decision would be contrary to a plan, policy, budget or strategy previously adopted by the Council, which would be contrary to the Council's Standing Orders, Financial Regulations or Cabinet arrangements.



9. The Scheme of Delegations to Officers so far as it relates to functions that are not executive functions.
10. Electoral arrangements and local authority boundaries, including changing the name of a Parish.

## **2. Committees - General**

Subject to the above reservations, the acts and proceedings of all Committees within the powers and duties set out as follows shall be the acts and proceedings of the Council, provided that such acts and proceedings are exercised in accordance with:

1. Statutory provisions.
2. Standing Orders of the Council.
3. Financial Regulations.
4. Policies previously determined by the Council.

## **3. Committees:**

1. Shall monitor the effectiveness and relevance of their services and policies and practices and, where deemed necessary, bring forward proposals for changing policies or practices.
2. May provide a viewpoint on the relevance and effectiveness of current spending patterns and proposals for changing these (including proposals for the funding of new or improved services through savings achievable by reducing or eliminating existing lower priority services).
3. Shall be deemed to have authorised the affixing of the Common Seal of the Council to all deeds and documents necessary for carrying into effect delegated powers.
4. Shall be authorised to amend their Terms of Reference to take account of amending legislation.

## **4. The Cabinet**

To Guide the Council in the formulation of its policy framework, including the setting of the budget and Council tax levels.

To discharge in accordance with the Council's policy framework all those executive functions not discharged either by a cabinet member or through delegations to officers.

The Cabinet has the power to create ad hoc Cabinet task and finish groups (review groups) involving non-Cabinet members to provide advice/recommendations to the Cabinet.



## Advisory Functions

To advise the Council on:-

1. matters arising to the formulation of the policy framework
2. matters relating to the financial affairs of the Council including:-
  - a) council tax levels;
  - b) capital and revenue budgets
  - c) financial regulations.
3. matters requiring a decision outside of the Council's adopted policy framework

### 5. The Overview and Scrutiny Committee

1. Reviews the policies of the Council and the Cabinet and recommends to the Council or the Cabinet:
  - (i) Whether any new policies are required.
  - (ii) Whether any existing policies are no longer required.
  - (iii) Whether any changes are required to any existing policies.
  - (iv) Whether any action is required to make the policies more effective.
2. Reviews the discharge of Cabinet functions, and recommends to the Council or the Cabinet:
  - (i) Whether any action should be taken to improve the economy, efficiency and effectiveness of those functions.
  - (ii) Whether any action should be taken to improve the co-ordination of the various functions within the Authority, or with any other person or body.
  - (iii) Whether the function should continue to be discharged or be discharged in another way.
3. Reviews any decisions or proposed decisions of the Council and of the Cabinet. In undertaking such reviews, the Overview and Scrutiny Committee shall in particular consider:
  - (i) Whether the relevant criteria were used.
  - (ii) Whether the decision is in accordance with the budget and policy framework of the Council.
  - (iii) Whether the decision or action was within the powers of the Authority.
  - (iv) Whether the decision was lawful.



- (v) Whether the decision contributes to the efficient, effective and economic discharge of the function.
4. Recommendations should all take account of the following:
    - (i) Whether the decision should be reconsidered, and if so, what alternative decision should be taken.
    - (ii) Whether the proposed decision should be taken or taken in a different form.
    - (iii) Whether any further action should be taken in the experience of that decision to ensure proper or better implementation of decisions.
    - (iv) Whether any further actions should be taken in the experience of that decision to improve the manner or quality of decision-making for the future.
  5. Considers any matters which affect the Council or its administrative area or the inhabitants of that area and makes recommendations to the Council or the Cabinet arising from that consideration.
  6. External Partners
 

Reviews the performance and effectiveness of the Council's external partner organisations, including the duty to scrutinise the local Crime and Disorder Reduction Partnership.
  7. Review Panels
 

Establishes time limited Review Panels which focus upon specific issues of concern raised by Members through a Scrutiny Proposal Form, consider evidence, and subsequently make recommendations to the Overview and Scrutiny Committee. A protocol for the establishment of Review Panels is attached as Appendix C at section 10 of the Constitution.
  8. Review the Forward Plan
 

Regularly reviews the Forward Plan with a view to deciding which, if any, forthcoming items require consideration.
  9. Sets and agrees an Annual Work Programme and prioritises the work of the Committee.
  10. Ensures consideration is given to encouraging public participation and engagement in functions of the Committee.
  11. Ensures that the views of any invitees and co-opted Members (where appropriate) are taken into account when conducting investigations.



12. Monitors the implementation of scrutiny recommendations.
13. Reviews and scrutinises relevant public bodies and partners in the District, including the Council's contribution and relationship with them. Where necessary, requesting them to address overview and scrutiny about their activities, performance, particular decisions, initiatives or projects.

## 6. Planning Committee

1. Determines planning and related applications, other than those which depart materially from the Development Plan, and makes representations on planning applications to be determined by the County Council and neighbouring authorities.

Is responsible for:-

2. All matters relating to conservation areas (other than designation), tree preservation orders, hedgerows, building preservation notices, advertisement control (other than designation of Special Areas of Control), listed buildings, footpath diversion and stopping up and related matters.
3. Administration and enforcement of the Building Act 1984 (as amended), Building Regulations and allied functions.
4. Section 106 and 106A of the Town and Country Planning Act 1990 and the making and modification or discharge of planning obligations and undertakings.
5. Decisions on the methods of appeal.
6. Such other matters as may be referred to this Committee by the Council, Cabinet or Scrutiny Committees.

Exercises the Council's functions under Parts VII and VIII of the Town and Country Planning Act 1990, as set out below, and any subsequent amending and complementing legislation and in particular authorises:-

*(All sections referred to are contained in the Town and Country Planning Act 1990 unless specifically stated).*

1. The issue of the following notices: -

• Section 172	Enforcement Notice
• Section 171E	Temporary Stop Notice
• Section 183	Stop Notice
• Section 187	A Breach of Condition Notice
• Section 187B	Injunction
• Section 215	Maintenance of Waste Land Notice
• Section 38 Planning (Listed Buildings and	Listed Buildings and Conservation Areas



Conservation Areas) Act 1990	
<ul style="list-style-type: none"> <li>Section 24 Planning (Hazardous Substances) Act 1990:</li> </ul>	Hazardous Substances Contravention Notice.

2. Prosecution proceedings for breach of the Notices listed in 1. above and for breach of:-

- Section 210 Tree Preservation Orders
- Section 224 Advertisement Regulations

3. The issue of the following:-

- Section 171C Planning Contravention Notices
- Section 330 Requests for Information.

4. Prosecution proceedings for non-compliance with Notices and/or Requests listed in 3. above and/or for making mis-statements/false/misleading statements in complying with the Notices and/or Requests (Section 171D and 330).

5. Section 102 - Making of a Discontinuance Order.

## 7. Licensing and Environmental Committee

1. Discharges the Council's role in respect of the following:

- Hackney Carriage and Private Hire Vehicles
- Street Trading
- Gambling
- Moneylenders, pawnbrokers, scrap metal dealers, sex shops, premises for ear piercing, acupuncture, tattooing, electrolysis, betting, gaming and lotteries, amusement with prizes machines, pleasure boats and boatmen, canal boats, house-to-house and street collections, horses, ponies and donkeys standing for hire; and
- such other licensing matters as may arise involving public protection issues.

2. Determines applications for fare increases made by the Wyre Forest Taxi Drivers' Association.

3. Recommends licensing and other fees and charges for those matters falling within the Terms of Reference of this Committee.

4. Makes recommendations to protect the environment in relation to noise



and other statutory nuisances (which do not encroach into the responsibilities of any other Committee).

## 8. Licensing Sub-Committee

Determines applications for licences and reviews of licences under:

- the Licensing Act 2003;
- the Gambling Act 2005;
- applications made under paragraph 2 or 3 of Schedule 1 of the Scrap Metal Dealers Act 2013 for the grant or variation of a licence where there is doubt as to the suitability of the applicant or to revoke or vary a licence under section 4 of the Scrap Metal Dealers Act 2013; and

such other legislation as may be enacted in relation to licensing matters involving public protection issues; having regard to the Council's licensing policies and guidance from the Secretary of State. As these meetings necessarily involve the attendance of applicants, and other parties, such as, applicants' representatives, witnesses, police and fire authority representatives, the 'hearings' shall normally be held during the normal working hours of the Council.

## 9. Appointments and Appeals Committee

1. Recommends to Council the appointment of the Chief Executive.
2. Appoints Joint Negotiating Committee Officers.
3. Determines appeals (by a Panel of 3 Members of the Committee) where there is an existing Appeals Procedure – e.g. Personnel Issues etc.
4. Determines any matter where a right of appeal exists (except planning and licensing applications and issues which are part of the negotiating machinery) including Personnel issues.
5.
  - (i) May appoint a Statutory Committee (The Independent Panel ) (IP) in compliance with the Local Authority (Standing Orders) (Amendment) Regulations 2015 [the 2015 Regulations] with at least 2 appointed Independent Persons that have been appointed by the Authority under Section 28 (7) of the Localism Act 2011.
  - (ii) The IP shall comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. No elected members should sit on the Panel.

If, following a disciplinary investigation, there is a recommendation to dismiss the Chief Executive, the reports of the Investigating & Disciplinary Committee and the Independent Investigator should then



be sent to Independent Panel for its consideration prior to advising the Council.

- (iii) Before sitting as The Statutory Committee under the 2015 Regulations, the Panel shall undergo appropriate employment legislation training.
- (iv) The Monitoring Officer (or if conflicted the Deputy Monitoring Officer) shall arrange for independent legal advice to be provided to The Statutory Committee by West Midlands Employers (or suitable alternative).
- (v) The Statutory Committee may not consider suspension of the Statutory Officers without first taking external professional advice, and having regards to the terms and conditions of the individuals employment contract.
- (vi) The Statutory Committee shall report to Full Council in accordance with the 2015 Regulations.

## **10. The Ethics and Standards Committee**

1. Promotes and maintains high standards of conduct by councillors and co-opted members.
2. Assists the councillors and co-opted members to observe the Members' Code of Conduct.
3. Advises the Council on the adoption or revision of the Members' Code of Conduct.
4. Monitors the operation of the Members' Code of Conduct.
5. Advises, trains or arranges to train councillors and co-opted members on matters relating to the Members' Code of Conduct.
6. Considers complaints against any member relating to alleged breach of the Code of Conduct, to make findings of fact and decisions in respect of the action to be taken, and where necessary to make recommendations to full Council.
7. Grants dispensations, if necessary, to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
8. Exercises (1) to (6) above in relation to the parish councils wholly or mainly within the Wyre Forest District area and the members of those parish councils.
9. Recommends approval and adoption of relevant codes, plans and policies.





10. Oversees the Whistle Blowing Policy.
11. Oversees the complaints handling and Ombudsman investigations.
12. Keeps the operation of the constitution under review so far as it relates to ethics and standards of behaviour.

## **11. Audit Committee**

### **External Audit**

1. Receive, comment upon and recommend to the Cabinet, Chief Executive or the Chief Financial Officer as appropriate:
2. Appointment of external auditors.
3. External Audit Plan.
4. External Annual Audit Letter.
5. Any non-audit work undertaken by the external auditors.
6. Monitor the implementation of recommendations made by External Audit.

### **Internal Audit**

1. Receive, comment upon and recommend to the Cabinet, Chief Executive or Chief Financial Officer as appropriate on the terms of reference for internal audit and strategic and annual internal audit plans.
2. Consider summaries of reports issued by Internal Audit.
3. Consider progress reports including the achievement of the internal audit plan from Internal Audit.
4. Monitor the implementation of recommendations from Internal Audit.
5. Consider the annual report on the Council's internal control environment from Internal Audit.
6. Promote Internal Audit and internal controls.
7. Review the annual Internal Audit needs assessment and resources available to the function.
8. Make recommendations for reviews to be undertaken on areas of Council activity not provided for within the Strategic and Annual Internal Audit plans having due regard to the resources available to Internal Audit and the cost effectiveness of such reviews.



## Overall Audit Function

Make recommendations, as necessary, with a view to ensuring that Best Value is obtained from the total audit resource, external and internal.

## Risk Management

Monitor and evaluate the development and operation of risk management by the Council. This includes the following

1. To receive reports and make recommendations to Cabinet where appropriate on:
  - Risk Management Policy, Strategy and its associated action plans;
  - Reports from officers on developments and enhancements to the Risk Management process corporately;
  - Internal audit and External audit reports on Risk Management matters as appropriate.

## Procurement

Monitor and evaluate compliance with the Council's Procurement Policy and Standing Orders Relating to Contracts and Financial Regulations in so far as they relate to procurement.

For the Audit Committee this includes the following:

To receive reports and make recommendations to Cabinet where appropriate on:

- Procurement Policy, Strategy and associated action plans;
- Reports from officers on developments and enhancements to the Procurement process corporately, including e-procurement (electronic procurement) with regard to compliance with the Standing Orders relating to Contracts and Financial Regulations;
- Internal Audit and External Audit reports on procurement matters as appropriate.

## External Funding

Monitor the receipt of external funding and assess the efficiency and effectiveness of its application in line with the Council's priorities.

For the Audit Committee this includes the following:

To receive reports and make recommendations to Cabinet where appropriate on:

- The External Funding Strategy and its implementation;



- Reports from officers as required on:
  - (i) levels and sources of external funding
  - (ii) allocation of external funding
  - (iii) outcomes achieved or expected, including impact on the Council's Priorities
- Internal Audit and External Audit reports on external funding matters as appropriate.

### **Annual Statement of Accounts**

Consider and approve the Annual Statement of Accounts.

### **Annual Governance Statement**

Consider and approve the Annual Governance Statement.

### **Corporate Governance Arrangements**

Receive reports on, comment upon and make recommendations, if appropriate, on the Council's overall corporate governance arrangements including the Council's arrangements for the prevention and detection of fraud and corruption.

### **Any Other Business**

Consider any other relevant business deemed appropriate by the Committee.

### **Membership**

The Audit Committee shall consist of such number of members of the Council and such number of independent persons as has been determined by Council. Independent persons shall be non-voting and appointed in accordance with the method approved by Council.

## **12. Local Plans Review Panel**

To make recommendations to the Overview and Scrutiny Committee on the content of the Council's local plans and related documents including reviewing them in the light of consultation and national policy. To consider responses on other Councils' local plans including neighbourhood plans in Wyre Forest.

Membership: four members from the largest political group, one member from each of the other political groups. The membership includes the Chairman and Vice-Chairman of the review panel who will be appointed by full Council. The panel may co-opt up to two members nominated by Stourport-on-Severn Town Council, up to two members nominated by Bewdley Town Council and up to two members nominated by Kidderminster Town Council. Co-opted members will be non-voting.

Much of the information available to and considered by the Panel will be considered “Commercial in Confidence” or “Draft” in nature. As such it is necessary that all members of the LPRP, including co-optees, observe the Council’s “Access to Information Procedure Rules” contained within the Council’s Constitution.

