

BARNSELY METROPOLITAN BOROUGH COUNCIL

OVERVIEW AND MAIN PROVISIONS OF THE CONSTITUTION

1. PURPOSE OF DOCUMENT

- 1.1 This document gives an overview and sets out the main provisions of the Council's constitution as agreed by the full Council on 10th May 2001, together with subsequent amendments agreed, for example in October 2003, following the Review of Delegations, and April 2005, following the five-yearly review of the Constitution.**

2. OVERVIEW OF ARRANGEMENTS

- 2.1 The arrangements set out in the Constitution are summarised in the following sections of this document:**

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(a) Form and roles of the Executive (Cabinet)	3
(b) The full Council	4
(c) Arrangements for Overview and Scrutiny (Scrutiny Commissions)	5
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2.2 More detailed aspects of the arrangements are covered in the set of documents that comprise the remainder of the Council's Constitution. These are referred to in the appropriate sections of this document.

3. FORM AND ROLES OF THE EXECUTIVE

3.1 As agreed by the full Council on 15th February 2001, the form of executive is Leader and Cabinet. Detailed features of the Leader and Cabinet arrangement are set out below.

3.1.1 The Executive Role

3.1.2 The Cabinet is responsible for making recommendations to the full Council on the authority's policy and budget framework and for the co-ordination and performance of Council services and functions within the agreed policy and budget framework. The Cabinet also approves proposals which fall within the definition of a Key Decision (see section 3.7 below) and which have significant implications for a number of services. Details of Cabinet's decision-making powers are set out in the Terms of Reference and Scheme of Delegation (Document 2).

3.1.3 In recognition of the need to allow Cabinet to focus on more strategic issues, Council has agreed to delegate executive decision-making power on more routine issues to the individual Cabinet Spokespersons with responsibility for the service concerned. Cabinet Spokespersons are therefore authorised to take decisions on all matters other than those that are: -

- (a) Executive functions delegated by the Cabinet to officers of the Council;
- (b) Executive functions that, subject to statute, the authority has resolved should be reserved for determination by full Council, on the recommendation of Cabinet;
- (c) Executive functions that the authority has resolved should be reserved for determination by Cabinet meeting collectively;
- (d) Reserved by statute for determination by the full Council or delegated to Regulatory Boards or officers by the full Council;
- (e) Executive functions delegated to other bodies under specific statutory provisions.

- 3.1.4 Details of the arrangements for decision-making by individual Cabinet Spokespersons, including relevant procedures, are also set out in the Terms of Reference and Scheme of Delegation (Document 2).
- 3.1.5 In recognition of the status of the full Council as the authority's sovereign legislative body, the Terms of Reference and Scheme of Delegation provide for the maintenance of a "strong" full Council, by reserving principally for its determination all of those executive functions where this Council has discretion under statute to do so. However consideration has been given to the statutory guidance which provides that where any such functions (mainly with regard to control of pollution and other environmental protection functions) involve the preparation of a strategic policy for the Council the draft plan or strategy should be considered in the first instance by the Cabinet.
- 3.1.6 The Terms of Reference and Scheme of Delegation also provide that the responsibility for determining the scheme of delegations for functions which are, under statute, not the responsibility of the Executive will be reserved for full Council, although the Cabinet may make recommendations to the full Council on such delegations.

3.2 Budget Virement

- 3.2.1 It is acknowledged that, in the absence of any delegations, full Council's approval is required for the formation of, and any variation to, the Council's budget and policy framework. In view of this, it is provided that, subject to the requirements of Financial Regulations, the following arrangements, determined in consultation with the Executive Director of Finance, will apply in respect of budget virement:
- (a) Executive Directors, the Borough Secretary, the Chief Executive and Assistant Chief Executives shall have delegated authority to vire amounts up to and including £50,000 in any one instance within a service within their respective Directorate Budgets for Employees, Premises, Supplies & Services and Transport, with the exception of virements affecting expenditure on the sub headings for rates, insurances, planned maintenance, central support charges, administrative building charges, grant aided schemes, energy management, professional fees (for Architects, Engineers etc.) and financing charges, subject to the Financial Regulations and the Associated Code of Practice which provide for additional exclusions.
 - (b) Individual Cabinet Members shall have delegated authority to approve variations and virements at an unlimited amount to overall capital or revenue programmes where the cost can be contained within the overall budgetary allocation for the service concerned, subject to the Financial Regulations and the associated Code of Practice which provide for exclusions and to approve variations to overall capital or revenue

programmes by the inclusion of additional schemes funded from whatever source where that funding has been specifically provided for the scheme in question and the Council has no discretion as to the use of that funding.

- (c) Cabinet shall have delegated authority to approve variations to overall capital or revenue programmes in respect of the cost of schemes which cannot be contained within the budgetary allocation for the service concerned, except where this represents a variation to the Council's Strategy in establishing the relevant programme.
- (d) Authority shall be reserved to full Council to approve variations to overall capital or revenue programmes in respect of the cost of schemes which cannot be contained within the budgetary allocation for the service concerned where this represents a variation to the Council's Strategy in establishing the relevant programme.

3.2.2 As with all aspects of the constitution, virement arrangements will be subject to periodic review.

3.3 Composition of the Cabinet

3.3.1 The Cabinet comprises the Leader of the Council plus eight additional Members. Only elected Members of the Council are eligible for membership of the Cabinet. The Cabinet is composed wholly of Members of the majority party on the Council, but the membership of most other member bodies of the Council will be broadly proportionate to the political composition of the Council as a whole, as required by the Local Government & Housing Act 1989. The exemptions in relation to political proportionality are the membership of Area Forums (see Section 6), which comprise the Members for the relevant Electoral Wards.

3.3.2 In line with the feedback from the consultation with local people and stakeholders, it is not intended to take up the power in the 2000 Act for the Leader of the Council to appoint the other members of Cabinet. The Leader of the Council and Cabinet will continue to be appointed by the full Council.

3.3.3 Each member of the Cabinet has a portfolio, comprising a group of responsibilities and services or issues in which they specialise. A Cabinet Member leads Cabinet discussions on issues relevant to his or her portfolio and takes decisions where appropriate in accordance with the delegated arrangements outlined at paragraph 3.1.3. It is intended that, from time to time, the distribution of portfolios between Members of the Cabinet will be rotated, the most recent "rotation" being in May 2006.

3.4 The allocation of responsibilities and services or issues to each of the portfolios is as follows:

3.4.1 Leader of the Council

To Chair meetings of the Cabinet; To lead on policy and budget matters; Responsibility for issues relating to: Community Planning (especially the Borough-Wide Community Plan and One Barnsley [the Local Strategic Partnership]); Regeneration (in its broadest sense); Sub-Regional, Regional and European issues; the Cabinet Support Unit.

3.4.2 Deputy Leader of the Council

To deputise for the Leader of the Council, when necessary; Cross-cutting responsibility for the development of the neighbourhood agenda across the Council and social inclusion: the Borough Secretary's Department; and Mayoral and Civic Support and Town Twinning Activities.

3.4.3 Cabinet Spokesperson without Portfolio

Responsibility for issues relating to the training and development of Elected Members and the provision of the necessary facilities to perform their duties effectively and Member representation on and attendance at Council bodies and outside organisations.

3.4.4 Adult Social Service & Health Spokesperson

Responsibility for issues relating to: Adult Services; Supporting People; Wardens' Service, including Central Call; Homelessness and Housing Advice; Public Health, including health promotion and occupational health and relations with Barnsley PCT.

3.4.5 Children and Young People's Services Spokesperson

Responsibility for issues relating to: LEA & School Support; Children and Families (Social) Services; Education Property; Libraries; Youth Service; Youth Offending Team; School Meals. Pending further development of officer structures, responsibility for libraries and resource centres and post-19 learning remains within this Portfolio.

3.4.6 Corporate Services Spokesperson

Responsibility for issues relating to: Information Services, Systems & Technology; Human Resources; Communications; Service Performance & Delivery, including Best Value, BVPP etc; Policy & Co-ordination; Health & Safety; Emergency Planning; Organisational Development.

3.4.7 Environmental Services Spokesperson

Responsibility for issues relating to: Grounds Maintenance & Neighbourhood Pride; Parks; Highways & Engineering, including road safety and safe routes to schools; Street Cleaning; Waste Collection; Waste Disposal (operational); Fleet Services; Building Cleaning and Civic Catering; Building Maintenance (non-Berneslai Homes); Administrative Buildings (Caretaking only); Environmental Health (excluding Housing Grants) and Trading Standards, including the Environmental Enforcement Unit; Licensing; Community Safety.

3.4.8 Development Spokesperson

Responsibility for issues relating to: Transportation; Planning (excluding matters reserved to the Planning Regulatory Board) and Building Control; South Yorkshire Mining Advisory Service; Markets; Cultural Services; Sport & Recreation, including Barnsley Premier Leisure Client; Rethinking / Remaking Barnsley; Tourism, including the Destination Management Partnership; Countryside; Housing Strategy (including Berneslai Homes liaison and Right-to-Buy) and private sector housing renewal; Waste Strategy; Barnsley Development Agency; Lead role in other economic regeneration partnerships, including Barnsley Business & Innovation Centre;

3.4.9 Finance Spokesperson

Responsibility for issues relating to: Financial Services & Advice; Internal Audit; Taxation; Council Tax & Housing Benefits; Education Awards; Benefits Agency, including Welfare Rights; Asset Management; Property & Procurement; Corporate Purchasing; Administrative Buildings (excluding Caretaking); Depots (corporate client); Resource Maximisation and Statistical Research; Special Financial Programmes and accountable bodies functions.

3.5. Cabinet Support Members

- 3.5.1 Cabinet Spokespersons are expected to attend every meeting of the Cabinet. However, it is recognised that they may occasionally be absent due to holidays, illness and any unavoidable commitments that may arise in exceptional circumstances. Previously, this was provided for by the appointment of Deputy Cabinet Spokespersons, which are not permitted in their previous form by the 2000 Act. The legislation does, however, recognise the value in Cabinet Members receiving support from other designated Members and makes provision for this. It is therefore agreed that, for Cabinet Spokespersons other than the Leader and Deputy Leader of the Council, a Cabinet Support Member will be appointed by the full Council.

- 3.5.2 This Member attends Cabinet meetings to speak on behalf of their absent colleague to help the Cabinet in its deliberations, but is not able to vote on matters at Cabinet. Cabinet Support Members receive the level of officer support consistent with performing this role from time to time. Cabinet Support Members also give the Cabinet Spokesperson support in exercising their duties and act as a “sounding board” on developing issues.
- 3.5.3 Unlike Cabinet Members, Cabinet Support Members are not excluded from membership of Scrutiny Commissions, although they are expected to withdraw from any meetings where matters on which they had helped the Cabinet were under consideration. In view of their role, where Cabinet Support Members have helped Cabinet on a particular matter they cannot be required by Scrutiny Commissions to give evidence on those matters, nor act as a substitute for a Cabinet Spokesperson in scrutiny proceedings.

3.6 Arrangements for Cabinet Meetings

- 3.6.1 The Cabinet meets on a fortnightly basis on Wednesday mornings and holds other meetings as necessary. Decisions by individual Cabinet Spokespersons will be taken at meetings held specifically for the purpose, as and when required.
- 3.6.2 As far as possible, decision-making both by Cabinet and individual Spokespersons will be based on consideration of written reports. All Cabinet meetings which take formal decisions will be held in public, except for those items which contain Exempt or Confidential Information as defined by Schedule 12A to the Local Government Act 1972 where Cabinet considers that it is in the interests of the Council to exclude the press and public. Meetings held by individual Spokespersons will not be open to the press or public but papers on which those decisions are based will be available for inspection subject to the exemptions in the 1972 Act referred to above.
- 3.6.3 The Cabinet will occasionally meet in private in order, for example, to develop its proactive, Member-lead, agenda or to allow Cabinet Members to undertake preliminary soundings with colleagues on forthcoming issues. However, these meetings will be purely deliberative to identify issues for formal consideration at a future meeting to be held in public.
- 3.6.4 In September 2001, a fortnightly frequency for formal Cabinet meetings was introduced to allow more time for the Cabinet and Senior Management Team to develop strategy and corporate management. This has provided opportunities for special Cabinet meetings dedicated to matters of strategic importance. In addition, the full Council approved a detailed review of the delegations to officers in October 2003 that reduced the more routine workload of collective Cabinet meetings and established, through detailed Terms of Reference, a more strategic focus for those meetings.

3.6.5 The rules for proceedings of meetings of the Cabinet, arrangements for the recording of decisions and access to papers are set out in Section 12 of this document.

3.7 Key Decisions

3.7.1 Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, requires each local authority to agree a definition of a “Key Decision”, based on outline guidance in the Regulations. The Executive of the local authority is required to set out in a publicly available Forward Plan any decision falling within this definition that it is likely to take in the coming four months, as far as it is known. The arrangements for publishing the Forward Plan must be advertised annually to ensure that people know what decisions are planned and how they can influence those decisions.

3.7.2 This authority has adopted the following definition of a Key Decision:

(a) Any decision relating to the approval of or variation to the Council’s Budget and Policy Framework which is reserved in the Council’s Constitution for determination by full Council on a recommendation from Cabinet; subject to the application of virement limits;

or;

(b) Any decision which will result in income, expenditure or savings with a gross full year effect of £250,000 or greater, whether or not the item has been included in the relevant approved budget and including the provision by the Council of cash-flow funding to third parties, with the exception of:

(i) Decisions that are a direct consequence of implementing a previous Key Decision and where it was in the contemplation of Members when they made the original Key Decision;

(ii) Bids for funding of £250,000 or greater made by the Council to third parties where a further report will be submitted for approval of the scheme, should the bid be successful;

(iii) Expenditure which is inevitable (as defined by the Borough Secretary) for the day to day provision of services (e.g. day to day supplies, payment of energy bills etc.) provided that such expenditure was in the contemplation of Members when the revenue budget was approved or is necessary to comply with the requirements of contracts won by the Council in competitive tender.

or;

- (c) Any decision which is likely to have a significant positive or negative impact (e.g., in environmental, physical, social or economic terms) on people living or working in communities in two or more Wards, except that matters will not be Key Decisions simply because the result of a decision would be that work would be carried out in two or more Wards, for example following the approval of a Borough-wide programme of works.
- 3.7.3 Detailed information on the agreed content and format of the Forward Plan, and the procedure for its collation and distribution, are set out in Appendix P to the Constitution.
- 3.7.4 Government guidance indicates that there should be some consistency between neighbouring authorities in the definition adopted for a Key Decision. It is therefore proposed that the above definition be kept under review in the light of consultation with neighbouring authorities.

3.8 Joint Arrangements

- 3.8.1 Following the passing of the Local Government Act 1985 the Council has established joint arrangements for the discharge of certain functions with the other South Yorkshire District Councils (Doncaster and Rotherham M.B.C.s and Sheffield City Council):

- South Yorkshire Archaeology Service*
- South Yorkshire Archives Service*
- South Yorkshire Laboratory Service
- South Yorkshire Trading Standards Service*

- 3.8.2 Joint Committees of Members from each local authority have been appointed with responsibility for the services marked*. In accordance with the 2000 Act, the relevant Cabinet Spokesperson for the Services concerned will be the Council's representative on the Joint Committees in question. As these joint arrangements relate to functions to be discharged by the executive of a local authority the arrangements will strictly become arrangements between the respective executives of the Authorities. The overall basis for the joint arrangements are currently under review.
- 3.8.3 In addition, the Council has established the South Yorkshire Mining Advisory Service jointly with Doncaster and Rotherham M.B.C.s.
- 3.8.4 Copies of the relevant Joint Agreements in respect of these services are included within the Constitution, as Appendix AA, subject to whatever modifications are appropriate in the light of the introduction of executive arrangements.

3.8.5 The Council has also entered into a partnering arrangement with Barnsley Primary Care Trust and other NHS bodies, using the flexibilities offered by Section 31 of the Health Act 1999. Details of the arrangements are set out at Appendix Z to the Constitution.

3.8.6 The Council has also established an Arm's Length Housing Management Organisation (ALMO), known as Berneslai Homes, with responsibility for the management of the Council's housing stock. Details of the arrangements and delegated functions are set out at Appendix AB to the Constitution.

4. THE FULL COUNCIL

4.1 The full Council is the "Sovereign Body" within the authority and has as substantial and as wide a role as is possible within the new legislation. The full Council sets the policy and budgetary framework for the authority. Detailed arrangements for the role and operation of the full Council are set out below.

4.2 Role

4.2.1 Within the terms of reference and delegations document (Document 2) the role of the Council is to exercise the following competencies:-

- (a) Adopting and changing the Constitution;
- (b) Approving and adopting the policy framework which shall have been arrived at through an inclusive process involving the public and other local stakeholders as well as Councillors;
- (c) Approving and adopting the budget and setting the Council Tax;
- (d) Approving any application to the Secretary of State in respect of any housing stock transfer;
- (e) Subject to the urgency procedure contained in the Access to Information Procedures rules (Appendix I), making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the Cabinet is minded to make it in a manner which will be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (f) Appointing the Leader and Members of the Cabinet;
- (g) Agreeing and/or amending the terms of reference for Regulatory Boards, the Standards Committee, Audit Committee, Scrutiny Commissions and Area Forums and making appointments to them;

- (h) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council - the Secretary of State advises that Executives will make appointments to outside bodies in connection with functions which are their responsibility (e.g. housing, education, social services, regeneration etc.) and all other appointments should be made by the full Council or through delegation arrangements;
- (i) The adoption of the Scheme of Allowances for elected members
- (j) Change in the name of the area, conferring the title of Honorary Aldermen or Freedom of the Borough;
- (k) Confirming the appointment by the appropriate Appointment Panel of the Head of Paid Service;
- (l) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or private bills;
- (m) Such local choice functions and functions that cannot be undertaken by the Executive as are set out in the Local Authority (Functions and Responsibilities) (England) Regulations, 2000 which the Council has decided shall be undertaken by either itself rather than the Executive or by delegation to a Regulatory Board. These are included and shown in the 'Terms of Reference' document (Document 2);
- (n) All other matters which, by law, must be reserved to Council.

4.3 Membership

- 4.3.1 All Elected Members of the Authority (63). (Appendix A to the Constitution gives details of all Members of the Council, electoral arrangements and the various roles undertaken by Councillors within the authority. Appendix B describes the role and functions of the Mayor, who chairs meetings of the Council).

4.4 Meeting Frequency/Modes

- 4.4.1 The following meetings of the Council will be held:-

- (a) Annual Meeting of the Council;
- (b) Ordinary meetings of the Council;
- (c) Extraordinary meetings of the Council;
- (d) Council in Seminar.

- 4.4.2 The Annual Meeting of the Council in a year where there is an ordinary election of Councillors will take place within 21 days of the retirement of the outgoing Councillors. In any other year, annual meetings will take place on a date to be determined in May.
- 4.4.3 Ordinary meetings of the Council will be held on a monthly basis on Thursdays with a commencement time of 10:30 a.m., or such other time as the Council may determine. The Standing Orders of the Council (Appendix M) now provide for a standard limit of ten minutes for speeches made in relation to motions and comments on minutes.
- 4.4.4 Extraordinary meetings of the Council will be held from time to time to deliberate on such issues that require the urgent or specific attention of the Council and shall be convened by the Mayor or, in his/her absence, the Deputy Mayor or by one quarter of the whole number of the Members of the Council in line with the contents of the Council's Standing Orders.
- 4.4.5 Council in Seminar is a form of Council Meeting which shall be held in a more informal atmosphere to enable debate and hearings to take place on topical issues perhaps linked to the Council's Community Plan(s) and on issues which at some future date may be the subject of consideration by an ordinary meeting of the Council.
- 4.4.6 These Council in Seminar meetings shall be open to the public and shall also provide for all Co-opted Members of Scrutiny Commissions to be invited to participate in the proceedings. In addition, occasional Seminars are arranged for Elected Members of the Council only on an informal basis as a means of consultation on service developments or to provide information or training relevant to the duties of Elected Members. These meetings will not have decision-making powers but will enable a greater understanding of issues to be obtained.
- 4.4.7 The rules of procedure for meetings of the Council in Seminar will be in line with those for Cabinet/Scrutiny Commissions/Regulatory Boards/Area Forums, Sub-Committees/Panels as contained within the Council's Standing Orders (Appendix M) as opposed to the rules for Council meetings as contained in that document.
- 4.4.8 Chairing of Council in Seminar will be determined at each individual meeting and will not ordinarily be the responsibility of the Mayor. Given that these meetings do not have formal decision-making powers the provisions in Schedule 12 of the Local Government Act 1972 which require the Mayor to preside at meetings of the Council if present do not apply. Likewise minutes of Council in Seminar meetings will not be submitted to the ordinary meetings of the Council for approval.

4.5 Public Questions at Council Meetings

- 4.5.1 Under the Council's Standing Orders members of the public will continue to have the opportunity, at ordinary meetings of the Council, to ask a question which is relevant to the business of the authority which will be responded to by the appropriate Cabinet Member or Chairman of a Regulatory Board. The member of the public shall have the opportunity to be present and submit a supplementary question relevant to the original question.
- 4.5.2 The procedure and conditions relevant to the submission of public questions are contained in Standing Order 10B of the Council's Standing Orders (Appendix H and Appendix M).

5. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

- 5.1 The overview and scrutiny functions as defined in Section 21(2) of the 2000 Act are discharged by a system of Scrutiny Commissions, which are distinct from the Council committees that they replaced, in both their rationale and the way in which they operate.

5.2 Characteristics of the Scrutiny Commissions

- 5.2.1 The Commissions are defined by the following characteristics:
- (a) The Commissions serve to act as promoters of the public interest;
 - (b) The Commissions aim to achieve enhanced accountability and transparency of the decision- and policy-making process;
 - (c) The Commissions have a thematic or cross-cutting view of local authority business and other Borough-wide business;
 - (d) The Commissions are driven by Members of the Commissions, not by Council officers;
 - (e) The Commissions hold the executive to account (the scrutiny role);
 - (f) The Commissions develop and review policy (the overview role);
 - (g) The Commissions are able to look at issues in-depth;
 - (h) The Commissions have a holistic, wide-ranging view;
 - (i) The Commissions allow Councillors to represent the views of the public and others to the Executive, and to ensure that these views are taken into account.

5.2.2 The Scrutiny Commissions **do not** therefore:

- (a) Act to defend the Council interest over the public interest;
- (b) Scrutinise individual decisions of quasi-judicial or regulatory bodies, for example, the Licensing Regulatory Board, development control issues and other permissions, nor do they act as an appeal mechanism on any matter;
- (c) Have executive, decision-making powers;
- (d) Have the direct advice of senior Council officers in the manner of a traditional local government committee (although senior officers must attend Commissions to act as witnesses when required and must co-operate generally with the work of the Commissions);
- (e) Have a narrow, service based or “departmentalistic” view of local authority business.

5.3 Role of the Scrutiny Commissions

5.3.1 There are five Scrutiny Commissions which concentrate on the following themes:-

- (a) Children’s Services;
- (b) Environment;
- (c) Health & Adult Services;
- (d) Housing & Community Safety;
- (e) Regeneration;

5.3.2 A sixth Scrutiny Commission meets on a more ad hoc basis to consider Cabinet decisions or issues with regard to the functions and operation of the Authority which do not fall directly within the portfolio of the five established Scrutiny Commissions.

5.3.3 Details of the main Council services and outside bodies relating to each theme are shown in the Terms of Reference document (Document 2). It is important to note, however, that this in no way limits the scope of each Commission’s activities within its respective theme, as:

- (a) The Commissions examine all local authority functions and those of outside bodies within the local area, as part of the local authority's role as "leader of the community";
- (b) The scope of coverage is flexible and includes all organisations and bodies captured within the individual theme of the relevant Scrutiny Commission;
- (c) The Commissions produce an annual work plan setting out the proposed workload;
- (d) The Commissions have the ability to take evidence from a broad range of witnesses, including local stakeholders, such as community groups and national experts;
- (e) The Commissions scrutinise Cabinet policy and budgetary proposals;
- (f) The Commissions scrutinise Cabinet decisions;
- (g) The Commissions scrutinise the performance of Council services;
- (h) The Commissions undertake policy reviews either pro-actively or at the request of Cabinet or Council;
- (i) The Commissions scrutinise the performance of outside organisations and receive reports from the Council's representatives on the South Yorkshire joint authorities.
- (j) The Health & Adult Services Commission is designated as the principal overview and scrutiny committee to oversee the health service in accordance with the Local Authority (Overview and Scrutiny Committees' Health Scrutiny Functions) Regulations 2002. Protocols for the operation of this role have been agreed with the relevant health bodies and are set out in detail at Appendix O1.

5.4 Powers of the Commissions

5.4.1 The Commissions may:

- (a) Refer items back to Cabinet for further consideration, as follows:
 - (i) The Council's Constitution provides for certain functions of the Executive (Cabinet) to be discharged only on the approval at full Council of recommendations made on those matters by the Cabinet. The Constitution prevents these matters being implemented without full Council approval and allows Scrutiny

Commissions to refer them back once only for reconsideration by Cabinet prior to referral to full Council;

- (ii) Scrutiny Commissions may exercise a power of “call-in” in respect of Cabinet decisions. This is dealt with in paragraphs 5.7.1(b) and 5.7.2 below.
- (b) Provide comments and advice to Cabinet on current and future executive business;
- (c) Launch their own in-depth investigations and produce reports into important policy issues, which are received by Council and referred to Cabinet for consideration. (The agreed protocol for determining the response of Cabinet to these and other issues is included in the Constitution as Appendix O);
- (d) Require Cabinet Members and senior Council Officers to answer questions and give evidence at the meetings. It is noted that the legislation provides for attendance by any officer at a Scrutiny Commission meeting when required but it is considered appropriate within the Council’s Constitution to limit this, in normal circumstances, to attendance by officers of appropriate seniority;
- (e) Ask representatives of outside organisations to answer questions and give evidence at the meetings.

5.5 Responses to Scrutiny Commission Reports

5.5.1 A Protocol has been developed on how Scrutiny Commission reports will be drawn up and the timescales within which the Executive (Cabinet) is expected to respond to these reports. The Protocol is set out in Appendix O. This includes the facility to establish Joint Improvement Teams, comprised of Cabinet and Scrutiny Commission Members and relevant officers, as a means of developing responses to Scrutiny Commission reports or other initiatives.

5.6 Membership of the Commissions

5.6.1 Each Commission has membership which is politically proportionate of the political composition of the Council as a whole as required by the Local Government and Housing Act 1989 as the Authority is formally divided into Political Groups. Cabinet Members (but not Cabinet Support Members) are excluded from membership of any Scrutiny Commission. The Council’s representatives on joint authorities will not sit on the Commission which is most concerned with the business of the relevant joint authority.

- 5.6.2 Arrangements have been made to prevent the exercise of the political whip system inhibiting the effective operation of Scrutiny. The whip of the majority party applies to Scrutiny only in relation to attendance and general standards of behaviour, and does not apply to speaking, questioning or voting at Scrutiny Commission meetings.
- 5.6.3 All Commissions have the power to co-opt representatives of the wider community, who are not Members of the Council, to a maximum of eleven people, which can include representatives of:-
- Trade unions;
 - Business;
 - Community Groups;
 - Voluntary Sector;
 - Churches;
 - Other specialist interest groups;
 - Ordinary members of the public.
- 5.6.4 Generally, Scrutiny Commission co-optees do not, within the legislation, have voting rights. In the case of the Children’s Services Scrutiny Commission, however, the Commission is required by law to include at least four co-optees with voting rights who represent the Church of England, Catholic Church and Parents (two such representatives).
- 5.6.5 Co-optees to Scrutiny Commissions provide lay involvement in the business of the Council, which was identified as an important feature of the system by the public consultation exercise.

5.7 Meetings of the Scrutiny Commissions

- 5.7.1 Meetings of the Commissions are held in public, with the exception of those items which contain exempt or confidential information as defined by schedule 12A to the Local Government Act 1972, where it is considered that it is in the interests of the Council to exclude the press and public.
- 5.7.2 Meetings of the Commissions are scheduled to be held once per month, subject to the weight of business. A number of special meetings may be held in addition to the above, according to the requirements of the individual Commissions. Joint meetings of some or all Commissions may be held to consider issues which are particularly “cross-cutting” in nature. Commissions may make arrangements for consideration of certain issues by smaller study groups of members, or similar arrangements.
- 5.7.3 All meetings of the Commissions are official Council meetings, which have a formal agenda. Minutes of Commission meetings are received by full Council as part of the Summons for an ordinary Council meeting.

5.8 Rights of Scrutiny Commission Members

- 5.8.1 Scrutiny in Barnsley is a ‘member led’ process. To reflect this, in addition to the right regularly to scrutinise items and develop policy within the Commissions, individual Members of the Commissions have two additional rights within the Council’s constitutional arrangements in relation to placing items on Commission agenda and invoking the Call-In mechanism..
- 5.8.2 All Scrutiny Commission members (elected and co-opted) have **the right to place any relevant item on the agenda of the relevant Commission** and have it scrutinised. Scrutiny Commission members can do this by making it clear what issues they wish to scrutinise when the Commissions determine their overall work programmes, at the start of each municipal year. They can do this either formally at meetings or informally by raising the issue with the Chair of the Commission. A procedure for this is provided for in Standing Orders (Appendix M).
- 5.8.3 Scrutiny Commission members still have the right to ask for items to be scrutinised once the work programmes have been set. Again, they can do this either at a Commission meeting or informally by contacting the Borough Secretary. Any such items have to be relevant to or covered by the terms of reference of that Commission.
- 5.8.4 The Borough Secretary will determine if specific proposals for scrutiny fall within or are relevant to a Commission’s terms of reference. If he or she judges that they do not, then the member(s) who have suggested the item(s) for scrutiny will be informed of the reasons why this is considered to be the case.
- 5.8.5 Items accepted for scrutiny shall, if practicable, be placed on the agenda for the next scheduled meeting of that Scrutiny Commission. If this is not practicable they shall be placed on the agenda for the next but one scheduled meeting of that Scrutiny Commission. The Borough Secretary will ensure that appropriate officer support is provided to enable the Commissions to undertake a preliminary investigation of items suggested by Commission Members. Once these preliminary investigations have taken place, the Commissions will then determine if they wish to carry out a more extensive investigation.
- 5.8.6 All Scrutiny Commission Members have a **right to request that a decision made by the Cabinet be “called in” by a Scrutiny Commission**. "Call-in" is a mechanism which prevents a decision of the Executive being implemented until such time as the Scrutiny Commission or full Council has reviewed the decision made. A procedure for “call-in” is set out in Appendix N to the Constitution.
- 5.8.7 Where a matter is delegated to an individual Cabinet Spokesperson for a decision, the Call-In mechanism does not apply to the extent that the implementation of the decision is prevented until the relevant deadline under the procedure has expired.

However, the procedure at Appendix N provides for a Scrutiny Commission to Call-In decisions of this nature which have not been implemented by the time the Call-In request is made.

5.9 Officer Support to Scrutiny Commissions

5.9.1 The Scrutiny Commissions are supported by a team of three Scrutiny Commission Advisers, three Democratic Support Officers and a researcher.

5.9.2 These officers provide:-

- (a) Advice and guidance to the Commissions as to the selection of items for Scrutiny;
- (b) Advice and guidance as to selection of items for policy development;
- (c) Advice as to the substance of issues before the Scrutiny Commission;
- (d) Research activities on behalf of the Scrutiny Commission;
- (e) Assistance to the Commission in order to draft reports to Council and to Cabinet;
- (f) Business management support to the work of the Commissions;
- (g) Help to support the wider process of overview and scrutiny and its relationship to other arms of the democratic process.

5.10 Relationship of Scrutiny Commissions to Area Forums

5.10.1 The arrangements recognise the need for appropriate links between Scrutiny Commissions and Area Forums. All Council members of the Commissions are also members of Area Forums. Council Members may choose to bring forward items to be placed on to the Scrutiny agenda arising from concerns raised at Area Forum meetings, and can ask questions of the Executive, or representatives of outside organisations, in relation to those items.

5.10.2 In the course of their meetings, Area Forums may highlight items which a Scrutiny Commission can take further as future performance monitoring or policy development issues.

5.10.3 In the course of its investigations, a Scrutiny Commission may identify issues which are of local concern and which may require the attention of the Area Forums.

5.11 Relationship between Scrutiny and Best Value

5.11.1 Scrutiny Commissions have an important role in Best Value in three respects:-

- (a) In scrutinising Best Value fundamental performance review reports, and the Best Value Performance Plan, initiated by the Executive;
- (b) In providing the views of the Commission on a service, function or issue, before a Best Value review is undertaken;
- (c) In monitoring implementation of the outcome of fundamental Best Value reviews.

5.11.2 Scrutiny Commissions also have an important contribution to make to the general principles behind the duty to secure Best Value – Economy Efficiency and Effectiveness – through the support which they can make provide to the Executive in relation to performance management and monitoring. This is reflected in the work programmes which are drawn up for each Commission for the relevant municipal year.

6. AREA ARRANGEMENTS

6.1 Area Forums

6.1.1 The Council operates a system of Area Forums. The general legal status of these meetings continues to be formal statutory advisory committees established under Section 102 (4) of the Local Government Act 1972. They are thus meetings of the Council in public rather than public meetings. The Local Government Act 2000 allows for functions which are the responsibility of the executive to be delegated to Area Committees. Under this power, the Area Forums have also been given Executive authority as Area Committees to approve allocations from the Community Support Fund (see paragraph 6.8 below). Wider delegation to the Area Forums under this power may be considered in due course, should this be considered appropriate.

6.1.2 Area Forums are based on groupings of electoral wards. There are nine Area Forums comprising either two or three electoral wards. All twenty-one wards in the Borough are included.

6.2 Membership of Area Forums

6.2.1 Each Area Forum comprises the six or nine constituent Ward Councillors plus Co-opted Members from organisations representative of the relevant local community and individuals from the local community itself, subject to approval of the organisation and individual representatives concerned by the Council on recommendation of Cabinet.

6.2.2 Co-opted representatives will be nominated by the Area Forum for approval by Council each year. Persons co-opted to an Area Forum have a non-voting role and cannot chair a Forum meeting. Co-opted persons will have special rights at ordinary full Council Meetings by taking precedence over other members of the public if they wish to ask questions.

6.3 Role of Area Forums

6.3.1 The main aim of the Area Forums is to facilitate openness, transparency and accountability in the conduct of Council business and to encourage access and participation by local people in the democratic process.

6.3.2 The specific roles of the Area Forums are as follows:

- (a) To make recommendations to the Council, through the Cabinet, on:
 - (i) The development of the Local Area Community Plans;
 - (ii) The local delivery, impact and co-ordination of the authority's (and other organisations') policies and services;
 - (iii) Issues concerning the locality by the production of reports to Cabinet as appropriate;
 - (iv) The identification of issues and services on which an annual service performance report will be sought by the Area Forum;
 - (v) Approve proposals for expenditure from the Community Support Fund in support of the community planning process.
- (b) To express non-binding views on any issue referred by Cabinet for comment;
- (c) To express non-binding views on issues referred by senior officers, notwithstanding the operation of the "Local Member Consultation" process;
- (d) To participate in the process for Best Value Reviews as a formal consultee.

6.4 Arrangements for Area Forum Meetings

6.4.1 Area Forum meetings will be held in public. Each Forum meets on a monthly basis at venues rotating between the constituent wards of the Forum area. The meetings will be publicised in the media and in the community. As formal meetings of the Council each Area Forum meeting will have an official agenda,

an official record of proceedings and comply with current access to information and disability access requirements. The minutes of Area Forum meetings will be submitted to Cabinet for consideration and to Council for information.

- 6.4.2 Area Forum meetings will always be chaired by a Councillor from the ward where the meeting is being held.

6.5 Officer Support to Area Forums

- 6.5.1 Each Area Forum has a dedicated Area Forum Officer whose roles include:
- (a) Giving support to the Ward Councillors and co-opted members of the Forum;
 - (b) Consultation on and preparation of a Local Area Community Plan;
 - (c) Administration of the Community Support Fund;
 - (d) Reporting to Area Forum meetings on issues of local concern;
 - (e) Being the link between the Area Forum, the Executive and Scrutiny functions of the Council.

6.6 Area Community Plans

- 6.6.1 The Area Forums will produce Area Community Plans which will be updated on an annual basis. The Area Community Plans will be developed in consultation with the community and with organisations representative of the community. The nine Local Area Community Plans will link into the Borough-wide Community Plan and its strategic goals and the Best Value and service plans of the Council and of external agencies such as the Police Authority and the Primary Care Trust. The Plans will be submitted to Cabinet for consideration of action required by the authority in response to issues raised in the Plans. Each Area Forum will periodically monitor its Area Community Plan.

6.7 The Development of Area Boards

- 6.7.1 In April 2005, the Council approved arrangements to develop Area Boards as the focus for a locality based planning process. The Area Boards will prepare Local Service Agreements as a tool for delivering more effective and accountable services in the area. These will be based on existing service specifications modified by community priorities and agreed by partners following the local community planning process.
- 6.7.2 The membership of the each Board is based on that of the relevant Area Forum together with appropriate representatives from key partner agencies: the Primary

Care Trust, the Police and the voluntary sector through Voluntary Action Barnsley. This will enable the Boards to operate at a local level in a similar way to One Barnsley, the Local Strategic Partnership, to facilitate the co-ordination of the services for which the various agencies are responsible. The Area Boards model was piloted during 2005 in the Royston and St. Helen's Area Forum area and was rolled out Borough-wide in April 2006.

6.8 Community Support Fund

6.8.1 The Area Forums approve the allocation of resources from the Community Support Fund, the amount of which will be determined annually by the Council - currently £36,000 per ward (at least 25%, or £9,000, per ward of which is ring-fenced to fund community projects reflecting the priorities identified by the Area Boards). The Borough Secretary submits a quarterly monitoring report to Cabinet on use of the Fund.

6.8.2 The purpose of the Community Support Fund is:

- (a) To assist schemes or initiatives identified in the Area Community Plans;
- (b) To facilitate work and co-operation with community groups;
- (c) To ensure that low cost practical solutions can be achieved to local issues identified by the Area Forum.

6.9 Involving Local Residents in Area Forums

6.9.1 Public knowledge of, and participation in, the work of the Area Forums is to be encouraged by:

- (a) Advertising when and where Area Forum meetings are to be held;
- (b) Publicising the work of Area forums by press releases and articles;
- (c) Ascertaining the current views and attitudes of the public on local matters through the Citizens' Panel and responding accordingly;
- (d) Involving the public in the preparation of Area Community Plans through the Area Conference arrangements;
- (e) Holding of public meetings to consider community responses to issues identified in the Area Community Plan or at Area Forum meetings e.g. on design options for road safety schemes or "clean-up" campaigns;
- (f) Each Area Forum meeting having a session - currently of 30 minutes - for local residents to raise questions with the Area Forum Members.

6.9.2 As referred to at 6.9.1 (f) above, each Area Forum meeting will have an agenda item - 'Public Questions' - to give local residents the opportunity to raise questions on local issues. The Chairperson of the meeting will - if necessary - determine whether a question is appropriate for consideration by the Forum.

6.9.3 A guidance note on public participation at Area Forum meetings is attached as Appendix L to the Constitution

6.10 Area Forum Links to the Executive, Full Council and Scrutiny

6.10.1 Area Forums will have the following links with the Executive (Cabinet) of the Council:

- (a) By giving non-binding views to Executive Directors for inclusion in the 'Area Forum Implications' sections of reports to be submitted to Cabinet and in response to particular issues on which Forums are consulted. The terms of reference document (Document 2) requires advance consultation with Area Forums on issues which have a significant impact in particular geographical areas of the Borough;
- (b) By submitting, through the Borough Secretary, formal reference reports to the Cabinet explaining the Area Forum's views and recommendations on particular issues. The Area Forum will receive a copy of the relevant Cabinet minute identifying the action which the Cabinet intends to take in response to the Area Forum's comments;
- (c) By all Area Forum minutes being considered by Cabinet and received by Council. The Chair of the Area Forum meeting, or any other Member, may comment on Area Forum minutes when presented to Council;
- (d) By invitation of Cabinet Spokespersons to attend Area Forum meetings to explain issues raised by or to be discussed by a Forum. (Whilst a Cabinet Spokesperson is automatically a member of the Area Forum for his or her particular ward he or she will normally attend the Forum meetings purely in his or her capacity as a local member);
- (e) By the production of Area Community Plans for consideration by Cabinet and full Council.

6.10.2 The Area Forums' links with the Scrutiny process are described in Section 5.9 above.

6.11 Members' Surgeries

6.11.1 Provision and support will continue to enable Members to hold surgeries for local residents within their wards. Area Forum Officers are available to assist Members in taking forward surgery issues if required.

6.12 Member Development

6.12.1 The Council believes that appropriate training and development opportunities should be provided for Elected Members to help them perform their duties to the full. A programme of activities for this has been established and work continues to develop this further.

6.12.2 In January 2005, the Council made a commitment to adopt a Charter for Member Development, as designed by the Improvement & Development Agency and the Local Government Management Board and seek accreditation under the Charter. A Members Development Working Party has been established to take this forward with the following Terms of Reference:

- (a) To develop effective Member Development policies and procedures in line with the Charter for Member Development;
- (b) To establish a Member Development Plan;
- (c) To act as advocates for Member Development.

7 THE ROLE OF THE YOUTH COUNCIL IN THE COUNCIL'S CONSTITUTION.

7.1 The Council has a long standing commitment to engaging young people and taking into account their views when determining policies and operational practices. A wide range of youth engagement initiatives have been organised. For example, many Area Forums now include young people co-optees and there have been extensive consultation in order to find out their views on a range of issues.

7.2 One of our most important initiatives to engage with Barnsley's young people has been the creation of a democratically elected Youth Council. Two youth Councillors are elected for each of the Area Forum Areas. They are elected by young people in the Borough up to the age of 19.

7.3 The Youth Council has a recognised place of influence under the Council's modernised political management arrangements. In particular, it can:

- (a) Comment on the Cabinet decisions / recommendations to Council / the Forward Plan etc. The Youth Council can submit any significant concerns which it has about Executive decisions and recommendations directly to

the Cabinet. The Cabinet is required to respond to the Youth Council's concerns within 28 working days. This is the same time limit placed on responses to Scrutiny Commission proactive reports and other comments.

- (b) Carry out proactive reviews and submit their views to the Council. Reports on the Youth Council's proactive investigations should include a specific recommendation that the Cabinet be asked to respond to their findings.
- (c) Submit evidence to the Council's Scrutiny Commissions when they carry out investigations on issues of importance to young people. When the Commissions have completed their investigations they are required to explain to the Youth Council how they took on board their evidence in terms of deciding their final report and recommendations, or why they rejected their views.

8 STANDARDS OF CONDUCT – ARRANGEMENTS FOR ADDRESSING ETHICAL STANDARDS ISSUES

- 8.1 The Council has a Standards Committee as required by Part III of the 2000 Act, a
- 8.2 The Terms of Reference of the Committee (included in Document 2) reflect the responsibilities vested in Standards Committees by Part III of the 2000 Act
 - 8.2.1 In particular the 2000 Act gives specific responsibility to the Committee to:
 - (a) Recommend to the Council the adoption of its Code of Conduct for Members. This Code will form part of the Council's Constitution and will cover both elected and co-opted Members.
 - (b) Promote and monitor the operation of the Code.
 - (c) Consider individual cases of alleged breaches of the code referred to it by the Standards Board for England (Formal complaints in respect of alleged breaches by elected members of the Code of Conduct are required to be submitted in the first instance to the Standards Board for England, an independent body which is responsible for policing the members code of conduct. Most complaints are then formally referred by the Board to the Council's Standards Committee for local investigation. The Committee does not have jurisdiction to consider any complaints which have not been made to the Standards Board for England. However the Chief Executive and the Borough Secretary will endeavour to resolve complaints on an informal basis where practicable. Very serious complaints are dealt with directly by the Standards Board for England.)

- (d) Deal with conduct issues with regard to Parish Council members. (The Councils Standards Committee is also responsible for dealing with complaints in respect of the conduct of the Parish Councillors from the Parish Councils within its area.

8.3 Membership of the Standards Committee and Arrangements for Meetings

8.3.1 Regulations prescribe the composition of Standards Committees. At least 25% of the membership of Standards Committees must comprise independent non elected members who need to be appointed in response to a public advertisement. There is also a requirement for at least one of the members to be a Parish Councillor given the responsibility of the Committee for dealing with conduct issues with regard to Parish Councillors. The Committee comprises three elected members, five co opted non elected members and two co opted Parish Councillors. The expectation is that the three elected members should be “senior backbenchers” with experience of the operation of Council systems and that the proceedings of the Committee should be independent of party politics on the Council.

8.3.2 The Committee will meet at least four times per year. Additional meetings will take place as required to deal with any complaints referred by the Standards Board for England for local determination regarding alleged breaches of the Members’ Code of Conduct. The Committee will be chaired by an independent person, recruited through an open advertisement, from 1st April 2008.

8.4 Standards Committee - Future Developments

8.4.1 The profile of the Standards Committee is likely to increase significantly. The Government has indicated that it intends to amend the current system for dealing with complaints about Member conduct. Complaints will be received by the Authority and referred to the Standards Committee directly. The Committee will decide whether or not to investigate any complaint. Complaints will no longer be referred to the Standards Board for England who will assume a more strategic role monitoring the performance of Standards Committees.

8.5 The Audit Committee

8.5.1 The Council has also established an Audit Committee which could be viewed as an hybrid of a Scrutiny Commission and Regulatory Board. The Audit Committee’s role is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority’s financial and non-financial performance to the extent that it affects the authority’s exposure to risk and weakens the control environment, and to oversee the financial reporting process. The Committee’s activities are driven by the requirements of internal and external audit and also the

statutory requirements of the Accounts and Audit regulations plan. Detailed Terms of Reference are included within Document 2 of the Constitution.

- 8.5.2 The Audit Committee is comprised of four senior Elected Members and five co-opted members with a background in finance and governance. Meetings are held 7 times each Municipal Year. Meetings are held in public, but with some business conducted in private where this might prejudice current investigations.
- 8.5.3 The Committee receive reports directly from the Executive Directors and the lead officer is the Assistant Executive Director Finance (Internal Audit). The three statutory officers, the Chief Executive, the Section 151 Officer and the Monitoring Officer support the Committee on an on-going basis. However, there is also be scope for bringing in other officer support, especially when the Committee was undertaking proactive investigations on specific issues.

8.6 The Monitoring Officer

- 8.6.1 The 2000 Act does not allow the roles of Head of Paid Service and Monitoring Officer to be combined in one post. In Barnsley, the Chief Executive formerly held both of these designations. The role of Monitoring Officer has, under the new Constitution, transferred from the Chief Executive to the Borough Secretary. This accords with guidance issued by the Secretary of State which envisages that the Monitoring Officer should be a chief officer with a degree of independence from the executive functions of the authority.
- 8.6.2 Under the new arrangements the Chief Executive will, alongside the Monitoring Officer, continue to play a key and essential role in securing high ethical standards throughout the authority.

9. OTHER REGULATORY FUNCTIONS

- 9.1 The following Regulatory Boards discharge the Council's quasi-judicial responsibilities that the 2000 Act requires, or enables as a matter of local choice, to be treated as non-executive functions. More detail appears in the Terms of Reference in respect of each Board (included as part of Document 2).

9.2 Planning Regulatory Board

9.2.1 Role

The Planning Regulatory Board will deal with:

- (a) Functions relating to Town and Country Planning, development and building control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

- (b) Highways use and regulation - the exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the functions of the above Regulations;
- (c) The approval of delegation to officers of any of the above functions that are to be identified in the delegation section of Document 2 with an indication of the source of the delegation.

9.2.2 Membership

The Board will have membership which is politically proportionate of the political composition of the Council as a whole as required by the Local Government and Housing Act 1989 as the Authority is formally divided into Political Groups, but also with at least one elected member from each ward. Cabinet Members will be excluded from membership with the exception of the Cabinet Spokesperson for the Planning function who may, at the Council's discretion, be included in the Board's membership but may not be Chairperson of the Board.

9.2.3 Meeting Frequency

Approximately every three weeks (15 meetings per year).

9.2.4 Public Involvement

There will be provision for speeches by, or on behalf of, interested members of the public on planning matters with a recognisable community impact. These are to be limited to one speaking in favour and one against each relevant planning application with speeches lasting no more than five minutes. (A copy of the agreed guidelines relating to the opportunity for the submission of speeches is included as Appendix K).

9.3 General Licensing Regulatory Board

9.3.1 Role

The Licensing Regulatory Board will deal with:

- (a) Licensing matters and licensing registrations as set out in Schedule 1 to the Local Authorities Functions and Responsibilities (England) Regulations 2000 save those in relation to the licensing of entertainment premises under the Licensing Act 2003 which by law must be dealt with by a separate Licensing Committee in relation to:-

Hackney Carriages/Private Hire
Gaming Licences

Betting Track Licences
Sex Establishments
Waste Licences
Dangerous Wild Animals Licences
Nurses Agencies Licences
House to House Collections

- (b) Determination of appeals received in respect of the refusal of applications for the registration of premises for civil marriages;
- (c) Non-executive powers under Control of Pollution, Statutory Nuisance, Environmental Protection, Food Safety Regulations and Health and Safety at Work functions (other than as an employer);
- (d) Approval of delegation to officers of any of the above functions which are to be identified in the delegation section of the Terms of Reference with an indication of the source of the delegation.

9.3.2 Membership

The Board will have membership which is politically proportionate of the political composition of the Council as a whole as required by the Local Government and Housing Act 1989 as the Authority is formally divided into Political Groups, but also with at least one elected Member from each ward. Cabinet members will be excluded from membership with the exception of the Cabinet Spokesperson for the licensing function who may, at the Council's discretion, be included in the Board's membership but may not be Chairperson of the Board.

9.3.3 Arrangements for Meetings

- (a) The Board will meet every month.
- (b) Statutory requirements regarding public representation will be met.
- (c) Where the Board is acting in a quasi-judicial manner or determining/ considering the civil rights and obligations or the criminal responsibility of any person it will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing as contained in Article 6 of the European Convention on Human Rights.

9.4 Statutory Licensing Regulatory Board

9.4.1 Role

The Statutory Licensing Regulatory Board will deal with licences for liquor and entertainment premises as set out in the Licensing Act 2003, through its 5 sub-committees. The Board also monitors the operation of the Council's Licensing Statement established under the 2003 Act.

9.4.2 Membership

The Board will have membership which is politically proportionate of the political composition of the Council as a whole as required by the Local Government and Housing Act 1989 as the Authority is formally divided into Political Groups of at least 10 Elected Members but no more than 15 (The Board in Barnsley currently has the maximum number of Members). The Board also has 5 sub-committees, each comprised of 3 Elected Members, which determine individual licence applications.

9.4.2 Arrangements for Meetings

- (a) The Board is scheduled to meet 6 times each year. Meetings of the sub-committees are held as and when required, depending upon the amount of business.
- (b) Statutory requirements regarding public representation will be met.
- (c) Where the Board is acting in a quasi-judicial manner or determining/considering the civil rights and obligations or the criminal responsibility of any person it will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing as contained in Article 6 of the European Convention on Human Rights.

9.5 Appeals and Awards Regulatory Board

9.5.1 Role

- (a) The Board will deal, within agreed policies, with appeals and awards as shown in the Regulatory Board's Terms of Reference (included in Document 2).
- (b) These appeals or award responsibilities include the relevant responsibilities delegated by the Council relating to Education, Social Services, Housing (including Housing Benefit), discipline (excluding Executive Directors for whom separate arrangements will apply), performance in employment (capability), incapacity due to sickness or industrial injury, and grievances.

- (c) Appeals for admission to schools are **not** dealt with by the Regulatory Board but by Independent Panels established under the Education Acts specifically for that purpose.

9.5.2 Membership

- (a) The Board will operate on a panel system - panels will be formed from a Board which will comprise a minimum of twenty-two Members (at least one elected member per Ward plus any other non-executive members who express an interest in serving on these panels).
- (b) The precise arrangements made to deal with appeals and other matters, and the composition of the panel, will vary according to the type of appeal or other issue being dealt with and a schedule containing a breakdown of these arrangements is included as Appendix J.
- (c) Cabinet Members are excluded from membership.

9.4.3 Arrangements for Meetings

- (a) The Board, and Panels, will meet as and when required. The formal status of any Panel as convened from time to time is a committee which has been established by the Council under Section 102 of the Local Government Act 1972. The membership of the committee is not fixed and the composition on each occasion when it sits as a Panel is determined by the Borough Secretary who has delegated powers to select members of the Board to constitute any such Panel as appropriate.
- (b) Meetings may be held in public but given the personal nature of meetings it is expected that meetings will tend to be held in private (with explanation) where necessary, within the terms of the Access to Information legislation.
- (c) Where the Panels of the Board are acting as a tribunal or determining/ considering the civil rights and obligations or the criminal responsibility of any person they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing as contained in Article 6 of the European Convention on Human Rights.

10. MEMBERS' ALLOWANCES

- 10.1 The Local Government Act 2000 requires the Scheme of Members' Allowances to be reviewed by an Independent Panel. The Council must have regard to the Panel's recommendations in setting the Scheme. The current scheme of Members' Allowances is attached as Appendix E to the Constitution.

11. ARRANGEMENTS FOR SENIOR OFFICER APPOINTMENTS

11.1 Under the 2000 Act the Cabinet may not make officer appointments. Those appointments which require Member involvement will be made by Appointment Panels in accordance with the provisions in the Council's Standing Orders (Appendix 'M').

11.2 Role of Appointment Panels

11.2.1 Appointment Panels will undertake appointments to the posts of Chief Executive, Deputy Chief Executive, Borough Secretary and Executive Directors.

11.2.2 It should be noted that these competencies are established under Regulations made by the Secretary of State under the Local Government and Housing Act 1989 about the appointment of Chief Officers under Executive arrangements.

11.3 Membership/Structure of Appointment Panels

11.3.1 Membership of Appointment Panels for these posts will be comprised as follows and these Panels will be established to make appointments either at Head of Paid Service (Chief Executive) or for Executive Director levels.

11.3.2 The Appointment Panel for the appointment of a Chief Executive and Deputy Chief Executive will comprise the Leader (as Chairperson of the Panel) and all other Cabinet Members and such other members of the Council as is necessary to achieve political proportionality.

11.3.3 For the appointment of the Borough Secretary and Executive Directors, the Appointment Panels will comprise the relevant Cabinet Spokesperson (as Chairperson), the Cabinet Support Member to that Spokesperson, two other Cabinet members, and such other members of the Council as is necessary to achieve political proportionality but including the chairman of at least one relevant Scrutiny Commission.

11.3.4 Any appointment made by the Panel to the post of Head of Paid Service (Chief Executive) must be reported to the full Council for confirmation. Any other appointments made will be subject to consultation with Cabinet Members prior to confirmation in line with the requirements of mandatory standing orders.

11.3.5 The individual membership of Appointment Panels will vary according to the nature of the appointment. The formal status of any Panel as convened from time to time is a committee which has been established by the Council under Section 102 of the Local Government Act 1972. The membership of the committee is not fixed and the composition on each occasion when it sits as a Panel is determined

by the Borough Secretary who has delegated powers to select members to constitute any such Panel as appropriate.

11.3.6 In exceptional cases where it is necessary to hold a disciplinary hearing in respect of any member of the Senior Management Team a Panel would be constituted on a similar basis. In the case of the Head of the Paid Service, Monitoring Officer and Chief Financial Officer the formal provisions of the Local Government (Standing Orders) Regulations 1993 which require any such Panel to have regard to the recommendation of an Independent Person also apply.

11.4 Meeting Frequency of Appointment Panels

11.4.1 The Panels will meet as and when required.

12. POLICY WORKSHOPS

12.1 It was agreed as part of the evaluation of the interim system after its first twelve months that the Council's use of policy workshops should be phased out and their role absorbed by the Scrutiny Commissions. The policy development and review function is now reflected in the terms of reference of the Scrutiny Commissions.

12.2 The Democratic Engagement of Young People Workshop continues to meet on a transitional basis in order to conclude its outstanding business before reporting to Cabinet.

12.3 It is expected that the Council will, from time to time, wish to make arrangements for a Committee to lead work relating to the on-going review and development of the Council's democratic arrangements, on a similar basis to the Evaluation of the New Democratic Framework Policy Workshop. Provision is made in the constitution for this.

13. ARRANGEMENTS FOR PERFORMANCE REVIEW

13.1 A Performance Review Panel, chaired by the Leader of the Council and also comprising the Deputy Leader, Corporate Services and Finance Cabinet Spokespersons, meets at least monthly in order to consider and make recommendations to Cabinet for action in respect of:

- (a) Priority performance issues which impact on the Council's Comprehensive Performance Assessment (CPA) score.
- (b) CPA related issues and risks, including Use of Resources, including regular updates on methodology, implications, applications and progress, self-assessment activity and impact;

- (c) Issues arising from the Priority Improvement Framework, outturns from the Chief Executive's Performance Indicator (PI) Dataset and Best Value Performance Indicators (BVPIs), and updates on changes to CPA methodology and the implications for the Council's next CPA;
- (d) The review of performance for each Department / Directorate on a six-monthly or annual basis, with a focus on responsibilities within the Council's Priority Improvement Framework, the Chief Executive's PI Dataset / BVPI outturns, Strategic and operational Risks, Impact on the CPA, Customer/community engagement, Financial / budget priorities and pressures;
- (e) The progress on the Medium Term Financial Strategy, including Value for Money, Cost Effectiveness and Use of Resources, and to the Strategic Risk Register;
- (f) The Annual Best Value Performance Plan;
- (g) The evaluation of service delivery plans;
- (h) The Service and Financial Planning Process and the development of the Priority Improvement Framework and Corporate Prospectus.

14. ARRANGEMENTS FOR RISK MANAGEMENT

- 14.1 The Council and its officers are committed to the implementation and embedding of risk management policies and procedures which identify and mitigate significant strategic and operational risks so as to maximise opportunity and minimise uncertainty.
- 14.2 In order to achieve this, the Council has adopted a clear Policy Objectives Statement which includes the following requirements:
 - a) A high level of awareness and ownership of risk in all functions and processes of Council activity in order to maximise opportunities and benefits whilst minimising losses.
 - b) All Members and Officers of the Council to have responsibility for the implementation of Corporate Governance principles as set out in CIPFA/SOLACE guidelines, in particular Dimension 4 – Risk Management and Internal Control.
 - c) The active consideration of risk in the planning and implementation of Policy Objectives as contained in the Best Value Performance Plan.
 - d) Effective business continuity planning.

- e) The inclusion of risk awareness within a Performance Assessment Framework.
 - f) The active consideration of risk in the setting of appropriate and effective policy options, service delivery methods and budget and resource allocation, including partnership working.
- 14.3 The objectives will be achieved through:
- a) The setting up and review of effective and efficient operational, financial and internal controls in the planning and delivery of services including the control and monitoring of significant strategic and operational risks by Directorates.
 - b) The support and encouragement of the ownership and responsibility of risk management activity throughout the Authority.
 - c) The provision of practical guidance and training for management in developing good management practices in relation to risk.
 - d) The development of training schemes in risk awareness for all staff.
 - e) The setting up and regular review of corporate and directorate risk registers.
- 14.4 The Council's Risk Management Policy Objectives Statement forms Appendix AC to the Constitution.

15. ACCESS TO MEETINGS AND INFORMATION

- 15.1 The constitution includes a document (Appendix I) which outlines the access to meetings and information procedural rules which will be operated within the Council.
- 15.2 It is expected and required that all meetings of the Council at whatever level are open to attendance by members of the public, subject to the exceptions contained within the rules which relate to circumstances where confidential or exempt information is to be discussed and considered at meetings. The meanings of exempt and confidential information are categorised within the procedural rules.

15.3 Supply of Agenda etc.

- 15.3.1 Copies of agenda and reports will be available for public inspection at the Borough Secretary's office at least five clear days before the date of the meeting

in question. Five clear days disregards the day of despatch, day of receipt and weekends.

15.3.2 In relation to the supply of Cabinet agenda and their availability for members of the public, it is intended that they will be available from the Tuesday evening prior to the Wednesday in the following week on which the Cabinet meets (thus meeting the five clear day rule). In the case of the agenda for all other meetings of the Council the arrangements are that these are available from the close of business on Mondays and Thursdays on the basis that in all cases five clear days notice has been given. Documents for meetings are also available on-line via the Council's Intranet and Website within these timescales. This enables Members and the public to be aware when their agenda documents may be collected from the Town Hall.

15.3.3 It is intended that the current distribution arrangements for the supply of Cabinet agenda, reports and decisions/minutes will continue. This will include the placing of full copies in the Members' Library and respective Group Offices and the supply to Chairs and Vice Chairs of Scrutiny Commissions. These arrangements are contained in the "Call-In" procedure included as Appendix N.

15.4 Availability of Minutes, Agenda and Reports

15.4.1 The Council will make available for public inspection copies of the minutes of meetings and the agenda and reports of meetings (in relation to those parts of the meetings which were open to the public) for a period of six years after the date of the meeting. Documents are also available electronically on the Council's website, although only back to January 2005 for non-Executive meetings and May 2005 for Cabinet papers.

15.5 Key Decisions and Forward Plan

15.5.1 As outlined at Section 3.7 above, the Cabinet will also have to follow procedures with regard to Key Decisions and prepare, on a rolling monthly basis, a Forward Plan which will cover a period of the following four months.

15.5.2 The Borough Secretary will publish once a year a notice in at least one newspaper circulated in the area which states that:-

- (a) Key Decisions are to be taken by the Cabinet;
- (b) A Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis. The Plan will contain details of the Key Decisions to be made for the four month period following its publication;

- (c) Each Plan will be available for inspection at reasonable hours free of charge in the Cabinet Office at the Town Hall, Barnsley and on the Council's Website;
- (d) Each Plan will contain a list of any documents already submitted to the decision takers for consideration in relation to the Key Decisions on the Plan and an indication that further documents will be identified as appropriate;
- (e) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed in the Forward Plan is available;
- (f) The procedure for requesting details of documents (if any) as they become available;
- (g) Dates on each month in the following year on which each Forward Plan will be published and available to the public for inspection at the Council offices.

15.5.3 The procedure also refers to how matters which are likely to be a Key Decision but have not been included in the Forward Plan will be dealt with and how the decisions may still be taken. These procedures - set out as part of Appendix P - involve notification of the chair of a relevant Scrutiny Commission.

15.5.4 In special cases of urgency there is also provision - also detailed as part of Appendix P - for dealing more speedily with matters which are not included within the Forward Plan and these also involve obtaining the agreement of the chair of a relevant Scrutiny Commission or in his absence the agreement of the Mayor or Deputy Mayor that the taking of the decision cannot be reasonably deferred.

15.5.5 Quarterly reports to the Council on executive decisions which may have been taken under the "special urgency" proceedings in the previous three months will be made.

15.6 Requirements for Minutes

15.6.1 The procedural rules (Appendix I) also include the minimum requirements for the contents of minutes or records of decisions of executive meetings whether held in public or private.

16. THE CONSTITUTION

- 16.1 Section 37(1) of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document known as the "Constitution". The document must include:-
- (a) Such information as the Secretary of State may direct;
 - (b) A copy of the Local Authority's Standing Orders;
 - (c) A copy of the Local Authority's Code of Conduct for Members (Section 51 of the Act);
 - (d) Such other information as the Local Authority considers appropriate.
- 16.2 This document, and the other documents referred to herein, is the Council's Constitution for the purposes of the Act and includes the material required by the Local Government Act 2000 (Constitutions) (England) Direction 2000.

17 REVIEW ARRANGEMENTS

- 17.1 The Council has agreed that, in line with the guidance given by the Secretary of State, the Constitution will be reviewed and developed on an ongoing basis and that it should be formally reviewed at least every five years. The most recent review was completed in April 2005.
- 17.2 In relation to the requirement to adopt and keep up to date a Constitution of the authority, it is envisaged that a committee of the Council with similar membership and terms of reference to the Evaluation of the New Democratic Framework Policy Workshop shall have the responsibility for reviewing and keeping up to date the Council's constitution and shall submit the outcome of such reviews to the full Council for consideration.

18 AVAILABILITY OF CONSTITUTION DOCUMENT

- 18.1 Arrangements have been made for the Constitution to be available for inspection by the public at the Local Authority's principal office at all reasonable times and free of charge. The Constitution is also available in the Borough public libraries and on the Council's website.
- 18.2 The Council has also made arrangements to ensure that members of minority ethnic communities and people with sensory disabilities are able to access the Constitution and to enable the document to be made available in a range of formats upon request.
- 18.3 A public summary of the Constitution has also been made available which is, as far as possible, written in plain language and will allow the public to know

broadly who is responsible for which decision made by the executive and the Council.

- 18.4 The Constitution will be a flexible document, in a loose leaf format which will enable it to be revised on occasions when the constitution is varied, for example by the establishment of ad hoc or special committees appointed to undertake particular tasks.

19. EMPLOYEE ASPECTS

- 19.1 The authority's senior management structure (shown in Appendix W) was revised during 2003 in the context of the significant developments for the authority since the introduction of the modernised democratic system.
- 19.2 The arrangements developed under the interim system for dedicated officer support to the Scrutiny Commissions and Area Forums, and for servicing the various Member meetings, will be maintained.
- 19.3 As set out in section 7.5, the designation of Monitoring Officer has, under the new constitution, transferred from the Chief Executive to the Borough Secretary, to comply with the Local Government Act 2000.
- 19.4 Despite the formal separation of powers between the executive and non-executive parts of the authority that exists under the new constitution, the legislation provides that all employees will continue to be employed by, and be accountable to, the authority as a whole. The authority continues to operate a unified officer structure under the Chief Executive as Head of the Paid Service.
- 19.5 The local code of conduct that applies to Barnsley MBC employees is attached as Appendix Y.

20. CITIZENS OF THE BOROUGH

- 20.1 Whilst this constitution sets out what citizens of Barnsley can expect of the Council, the Council believes that, in return, citizens owe certain duties to the authority in their dealings with Council business. These rights and obligations are set out in Appendix G.

21. OFFICER CONTACTS

Richard Fryer	Assistant Chief Executive (Policy & Performance)	Ext: 3401
Andrew Frosdick	Borough Secretary	Ext: 3001
Alan Maher	Assistant Borough Secretary – Administration & Democratic Support)	Ext. 3004
Ian Turner	Assistant Director – Cabinet	Ext: 3421

William Ward Support
Democratic Services Ext: 3060
Manager