

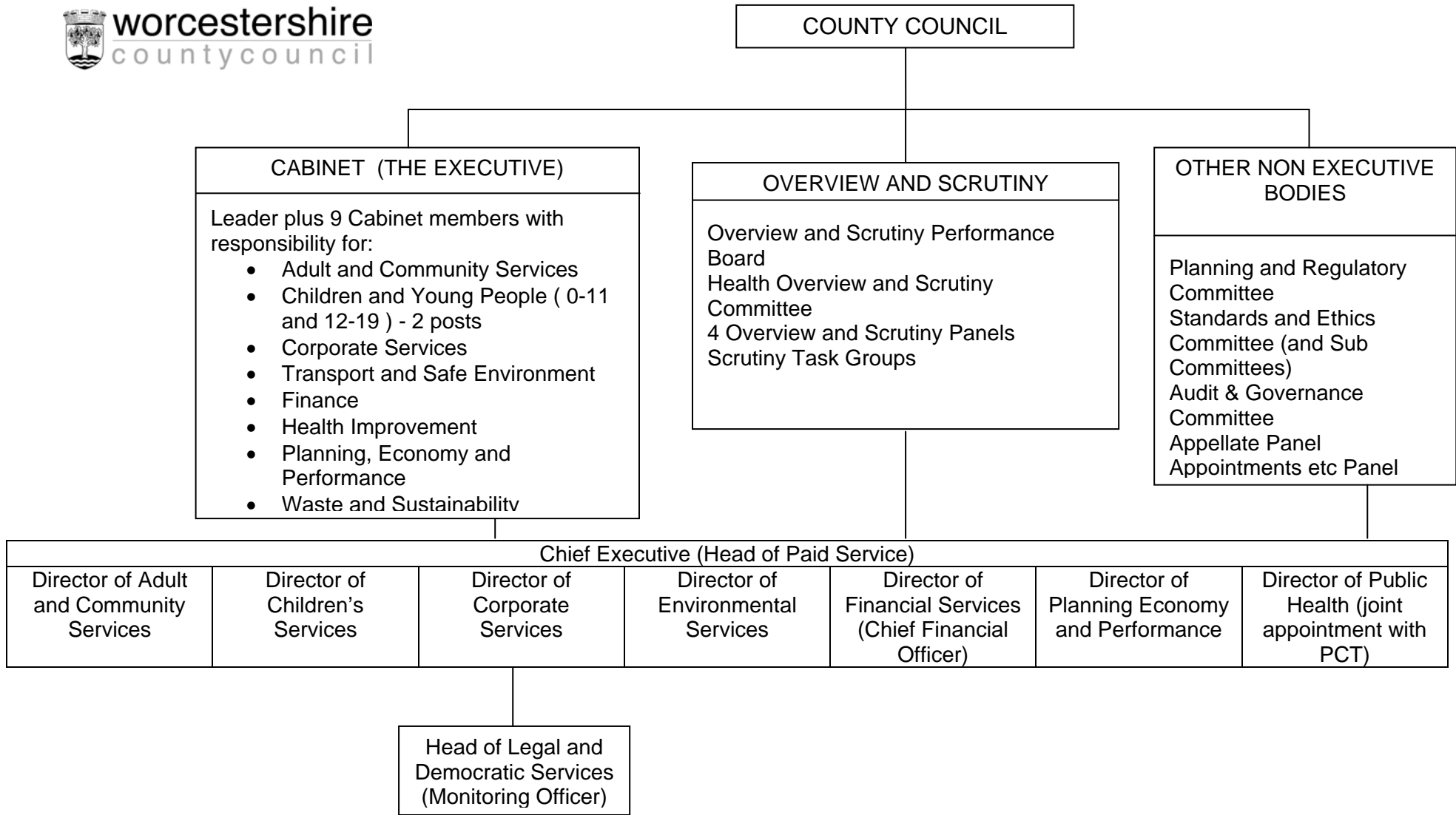
GUIDE TO THE 2009 CONSTITUTION

September 2009

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- Notes:
1. Joint Member/Employee Committees operate under separate constitutions.
 2. The West Mercia Supplies Joint Committee is a joint committee of the executives of the County Council, Herefordshire Council, Shropshire County Council and Telford and Wrekin Council.
 3. The South Worcestershire Shared Services Joint Committee is a joint committee between the County Council and Malvern Hills DC, Worcester City Council and Wychavon District Council

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1. INTRODUCTION

- 1.1 Under the Local Government Act 2000 the County Council is required to adopt a formal Constitution when operating executive arrangements. A number of Regulations have also been made under the Act which prescribe in considerable detail how the Council should draw up the content of its Constitution, how it allocates functions and how it conducts its business. The Constitution, therefore, has to contain a large number of provisions and in this respect it reflects, generally, the legislation, Government Guidance and model documents.
- 1.2 Because it has to be comprehensive and meet legal requirements and address technical concepts, the Constitution is both long and complex. It is not a user-friendly document!
- 1.3 The purpose of this Guide is not to summarise all the provisions of the Constitution – the Constitution contains a Summary. This Guide seeks to assist Members and Officers by outlining how the Constitution works, and to focus on some of the practical consequences, both in relation to the role of Members of the Council, and that of employees.
- 1.4 The guide describes the component parts of the Constitution, outlining the main features of each and addressing some working or practical consequences of the Constitution.
- 1.5 Of necessity, the Guide has to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. So if the reader is in any doubt, reference must be made to the Constitution itself or advice taken from Legal and Democratic Services. Cross-references are provided to help.

2. THE FRAMEWORK OF THE CONSTITUTION

- 2.1 The Structure diagram inside the front cover shows the formal relationships between the Council, the Executive (the Cabinet), the Overview and Scrutiny structure, the other Committees and Panels (Non -executive) and the officer structure.
- 2.2 A fundamental point is that the legislation provides that the Leader and Cabinet are responsible for what are called 'executive functions' (which cover most of the day to day political decisions), and the Council and committees are responsible for 'non-executive' functions.

3. THE FULL COUNCIL

3.1 Composition and Role

- 3.1.1 The Council comprises 57 elected members.
- 3.1.2 The job of the full Council is to approve the Council's main policies (the policy framework as set out in Appendix 1 and the Annual Budget (both revenue and capital). There are other matters reserved to the full Council to decide. These are set out in the scheme of assignment of responsibility for functions (Appendix

1), and include the appointment of the Leader of the Council, adopting and making changes to the Code of Conduct, and approving the Members' Allowances Scheme.

- 3.1.3 The Council receives reports from the Cabinet, which may make recommendations to the Council and will also report on the business it has considered. However, in most cases the Cabinet, because of its decision-making role, and the breadth of, its responsibilities will be reporting to the Council on matters where it has already made and implemented a decision.
- 3.1.4 The Council also receives reports from its other Committees and can get involved in debating major scrutiny reports.
- 3.1.5 The Council meets a minimum 6 times a year, the dates of which will be published well in advance. Its annual meeting will be in April/May and it will decide its budget in February to allow Council Tax calculations for the new financial year from April.
- 3.1.6 In addition to the existing right of members to requisition an extraordinary meeting of the County Council, the Council may need to meet more often if—
- there are matters referred to it under the call-in procedures (Appendix 4 paragraph 17)
 - the Overview and Scrutiny Performance Board requires a meeting because it believes that a key decision has been taken outside the permitted parameters (paragraph 17 of Appendix 5 - Access to Information Rules) or
 - the Council has decided not to agree with proposals of the Cabinet and the Leader of the Council objects or submits revised proposals, causing a further meeting of the Council (paragraph 2 of Appendix 6 - Budget and Policy Framework Procedure Rules).
- 3.1.7 The Chief Executive as Head of Paid Service, the Head of Legal and Democratic Services as Monitoring Officer and the Director of Financial Services as Chief Finance Officer have the right to submit reports directly to the full Council.
- 3.1.8 It should be remembered that unless the matter is one which:-
- is for the full Council or its Committees to determine (as set out in the scheme of assignment of responsibility for functions in Appendix 1)
 - is contrary to the policy framework or not wholly in accordance with the County Council's budget
 - cannot in law be the responsibility of the Cabinet
- then the Council or its other Committees cannot take a decision about that matter (or overturn a decision of Cabinet). That responsibility rests with the Cabinet. Similarly, the Cabinet cannot take a decision which the responsibility of the Council or its Committees.

3.1.9 The Planning and Regulatory Committee is likely to take most other decisions on those functions which are not the responsibility of the Cabinet. Responsibility for some matters remains with full Council, either because the law requires this or because it has chosen to retain responsibility. The Scheme of Assignment of Responsibility of Functions sets out the position in Appendix 1.

3.2 Meetings of the Council

3.2.1 Meetings of the Council are relatively formal. The Council's Procedural Standing Orders (Appendix 2 of the Constitution) govern how a meeting of the Council is conducted. Many also apply to the Overview and Scrutiny and other Committees. The Cabinet may choose and does apply them or parts of them to its own proceedings.

3.2.2 The report of the Cabinet to the Council will be presented by the Leader of the Council. The Leader may respond on behalf of the Cabinet to questions, or he may arrange for a question to be answered by a Cabinet Member with Responsibility.

3.2.3 Additionally, at each meeting of the Council at least each Group Leader, and other Councillors within the 30 minutes available, will have the opportunity to ask questions of the Leader of the Council or Cabinet Members with Responsibility. The Leader of the Council, Cabinet Members with Responsibility, Chairman of the Overview and Scrutiny Performance Board and Chief Executive also present, on a programmed basis, reports to the Council outlining current issues and principal developments within their area. Council has decided that the Leader, Chief Executive and Chairman of the Overview and Scrutiny Performance Board will report annually, and each CMR over a rolling 2 year period.

3.2.4 Where the Council considers a scrutiny report the Member who led that scrutiny will generally present it, and may be questioned on it.

3.2.5 The reports of other Committees of the Council will be presented by their respective Chairmen, of whom questions can also be asked, although normally the report will be decisions taken which cannot be overturned by Council. .

3.2.6 Members of the public may participate at each meeting of the Council by presenting a petition, asking a question or making a comment. They need to notify the Director of Corporate Services (in practice the Head of Legal and Democratic Services and his officers) the nature and content of their proposed participation by 9am the working day before the meeting in question.

3.2.7 The Council has also made provision for debates on key issues proposed by Councillors and debates based on 'green papers' from the Cabinet or Cabinet Members with Responsibility. No decisions or votes will be taken in such debates, but key points will be considered by the Cabinet and/or Council in determining future policy.

4. THE CABINET

4.1 Composition and Role

- 4.1.1 The Council is required by law to have an 'Executive', and has chosen the "Leader and Cabinet" model from the options available. The Leader is responsible for making arrangements to discharge functions which fall to the executive, whether through the leader personally, individual Cabinet members, or officers.
- 4.1.2 The Cabinet is not a Committee and is not required to be politically balanced. It also does not have to be open to the public for all of its items, although the Leader has decided that it should be.
- 4.1.3 The Council appoints (and can subsequently remove) the Leader at the first Annual Meeting of the Council after elections for the life of the Council.
- 4.1.4 The Cabinet comprises the Leader of the Council and 9 other Conservative Members of the Council.
- 4.1.5 The Leader presides at meetings of the Cabinet. A Deputy Leader presides in the Leader's absence. In the absence of both, a member nominated by the Leader will preside at meetings of the Cabinet, or if no nomination has been made the members of Cabinet present will appoint one of their number to preside.
- 4.1.6 The Leader determines the number of areas of political responsibility and their allocation to members of the Cabinet (Cabinet Members with Responsibility). The Leader has decided that 9 members, other than the Leader, shall be Cabinet Members with Responsibility, leading on the matters within the following remits:
- Adult and Community Services
 - Children and Young People (divided between 0-11 and 12-19)
 - Corporate Services
 - Transport and Safe Environment
 - Finance
 - Health Improvement
 - Planning, Economy and Performance
 - Waste and Sustainability
- 4.1.7 A Cabinet Member with Responsibility may establish ad hoc member groups to assist in policy development or advise on any difficult issues.
- 4.1.8 The Leader has determined that Cabinet will take decisions collectively. No individual members of the Cabinet have delegated powers to take decisions on behalf of the Cabinet.
- 4.1.9 The Cabinet takes decisions on all matters relating to the functions of the Council except those which –
- are reserved to the full Council (e.g. Budget and Policy Framework, Members' Allowances and Code of Conduct)

- are ones which by law the Cabinet cannot take (e.g. deciding Planning applications and Standards and Ethics matters)
- by choice may not and have not been allocated to the Cabinet.

4.1.10 In general terms, it is therefore the Cabinet who will take the main political decisions in relation to services for children, including education, family services and child protection; adult social care; highways and transportation; waste management; libraries; environment and other community services, together with cross-service matters.

4.1.11 Many decision-making powers continue to be delegated to officers to allow the day to day operation of services to continue. Officers will not be taking 'Key Decisions' (see below). The scheme of assignment of responsibility for functions contains the scheme of delegation to officers which allows Directors to sub-delegate further.

4.1.12 Collectively and individually the Cabinet are subject to the overview and scrutiny arrangements which the Council has established (Section 5 below).

4.2 Key Decisions

4.2.1 Certain types of decision which are the responsibility of the Leader and Cabinet are called 'Key Decisions'. It is important to know what they are because only the Cabinet will be taking Key Decisions; and (generally) advance notice has to be given of Key Decisions to be taken through the procedure known as the Forward Plan (4.3 below).

4.2.2 Key decisions are ones which are likely:-

- to result in expenditure or savings which are significant having regard to the Council's budget for the service or function to which the decision relates; or
- to be significant in terms of their effects on communities living or working in an area comprising two or more County electoral divisions (Article 7 of the Constitution).

4.3 The Forward Plan

4.3.1 The Leader of the Council has to publish the Forward Plan each month, which contains a list of what Key Decisions the Cabinet are likely to take in the following four months; how and with whom consultation will take place on those matters before the decision is taken; when the decision is likely to be taken by the Cabinet; a list of the documents which the Cabinet will consider; and the steps to be taken by any person who wants to make representations to the Cabinet about the matter. For transparency, our Forward Plan also includes non-Key Decisions going to Cabinet.

4.3.2 The purpose of the Forward Plan is to alert the public and members to when key decisions are to be taken by the Cabinet so that they can raise matters of concern with the local Councillor or members of the Cabinet or attend.

- 4.3.3 The Forward Plan has to be updated monthly so that as more details become available, more information can be included in the Plan.
- 4.3.4 The detailed requirements in relation to the Forward Plan are set out in paragraphs 13 - 16 of Appendix 5 (Access to Information Rules).
- 4.3.5 The Forward Plan will describe the following (so far as available):
- the matter in respect of which the key decision is to be taken
 - the membership of the Cabinet
 - the date or period for the taking of the decision
 - the identity of the principal groups the Cabinet proposes to consult before taking the decision, and the means by which such consultation is proposed to be undertaken
 - the steps and timescale for representations to be made to the Cabinet
 - a list of the documents submitted to the Cabinet for consideration in relation to the matter
- 4.3.6 There are detailed procedures in Appendix 5 of the Constitution about taking key decisions which for some reason have not been included in a Forward Plan (paragraph 15) or which are very urgent (paragraph 16). The Overview and Scrutiny Performance Board also has a right to require the Cabinet to report to the Council on key decisions which they believe to have been taken otherwise than in accordance with the required procedures – and the Leader has to report to the full Council quarterly on all special urgency decisions (paragraph 17).

4.4 Meetings of the Cabinet

- 4.4.1 The Cabinet will normally meet monthly in public, unless the matter to be discussed is confidential or exempt. The Leader and Cabinet have agreed to the same public participation rights at public meetings of the Cabinet as for the Council.
- 4.4.2 The Cabinet may also meet privately (with no public or local members present) when the business will only be the discussion of matters with officers and not the taking of decisions. They may also meet for informal briefings.
- 4.4.3 The Constitution allows certain members to speak at Cabinet meetings (but not to vote) e.g. a local member where an issue relates to, or affects, his Division, the Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board or the lead Member of a Scrutiny Task Group when the Cabinet is considering a report of that body; or some signatories to a notice of motion. In practice the leader generally allows any member to contribute to Cabinet discussions.
- 4.4.4 The Cabinet will consider reports from Cabinet Members with Responsibility or more usually from Chief Officers, making recommendations for Cabinet to consider.
- 4.4.5 Decisions taken by the Cabinet are subject to the call-in procedures referred to in Section 5 below. Save in the limited circumstances referred to, they will not take effect until the fifth working day after publication of the Minutes of the relevant meeting of the Cabinet to members of the Council. Due allowance must be made

for this in the preparation of any reports to the Cabinet which require a prompt decision as the minutes must say whether implementation is so urgent that it cannot await the outcome of possible call-in – and why (see paragraph 4.4.8 below). Urgency of implementation may need to be specifically addressed in reports.

- 4.4.6 The Chief Officers (or their representatives) will be entitled to be present at all meetings of the Cabinet.
- 4.4.7 All meetings of the Cabinet will be minuted and every member will receive a copy; a copy will also be publicly available for inspection at County Hall, Worcester. These Minutes, which are dated with the date of dispatch, are the formal record of decisions and also the “trigger” for the call-in procedure. They will also indicate which items (if any) are urgent so that they are not subject to ‘call-in’ but fall to be dealt with under the urgency procedures of paragraph 17.16 of Appendix 4 of the Constitution, summarised in 4.4.8 below.
- 4.4.8 Urgent cases will be those where delay likely to be caused by the call-in process could seriously prejudice the Council’s or the public’s interests, or the interests of any person to whom the decision relates, and the Chairman (or in his absence Vice-Chairman) of the Overview and Scrutiny Performance Board agrees that the decision is urgent and cannot reasonably be deferred. If those members referred to are unable to act, then the agreement of the Chairman or in his/her absence the Vice-Chairman of the Council will suffice. These provisions allow a ‘check and balance’ allowing a person outside the Cabinet to decide whether or not there should be implementation without the risk of call-in suspending the decision.
- 4.4.9 The Cabinet’s own procedures are governed by Appendix 3 of the Constitution. The Cabinet is not a Committee of the Council and can largely govern its own procedure.

4.5 Consultation with others

- 4.5.1 Reports to the Cabinet by Cabinet Members with Responsibility or officers about proposals relating to the Council’s policies or budget must contain details of the nature and extent, and outcome, of consultation with stakeholders and the Overview and Scrutiny Performance Board as appropriate. Reports on other matters will set out the details and outcome of consultation as appropriate. (paragraph 9).
- 4.5.2 The Cabinet and individual Cabinet Members with Responsibility may make arrangements for consultation about matters for which they are responsible.

5. OVERVIEW AND SCRUTINY ARRANGEMENTS

5.1 Composition and Role

- 5.1.1 The Council is required by law to have arrangements for Overview and Scrutiny by which recommendations on the development of policies can be made and the Cabinet be held to account for their actions.

- 5.1.2 Any bodies established to carry out Overview and Scrutiny have no delegated powers to take decisions on behalf of the Council.
- 5.1.3 The Council has established an over-arching Overview and Scrutiny Performance Board, a Health Overview and Scrutiny Committee, and 4 Overview and Scrutiny Panels dealing with various themes of the Sustainable Community Strategy. The Overview and Scrutiny Performance Board may establish, as required, specific Scrutiny Task Groups to conduct identified scrutiny exercises.
- 5.1.4 The Overview and Scrutiny Performance Board comprises a Chairman and 7 other County Councillors who are known as Scrutiny Lead Members. One of these is the Chairman of the Health Overview and Scrutiny Committee, 4 are Chairmen of the Panels and 1 is the Vice-Chairman of the Board. The Board is politically balanced.
- 5.1.5 The Health Overview and Scrutiny Committee comprises 14 Members of which 8 are County Councillors and the remainder comprise a representative from each of the 6 District Councils in the County. The remaining Overview and Scrutiny Panels comprises 8 County Councillors and are politically balanced.
- 5.1.6 The size of any Scrutiny Task Group will vary according to the purpose for which it is established. The places on each Task Group need not be allocated strictly in accordance with the political balance of the Council so as to allow Members with a particular knowledge or interest or commitment to take part.
- 5.1.7 The Overview and Scrutiny Performance Board, Panel or a Scrutiny Task Group when dealing wholly or in part with education matters will co-opt in a voting capacity such non-Councillors as required by law (church and parent governor representatives). Scrutiny Task Groups are encouraged to invite other non-Councillors to serve in a non-voting capacity to assist in their work.
- 5.1.8 Cabinet Members cannot serve on the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or any Scrutiny Task Group.
- 5.1.9 The main responsibilities of the Overview and Scrutiny Performance Board include agreeing the scrutiny programme subject to Council approval, commissioning work for the Panels, establishing any time limited Scrutiny Task Groups to carry out scrutiny exercises, and agreeing the terms of reference and reports prepared by them. It also advises on the Council's policy framework, such as the Corporate Plan and can deal with the call-in of decisions made by the Cabinet. The Health Overview and Scrutiny Committee scrutinises matters relating to health services in the County and responds to consultation from the National Health Service on substantial proposed developments.
- 5.1.10 The Overview and Scrutiny Bodies have extensive powers to conduct research, carry out consultations, hold investigations, undertake visits, encourage community participation, liaise with other organisations, gather evidence, invite advisers and experts to assist them and question members of the Cabinet and (in some circumstances) Chief and senior officers about their decisions and performance.

- 5.1.11 As part of the Scrutiny role members have certain additional rights to documents set out in paragraphs 23 and 24 of Appendix 5 (Access to Information Rules).
- 5.1.12 Particular action taken by a Chief or senior officer under delegated powers, which is taken in furtherance of the day to day administration of the service for which the officer is responsible, cannot be called-in or scrutinised. This does not however prevent a questioning of a Chief or senior officer as part of a wider scrutiny exercise.
- 5.1.13 Scrutiny arrangements are governed by the Overview and Scrutiny Procedure Rules in Appendix 4 of the Constitution. These include an obligation on members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or Task Groups to declare any party whipping arrangements.
- 5.1.14 An Overview and Scrutiny Guide contains further advice and guidance as to how the Overview and Scrutiny arrangements operate.

5.2 Call-in

5.2.1 The Council recognises that the right of call-in should only be used in exceptional circumstances when there is evidence to suggest that the Cabinet has departed from the principles for decision-making. It is not there to be used just because members do not agree with the decision of Cabinet. The call-in provisions do not apply to decisions taken by local National Health Service bodies.

5.2.2 There is a right to call-in decisions taken by the Cabinet before they are implemented. Within three working days of a meeting of the Cabinet the minutes of that meeting will be circulated to all members of the Council and will be available for inspection at County Hall, Worcester. Unless it is identified as urgent in the Minutes, the decision which the Cabinet has taken will not take effect until the fifth working day after the circulation of the minutes. During the intervening period:-

- not less than two members of the Overview and Scrutiny Performance Board; or
- eight members of the Council who are not members of the Cabinet;

may “call-in” (with reasons) the decision. It will then be referred to a meeting of the Overview and Scrutiny Performance Board which will decide on the most appropriate way of dealing with the call-in.

5.2.3 The called-in Cabinet decision is then not implemented until either

- the Overview and Scrutiny Performance Board has accepted the decision (with or without comment) or
- the Overview and Scrutiny Performance Board has considered the matter, has proposed modifications and/or referred it back to the Cabinet for reconsideration (or in certain circumstances referred it to the full Council), and the matter has been reconsidered by Cabinet.

- 5.2.3 The right of call-in is important in enabling members who are not Cabinet members to challenge Cabinet decisions before they are implemented.
- 5.2.4 The time for call-in is very important, as any Cabinet decision can be implemented on the fifth working day after circulation of the Cabinet's Minutes, if it is not called-in before then. However, restrictions on call-in apply in cases of urgency which are set out in Section 4.4 above.
- 5.2.5 The first three members exercising the right of call-in and who are not either 'local members' or members of the Overview and Scrutiny Performance Board, Panel or Scrutiny Task Group established to consider the call-in are entitled to attend the meeting of the body at which the called-in matter is discussed and to speak on it (but not to vote).
- 5.2.6 The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board may attend and speak (but not vote) at the meeting of the Cabinet at which the Board's views are being considered.
- 5.2.7 Reference to the full Council would only be appropriate if the decision called-in is one which the Overview and Scrutiny Performance Board believes:-
- the Cabinet cannot in law take; or
 - is reserved to the full Council; or
 - raises issues of such exceptional significance and public interest to justify reference to the full Council, although the final decision rests with the Cabinet
 - is contrary to the policy framework or contrary or not wholly in accordance with the budget.
- 5.2.8 Details of the call-in procedure are included in the Overview and Scrutiny Procedure and Budget and Policy Framework Rules (Appendix 4 and 6 respectively of the Constitution).
- 5.2.9 The operation of call-in will be monitored annually and the Council may change the arrangements if the arrangements are being abused (paragraph 17.1 of Appendix 4).

6. OTHER COMMITTEES, etc

6.1 Composition and Roles

- 6.1.1 Certain matters cannot by law be dealt with by the Cabinet. Apart from those reserved to the full Council, these are in the main planning and regulatory functions, though there are some others.
- 6.1.2 **The Planning and Regulatory Committee** will carry out the planning, public rights of way and other licensing, registration and regulatory functions which cannot be the responsibility of the Cabinet.
- 6.1.3 **The Audit and Governance Committee's** main role is to consider and approve the Council's annual statement of accounts, to assure the Council about the

objectivity and fairness of the financial reporting and performance of the Council, the adequacy of the risk management framework and associated controls within the Council, and that any issues arising from the drawing up, auditing and certifying of the Council's accounts are properly dealt with.

- 6.1.4 Other functions which cannot be the responsibility of the Cabinet are the responsibility of the Council itself (such as matters relating to elections, boundaries and pensions) although, unless specifically reserved to itself, the Council has delegated many of these functions to the appropriate officer.
- 6.1.5 The Council has an **Appellate Panel** from which the Director of Corporate Services will select a small number of members to form individual panels to carry out various appellate functions, such as hearing personnel appeals. Members will also be selected to serve on any Corporate Representations Review Panel as appropriate.
- 6.1.6 The **Standards and Ethics Committee** is responsible for the ethical framework within the Council. Membership is regulated by law and must include at least 25% external (independent) members with voting rights.
- 6.1.7 The Committee comprises 11 members, of which 8 are councillors (according to the political balance of the Council) and three are independent persons, one of whom is the Chairman of the Committee.
- 6.1.8 The Committee is responsible for promoting and maintaining high standards of conduct by members and co-opted members including church and parent governor representatives, and overseeing the Members' Code of Conduct and Protocols. It has established sub-committees to deal with complaints about any alleged breach by a member of the Code of Conduct.
- 6.1.9 An **Appointments etc Panel** will be called as and when required to carry out the functions set out in the Officer Employment Procedure Rules such as appointment and dismissal in relation to the Chief Executive (Head of Paid Service), Directors and Heads of Service.
- 6.1.10 **Joint consultation/negotiation member/employee committees** exist under separate constitutions.
- 6.1.11 The Cabinet has established **joint arrangements** with partner authorities in relation to **West Mercia Supplies** for the purposes of carrying out purchasing and distribution activities, and a separate joint committee with southern District Councils in relation to shared services (particularly the Hub).
- 6.1.12 Details relating to all the above Committees etc are contained in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

7. AREA ARRANGEMENTS

- 7.1 The Council is committed to making provision for area based arrangements to cover the whole county recognising that area bodies can be a very valuable part in helping the Council to form its community strategy and in terms of partnership working and community leadership.

- 7.2 It believes that given the diverse nature of the county area it is not appropriate to apply the same prescriptive arrangements to each part of the area. Instead flexible arrangements are more appropriate, based on or within the District Council boundaries involving, as appropriate, Parish and District Councils, the public and partners/stakeholders according to local circumstances,
- 7.3 The Council is involved in various arrangements throughout the county.
- 7.4 A member who does not serve on the Cabinet represents the Council on each of the eight District Local Strategic Partnerships in the County.

8. MEMBERS

8.1 Service on the Cabinet

- 8.1.1 Every member of the Council, except the Chairman and Vice-Chairman of the Council, is eligible to serve on the Cabinet.

8.2 Service on the Scrutiny bodies

- 8.2.1 Every member is eligible to serve on the Overview and Scrutiny Performance Board Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Task Groups, except Cabinet Members.
- 8.2.2 Members who serve on Scrutiny bodies will have been selected because of their knowledge, interest or commitment and will have a substantial input into the scrutiny of the policies of the Council and decisions of the Cabinet, and monitoring of performance. Members' roles will increasingly focus on contributing to and influencing future policy; and reviewing, scrutinising and calling to account the policies and decisions of the Cabinet in the context of their impact on the Council and on the communities and people the Council serves.
- 8.2.3 Members also have the opportunity of questioning the Leader of the Council and Cabinet Members with Responsibility at meetings of the Council.

8.3 Service on Other Committees, etc

- 8.3.1 All members of the Council are eligible to serve on the Planning and Regulatory and Audit and Governance Committees.
- 8.3.2 All members of the Council are eligible to serve on the Standards and Ethics Committee, except that not more than one member of the Cabinet (who cannot be the Leader) may serve.
- 8.3.3 All members of the Council are eligible to serve on appeals panels unless they have had prior involvement in the particular case.
- 8.3.4 All members of the Council are eligible to serve on an Appointments etc Panel, except that each Panel must include at least 2 Cabinet members (3 in the case of the Head of Paid Service).

8.3.5 The Chairman and Vice-Chairman of the Council may not concurrently be the Chairman of any other Committee of the Council.

8.4 Substitution

8.4.1 There can be no substitution for members of the Cabinet.

8.4.2 There can be no substitution on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee or any Overview and Scrutiny Panel or Task Group.

8.4.3 Substitution may be allowed on any other Committee provided the substitute member is eligible to serve.

8.5 Local Member

8.5.1 If an item coming before the Cabinet, a Committee or Scrutiny body is likely to be of particular interest to a member representing an electoral division to which the item relates or affects he or she can attend and speak at (but not vote) at the meeting – and may submit written representations.

8.6 Involvement in Budget and Policy Framework

8.6.1 Budget and Policy Framework Procedure Rules are set out in Appendix 6. These set out the procedure by which the Cabinet in consultation with the Overview and Scrutiny Performance Board will draw up proposals for the budget and policy framework of the Council. It includes provision for situations in which the Council does not accept the proposals of the Cabinet, in which case the Council's decisions will only come into effect after 5 working days unless the Leader of the Council objects, in which case a further meeting of the Council will be held. The rules also set out the procedure for dealing with decisions (including urgent ones) outside the budget and policy framework.

8.7 Member Allowances

8.7.1 Members may receive the allowances contained in the Scheme for the Payment of Councillors' Allowances (Appendix 13 of the Constitution). These are set by Council following recommendations made by an Independent Remuneration Panel.

8.8 Ethical Framework

8.8.1 Appendix 10 sets out the Members' Code of Conduct. The Council also has a Member Planning Code of Conduct. The Council and the public are entitled to expect high standards of conduct from members.

8.8.2 A protocol for member/officer relationships is included at Appendix 12 of the Constitution.

8.9 Access to Information

- 8.9.1 The Constitution sets out in Appendix 5 (Access to Information Rules) arrangements for public access to information and to which members are also entitled.
- 8.9.2 The Rules also prescribe other information available in connection with overview and scrutiny arrangements (paragraph 23) and additional rights of access for members (paragraph 24).

8.10 Member Role Descriptions

- 8.10.1 A number of role descriptions have been produced setting out the duties and responsibilities of a councillor and various other positions held (such as the Leader, Cabinet Members with Responsibility and Overview and Scrutiny Performance Board Chairman etc). These are included in Appendix 12 of the Constitution.

9. OFFICERS

9.1 Designations

- 9.1.1 By law the Council must designate officers to hold three statutory offices. These are –

- Head of Paid Service – Chief Executive
- Monitoring Officer – Head of Legal and Democratic Services
- Chief Financial Officer – Director of Financial Services

- 9.1.2 The Council has appointed the following Chief Officers:

- Chief Executive
- Director of Adult and Community Services
- Director of Children's Services
- Director of Corporate Services
- Director of Environmental Services
- Director of Financial Services
- Director of Planning, Economy and Performance
- Director of Public Health (joint appointment with PCT)

- 9.1.3 Each Chief Officer has staff to undertake the tasks of delivering the Council's services and supporting the corporate management of the Council.

- 9.1.4 To enable the professional and operational work of the Council to be undertaken, Chief Officers have delegated powers to take a range of decisions on behalf of the Cabinet and the other Committees etc with decision making powers. In turn Chief Officers can empower certain of their staff to exercise delegated powers on their behalf in respect of particular kinds of decisions.

9.2 Delegations

- 9.2.1 The scheme of assignment of responsibility for functions (Appendix 1) sets out the scheme of delegation to officers.
- 9.2.2 It sets out general delegations and responsibilities which all Chief Officers have, such as the need to act within the policies and budget of the Council, its constitution, the taking of decisions in connection with staff employment and establishment matters, the management of assets allocated to the respective service and the entering into of partnership or contractual arrangements. It also sets out functions and responsibilities specifically delegated to a particular Chief Officer.
- 9.2.3 It also contains restrictions on the way officers carry out their functions and reminds officers that whilst day to day operational decisions will mainly be taken without consultation with members, there is a need in certain circumstances to consult with relevant members before deciding whether to exercise delegated powers.
- 9.2.4 It is the duty of any Chief Officer or other officer to whom the exercise of powers is delegated to keep relevant members including local members properly informed of activity arising within the scope of delegated powers in accordance with the Constitution.

9.3 Financial Regulations

- 9.3.1 Financial Regulations are set out in Appendix 7 and establish a framework for the administration and control of the Council's financial affairs.
- 9.3.2 In essence, the Financial Regulations set out the frameworks for:-
- Financial Administration
 - Accounting Systems / Accounting Records
 - Audit
 - Budget Responsibilities
 - Budget Preparation
 - Procurement of Works, Goods, Materials and Services
 - Payment for Works, Goods, Materials and Services
 - Payments to Employees and Former Employees
 - Income
 - Banking
 - Borrowings, Other Capital Financing and Investments
 - Trustees, Receivers, Appointees and Agents
 - Assets
 - Insurance
 - Ex Gratia Payments
 - Preparation of Statutory Financial Statements
 - Applications and Claims for Grant or Subsidy

9.3.3 To supplement these framework provisions, the Director of Financial Services will issue detailed Financial Procedures which must be complied with as if they were Financial Regulations.

9.4 Contract Standing Orders

9.4.1 Appendix 8 includes the Council's Current Contract Standing Orders which set the framework for the acquisition and disposal of goods, works and services.

9.4.2 The Corporate Procurement Strategy and Code set out detailed arrangements.

9.5 Employment Procedures

9.5.1 Appendix 9 of the Constitution sets out the Officer Employment Procedure Rules.

9.5.2 In essence, all appointments other than:-

Chief Executive
Directors
Heads of Service reporting directly to Directors

must be made by officers and cannot be made by members.

9.5.3 There are specific and procedural rules about appointments of the officers named in paragraph 9.5.2, which are made by an Appointments etc Panel of Members on behalf of the full Council. The Appointments Panel also deals with the discipline and dismissal of those officers subject, where necessary, to any procedural or legal restrictions.

9.5.4 The power delegated to Directors to take decisions about staffing and personnel matters is set out in Appendix 9.

9.6 Officers' Code of Conduct

9.6.1 The Council's Officers' Code of Conduct is contained in Appendix 11.

10. CONCLUSION

10.1 This Guide seeks to simplify some of the complexities of the Constitution for members and officers of the Council but is not a substitute - reference must be made to the Constitution for the detailed provisions applicable in any situation or circumstance under discussion. A printed copy of The Constitution is available to each Group, and it is available on the Council's website.

10.2 The Head of Legal and Democratic Services will always try to assist on any point of interpretation of the Constitution, or on what is said in this Guide.